

## BOOK REVIEWS.

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HAND-BOOK ON THE LAW OF PERSONS AND DOMESTIC RELATIONS.  
By WALTER C. TIFFANY. St. Paul, Minn. : West Publishing  
Co. 1896.

The common law of domestic relations has been considerably modified by statute ; in some States the old law has been almost entirely superseded by legislative enactments. Mr. Tiffany has given the common law fully. The statements of the results of the decisions are clear, concise, and to the point ; the cases are cited on the same pages as the statements derived from them so that the reader may develop the law from the original causes.

Then the most general statutes that have been enacted are quoted in substance and discussed. Their judicial interpretations are considered where they have been passed upon ; but it is left to the individual to find out the statutes, which are in force in his own or particular States.

Besides the original scope of the book which included the subjects, Husband and Wife, Parent and Child, and Guardian and Ward, Chapters by William L. Clark, Jr., have been added on Master and Servant, Persons *Non-Comptes Mentis*, and Liens. Nearly five thousand cases are quoted, and all in all, this recent Hornbook is equal in merit to those excellent volumes of the same series, which have preceded it. D. P. H.

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HAND-BOOK ON THE LAW OF TORTS. By WILLIAM B. HALE,  
LL.B. St. Paul: West Publishing Co. 1896. *Hornbook  
Series.*

This volume, the author states, is brought out to supply the demand for a single-volume work on the subject of Torts. It follows closely, both in plan and subject-matter, the two-volume treatise on the subject, published in the Hornbook Series, by Mr. Jaggard. The changes that have been made are chiefly in the internal arrangement of the chapters and in the simplification of the black-letter headings, which constitute so prominent a feature of the series. The abridgement has been principally effected by the omission of merely cumulative citations and illustrations from the text and notes, though the former has been improved upon by the citation of a number of new cases, which may be called leading or illustrative.

One of the best features of the work is the opening chapter on the "General Nature of Torts," which contains a most satisfactory discussion of the origin of the law of torts. of its connection with the common-law pleading, and of the effect of the forms of action on the classification of the law of torts, and distinguishes torts

from other forms of illegal acts or omissions, both as regards the substantive rights involved and as regards the courts which take cognizance of the act or omission.

The author first discusses the general principles applicable to the law of torts, such as "Variations in the Normal Right to Sue," "Joint Tort Feasors," "Discharge," "Limitation of Liability." There is also a very full discussion of the subject of "Remedies for Torts," particularly the remedy in damages, and especial attention is paid to the doctrine of exemplary damages. Secondly, the author treats of specific wrongs, giving large space to the exposition of the modern law of negligence. The work contains far more than the mere elements of the law of torts, and is, indeed, quite full in its treatment of all the ramifications of the subject. It is a ready-reference book for the practitioner as well as a manual for the student.

O. J. R.

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A TREATISE ON THE LAW OF PERSONAL PROPERTY. By JAMES SCHOULER, LL.D. Third Edition. Two Volumes. Boston: Little, Brown & Co. 1896.

This work needs little introduction to the profession, almost twenty-five years having elapsed since the publication of the first edition. The plan of the work has not been changed. Mr. Schouler divides the general subject into three parts: I. Nature and General Incidents of Personal Property; II. Leading Classes of Personal Property; III. Title to Property.

The first and second divisions are treated in volume one; title to personal property by original acquisition, gift and sale is discussed in the second volume. The law of bailments is not treated here, the author having published a separate work upon that subject. This classification seems admirably adapted to the purposes of an elementary treatise upon personal property law; it is at once logical and comprehensive. The author's method is in a measure historical, and the subdivisions of his subject are discussed with due regard to their relative importance.

A chapter is devoted to an explanation of the term personal property; chattels real, chattels personal and fixtures are treated at great length. Following the common-law writers who treat of the time of enjoyment of an estate in realty, the author includes a chapter on Personal Property in Expectancy, treating the growth of the doctrine from *Manning's Case*, 8 Co. 94, b. Similarly, he treats the interests of different owners in the same chattels under Joint and Common Owners, Partners and Members of Corporations. His chapter upon Income, Interest and Usury forms an important part of the first division, which is closed with a short discussion of the Conflict of Laws Relating to Personal Property.

A very satisfactory treatise on Sales comprises threefourths of the second volume. At page 14, Vol. II., in his discussion of title, the author states the well-known rule that common law the finder

of lost property acquired a valid title thereto as against all the world except the true owner, citing the decision in *Bridges v. Hawkesworth*, 7 E. L. & E. 424, 1851. Commenting upon this rule, he says: "We may not, from this case, however, safely conclude that the local situation of the property is always to be disregarded." A case decided by Lord Chief Justice Russell, while this work was in press, *South Staffordshire Water Co. v. Sharman* [1896], 2 Q. B. 44, 35 AM. LAW REG. & REV. N. S. 588, greatly modifies the general rule and fortifies the author's comment.

