

BOOK REVIEWS.

A TEXT-BOOK OF THE PATENT LAWS OF THE UNITED STATES.
By ALBERT H. WALKER. Third Edition. New York :
Baker, Voorhis & Co. 1895.

The value of Mr. Walker's work upon the law of patents, as presented in his first and second editions, is too well known and appreciated to require any comment; suffice it to say that this work has been a standard text-book since its first appearance in 1885, and has been constantly cited by the courts in patent cases as an authority upon the subject.

Mr. Walker has just published a third edition, which is now before us. As nearly seven years have elapsed since the publication of the second edition, and hundreds of cases have been decided upon the subject in that time, the new edition from Mr. Walker's own pen, bringing the subject down to date, will be warmly welcomed by the bar. All the leading cases decided since the appearance of the second edition have been added and the author, in his easy and concise style, has noted such modifications of the former prevailing opinions as are now warranted under the more recent authorities. It is true, that within this period of time, there has been but little important change in the Statutes bearing upon the subject, but the rulings in a number of cases, such, for instance, as *Miller v. Eagle Company*, 151 U. S. 197, have somewhat modified the constructions previously placed upon certain of the Statutes. Comment, therefore, in a text-book of this character upon such subjects is highly important together with a compilation of the cases pertinent thereto.

Since the publication of Mr. Walker's previous edition, the Act of 1891 has been passed creating the new Circuit Courts of Appeals, and relieving the Supreme Court of the United States of the consideration of patent cases, except in rare instances. Mr. Walker has, therefore, to deal in the new matter of this edition largely with the decisions of a series of

new courts of ultimate resort, nine in number, constituted of the Judges of the lower Federal courts, instead of with a line of decisions emanating from a single court of ultimate appeal, constituted of nine Justices. The Supreme Court of the United States has recently handed down the decision in the last of the patent cases before it, and, consequently, no more opinions upon this subject will be looked for from this court, except in very rare instances.

It is clear, as seen in this new edition, that conflicting decisions in the Circuit Courts of Appeals are apt to occur, though the advantage of the system of the expedition with which cases may be appealed and heard in the Circuit Courts of Appeals is apparent. The author, after carefully analyzing all the decisions of the Circuit Courts of Appeals of the various Circuits, has greatly enriched his work in this edition, by adding some fifteen new sections to the text, carefully amending certain other sections, omitting thirty-three or thirty-four sections of the second edition, and referring to or citing at least seven hundred cases not previously cited. In short, Mr. Walker's work on patents is now thoroughly up to date, and the practitioner, in referring to the same, has the satisfaction of knowing that the law as stated in the work is the latest, and has all the leading authorities cited to substantiate the propositions expressed in the text.

It is unfortunate that Mr. Walker has not sufficient space within the confines of his work to treat a little more elaborately certain subjects which he has not been able to more than pass upon in a few short sections. He has endeavored to treat of the whole broad subject of patent law in this one small volume, upon many of the subdivisions of which a volume of itself could be written without exhausting the subject, for which purpose probably no more masterly pen than that of Mr. Walker is available. For the purposes for which the work is intended, it may be said to be concise and complete, but to answer the requirements of the profession, the bar would be glad to see Mr. Walker take the subjects of certain of the chapters, such as Infringement, Courts, Parties and Causes,

Actions in Equity, Injunctions, Damages and Profits, and prepare a separate work upon each.

Horace Pettit.

THE LAW OF COLLATERAL AND DIRECT INHERITANCE, LEGACY AND SUCCESSION TAXES, EMBRACING ALL AMERICAN AND MANY ENGLISH DECISIONS, WITH FORMS FOR NEW YORK STATE, AND AN APPENDIX GIVING THE STATUTES OF NEW YORK, NEW JERSEY, PENNSYLVANIA, MASSACHUSETTS, MAINE, OHIO, CONNECTICUT, MARYLAND, CALIFORNIA AND ILLINOIS. By BENJAMIN F. DOS PASSOS. Second Edition. St. Paul: West Publishing Co. 1895.

