

Book Reviews of Norman Fetter's
Handbook of Equity Jurisprudence (1895)
and
A Treatise on the Law of Carriers of Passengers
(Two volumes, 1897).



1. 4 *Michigan Law Review* 106-107 (1895).

Fetter on Equity — Handbook of Equity Jurisprudence. By Norman Fetter. St. Paul: West Publishing Co. One vol. 8 vo. 463 pp. \$3.75.

This is volume six of the "Hornbook Series", and following quickly upon the heels of the preceding volume is an evidence of the hustling facilities of the publishers. We have had occasion to say something heretofore concerning this series of law books. In typographical appearance and mechanical construction they are similar; and to the credit of the publishers be it said, uniformly excellent. The author of this volume has assumed the task of treating one of the most difficult subjects. Never having chanced to see or hear of any other legal work by this author, we assume that this is his first. This presumption is borne out by the fact that the title page of this book is not embellished with any list of works of which he is credited as being the author.

He has furthermore prepared this work with the precision and accuracy of one whose reputation depended in a great measure upon the favor with which it was received. While it certainly shows the evidences of great care in its preparation, the whole field having evidently been carefully gone over, it will probably not have a very

wide sale among practicing lawyers. It is too short and abbreviated to suit their demands. They want something more exhaustive and which treats technical points more fully. In this book there are but 335 pages of text, nearly 100 pages being taken up by a table of cases arranged in single columns. It may be that for the purposes for which the work is primarily intended this brevity is a merit rather than a fault. The student can certainly get a very clear conception of the elementary principles of the whole subject by the careful study of it. As an index and aid to a more thorough study and knowledge of the subject it will be found of great service.

2. Review by Professor James L. Clark,
2 Law Book News 147-48 (May 1895).

One would think that to launch a new work on Equity into the field of legal literature at this time would be making quite a venture. The works on Equity are numerous, and many of them have been written by the best minds the bench and bar have produced. They have sustained themselves against all adverse winds, and some of them are quoted by the courts of last resort as almost conclusive authority. They cover all phases and sides of the subject. Yet this little book, with its blue Hornbook label, its three hundred and thirty-five pages of text, its one hundred pages of cases cited, and its thirty pages of index, will find its way into many libraries.

My attention was first, specially, called to the work by a gentleman who is not a trained lawyer, but who has read and practiced to a limited extent, and who, after an examination of the book, said: "I must have a copy of that book. I can understand the propositions of law it discusses." This I regard as one of the chief merits of the book, especially as it has been written for those who are beginning the study of law. The brief statement of the rules in black letter, followed by a more minute and detailed statement and illustrations, serves to keep the subjects separated in the mind of the

student. It has also had the effect, in this case, of preventing repetition, and enabling the writer to get a large amount of matter in a small amount of space.

Another valuable feature of the book, as a work for students, is the positiveness with which the propositions are stated. The author can make his statements with much assurance, for the reason that he is dealing with the elementary and well-settled principles, and is not required to build an argument on two sides of a proposition, and then choose that which he thinks to be the stronger, and leave his readers to do the same thing. The writer has wisely written on what the law is, and not on what it might or ought to be.

The order in which the subjects follow each other is good, though perhaps not just as the author would have arranged it if he had passed from one subject to another in logical order, without a break in the text.

The opening chapter, on Equity Jurisdiction, is a model of simplicity. One of the difficult things for a student to grasp is the question of the jurisdiction of courts of Equity. Mr. Fetter makes the matter quite clear, considering the brevity of his treatment of the subject.

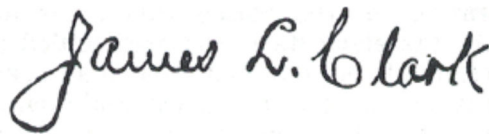
As a work for students one would expect to find a chapter of fifty pages on Equity Pleading and a like chapter on Evidence, and feels quite disappointed when nothing is found on either of these topics. That is wholly a matter of quantity, and not of quality, however: and the author has only followed in the path of almost all the writers on this subject in leaving these to other writers or other volumes.

The book is not exclusively for students, and I shall expect to see the practitioner take to it with much favor. The Table of Cases Cited, covering a hundred pages, shows that the author has made broad research in the preparation of the book. And one may expect to find much that is helpful to the busy lawyer, and the hope is strengthened by the freshness of the decisions cited. An old decision is as good as

a later one if it is founded on as good reasoning, but the average lawyer is so much more likely to have the recent decisions in his office, and the work that cites the case you have is the work you want.

In making an examination of a few of the cases cited, I found them well selected, and sustaining the text on the point from which they were cited. This is especially valuable to the practicing lawyer. The cases are selected from all courts, which is worthy of all praise. One of the most provoking things is to find a long list of citations which do not sustain the text to which they refer, and one is equally provoked to find a text writer citing all or nearly all of his authorities from One or two states, where he may have practiced. This book seems to be free from these objections. Certainly it is free from the latter, as no court seems to be preferred in the selection of cases.

The mechanical work on the book is of a high order, and the writer will certainly be kindly remembered by the profession for the aid and pleasure his work brings to those who use it.



James L. Clark

3. Excerpts from four reviews of Fetter's
Equity Jurisprudence reprinted in
2 Law Book News 153 (May 1895).

Mr. Fetter has managed to sum up the whole of equity in 204 rules and 335 pages, notwithstanding that some 4,000 cases are cited.
—The Nation.

