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OBLIGATIONS, BOOK 2. By Saúl Litvinoff. West Publishing Company, 1975. Pp. xxiv, 618.

*Jean-Louis Baudouin**

Professor Saul Litvinoff's second volume on the general theory of Obligations has just come off the press of West Publishing Co. It is the logical follow up of the first volume published in 1969.¹ The author devotes this second book to the effects of obligations generally taking as a basis of analysis the classical civilian division between obligations to give, obligations to do and obligations not to do. Within the framework of the obligations to give, a very detailed and lengthy analysis is made of the transfer of ownership. This is a most welcome innovation in a treatise on obligations. Too often, probably under the influence of the French doctrine, this important problem is treated with the law of sale or with the law of property, whereas it is in fact a question that properly belongs to the law of obligations.

Almost half of the book is concerned with the analysis of a prerequisite to the enforcement of obligations: putting in default. This question which has been coined by a Louisiana scholar as a "*cloudy concept*"² is indeed one of the most difficult problems in Louisiana civil law, with the possible exception of cause and consideration, which was brilliantly dealt with by the author in his first volume.³

The mastery of Louisiana jurisprudence coupled with a fine analytical mind make it finally possible to have a somewhat clearer picture of the jungle of "default" law. The author should be congratulated on his approach to the problem. The plan he adopted (putting in default when the creditor must act, need not act, putting in default for obligations that are not conventional, and putting in default for resolution of contract), greatly improves the clarity of the exposition and is of great help for the reader to place the question in a better perspective. One gets the impression, however, that the author tried to reconcile the irreconcilable case law *dicta*, and

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1. See Book Review in 48 CAN. BAR REV. 626 (1970).

2. Smith, *The Cloudy Concept of Default*, in TWELFTH ANNUAL INSTITUTE ON MINERAL LAW 3, 4, 16 (Louisiana State University Press, 1965).

3. S. LITVINOFF, OBLIGATIONS, BOOK 1, pp. 507 *et seq.* (West Pub. Co. 1969).

that there still is need for legislative intervention to clear a path through this forest.

The reader will also find two distinctive features that make the book the more interesting to read. The first one is the series of recommendations made by the author throughout the book for law reform. The somewhat formidable comparative law experience and culture of Professor Litvinoff affords in that respect some interesting comparison with French, German, Argentinian and common law.⁴

The second one relates to the valuable personal conclusions and critiques of the author on certain problems such as on obligations to give (secs. 22, 29i), bona fide purchase of things stolen or obtained by fraud (sec. 94), bilateral and unilateral promises (secs. 124, 125), risks (secs. 142, 153), and of course default (secs. 289, 290, 291). One does get the impression that, by comparison with the first volume, the author feels much more at ease in this second one to criticize the positive law and to propose new areas of solutions to legal problems. The critiques are direct and always perfectly to the point.

Finally, both the style and presentation are good and contribute to make the book very enjoyable to read.

Any review of a book of such great quality would not, of course be complete if the reviewer did not find something "critical" to say. I must confess, I almost did not, and that it took me a long time to find. The criticism is really a trifle. To better explain putting in default, the author thought best in sections 179-194 to deal briefly with the general theory of civil responsibility and to explain succinctly fault, damage and causal connection. I, for one (and I must admit that it is a very personal preference), would have preferred these sections deleted, not because they are not good (they are excellent) but because they leave the reader "*sur sa faim*," being but a preview of the author's future presentation on civil responsibility.

To sum up, this second volume on Obligations, and I say it in all sincerity and despite my friendship for the author, is truly a very fine piece of work. I am convinced that it will remain "*un classique*" on the subject not only in Louisiana legal literature but also in civilian and comparative law literature everywhere.

4. See, e.g., §§ 86-89, 101-106, 114-120, 201-203, 210.