

BOOK REVIEWS.

REMEDIES AND REMEDIAL RIGHTS BY THE CIVIL ACTION, according to the Reformed American Procedure. By JOHN NORTON POMEROY, LL.D. Third edition by JOHN NORTON POMEROY, JR., A. M. Boston: Little, Brown & Co. 1894.

The earlier editions of this work have long since made a permanent place for it among the books which the practitioner must keep within easy reach. Under the name of "Pomeroy's Remedies," the work has been cited in many judicial opinions and in briefs innumerable. This abbreviated title (as was pointed out by the author in the preface to his second edition) is to some extent misleading—for it omits the important words "by the civil action" which have the effect of restricting the scope of the more general appellation and of giving definiteness and certainty to it. Accordingly, the editor of the edition before us has placed upon the cover the name "Pomeroy's Code Remedies" by way of a compromise between the two, thus seeking to combine the brevity of one title with the accuracy of the other.

In this edition, the second has been "brought down to date" by means of slight additions to the text and by important additions to the foot notes. The editor tells us in his preface that he has also ventured to revise to some extent the matter inserted in the second edition; so that the work, in its new form, presents to the reader what is undoubtedly the most complete and in all respects the best treatise upon Remedies by the Civil Action in existence.

To use such language as this of a work which deals with Procedure under our American Codes is to accord it a large measure of praise. Thoughtful and able writers have dealt with the subject, but, in the judgment of the reviewer, Mr. POMEROY surpasses them all in simplicity of arrangement, clearness of style and accuracy of statement. The subject is

full of difficulties, for the several Codes differ to some extent among themselves, and their provisions have in many instances met with unsympathetic treatment at the hands of judges whose common law training caused them to look with suspicion upon a system so different from that which it has supplanted. Indeed, it should be said here that the favorable comments in this review are directed to the work in hand and in particular to this edition of it; the writer finds it impossible fully to agree with Mr. POMEROY in his expressions of unrestrained commendation of the Code and the Civil Action.

A careful examination has been made of the matter contained in brackets—the distinctive features of this edition—and it appears that in all cases the work has been done with care and judgment. The addition to the notes on “Actions Arising in Special Cases” and on “Counter Claim” are especially valuable. The typography, paper and general make-up of the book are excellent.

G. W. P.

A TREATISE ON THE LAW OF MUNICIPAL CORPORATIONS IN THE UNITED STATES. By CHRISTOPHER G. TIEDEMAN. New York and Albany: Banks & Bros. 1894.

The rapid succession of Treatises on Municipal Corporations since the fourth edition of DILLON's work in 1890, is but one of the many indications of that rapidly approaching period when every one of the many phases of our municipal problems shall have been subjected to the close scrutiny of scientific analysis. It is only within the last decade that we have commenced to fully realize the influence which our courts have exercised in shaping our conception of the municipality, and in determining its form of government. When Judge DILLON's “Commentaries on the Law of Municipal Corporations” first appeared in 1872, this field of legal research was still uncultivated. Nevertheless, the work proved itself a masterpiece in its way; mirroring with remarkable accuracy the position occupied by our courts towards the cities of the Union. When this first edition appeared we

were still a country of small cities. During the twenty years which mark the interval between the first and the fourth, we have been rapidly developing into a people dependent upon the efficiency of our city governments for a mass of necessities and comforts. The more recent works treating of this subject show, with almost startling clearness, the lack of recognition, on the part of the courts, of this change in our social conditions, together with the changes in the problems of our municipalities, which this social revolution or evolution has engendered. One of the most valuable portions of DILLON'S work was the clear recognition of these changes, especially in the earlier portions of the first volume. Professor TIEDEMAN'S book lacks to a very great extent this most important element. His work loses, therefore, both in interest and value to one interested beyond purely legal aspects of these questions. It is true that the author in his preface distinctly states that he has endeavored to include everything material and exclude everything immaterial "to the clear comprehension of the general principles and rules of law bearing upon or involved in the subject." But, even regarded as a text book, intended exclusively for the legal mind, there can be no doubt that the careful consideration of the relation between judicial decisions, and the problems actually confronting our great cities—and we lay special emphasis on the problems of the *great cities*—constitutes one of the most important sections in any work on municipal corporations.

Mr. TIEDEMAN divides his work into nineteen chapters dealing with the whole range of municipal activity. The cases cited are exceedingly numerous, in fact, at times out of proportion to the importance of the problems involved. The three most important chapters are those which treat of the legislative control over municipal corporations, municipal securities, and municipal taxation and local assessments. In all three, considering the vastness of the problems involved, the author has given us an extremely succinct and able statement of the present condition of the law. When we stop to consider that in 1890 the total municipal indebtedness (exclusive of county and school district) in the United States was

nearly \$725,000,000, whereas the total National debt amounted to not more than \$900,000,000, and the total State debt to less than \$229,000,000, the growing importance of this branch of the law is readily appreciated. When we reach our great cities the importance of the questions of local finance—taxation, assessments and indebtedness—so far outweighs all questions of State finance as to make the former the problem uppermost in the taxpayer. As regards the chapter on the legislative control over municipal corporations the author has not been quite so happy in his methods of treatment nor in the arrangement of cases.

One point, however, is brought out with great clearness, viz., the clear recognition of those functions which are purely local in their nature, and over which the municipality, as such, ought to have complete control. Although the traditions of our courts give but little encouragement to this principle, the trend of later decisions is unmistakably in its favor. The value of this chapter in the present work would have been greatly enhanced had the author considered more in detail the instructive history of the attitude of the courts towards municipal public works. Nothing brings out more clearly than this line of decisions the American theory of municipal government. The cases cited show that all the material was at hand, which makes the omission doubly regrettable.