The subject of inheritance taxes is rapidly coming to be one of great interest and importance. Since the publication of the first edition of Mr. Dos Passos's work (and, as he justly thinks, as one of the effects of its publication), such taxes have been authorized by statute in a number of the States of the Union, in addition to those where they were already in force, and these statutes, together with the decisions under them, have combined to swell the modest dimensions of the first edition to a very considerable bulk. This increase in the range of its subject, moreover, has greatly enhanced the value of the work, both on account of the wider scope of many of these new statutes, and the increased opportunity for finding authority for doubtful points, and makes it practically a new work, rather than a mere "second edition."

One very noticeable feature of the work is the valuable suggestions it contains as to the value and propriety of inheritance taxes, and the means of escaping the errors and inconsistencies into which several of the States have fallen in adopting them. Though, in inserting these, the author has deviated somewhat from the accepted plan of a legal text-book, yet one cannot but feel that in this instance, at least, the deviation has been a decided improvement.

The arrangement of the work is all that could be desired, as regards both the logical and the historical development of the subject. Both these lines are kept carefully in view through-

out, and this fact lends the book an artistic finish which is lacking in too many modern text-books. Beginning with a historical view of the legislation on the subject, the author treats first of the constitutionality of such taxes, of the exemptions therefrom, of the estates liable thereto, of the appraisement, of interests of a special or peculiar nature, of the officers entrusted with the collection of the tax, and of the practice and proceedings for its collection. There is also an appendix, containing the statutes of the more important States that possess inheritance tax laws, which is one of the most valuable features of the book, inasmuch as it affords a convenient opportunity to test the reason or unreason of the different decisions on apparently similar points, which are, unhappily, as numerous in this as in other branches of the law; and another appendix, giving the forms used under the New York statutes, which is the only prominent local feature of the book, but which may prove of use in States having similar laws.

The statements of the law are clear and precise, and differences of opinion are carefully noted. There is, however, hardly enough of criticism on controverted points. For instance, the author passes over, without comment, the more than questionable decisions in Pennsylvania, that the lien of the collateral inheritance tax is of indefinite duration, as regards all but *bona fide* purchasers of real estate charged therewith; and fails to point out the inconsistency which exists between these and the decision that after the lapse of forty-two years it will be presumed that the tax was paid, because of the other presumption that the executor discharged his official duty. This, however, is not in any sense a fault, though one regrets that the author has not given us his views on the question; and in all other respects the book is as accurate and complete as it is possible for a law-book to be. The author's care and exactness is well shown by the one fact that he has added a note containing the most recent cases, decided since the work was written, and not published until it was going through the press—a feature that others might well imitate. In all respects, the work is one to be most highly commended.

Ardenus Stewart.

INTRODUCTION TO AMERICAN LAW. DESIGNED AS A FIRST BOOK FOR STUDENTS. By TIMOTHY WALKER, LL.D., Late Professor in Cincinnati College. Tenth Edition. Revised by CLEMENT BATES, of the Cincinnati Bar. Boston : Little, Brown & Co. 1895.

The contents of the original volume of this publication were never intended to have been given to the public, but were prepared by Professor Walker, and delivered by him in the Law School of Cincinnati College in the form of lectures, between the years of 1833 to 1837, which fact at once suggests that the sole object of the work is to give a general outline of the study of law. And yet, the attempt to cover the whole field of law, even in an elementary manner, involves a task demanding, if the project is to succeed, a careful attention to the necessity of condensation, simplicity of statement and a helpful arrangement. That the book containing the original text, together with copious notes, has lived through successive editions until now a tenth one is offered to the public, is a sufficient warranty that the above requisites have been successfully embodied in this single volume of eight hundred and fifty pages. After dealing with preliminary considerations in Part I, the following subjects receive treatment : Constitutional Law ; The Law of Persons ; The Law of Property ; The Law of Crimes ; The Law of Procedure ; and International Law. The subdivisions of the above branches are treated in an admirable manner, resulting in a presentation of the most prominent substantial features of each.

