

## BOOK REVIEWS.

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AMERICAN ELECTRICAL CASES. Edited by WILLIAM W. MORRILL. Volume III. Albany, N. Y.: Matthew Bender. 1895.

The third volume of this series contains complete reports of over one hundred selected cases. A comparison of this volume with the preceding one will disclose some interesting facts relating to the growth and development of electricity and electrical devices. Of the one hundred and thirty cases in Vol. 2, sixty-nine are cases relating to the liabilities of telegraph companies as public carriers of news; while of the one hundred and ten cases in Vol. 3, only forty-two are of that class. In Vol. 2 there are but two cases, which pertain to the subject of the interference of electrical currents, while in Vol. 3 there are ten such cases. Twenty-five or nearly one-fourth of the entire number of cases in Vol. 3 relate to the subject of electric railway companies. These facts are too significant to require comment.

Among the cases of especial interest to be found in this volume are the following: *In re Kemmler*, in which the constitutionality of the New York electrocution laws was maintained; *Banning v. Banning*, in which it was decided that an acknowledgment of a deed may be taken by telephone; four cases which hold that the addressee of a telegram may recover substantial damages for mental suffering alone, and three cases which lay down the doctrine that the contract of sending a telegram is one which in certain cases will be valid and binding when made on Sunday.

The same excellent method of arrangement and indexing has been retained.

EDWARD BROOKS, JR.

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THE LAW RELATING TO THE PRODUCTION AND INSPECTION OF BOOKS, PAPERS AND DOCUMENTS IN PENDING CASES. AN

Address delivered by THOMAS J. SUTHERLAND before the Illinois State Bar Association, at Springfield, Illinois, January 25, 1895. With an Appendix, containing Additional Notes and copious Quotations from Authorities: Gladstone Publishing Co., Chicago.

This address was not intended as a text-book, nor in fact, for publication at all, being prepared in the midst of professional engagements which necessarily made it a work of spare moments; but it loses none of its value or authority on that account. Even without an examination of the work itself, the author's name would guarantee its accuracy and worth.

It is doubly welcome to the profession, for the reason that no special work devoted to the subject exists. The law relating thereto, so far as it appears in text-books, is relegated to a chapter in the province of Evidence, where it is of necessity treated briefly, and without that full discussion which, as the present volume clearly shows, is sadly needed by the conflicting decisions thereon. Here these decisions are dealt with at length, and some of them criticised with convincing acumen.

Perhaps the most valuable portion of the work is the discussion of the construction put upon § 9 of c. 51 of the Revised Statutes of Illinois by the Supreme Court of that state. That section provides that "the several courts shall have power in any action pending before them, upon motion, and good and sufficient cause shown, and reasonable notice thereof given, to require the parties, or either of them, to produce books or writings in their possession or power, which contain evidence pertinent to the issue." The most recent decision under this section is *Lester v. Peo.*, 150 Ill. 408, which denies the right of a principal to obtain an inspection of his agent's books before trial, in a controversy with that agent. But this, as Mr. Sutherland clearly proves, not only overrules prior cases, but effectually emasculates the statute, making it a mere substitute for the writ of *subpœna duces tecum*, "for which it was never enacted, and never seriously needed," thus unwarrantably denying to the language of the statute "the

construction and force *freely accorded to similar terms by every other court of every English-speaking people.*"

There is also an appendix, containing some additional comments, with quotations from selected decisions, which will be found very useful to those practitioners who do not have ready access to libraries where these decisions may be found *in extenso*. X.

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A TREATISE ON THE CONSTRUCTION OF THE STATUTE OF FRAUDS, AS IN FORCE IN ENGLAND AND THE UNITED STATES. By CAUSTIN BROWNE. Fifth Edition. By JAMES A. BAILEY, JR. With the Coöperation of the Author. Boston: Little, Brown & Co. 1895.

In recommending to the profession this new edition of a standard work, it is hardly necessary to descant upon its usefulness. This has already been abundantly proved by the experience of those who have already tried the book. But to those who have not read it, it is proper to say, that they will find no work on this subject at once so compact and complete, so full in its treatment of the essentials of its theme and so clear of useless details, so accurate and yet so concise in its statements as this. It is the one book on the Statute of Frauds that ought to be in the hands of every practitioner.

