

# ST. LOUIS LAW REVIEW

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## Editorial Notes

### CONTRIBUTORS TO THIS ISSUE

F. WARNER FISCHER, who is one of the joint authors of *The Constitutionality of Proportional Representation as Applied to Elections in the State of Missouri*, is an alumnus of the Washington University School of Law and a member of the St. Louis Bar.

E. M. GROSSMAN, who is the other joint author of *The Constitutionality of Proportional Representation as Applied to Elections in the State of Missouri*, graduated from the Law School of Harvard University and is a member of the St. Louis Bar. He is the author of a number of articles in various legal periodicals.

TYRRELL WILLIAMS, whose annotations to the *Restatement of the Law of Contracts* of the American Law Institute are continued in this issue, is a Professor in the School of Law. Prior instalments of this work have appeared in December 1930 and February, June, and December 1931 issues of the ST. LOUIS LAW REVIEW.

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#### SAMUEL BRECKINRIDGE NOTE PRIZE AWARDS

The prize for the best note in the June 1932 issue has been awarded to Mr. George W. Simpkins for his note on *The Main Purpose Rule and the Statute of Frauds*. Mr. Victor P. Keay won the prize for the best note in any issue of Volume XVII with *Judicial Appeal from General Property Assessments in Missouri*. The committee which made these awards was composed of Mr. Robert L. Aronson, Mr. Henry H. Stern, and Mr. Robert Bruce Snow.

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#### THE ST. LOUIS LAW REVIEW IN SHEPHARD'S MISSOURI CITATOR

The new edition of Shephard's MISSOURI CITATOR has adopted a practice which will add greatly to the utility of the LAW REVIEW to its subscribers. At the end of the list of cases in which a particular Missouri case or statute has been cited, the new Missouri Citator contains a reference to all places where it is mentioned in the ST. LOUIS LAW REVIEW, the MISSOURI BAR JOURNAL, and the UNIVERSITY OF MISSOURI BULLETIN, LAW SERIES.

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#### THE SCHOOL OF LAW

To give the students training in the practical application of the law, the work of the Practice Court has been fundamentally altered. Under the new arrangement, the Senior Class is divided into groups of four. Each group is given a set of facts, two members of it acting as counsel for the plaintiff and two for the defendant. It is the duty of the counsel to prepare all forms which must be filed prior to the actual trial of the case. The procedure involved must be in strict accord with the law of whatever jurisdiction the group elects. In accordance with the former

Moot Court system there will also be briefs and oral arguments such as would be presented to an appellate tribunal.

To fill the vacancy caused by the desire of Mr. Sam Elson to enter active practice, Mr. Edward S. Stimson has been appointed Assistant Professor of Law. He has A.B., B.S. and A.M. degrees from Ohio State University and the degrees of J.D. and S.J.D. from the University of Michigan. He has served as Professor of Economics at Carroll College and as assistant in law at the University of Michigan. He has also had three years' experience in the actual practice of law in Toledo, Ohio. He is the author of a book, JURISDICTION TO TAX, which will shortly be published by the West Publishing Co.

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## Notes

### SOME RIGHTS AND LIABILITIES ARISING OUT OF THE SALE OF FOOD FOR HUMAN CONSUMPTION

It is a matter of rather common knowledge not only that ordinary articles for human consumption, being normally of a somewhat perishable nature, prove often unwholesome, but also that the consumption thereof may be attended by disastrous results to the health of the individual. Not at all infrequently a lawyer is called upon to prosecute an action for the recovery of damages for injuries sustained by the eating of such food. If the article has been prepared by a manufacturer and sold to a retailer from whom the victim purchased it, the lawyer must decide upon whom liability may be fastened and upon what theory the right of recovery must be based. Manifestly, in the normal course of affairs it would be more beneficial to the aggrieved party to obtain judgment against a large corporation manufacturing food-stuffs than against a small independent retailer with a slight pecuniary investment. Perhaps the victim has been served the deleterious food in a restaurant. If so, the lawyer is confronted by the additional question whether the ordinary rules concerning sales of goods can be applied thereto.

Let us consider first the liability of the individual retailer. The decision in the English case of *Begge v. Parkinson*<sup>1</sup> in 1862 is usually pointed to as inaugurating the general rule that the implied warranty of fitness for a particular purpose shall be applied in the sale of food as against the immediate vendor, and it would be a useless multiplication of authorities to cite decisions

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<sup>1</sup> (Exch. 1862) 7 H. & N. 955, 158 Eng. Repr. 758.