This edition should be welcomed by the profession; the name of its publishers explains its superior mechanical excellence.

W. B. L.

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STUDIES IN THE CIVIL LAW AND ITS RELATIONS TO THE LAW OF ENGLAND AND AMERICA. By WILLIAM WIRT HOWE, of the Bar of New Orleans. Boston: Little, Brown & Co. 1896.

This volume contains a series of lectures, delivered in the Yale Law School, by the author, as W. L. Storrs, Professor of Municipal Law, for the year 1894, expanded and rearranged for publication. As the Civil Law is the basis of the Louisiana Code, and the author has been a Justice of the Supreme Court of that State, and now is a leading practitioner of the New Orleans Bar, he is especially fitted to deal with the subject.

The introduction contains an historical sketch of great interest, tracing the growth of Roman Law through three periods: the first, called the Regal; the second, the Republican, and the third, the Imperial. The Twelve Tables, the Perpetual Edict, the *Responsa Prudentium*, the Constitutions, the Codes, the Institutes and the Digest are all treated most attractively.

The second chapter deals more particularly with the Jurisconsults and the Law Schools, while the third, and perhaps most interesting chapter, treats of the historical relation of the Roman Law to the Law of England. The author traces, in a rapid and comprehensive manner, the influence of that law in England, from the Roman Conquest, through the period of re-conversion to Christianity after the Saxon Conquest, through the Norman Invasion, which brought in the Churchmen, learned in the Civil Law, and then through the time of the Archbishops and Chancellors who followed, down to the present. To show how great has been the effect of this influence, several examples are given, and the law of probate and admiralty, the rules governing the question of testamentary capacity in case of alleged insanity, the law of corporations, the rules on the subject of alluvion, the law of bailments, the law of estoppel by judgment, trial by jury and the doctrines of *habeas corpus*, are all shown to be taken directly, or largely derived, from the Roman Law.

Following a division with which all Common Law students are familiar, Judge Howe next deals with persons and then with things.

In the chapter on persons, the author calls attention to the fact that the Romans had the conception of the firm as an entity, distinct from its members, regarding the members as agents of the firm, thus working out substantially the same theory of agency and of liability in partnerships as in corporations.

The Common Law distinction between real and personal property was entirely unknown to the Civil Law, and to-day the heir in Louisiana is heir of both, and the administrator is administrator of all the property of the deceased, under the orders of the court.

Obligations form the subject of the sixth and the five succeeding chapters. We are cautioned not to confound the term "obligation," as used in the Civil Law, with a mere writing obligatory, *i. e.*, an instrument under seal, as it is sometimes employed in English Law. It signifies a tie of some kind, binding one to the performance of an act which ought to be done. Using the word in this sense, the sources of obligations are first considered, namely: (1) Contracts; (2) Quasi-Contracts; (3) Offences; (4) Quasi-Offences; (5) The Operation of Law. The different classifications of obligations in the Civil Law are given, all of them valuable in throwing light upon Common Law Contracts.

The chapter on Obligations *quasi ex contractu* is an able summary of a branch of the law, which has only of late attracted much attention among common lawyers, and was itself of sufficient importance to warrant the issuance of a treatise by Professor W. A. Keener in 1893.

The chapter on Obligations, *ex delicto* and *quasi ex delicto*, presents some interesting ideas upon the subjects of torts and negligence. The doctrines of proximate cause and of contributory negligence, as is well known, were in contemplation of the Roman Commentators.

The twelfth chapter contains a brief sketch of the Roman Family, thus introducing a discussion of the rules governing succession.

The thirteenth chapter is devoted to procedure, and the last furnishes a concrete example of studies in the Civil Law, in the life of Judge Martin, whose name is so well known to the profession through his reports.

An appendix contains the Twelve Tables in their present fragmentary form, and also extracts from the Institutes.

The volume shows the expenditure of much time and labor, and the excellent style renders it attractive even to the merely curious reader.

A. G. D.

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A TREATISE ON THE LAW PERTAINING TO CORPORATE FINANCES.

By WILLIAM A. REID, of the New York Bar. Albany: H. B. Parsons. 1896. Two Volumes.

