

Four reviews of Francis B. Tiffany: “Handbook of the Law of Sales” (1895).

Francis Buchanan Tiffany, a St. Paul lawyer and a founder of the St. Paul College of Law, wrote several treatises in the 1890s and early 1900s.

His hornbook on the law of sales was published by West Publishing Company of St. Paul in 1895, and a second edition followed in 1908. It was reviewed in 2 Law Book News 344-45 (November 1895) by Professor Ernest Wilson Huffcut (1860-1907) of the Cornell Law School. Following this lengthy review, excerpts from reviews in the American Law Register & Review, the Harvard Law Review and the New Jersey Law Journal were reprinted. Each review was fairly positive. They follow:

1.

2 Law Book News 344-45 (November 1895)

“The author of this handbook sets an admirable example to writers of handbooks in general by frankly giving credit in his preface to those to whom credit is due. He says:

"The arrangement is in the main that of Benjamin. The statement of rules and principles in the black-letter text has to a considerable extent, though with many modifications, necessitated by the differences between the American and English law, or by other reasons, been taken from the English Sale of Goods Bill, as drafted by his Honor Judge Chalmers, and published together with his invaluable notes under the title of 'The Sale of Goods.' This bill, which was purely a codifying measure, has since been substantially enacted as 'An act for codifying the law relating to the sale of goods' (56 & 57 Viet. c. 71; February 20, 1894). The writer has made frequent use both of the notes of Judge Chalmers and the text of Benjamin on Sales."

“Without doubt Benjamin's work on Sales is a great book, great for its day, great for any day. Blackstone's Commentaries is a great book. Yet the writer of a new work on Sales or on the Laws of England may well consider whether Benjamin or Blackstone has reached a finality

in the matter of arrangement and proportion. In the law of sales there are certain characteristics which serve to distinguish the subject from other branches of the law and make it worth while to devote to it special treatises. If it were merely a matter of contract in the ordinary sense, it could claim no right to a separate hearing. Agreement, capacity of parties, consideration, mistake, fraud, illegality, and so on have all been disposed of, or should be disposed of, in a general course on contract. It is vain repetition to rediscuss them in works devoted to particular kinds of contracts save so far as they specially characterize those contracts. So far as it is necessary to treat of sales, insurance, bailment, partnership, suretyship, and the like, the treatment should revolve around those matters which serve to differentiate the special contract from the genus contract. It may always be presumed that the student does not come to his study of sales without a knowledge of contracts generally. It may equally be presumed that the lawyer will not turn to a work on sales for the learning on matters of contract equally applicable to other contractual relations.

“From this point of view the Sale of Goods Act is a better model than Benjamin. From this point of view chapters I., V., and VI. of Mr. Tiffany's handbook, occupying 86 pages out of 250 pages of text, might well have been omitted or compressed into a dozen pages of bare reference to familiar doctrines of contract. On the other hand, chapters III. and IV., on the “Passing of Title,” which occupy but 27 pages of text, might profitably have been expanded so as to occupy the space thus reclaimed, while chapter VII., on “Conditions and Warranties,” occupying but 28 pages, might profitably have been expanded to 75 without marring the just proportions of the book. In fact these two topics, together with the special remedies of a seller against the goods (occupying 27 pages of Mr. Tiffany's text), constitute the major part of what is peculiar to the law of sales. To these three topics Mr. Tiffany gives 82 pages out of a total of 250, fewer in fact than he gives to those topics which are not at all characteristic of the law of Sales.

“It is not an unfair criticism, therefore, that the handbook lacks in proportion and perspective, that it overemphasizes those matters which are not peculiar to the subject and underemphasizes those matters which are peculiar to it.

“As to the execution of the work, much less in the way of criticism can justly be said. There is a little confusion (as on page 35) in the use of “executed contract of sale” and “executed sale.” The Statute of Frauds does not apply to executed contracts, as would be inferred from the black-letter statement (page 35); for if the contract is executed the goods are delivered and the price paid, thus fully satisfying the statute, even if, aside from such satisfaction, it could be construed to cover a case in which no promise remained outstanding (Brown v. Farmers’, etc., Co., 117 N. Y. 266). The author evidently means that the statute applies to executory as well as to executed sales, which is quite another matter, and which he correctly states in more modest type on page 37. So also there is some confusion (excusable, perhaps, in view of the state of the authorities) in the use of the terms “condition” and “warranty.” Thus he treats a sale by description as a sale upon condition because the buyer may reject the goods if they do not answer the description, while he treats a sale by sample as a sale with an implied warranty, although equally the buyer may reject the goods if they do not correspond with the sample. This distinction might be valid in a jurisdiction where the buyer must reject goods not answering the description or lose his right to complain of a breach of contract; but may reject them or accept them and sue as upon a warranty in case of goods sold by sample; but it is misleading as a general and unqualified proposition.