The plan, then, will be seen to be closely analagous to Kent and Blackstone, but differing from the former in being much more elementary, and from the latter in that, as its title suggests, it is an introduction to American and not English law. It is for the reason, said the author, that the American Blackstone is yet to appear, that he published this work.

But lest this comment result in a review, rather of the original work, than of the tenth edition, let us look for a moment to it. As a rule new editions are far too frequent. This is a greater objection when it occurs in a book intended pri-

marily for those who are just beginning the study of law, than in those designed for more advanced students and practitioners. It may be doubted, therefore, whether, as is the case here, two editions of this treatise were warranted within thirteen years. One thing, however, is sure, that it now contains the merit of former editions and notes up to date, which, if not essential, are still desirable, and it is with pleasure that it is recommended to the student class. *B. F. P.*

ELEMENTS OF DAMAGES. A HANDBOOK FOR THE USE OF STUDENTS AND PRACTITIONERS. BY ARTHUR H. SEDGWICK. Boston: Little, Brown & Co. 1896.

This little volume is an excellent sample of the modern idea of a text-book. The bulky volumes to which the profession has been so long accustomed have proved themselves so unfit for anything but reference, that there has grown up an imperative demand for just such book as this, which shall combine clearness and accuracy of statement with just sufficient reference to decided cases to prove the correctness of the principles laid down. Those two most important objects the author has kept steadily in view, and has succeeded to a marked degree in accomplishing them.

The arrangement of the work is in some respect very similar to that of the series of Handbooks issued by the West Publishing Company, but in several points it seems to contain marked improvements over even that admirably edited series. One of these is the careful discussion of the principle involved that precedes each rule; and another is the citation of the facts of the cases selected as illustrations, rather than that of the mere principle of law involved. Both these are a material assistance to both student and practitioner; enabling the former to perceive the application and scope of the principles and rules stated in the text without the necessity of referring to the cases themselves, and permitting the latter to see at a glance the applicability of these principles and rules to the case in hand, without a like reference.

Of course in matters of detail, this volume does not compete with larger and more diffuse works, such as Sedgwick and

Sutherland. The author disclaims any such intention; and it is easy to see that in consequence of the design of this volume such competition would be impossible. Such works will always remain as a mine of more or less available ore, which may be mined with far greater ease by the use of this little volume as a pick or shovel, wherewith to dig it out. And used in this manner, it will prove of the greatest utility.

Ardenus Stewart.

ELEMENTS OF THE LAW OF AGENCY. Students' Series. By ERNEST W. HUFFCUT, Professor of Law in Cornell University. Boston: Little, Brown & Co. 1895.

One of the commonest of mistakes made by lawyers of the day, and one that is the occasion of much unnecessary labor to the courts, is that of overloading the brief with references to cases. The lavish citation of inapt authorities is burdensome and distressing to the judges and must, of necessity, divert their minds from the really important and relevant precedents that ought to govern the case before them.

How strikingly similar is the experience of the practitioner in turning for assistance in his studies to the pages of the text-books. How he mourns the advent of the great modern digests, that have made it possible for unlearned men, after a little skillful plagiarizing and watering of the standard texts, to bolster up their work with a vast mass of recent cases, often irrelevant and usually badly arranged, and name the completed monstrosity a treatise on the law. From such conglomerations, it is a real pleasure to turn to a work so compact and well-wrought as that of Professor Huffcut on the Elements of the Law of Agency. The volume is in the Students' Series, and is not unworthy a place by the side of the writings of Cooley, Stephen, Bigelow and others that have already appeared under that name. The author aims "to set forth the manner in which obligations are incurred through the acts of an agent, and to do this as a natural sequence to a study of the manner in which like obligations are incurred by one's own acts." Perhaps the most striking characteristic of the book is the painstaking and accurate analysis which the subject has

received. Nowhere is there any confusion, but throughout the arrangement and classification are so perspicuous that the veriest tyro in the law must soon come to feel at home with the author's method. The authorities cited are only numerous enough to substantiate and illustrate the legal principles stated.

