

BOOK REVIEWS.

A CONCISE TREATISE ON THE LAW OF WILLS. By WILLIAM HERBERT PAGE (of the Columbus, Ohio, Bar, Professor of Law in the Ohio State University.) Cincinnati: W. H. Anderson & Co. 1901.

Page on Wills comes to us in a large volume of nearly 1200 pages, of which about 1000 are devoted to text and foot-notes, and the remainder to a Table of Cases and an Index. This large proportion of space for the latter two is well used, for the citation of cases is thorough and practically exhaustive, while the index is, of course, of great importance in the practical use of the book.

The subject is necessarily one of the greatest importance, embracing as it does one of the largest and most responsible fields of legal work; and it has been most ably handled by the author in a lucid and logical way.

The object of the work, as given in the preface, "is to set forth, in a form which is easy of comprehension for the student, and with a scope and thoroughness of statement which it is hoped will make it of value to the practicing lawyer, the law of wills, as applied by the Federal and State courts in the United States. English cases have not been ignored, . . . but the greatest space and attention has been given to the law of wills proper, and to an exhaustive consideration of the recent adjudications upon that subject in the United States." The author has gone even beyond this and has given us likewise a treatment of the law of probate and contest, discussing both the substantive law and the adjective law of evidence. To this is added, moreover, the law of devises and legacies, the presence of which, the author thinks, in a text-book upon wills, is not so unusual a feature as to call for comment.

After this general outline, let us look at some of the particular topics treated. The book is not divided into sections according to the above-mentioned arrangement, but is separated into some forty chapters, a few of which are large enough to cause their division into appropriate sections. The general plan of the author is to take up a subject by means of an historical introduction, then to give the common law, next statutory changes, and then a particular discussion of the topic. In this latter division, not a few cases are discussed in the text of the book. This is interesting and instructive, but results in taking up more space than seems consistent with the concise plan of the work.

The book is naturally opened with an introduction containing

definitions, etc., and a concise and well-written chapter on the History of the Law of Wills and Testaments. At the close of this the author sums up with the statement that in the greater part of the United States the law of wills is of pure English origin, modified by modern statutes, showing some influence of Spanish and French law in some of the Southern and Western states; while in Louisiana the law of wills is of French-Roman origin, gradually yielding in some respects to the influence of the remaining common law states. As a result the last mentioned state receives the most individual treatment, especially in regard to nuncupative wills. Then follow chapters, *inter alia*, on Nature and Extent of Testamentary Power; The Inherent Elements of a Will; Capacity to Make a Will; Mistake, Fraud, Undue Influence and Duress; Extrinsic Elements of a Written Will of the Ordinary Type. Quite a large chapter is devoted to this subject and it is properly followed by one on Extrinsic Elements of Holographic, Mystic and Nuncupative Wills. A large and important chapter is the one on Revocation, in which the *animus revocandi* is fully treated. This is followed by discussions of Alteration and Partial Spoliation, and Republication. After these considerations of the law of wills proper, comes the part devoted to connected matters as indicated above. Here we find the law of Probate and Contest, Evidence in Probate and Contest, Construction, Distribution, Devises and Legacies, etc.

This short outline will, it is hoped, give some idea of the scope and comprehensiveness of the work, and lead the reader to investigate a book which is of real value to both student and practitioner, as the author has aimed to make it.

H. W. S.

PROBATE LAW. By M. B. CHATTERTON. Lansing: Published by the author. 1901.

The author has evidently given much study to the subjects which he treats in these two volumes, and he has also had the benefit of practical experience as a judge of probate. Although the citations of statutes and of reports refer almost exclusively to the Law and Practice in the State of Michigan, yet in some subjects, *e. g.*, the execution and revocation of wills, the treatment will be found broad and useful to practitioners beyond the limits of that jurisdiction. It is interesting to note that upon the topics of inventories, accounting, proof of claims, and distribution of estates, the functions and powers of the probate courts under statutory creation and development are controlled by equity. It matters not by what name the tribunal may be called—all such courts, in the matters just referred to, and in many others which belong to the estates of decedents, must necessarily have and exercise the powers of courts of equity.

The arrangement of this work on Probate Law, the division of subjects and sub-divisions, and the general clearness of statement, together with the mechanical work, make it worthy of commendation.

A SELECTION OF CASES ILLUSTRATING EQUITY PLEADING AND PRACTICE WITH DEFINITIONS AND RULES OF THE UNITED STATES SUPREME COURT RELATING THERETO. By E. RICHARD SHIPP and JOHN B. DAISH. Washington: John Byrne & Co. 1901.

This work consists of a short concise statement of the principal rules of equity pleading, followed by a short statement of the more general rules governing the jurisdiction of a court of equity. Ninety-nine hundredths of the book however is a reprint of the rules of the United States Supreme Court relating to equity practice. Interspersed with this reprint of the rules are illustrative cases. These cases are well selected. The introductory matter dealing with equity pleading and jurisdiction, while carefully done, is of no practical value. There is reprinted as an appendix the ordinances made by Lord Chancellor Bacon governing equity practice. A good index adds much to the practical value of the work.

W. D. L.

COMMERCIAL TRUSTS, THE GROWTH AND RIGHTS OF AGGREGATED CAPITAL. Being an Argument Delivered Before the Industrial Commission at Washington, D. C., December 12, 1899. By JOHN R. DOS PASSOS. New York and London: G. P. Putnam's Sons. 1901.

This is not a legal work. The author's knowledge of law, however, enables him to handle his subject in a way which would be impossible to one who was not a trained lawyer. The work contains 137 small pages and should be read by all who desire to obtain a clear statement of the argument of those who desire that the state should not at present, at least, attempt to regulate or interfere in any way with aggregations of capital. As the author does not deny the state's rights of interference or regulation if necessary for the public welfare, his argument that such interference or regulation is unnecessary and unwise, is entitled to more weight than if he discussed the question from a legal and technical point of view.