

the third day of grace, though after protest, will be prematurely brought : *Oothout vs. Ballard et al.*

In respect to the time for commencing a suit, there is no distinction between a note payable at a bank and one payable at large, or at the counting-house of the maker : *Id.*

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### NOTICES OF NEW BOOKS.

PRACTICE IN THE EXECUTIVE DEPARTMENT OF THE GOVERNMENT, UNDER THE PENSION BOUNTY AND PRIZE LAWS OF THE UNITED STATES. By ROBERT SEWELL, Counsellor-at-law. New York: D. Appleton & Co., 1864.

We have received a copy of this work through the courtesy of Mr. Childs, the Philadelphia publisher, and have examined it with some care. The body of the book consists of practical instructions, including forms, concerning bounty and pay of soldiers and sailors, living and deceased, artificial limbs and trusses, claims for horses and equipage, pensions, navy claims, prize-money, attorneys and claim agents, sutlers, pension surgeons, a synopsis of legislation in regard to military matters, including extracts from the Acts of Congress relating to bounty, pensions, &c., the articles of war, and the general orders of the war department. We have found the book very practical and intended partly for unprofessional readers, though the author very frankly states in his preface that there are some cases in which an intelligent person, unacquainted with legal forms, will probably fail, even with the assistance of this book, in getting his proofs and documents into the shape required. We think such cases will be numerous, and therefore would not advocate an effort in this any more than in strictly legal proceedings to make every man his own lawyer. Naturally, much of this business will fall into the hands of lawyers, but the bar generally have no practical acquaintance with the proceedings in such cases, and no one who has any experience of them will question the justness of the author's confidence that the assistance of this book in one case, if he never has another, will save the lawyer three times its cost in time and trouble.

J. T. M.

PRACTICE AND PLEADING IN ACTIONS IN THE COURTS OF RECORD IN THE STATE OF NEW YORK, UNDER THE CODE OF PROCEDURE AND OTHER STATUTES WHERE APPLICABLE. WITH AN APPENDIX OF FORMS. By HENRY WHITTAKER, Counsellor-at-law. Third edition in two volumes, pp. 890, 1111. Printed for the Author, 1863.

The New York Code of Procedure has already been the occasion of many books of practice and pleading. There occur to us at this moment,

besides the book whose title is given at the head of this notice, Van Santvoord's Pleadings, Gould's Pleadings, adapted to the code; Abbott's Pleadings, Tillinghast and Shearman's Practice, Voorhies's Annotated Code, and Howard's Code. While the Code itself is but a brief series of propositions, the commentaries upon it have already, within fifteen years, assumed a bulk greater than any work under the old system of practice. These books have been prepared on two distinct plans. One consists in mere annotations upon the sections of the Code in their regular order. While this plan is recommended by the convenience which it affords for consultation it, of necessity, involves defects in arrangement and repetitions. Voorhies's and Howard's Codes adopt this system. The other plan consists in an orderly and systematic treatment of the whole subject of pleading and practice. Mr. Whittaker's work belongs to this class. We are glad to know that it has met with such acceptance, that it has passed through three editions. The author has been diligent and full in the collection of authorities, and has made a clear and methodical arrangement of the vast mass of his materials. His statement of the rules governing his subject is perspicuous and accurate. The work seems to be of a high order of merit, and is worthy of the patronage not only of the members of the profession in New York, but in the other states which have adopted its Code of Procedure. Without disparagement to other works upon this subject, it may be recommended to students as a pleasant and safe guide to the arid paths of practice. T. W. D.

**AN INTRODUCTION TO MUNICIPAL LAW**; designed for General Readers and for Students in Colleges and Higher Schools. By JOHN NORTON POMEROY, Counsellor-at-law. New York: Appleton & Co.

We have received this excellent introductory treatise upon the elementary principles of municipal law from the publishers, and had intended to notice it earlier, but the press of other duties has prevented. We have read large portions of the book with care, and we can say, in all sincerity, that we have never read two consecutive pages, without finding just cause for admiration, in the frank and manly declaration of sentiments, which it deeply concerns the youth of this country, and of this sad and dark day of our history, to understand and thoroughly to ponder. And the manner in which these earnest reflections are brought out, without obtrusion, and without offence, cannot fail to make them acceptable to all readers.