It should be a very popular work, for students, especially as it contains, with brevity, the general principles of equity, clearly

expressed, and with abundant opportunity for refinements in principles through the medium of a large number of cases cited.
—Albany Law Journal.

Mr. Fetter has succeeded in making a dry Subject attractive, and at the same time giving a very lucid Statement of the principles which underlie and govern this important branch of the law. —Green Bag.

The ordinary text-book on Equity is too diffuse and elaborate for the student first taking up this study. It is indispensable that he, at the very outset of his study, be given a brief and comprehensive view of the entire field of inquiry, and then enter upon the study of the larger text-books and cases. It is believed that Mr. Fetter has succeeded in preparing just such work as the beginner needs and will find most helpful. The statement of maxims and fundamental principles in black-letter type will be of great aid to the student preparing for the bar examinations. After a careful study of the book, the student Will be able to review the entire subject in a few hours by simply reading the black letters. To the candidate for admission to the bar, who is expected to be prepared in some twenty important subjects, such a book as this will be a great boon. —Western Reserve Law Journal.



4. 11 *Harvard Law Review* 348 (December 1897).

A Treatise on the Law of Carriers of Passengers. In two volumes.
By Norman Fetter. St. Paul: West Publishing Co. 1897. pp. xli, 1693.

The statement of the principles of the law of carriers of passengers in this work of Mr. Fetter's is fairly accurate. Had the book been condensed into one volume, it would have been satisfactory, except

for the rather confusing treatment of some questions upon which there is a difference of opinion, as in §§531-532. But in the effort to expand it into two volumes, the author has carried to excess the useful practice of stating cases illustrative of the general principles. In chapter xxxviii, he has devoted thirty-four pages to the statement of verdicts of juries which have been upheld or set aside on account of the amount of damages. The long note to §28 is another illustration of the same fault. Nor has proper care been taken to cut down to a reasonable length the abstracts of the cases which are stated; §328 is one out of many instances. Moreover, the chapters on Damages, Evidence, and Pleading seem too long. Those subjects are not a part of the law of carriers of passengers, and might well have been more summarily treated.

The chapters on Contributory Negligence are the best in the book, and, on the whole, are well done. But the chief merits of the work, and those which will commend it to the profession, are an entertaining preface, a useful index, and a good collection of authorities.
— J. H. F.

5. 46 *The American Law Register* 135-136 (February 1898).

A TREATISE ON THE LAW OF CARRIERS OF PASSENGERS.

Two Volumes. By NORMAN FETTER.

St. Paul, Minn.: West Publishing Co. 1897.

This work possesses in a large measure that quality of practical utility for which the West Publishing Company's publications are now well known. To it, as well as to the other works of the same firm, the criticism applies, that while a most excellent and well arranged digest of the existing law, and while filling a want which all books of ready reference fill, yet it can neither be said to exhaust the existing knowledge of the subject, nor to add anything to the theoretical discussion of the principles on which the law of carriers is based. The avowed purpose of the work is "to state the law," to set forth in an orderly manner the living law on this subject as it exists today. This it does, and in doing it some thirty-six hundred cases are either cited or quoted. The authorities have been carefully searched

and analyzed, and we are convinced that the work contains a clear and, in the main, accurate statement of the law on this subject as it now exists.

The fifteen hundred and fifty-four pages (exclusive of table of cases and index) contained in the two volumes are divided into forty-two chapters, of which eight are devoted to what might be called the carriers' general duty of care; four more to particular duties of care; four to contributory negligence; six to procedure generally; one to procedure in regard to baggage; and three to damages. At the end of the first chapter there is a discussion of the views relating to the province of court and jury on the question of negligence, and appended is an exhaustive note containing the language used by numerous courts on this subject. In Chapter XV., on the question of "Who are Passengers?" the author, under §217, in speaking of employes, devotes a short note (p. 566) to *O'Donnell v. A. R.*, 59 Pa. 239 (1869), and should have stated that the carpenter, who was there held a passenger, was employed by an independent bridge contractor and not directly by the railway company. Chapter XVII. contains a very thorough discussion of the duty to carry punctually and to the destination, but seems misplaced, its natural position being with the other chapters, on the duty to passengers.

A chapter on "Receivers and Mortgage Trustees as Carriers" is very acceptable and, we feel, deserving of more extended discussion. The subject treated most at length and which will undoubtedly be the most appreciated by active practitioners, is that on procedure, covering forms of action, parties, pleading, evidence and practice. Damages, also, are given a prominence not far short of that awarded to procedure, and it is with no desire to detract from the importance of this part of Mr. Fetter's work, that we take exception to a statement made on p. 1380, where it is said that the Supreme Court of Pennsylvania has not the power to interfere with a verdict, because the damages awarded are excessive. This was perhaps true before the Act of May 20, 1891, P. L. 101, which declared that "The Supreme Court shall have power in all cases to affirm, reverse or modify, a judgment, order or decree appealed from . . . and may order a verdict of judgment set aside and a new trial had." In the libel

case of *Smith v. Times Pub. Co.*, 178 Pa. 482, the Supreme Court set aside a verdict for \$45,000 as excessive.

In conclusion, stress should be laid on the admirable arrangement, division and sub-division of this great mass of law, by which the lawyer is brought into easy and quick contact with the law on any point arising out of the carriage of passengers, whether by land or by sea.



Related Article

Norman Fetter died on March 22, 1943, at age seventy-eight. For his bar memorial on April 24, 1943, see “Ramsey County Bar Memorials-1943” 16-18 (MLHP, 2016).



Posted MLHP: December 19, 2016.