If any criticism of Professor Huffcut's work were to be offered it might be in that very line in which he has made his greatest success. In one or two cases there are attempts at analysis and classification of the subject in places where it hardly seems logically to admit of it. An instance of this may be found in the discussion of the formation of agency by agreement, where the author conceives that "the agreement between the principal and agent may take any one of three forms: (1) the offer of a promise for an act; (2) the offer of an act for a promise; (3) the offer of a promise for a promise." Yet we venture to suggest that a careful consideration of these three forms will show that there is really no vital distinction between them and that they are all, logically, "the offer of a promise for a promise."

So well written a book as this should meet with a warm reception from the profession. It is logical in its arrangement, accurate in its statement of the law, and discriminating in its citation of authorities. The fact that its "handy volume" size prevents its being exhaustive is far from detracting from its usefulness.

C. D. F., Jr.

LECTURES ON THE LAW, WITH SPECIAL REFERENCE TO THE
LEGAL RULES THAT REGULATE BUSINESS IN COMMERCE,
REAL ESTATE, ETC. By ARTHUR MACARTHUR, LL.D.
Washington: Published by the Author. 1895.

This volume contains a series of fifteen lectures, constituting, as the Introduction by Mrs. Sara A. Spencer sets forth, the regular course in commercial law for the students at the Spencerian Business College. The book is not intended to make the business man his own lawyer, but primarily to equip those preparing for business careers with some knowledge of the general rules of law prevailing in the business world. For

such a purpose, we think, the book is well adapted. These principles are plainly stated, well illustrated, and frequently accompanied with interesting accounts of their origin.

W. B. L.

AMERICAN ELECTRICAL CASES. Edited by WILLIAM W. MORRILL. Vol. IV. Albany: Matthew Bender. 1895.

Volume IV. of American Electrical Cases contains reports in full of nearly one hundred and forty cases decided between January 1, 1892, and April 1, 1894. Besides this there are notes of nearly one hundred and forty additional cases.

The cases are grouped together according to their subject-matter rather than arranged in a chronological order, and include, among others, cases involving a consideration of the following interesting questions: The municipal control of the use of streets by electrical companies; the crossing of steam railroads by electrical railroads; the proposition that electric light companies are manufacturing companies; the obstruction of navigable streams by electric cables, and the power of municipal corporation to engage in the electric light business.

A feature of the present volume which distinguishes it from the preceding ones is that it contains a large number of cases relating to electric railway accidents, including cases of accidents to passengers and accidents to those using streets along the line of the roads.

Edward Brooks, Jr.

THE ANNUAL ON THE LAW OF REAL PROPERTY. Edited by TILGHMAN E. BALLARD and EMERSON E. BALLARD. Vol. III. Crawfordsville, Ind.: The Ballard Publishing Co. 1894.

The third volume of this work has recently appeared. It is larger than the former volumes and contains many improvements of practical utility to the busy lawyer. On the title-page, we find that it is "a complete compendium of real estate law, embracing all current cases, carefully selected, thoroughly annotated and accurately epitomized; comparative statutory construction of the laws of the several states; and exhaustive treatises upon the most important branches of the law of real

property." An examination of the work, we think, will bear out the claims made for it.

The general plan of the preceding volumes has been followed; but an advantage of the current volume is that by the aid of the National Reporter System every real estate case published during the period covered by it has been noticed, and consequently the compendium measurably increased in value. In the review of volume two (34 *AMERICAN LAW REGISTER AND REVIEW*, N. S., 608) the suggestion was made that few cases should be inserted in full. The volume at hand contains more than one thousand pages, yet only sixteen cases are reported *in extenso*. A compendium is to guide the practitioner to the reports and authorities by giving to him the names of cases, their references, and concise statements of the legal principles contained in them. These characteristics appear in the Ballard Annual to a happy degree. Its place among the valuable publications of reference seems to be secure.

D. P. H.