An earnest and thoughtful man who speaks because the truth demands it, and with no selfish end to serve, will never offend any one. The book

is precisely what its title imports, an Introduction to Municipal Law; a book to go before Kent or Blackstone, and to supply a place which neither of those will fill, and which will be sought after and be useful to a greater number of persons, by far, than any other book upon the law now in use. Our surprise is that no one has before attempted to supply this great want in our college text-books. And we feel scarcely less surprise that the first attempt should have been so eminently successful.

The book, both in matter and style, is almost without fault. The style is plain, simple, and perspicuous, and at the same time remarkably free from all dullness or dryness. The mechanical execution of the book is in the best style of that excellent publishing house, and that is all which could be desired.

The book embraces a wide range of topics, including the history of the Roman civil law, the continental law of Europe to some extent, and that of the English and American laws in detail. And in addition to this, it also contains the elementary principles of the common law of England as it exists in the American States. No cases or authorities are referred to, which seemed at first-view an objection. But on reflection we are satisfied the thing would have been found wholly impracticable, so numerous have these authorities become upon many points. To quote them all would far too much incumber the pages of the work, and to select would have seemed either invidious or to imply ignorance of those not referred to, either of which would have prompted so much overcrowding of the notes as to have rendered them a positive incumbrance. No one goes to a book of this kind to prepare a brief. All that any one expects to find here is a full and faithful enunciation of the general principles of the law. And after careful examination and considerable study, we must say that we have never seen an elementary book more accurate or more unexceptionable in its *statement of its propositions*.

The discussion of the question long at issue between the advocates of codification and of unwritten law and judicial construction is here handled with masterly ability. It is wonderful to find so comprehensive a synopsis of all the arguments upon both sides, and the balance so fairly struck by any writer upon his first effort. The chapters upon this point deserve to be printed upon tablets and hung up in the halls of our colleges, and especially our law colleges, throughout the land. It will do more, in our own humble judgment, to save the country from ruin, than all the author's reflections, and those of fifty others, upon the war prerogatives of the

National Executive. We commend this portion of the book to the earnest study of all thoughtful men, and others will not study anything to *our* purpose.

There are many other points which we had intended to bring to the special notice of our readers.

On page 193 are some very just comments upon "this day of unfaith," and the readiness among all classes, to carp "about the jugglery of priests, and the bloody rudeness of our ancestors," which means scarcely less than unbelief in the mass of those who thus innocently arraign all forms of religion among us, by these stale criticisms upon the former ages. The author well says: "I may be permitted here to express a fervent hope that as a people we are certainly Christian, and as a nation we may soon throw off our character of infidelity."

In commending this portion of the book, we must not be misunderstood, as if the author, in any sense, obtruded his religious notions upon his readers. Far from it. It is only named incidentally, and for the purpose of showing that all education and all successful national progress must rest upon the religious training and faith of the youth. The author is not ashamed to defend religion, and if he were his book would, in our opinion, be an unfit text-book for youth, however perfect in other respects.

On page 213 we commend the author's testimony in regard to codes to the attentive study of code-makers. They will find them true. "While a nation is in a state of advance, a free system of law, the products of courts, is absolutely necessary; that when codes have been adopted in such country, they are not final, the courts must proceed to build upon them. When codes alone have served all the purposes of a national legislation, *the national life has become effete.*"

The author's views of the sacredness of the married relation, and of its perpetuity, show him to belong to the school of Christian teachers. P. 429.

And his chapter upon the history of personal liberty under the English constitution, p. 260 *et seq.*, is worth careful study at all times, and especially when the foundations of society are being broken up.

There is much more we should be glad to say, but our space will not allow. We should be much surprised if it were not adopted as a text-book in all our colleges and law schools; and if its merits were fully understood, there is not a cultivated or scholarly man in the country who could afford to dispense with it in his private library.

I. F. R.