

BOOK REVIEWS

PRODUCTS LIABILITY AND THE FOOD CONSUMER. By Reed Dickerson. Boston: Little, Brown and Company, 1951. Pp. xviii, 325. \$7.50.

This book is novel in that it reviews liability law with respect to food separate and apart from the usual companions, drugs and cosmetics. Further, a substantial part of the book is devoted to a discussion of whether present civil remedies are adequate for the protection of the food consumer. The author is to be congratulated for his choice of words in the designation of his chapter and topic headings. Mention of these indicates the scope of the book. It is divided into an introduction, five main chapter headings and numerous sub-headings referred to as topics. Chapters I to IV, inclusive, are the meat of the book. They are entitled, respectively, "Responsibility of the Retailer for Unwholesome Food," "Manufacturers' and Wholesalers' Responsibility to Consumers for Unwholesome Food," "Responsibility of the Restaurant Keeper for Unwholesome Food," and "What Is 'Fit to Eat'." Under Chapter I the topic headings include, "Breach of Warranty at Common Law—the English Story," "Breach of Warranty at Common Law—the American Story," "A Brief Look at Implied Warranties of Quality," "Breach of Warranty Under the Uniform Sales Act," "The Privity Requirement," "Negligence and Other Breaches of Duty Not Based on Warranty," "Fault of the Buyer" and "Some Considerations of Public Policy." Under Chapter II they include, "Liability of the Manufacturer for Breach of Warranty," "Liability of the Manufacturer for Negligence," "Some Considerations of Public Policy Relating to Manufacturers' Responsibility," "Liability of the Wholesaler" and "The Problem of Classification." Under Chapter III they include, "Liability for Breach of Warranty" and "Liability for Negligence." Under Chapter IV they include, "In General," "The Trichinosis Cases" and "The Hypersensitive Plaintiff." The citations in the elaborate footnotes seem to cover the adjudicated cases throughout the country. These chapters appear to be carefully written. The appendix includes excerpts from appropriate parts of the English Sale of Goods Act, 1893, the Uniform Sales Act and the proposed final draft of the Uniform Commercial Code. The appendix also includes an extensive list of authorities and cites and covers treatises, digests and services, American Law Reports, articles, notes and comments and case notes. These chapters constitute a well written review of the law in this field and should be useful to any lawyer handling food cases.

If this book is intended for use by lawyers, the usefulness of the balance thereof, which includes a nineteen-page Introduction and the fifty-one-page Chapter V on "Adequacy of Civil Action in Food Cases," is somewhat questionable. The topics in the Introduction are "Frame for a Picture," "Who Is the 'Consumer'?" "What the Consumer Wants," "Summary of Basic Considerations" and "Civil Protection of the Food Consumer." Under Chapter V the topic headings are, "Introduction," "Compensation," "Prevention," "Spreading the Risk of Loss," "Focusing Civil Responsibility" and "Conclusions." Presumably, these justify that portion of the title referring to

the food consumer. What place they have in what is otherwise a well written law book could be subject to argument.

The first paragraph in the introduction reads,

The growth of agencies that employ modern technology, complex fabrication, and mass production, into 'clusters of private collectivisms' has drastically upset any supposed balance of power between the economic entities whose interplay of mutual demands and concessions gave to Adam Smith's self-regulating economy its motive power.

The last sentence in the book reads,

Even where it is appropriate to emphasize direct governmental surveillance, the pressure of unfettered civil responsibility is frequently a valuable instrument of government in buttressing hard-to-enforce criminal sanctions.

In general, the topics discussed in the Introduction and in Chapter V represent the author's analysis of the defects in the present civil remedies in food cases. Several suggestions are made, but the author states that statutory changes cannot cure defects inherent in civil action and suggests that the job is a preventative one "which cannot be completed without the supplementary aid of direct government regulation in the form of adequate pure food laws and laws setting standards for labeling, packaging and advertising." In the light of the language of the sentence last quoted, it is difficult to tell whether the author, even though he has made numerous references thereto, practically appreciates the application to the food industry of the Federal Food, Drug and Cosmetic Act of 1938, the regulations thereunder and the conforming state laws. These have served to make the food industry one of our most stringently regulated major industries. In fact, had they not been enforced by an intelligent agency they would have been a serious burden and could have restricted progress in the food field.

In general, it would appear that the Introduction and Chapter V of the book might more appropriately appear in magazine or law review articles rather than in a law textbook. The same pages devoted to an index of cases under suitable fact headings would be more useful to the lawyer. However, the presence of this additional matter in a text dealing primarily with products liability law cannot affect its practical value as a current, well annotated reference to the products liability cases in the food field.

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CONFLICT OF LAWS, CASES AND MATERIALS. By Fowler V. Harper, Charles W. Taintor II, Charles Wendell Carnahan and Ralph S. Brown, Jr. Indianapolis: Bobbs-Merrill Company, 1950. Pp. xxxix, 1090. \$7.50.

Notwithstanding the excellence of other casebooks in this field, this one has enabled me to do a better job. This is primarily because of the material upon renvoi and related problems which has been collected, and which has been placed in its proper position, at the beginning of the book. These problems are basic and fundamental in getting the student's mind working

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