The work, on the whole, will undoubtedly serve the purpose for which it is intended. That it will supplant or even offer anything beyond DILLON'S "Commentary" is more than doubtful. We have still to await the work which shall treat, not only of the present condition of the law of municipal corporations, but also its relation to the complicated economic and political problems of finance and administration which are at present confronting our great cities. L. S. ROWE.

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PROCEEDINGS OF THE NATIONAL CONFERENCE FOR GOOD CITY
GOVERNMENT, held at Philadelphia, January 25 and 26,

1894, together with a Bibliography of Municipal Government and Reform and a Brief Statement Concerning the Objects and Methods of Municipal Reform Organizations in the United States. Philadelphia: The Municipal League. 1894.

The proceedings of conferences do not, as a general rule, make interesting reading, but the conference, held on January 25th and 26th last, lends to the report an interest and value, which is quite exceptional. It was the first, but we feel confident, by no means, the last Conference on Good City Government, and marks the awakening of a new municipal spirit. It takes the average American citizen a long time to see that the conditions which confront him have changed, and that the political organization and administrative methods, which works well among a people who live in small towns, may be wholly inadequate to grapple with the very difficult problems, which concern a million or more of people gathered together in a comparatively small area.

Like all reports of conferences, the papers read at the meetings have been reprinted. Without making any invidious distinctions, the paper of LEO S. ROWE gives evidence of the most exhaustive knowledge of the question from its administrative side. What we mean by that is this, nearly all the other papers, of which those by CARL SCHURZ, CHARLES J. BONAPARTE and GEORGE GLUYAS MERCER are examples, display a minute and practical knowledge of the workings of political rings and the politics of our large cities, especial stress being, of course, laid upon the civil service evil, and, in the paper of CHARLES RICHARDSON on the "Introduction of National Issues into Local Elections." But Dr. ROWE's paper treats of the question from the side, where the average educated gentleman and reformer is as totally ignorant as the lowest ward heeler, viz.: what our cities should do for their inhabitants and how they should do it. The knowledge of political evils is common property to a large number of our citizens, probably to all of those who assembled at the conference in Philadelphia, but the knowledge of administrative methods and the results of those methods in foreign cities

must always be confined more or less to the specialist. And when the specialist speaks on his specialty, then knowledge which is new and valuable is given to the hearer. One of the most interesting parts of Dr. ROWE'S paper is his destruction of the comforting theory, which we have heard many Americans of the educated classes express, that the reason foreign cities are better administered and give more to their inhabitants than the average American city, is because the capitals of Europe are governed, not by the people of the city, but by the central governments of the nation, which is run by the aristocratic, and, therefore, more or less the educated classes. But Dr. ROWE says, page 113: "Finally, we come to what is, in last analysis, the most important of the determining conditions in the municipal life of Berlin, viz., that the efficiency of the city administrations is due, primarily, neither to the Prussian Monarchy nor to the Prussian Bureaucracy. It was the will, the consciously-expressed will of the people of Berlin, that determined the character of their municipality. Judged from this standpoint Berlin is more democratic than either New York or Philadelphia."

Probably the part of the book, which has the most permanent value, is the subject index, which is, comparatively speaking, very complete. Nearly everything that has been written in English on the subject of improvement of cities from a political standpoint is referred to.

There is also an account of the different organizations, which have sprung into existence within the past few years, and whose object is the improvement of either city politics or municipal administration. We strongly recommend the work to any one desirous of making himself familiar with some of the details of the great political problem, which now confronts the American people, viz., the successful government of large municipalities.

W. D. L.

THE AMERICAN CORPORATION LEGAL MANUAL. Edited by CHARLES L. BORGMEYER, of the New Jersey Bar. Plainfield, N. J.: Honeyman & Co. 1894.

This book is a compilation of what are said to be the

“essential features of the statutory law regulating the formation, management and dissolution of general business corporations in America (North, Central and South), England, France, Germany, the Netherlands, Italy, Russia and Spain.” It also contains a synopsis of the patent, trade-mark and copyright laws of the *world*. There is also appended to it a list of patent solicitors and of “selected and specially recommended corporation counsel.” The compilations of the laws of the several States and countries included in the work are made, in most instances, by local attorneys whose names are prefixed to the matter prepared by them. The publication is intended to be an annual one.

Such a work as is thus indicated can scarcely be said to merit review in a law journal. It is entirely devoid of scientific value, can in no case have the weight of an authority, and is, moreover, disfigured, if not more or less discredited, by the element of advertising which enters into its composition. To the business man, who imprudently relies upon it for his guidance, it is, in common with all similar publications, likely to prove misleading and dangerous. Its contents, however, are such as, upon occasion, may prove serviceable to the lawyer who wishes to obtain a hasty outline of the existing legislation in reference to corporations, patents, etc., in the several States and countries covered by it and who cannot, at the moment, command the time or facilities for making a more thorough investigation. It may, also, serve as a useful index to the several codes and enactment which must ultimately be consulted.

The compilations contained in the book appear to have been made with reasonable care and attention to the more important provisions of the statutes which have been thus epitomized. If the publication should be continued from year to year, and is carefully and conscientiously revised, as changes occur in the laws, it should prove a useful hand-book for the purposes above indicated. It would, however, be much improved and rendered more worthy of professional confidence by the suppression of its advertising features.

W. R. F.