

NOTICES OF NEW BOOKS.

OF THE LIMITATION OF ACTIONS; AND OF LIENS AGAINST REAL ESTATE IN PENNSYLVANIA: by ELI K. PRICE. Philadelphia: Kay & Brother, 1857, pp. 392.

This work possesses the unusual advantage of being written by one who has not only a thorough knowledge of the law of real property, but a familiar acquaintance with its actual working, derived from a long and extensive practice. Text books are now too often the products of young men ambitious of fame, or of old men barren of success, who have no other means of making their enforced leisure available. The method of composition practised by such writers is generally one which requires no great outlay of labor or intellect. It consists simply in collecting together the decisions on some branch of law, and sorting them into something like a logical order of sequence; and paste and a proper distribution of conjunctions, complete the work. Authors of this character obviously do not add in any remarkable degree to the general stock of knowledge; if any thing, they only make it more available. They are, indeed, to the compilers of digests, merely what retailers are to the wholesale trade. The law, however, is not entirely made up of decisions. These form a comparatively small portion of its contents. Much exists and remains in the knowledge of lawyers, which seldom finds its way into print. Indeed, the decisions themselves cannot always be rightly discerned, except through that atmosphere of unwritten law by which they are surrounded when made. The result of all this is, that really good treatises can only be expected from lawyers of large experience and practical knowledge. But the misfortune is, that this is the very class who usually will not write. Their time is too much engrossed with their actual business; and it cannot be denied that the habit of desultory and irregular study, which a lawyer in large practice necessarily falls into, is inconsistent with those characteristics of mind which are essential to scientific composition. For these reasons, there is so much sad truth in the old saying that when a good lawyer dies, much good law dies with him.

Mr. Price has fortunately not been affected by this *vis inertiae* which has held back so many other eminent lawyers, and we now sincerely thank him for having overcome its resistance. The subject of his present work is one of which the writer is peculiarly fitted to treat. For many years in the front rank of the Philadelphia bar, and constantly called from

the nature of his practise to the consideration of subjects of this nature, his authority is necessarily very high with regard thereto, and his opinions deserving of the greatest respect.

The law of liens on real estate in Pennsylvania, is a topic, indeed, which needs a careful and scientific treatment. It is very peculiar in its character, and has originated in a series of decisions, and of unconnected legislation, based upon principles which are not readily ascertainable, nor perhaps very self-consistent. One of the most remarkable of these, is that which treats a mortgage as a pure lien, capable of being discharged by a judicial sale, upon a subsequent incumbrance. This was first fully enunciated in the well known case of *Corporation vs. Wallace*, 3 Rawle, 109. The inconvenient consequences of this decision gave rise to several statutes, the object of which has been to confine the operation of the rule to such mortgages as happen to be subsequent in date to other liens, "except other mortgages, ground rents and the purchase money due to the commonwealth." This legislation, however, has been somewhat irregular and uncertain, and has caused considerable fluctuation of decision. But the general doctrine of the discharge of all liens, mortgages as well as others, by a judicial sale, remains, subject to the legislative exceptions, the established policy of Pennsylvania law. Many other liens, moreover, have grown up in this State during the last quarter of a century, or have been changed or modified in their characters, for which there is little precedent to be found elsewhere. The operation and lien of judgments, for instance, possess peculiar local characteristics. In saying that a judgment in Pennsylvania, binds all possible vested interests in land, whether present or future, and whether legal or equitable, we indicate how very far it has altered its common law character. Ground rents and the lien of the arrears thereof, constitute another of the singularities of our system. The general debts of a decedent, which bind his land for a certain term of years, also furnish an instance of divergence from the generally received doctrines of the law. But we need not proceed in this enumeration. It is enough to say that there has grown up gradually in this State a novel system of jurisprudence of great importance to the holders of real estate, the elements of which are to be found written only in some few isolated statutes, and many discordant decisions, and which otherwise exist for the most part in the knowledge of a comparatively few practitioners.

In collecting and harmonizing these statutes and decisions, Mr. Price has done the community a real service. It was a task that had to be per-

formed by some one, and he was the precise man to do it. Besides his extensive general knowledge and practical acquaintance with the subject to which we have alluded, he has the further advantage of having been the author of many of those statutes; and he, of course, can explain their meaning as no one else can.

Besides this subject of liens, Mr. Price's book is also devoted to the consideration of the subject of the law of the limitation of actions as to real estate, which is a topic which is scarcely less complicated and confused in Pennsylvania, and with respect to which also he is the originator of many legislative improvements. The book concludes with a very valuable practical chapter containing directions for making searches for incumbrances, and another on the computation of time.

Mr. Price writes clearly and well, and is, as was to be expected, entirely exhaustive of the subjects of which he treats. There is one objection which we must urge, however, and which we hope will be removed in a future edition. The references to cases merely by the book and page, without the names of the parties, is a considerable practical inconvenience: for, independently of the fact, that it is impossible to secure entire accuracy in mere numerical reference, such a system often obliges the student to refer to his library for the examination of cases with which he is perfectly familiar, and when, if the name had only been given, his trouble would have been spared. We would suggest further, that the insertion of these references into the text not only destroys the symmetrical appearance of the page, but really has a tendency to interrupt the current of thought. But these minor objections can be readily obviated hereafter, and detract so little from the real merit and value of the book that they hardly need to be mentioned.

In conclusion, Mr. Price's treatise is one that we can honestly recommend to the lawyers of this State; and we have also no doubt that it will be found useful elsewhere, where systems analogous to ours prevail.