“In the main, however, the author states clearly and concisely the propositions of law involved, and fortifies his text with abundant citation of authorities. While these citations are perhaps more numerous than the necessities of the case require, they are few indeed compared with the monotonous array of sentinels that guard the elementary and even axiomatic statements of many similar handbooks. Mr. Tiffany is too conscientious and practiced a writer to turn a credulous ear to the clamor of the digests. His cases, so far as occasional tests indicate, are carefully selected, and serve to illustrate or elaborate the doctrines of his text. It is a refreshing merit to find a modern text-book in which the cases cited are more than a perfunctory afterthought. It is a slow process to make a law book in which the text springs from the cases. It is a mechanically rapid process to make one in which the text is a reaction of a prior one —or

possibly two—and the citations the product of deft scissoring among digests and other people's footnotes.

“On the whole Mr. Tiffany has produced a useful book. A second edition—which the enterprise of his publishers warrants us in expecting at any time—will be a better book if he will compress non-essential matters into smaller bulk and expand essential matter into larger bulk, preserving meantime the clearness, conciseness and directness of treatment which may justly be said to raise his work far above the average of similar undertakings.”

2.

The American Law Register and Review

“This volume of only two hundred and fifty pages contains the essence of the law of sales. It is legal nourishment in its most concentrated form, the boiling-down process having been carried to its utmost limit.

Mr. Tiffany has followed as his recipe the excellent plan of analysis and arrangement adopted in the Hornbook Series. This, it will be remembered, consists in the separation and distribution of material into general principles, printed in heavy type; short commentaries upon the principles, divided into paragraphs and printed in a lighter type — these commentaries forming the body of the book; and, lastly, notes, in which alone are collected the authorities. While the tendency of such a handbook is unpleasantly in the direction of a digest, Mr. Tiffany's grasp of subject and fluency of style have produced a different result and preserved for his work all the continuity and interest of a treatise.

“He draws in outline, as it were, the entire law of sales, following, as he tells us in his preface, more or less closely upon Mr. Benjamin's synopsis. He starts with the principles lying at the basis of the contract, and, then, in one well written chapter after another, unfolds the law governing law the sale of a specific chattel; the sale of a chattel not specific; the effects of mistake, fraud, and

the failure of consideration; illegality; conditions, warranties, the execution of the contract; and, finally, the rights of action of either party arising on a breach. In the text, as we have suggested, there is nothing but the bare outline of his subject. In the notes, however, will be found all the necessary drapery and details, in the form of references to some twenty-seven hundred precedents.

“Notwithstanding the extreme degree of concentration required by his publishers, we are not aware of a single sentence in which Mr. Tiffany has failed to set forth his meaning clearly. He has succeeded very wonderfully in combining brevity and clearness. Every now and then by a mere passing reference to the reasons for preferring one line of authorities to another, he shows his breadth of view and proves that, if space permitted, he could do much more than “indicate the law.” The unique and unreasonable attitude of the Supreme Court of Pennsylvania on the question of the right to rescind, where the purchaser on credit not only was insolvent at the time he purchased but knew himself to be insolvent, does not escape the author. And yet he contents himself with but a few sentences of explanation in the text, and a reference to the cases in a note. In his few sentences of explanation he has shown us what he conceives to be the better line of reasoning.

“It will certainly not be long before the profession realizes the debt they owe to Mr. Tiffany for the production of this handbook. The rare, good judgment and ability displayed by him on every page will certainly secure for the volume the success which it deserves.”

—“F. F. Kane,” in *American Law Register & Review*.

3.

The Harvard Law Review.

“The purpose of the book, to quote the preface, “is to present concisely the general principles of the law of the sale of personal property.” In this the author has succeeded, and his book may be classed among the best of the Hornbook Series. His style is well condensed, clear, and readable; his statements, with few noted exceptions, accurate; and a sense of nice discrimination, commendable in a work of so small a compass, pervades the book.

An excellent example of this quality is his treatment of acceptance and receipt under the Statute of Frauds.”

—“E. R. C.,” in Harvard Law Review.

4.

The New Jersey law Journal

“The book presents in due order and proper form the results of discussions which have been going on for many years on this important subject. For one familiar with the long discussions it is a pleasure to read these definite rules and clear explanations of their meaning and effect. For students the book will serve to show the whole region to those who will as well as those who will not explore it for themselves, and to busy practitioners it will furnish the definite and particular information which they need, with a reference to the leading cases and the latest good authorities.”

—New Jersey Law Journal

Francis B. Tiffany died in St. Paul on October 25, 1936, at age eighty-one. A memorial to him by the Ramsey County Bar Association can be found in “Ramsey County Bar Memorials – 1937” 3-5 (MLHP, 2016).

The text of the first edition of his *Handbook of the Law of Sales* is posted separately in this website.