In the present edition, as the preface states, about nineteen hundred cases, decided since the publication of the last edition, comprising all that are of any lasting importance, have been added. Some have, of course, been omitted, for there are points of law on which the cases pile up with astonishing rapidity; but these are mostly instances in which the law is so well settled that a further citation of authority would only uselessly encumber the volumes. The text has also been carefully revised, with the effect of giving an added clearness to the terse language of the former editions.

There is one noteworthy change in this edition. The list of American statutes has been omitted from the preface, in order, as the author states, to make room for the new matter without materially increasing the size of the volume. This is

to be regretted, as, though it may be true that no serious inconvenience may result from that omission, yet it is always an advantage to have the statutes at hand, in order that the reasons for apparently conflicting decisions in different states may be clearly perceived by reference to the statutes themselves. This, however, in view of the fact that the modern practitioner seems, by all accounts, to care more for decisions, than for the reasons upon which they rest, may not be so serious a defect as it would seem to one of the old régime. In all other respects, the work is decidedly an improvement over former editions.

R. D. S.

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A TREATISE ON THE LAW OF THE DOMESTIC RELATIONS,  
EMBRACING HUSBAND AND WIFE, PARENT AND CHILD,  
GUARDIAN AND WARD, INFANCY, AND MASTER AND SERVANT.  
By JAMES SCHOULER, LL. D. Fifth Edition. Boston:  
Little, Brown & Co. 1895.

It is not necessary to say anything in commendation of a work so well and favorably known as this is, and one so comprehensive and at the same time accurate in its treatment of the varied and fluctuating relations included within its scope; and in this new edition there are no salient features of newness to which to call attention. It contains the cream of the new cases on the various branches of its subject-matter, carefully culled; but the practitioner who searches in it for those of purely local interest will be disappointed. It was no part of the author's purpose to make his work a mere collection of details and eccentricities, (such as many cases on these branches of the law unfortunately are,) or to compete with the more voluminous and inflated works on the subdivisions of his subject matter. His original aim was to produce a compact hand book of general principles, for ready reference, and to this aim he has confined himself in the successive editions of his book. His example in this respect may well be commended to others.

Another feature which adds to the value of the book is, that the present edition is also prepared by the author, so that uniformity of expression and treatment is secured in the addi-

tions to the original. The failure to do this is responsible for the chaotic state to which many once valuable text-books have been reduced.

The text of the work has been carefully revised; and many slight verbal changes have been made, which add to the clearness of the statement, or bring it into greater harmony with the present status of the law. These are too numerous to mention; but one may be pardoned for referring to the happy addition to the section (§ 10) in which the author embodies his most admirable "general conclusions as to the law of husband and wife,"—"Under all circumstances, moreover, the physical superiority of the male companion, and his propensity to self-indulgence, are forces which woman will always have to reckon with."

There are special departments of the subject matter to which one could wish that the author had given a little fuller treatment. Such is that of the ante-nuptial fraud of a spouse, (§ 81) which, while presenting the broad principles of the doctrine, fails to mention the exceptions that have been made in favor of conveyances in favor of children; and fails, too, to include some important recent cases.

There is also one improvement that might well be made;—and that is the furnishing of a fuller index. As the case now stands, it is easier to find some matters by reference to the Table of Contents than by reference to the Index—a state of things which certainly ought not to be. These imperfections, however, do not detract from the real value of the work, which, as said before, needs no further recommendation than the fame it has already gained for itself and its author.

ARDEMUS STEWART.

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OUTLINES OF TRIAL PROCEDURE. By J. L. BENNETT, of the Chicago Bar. Chicago: Donohue & Henneberry. 1895.

To the outsider, practice must often seem a huge mass of disconnected details; while the lawyer himself finds the temptation and the tendency almost irresistible to drift into empiricism, and to work by "rule of thumb" alone.

Whatever tends to bring order out of this chaos, by showing that, after all, there are underlying principles which are *sometimes* applied, is to be welcomed ; and from this standpoint, one may say a word of commendation for the present pamphlet—for it is scarcely more. When, however, the discussion of practice subjects is made general, and not confined to one jurisdiction, categorical statement and great condensation can rarely be united ; so that, while this book aims at being “ something akin to Rules of Order,” it is really only a collection of conversational hints, too general to be of much practical value in Illinois, and too meagre to be of more than passing interest to the student in his search after fundamentals.

The division into sections, as though this were a code, embodying absolute rules, strikes one as unnecessary.

S. D. M.