In the preface this work is described as "Practical Treatise upon the Law of Corporate Finance—the Financial Operations and Arrangements of Public and Private Corporations—as declared by

the courts in a large collection of cases." The author does not contend that the legal principles of which he treats are in all cases peculiar to corporation law, nor does he contend that there is any portion of the field of law the boundaries of which exactly correspond to those of his work. He would maintain, however, that the cases in which the doctrines of corporation law and general legal principles are applied in the solution of problems of corporate finance, have become so numerous and represent so great a mass of authority, that they may with propriety be segregated and treated as belonging to a single class, in virtue of the identity of their subject-matter. In this it should seem that the author is right. The work has the same reason for existing as has every other legal work based on objective classification—as, for example, a treatise "on the Law Relating to Intoxicating Liquors;" although it is to be observed that the reason is stronger in the case of the work before us, inasmuch as the subject with which it deals is of vastly greater importance.

The scope of the work may be ascertained by reference to the titles of thirty-two chapters which the two volumes contain. They are as follows: "General Power to Incur Pecuniary Liability—Public Corporations;" "General Power to Incur Pecuniary Liability—Private Corporations;" "Powers of Agents and Officers—Public Corporations;" "Power of Agents and Officers—Private Corporations;" "Fraudulent Acts of Officers;" "Personal Liability of Officers;" "Ultra Vires—Public Corporations;" "Ultra Vires—Private Corporations;" "Banks and Banking;" "Officers of Banks;" "Deposits and Checks;" "Collections;" "Insolvency of Bank;" "Liability of Bank Shareholders;" "Officers of National Banks—Criminal Acts;" "Fiscal Management—Public Corporations;" "Fiscal Management—Private Corporations;" "County Bonds;" "City Bonds;" "Township Bonds;" "School District Bonds;" "Municipal Aid Bonds—County;" "Municipal Aid Bonds—City;" "Municipal Aid Bonds—Towns;" "Bonds and Coupons—Private Corporations;" "Mortgages and Trust Deeds—Private Corporations;" "Insolvency of Private Corporations;" "Foreclosure of Mortgages and Trust Deeds;" "Receivers in Foreclosure Suits;" "Priorities of Liens in Foreclosure Suits;" "Taxation by Public Corporations;" "Taxation of Private Corporations."

When these chapters are examined in detail, it is found that they have been written only after a careful and discriminating study of the decisions. The author seems to have been guided by a desire to present, as it were, a panoramic view of the decisions upon each topic. He has attempted little in the way of criticism and has not striven to reconcile apparently conflicting decisions. He has not given his readers the benefit of his own opinions as often as could be wished. For instance, the chapter on the insolvency of private corporations begins with a paragraph on "How far the

Assets of an Insolvent Corporation are a Trust Fund for its Creditors." This paragraph consists of a presentation of the views upon the subject of the Court of Appeals of West Virginia, as voiced by Judge Johnson, in *Lamb, Trustee, v. Laughlin*, 25 West Va. 300; of the radically different view of the Supreme Court of the United States as outlined in *Hollins v. Brierfield Coal & Iron Company*, 150 U. S. 371; and, finally, of the position of the Supreme Court of Nebraska as defined in *Ingwersen v. Edgcombe*, 60 Northwestern Rep. 1032. This paragraph, supplemented by a copious reference to authorities in the foot note, gives the reader an adequate idea of the conflict of opinion in the different jurisdictions. It furnishes the lawyer with food for reflection and with material for a brief. It is a pity that Mr. Reid did not add a concise and forcible statement of his own view of the solution of the problem, because the view of so attentive a student would be an influence in the direction of uniformity. It is to be observed, however, that this suppression of individuality and this absence of critical comment is a part of the plan which the author originally mapped out for himself. His consistent effort has been to exhibit the law *as it is*, as distinguished from the law *as it should be*. In the notes he has now and then discussed the relation between several lines of decision and on such occasions he has shown himself to be possessed of legal instinct and sound common sense.

It is not to be expected in a work of this character that much will be found that is new or original. Had the author's plan been different the chapters on the so-called doctrine of "Ultra Vires" in its application to public and private corporations would have afforded a broad scope for original investigation and critical comment. As it is, these chapters faithfully present the views entertained upon the subject in the various jurisdictions and are useful summaries of the results reached by State and Federal Courts. The same remarks are applicable to the author's treatment of Corporate Bonds and Mortgages. The chapters on County, City, Township, School District and Municipal Aid Bonds are of especial value. The subject-matter is treated with clearness and precision and the decisions are brought down to the latest possible date.

The merits of such a work are to be found in arrangement, in thoroughness of research, and in accuracy of statement. In all these particulars Mr. Reid's book is deserving of high praise, and it is to be expected that the Profession will, through a large demand, show their appreciation of the service which the author has rendered them.

G. W. P.