

## BOOK REVIEWS.

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A TREATISE ON THE LAW OF PRIVATE CORPORATIONS. By HENRY OSBORNE TAYLOR. Fifth edition. Pp. xvii+969. New York: Banks Law Publishing Company. 1902.

This book, as its name implies, is a treatise of the law regulating business enterprises which are prosecuted through the instrumentality of corporate organization.

In Chapters I to VI a short history of the Roman and old Common Law view of corporations, and the law applicable thereto is given; the development of corporations in modern times is traced, and the present attitude of the law toward them is set forth. The author shows that the idea of regarding a corporation as "*a legal person*" is now exploded, and that the present tendency is to disregard this absurd fiction and to take a really intelligent view of the matter. By dismissing this fiction we can really find out who the actual human beings interested are, and thus determine their rights without unnecessary mystification.

In Chapter VII the author turns to the legal effects of acts done by or on behalf of a corporation. Among other things treated under this head there is given a most excellent discussion of that very difficult subject known as "*acts ultra vires*," upon which the courts have expressed such a diversity of opinion.

Chapters VIII to XVII are devoted to the relationship of the corporation to its officers, shareholders and creditors, and their relationship to each other. The book closes with an appendix showing the modern methods of forming a corporation.

The author takes up the question of the law of "*trusts and monopolies*"; and their latest development, the "*Securities Company*," is briefly discussed in Section 309d.

Mr. Taylor's book is without doubt a very valuable contribution to one of the most important branches of modern jurisprudence. The record of the book, in having successfully gone through five editions since 1884, when it first appeared, speaks for itself.

W. F. N.

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PROCEEDINGS OF THE EIGHTH ANNUAL MEETING OF THE IOWA STATE BAR ASSOCIATION. Pp. 227. Tipton Iowa. Conservative. 1902.

This report bears evidence to an enthusiastic meeting, to new and far-reaching work for the benefit of its entire state by the

Bar Association, and to a victory won by the Association in securing a betterment of the conditions as to requirements for admission to the bar.

Among the numerous papers read we would call attention to that by J. H. McConologue on "Justice Samuel F. Miller—His Life Career and Character. The Great Work He Did for His Country;" and to that on "Some Legal Phases of Insanity," by Paul E. Carpenter.

J. G. K.

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TEXT-BOOK OF MEDICAL JURISPRUDENCE AND TOXICOLOGY. By JOHN J. REESE, M. D., Late Professor of Medical Jurisprudence and Toxicology in the University of Pennsylvania; late President of the Medical Jurisprudence Society of Philadelphia Sixth edition. Revised by HENRY LEFFMANN, A. M., M. D., Professor of Chemistry and Toxicology in the Woman's Medical College of Pennsylvania; Pathological Chemist to the Jefferson Medical College Hospital; Vice-President (British) Society of Public Analysts. Pp. xvi + 660. Philadelphia: P. Blackiston's Son & Co., 1012 Walnut St. 1902.

It was the object of Dr. Reese in the first edition of his treatise to condense the essentials of medical jurisprudence into a handy volume "to meet the wants of Legal Medicine." It remained for Dr. Leffmann to follow in their growth the subjects discussed by the author, and to show the changes that have occurred with the progress of time. The revising editor says: "Since the publication of the last edition of this work the subject of toxicology has been much developed;" but, he adds, "the general character of the book as it left the hand of its distinguished author has been retained."

That the medical science makes more rapid strides than the law, there can be no doubt. The law develops. Medicine advances at once by development and by discovery. Hence the need of keeping Dr. Reese's little text-book absolutely modern and up to date. Many recent cases and accidents of note have been inserted in the present edition.

The plan of the author of condensing the work to the mere "essentials of the science" has been preserved by the editor, so far as to avoid any citation whatever of even the most important cases. McNaghten's case, for instance, is mentioned by name in the discussion of insanity, but no reference is given as to its date, or to the place where it is reported. One case discussed at some length (p. 301 *et seq.*) is not mentioned by name, but is merely referred to as "a somewhat remarkable case . . . tried in Philadelphia in 1854." The case was one of but a few on the specific subject, and is largely discussed by Wharton and Stillé in their work on medical jurisprudence,

having arisen in fact under the personal professional practice of one of the authors. No credit is given in the present edition. This, while compatible with the brief character of the book, perhaps goes a step too far. Many experiments, incidents of professional practice, and instances of expert testimony by Dr. Reese are given.

The book from pages 1 to 384, inclusive, contains the discussion of medical jurisprudence, and on pages 144-145 there is a table on the "Comparative Size of Blood Corpuscles;" from pages 385 to 653, inclusive, there is a treatise on "Toxicology or Poisoning."

The work is without a doubt of more value to medical students than to those engaged in the study and practice of law. To the medical practitioner are explained his duties at post-mortem examinations, at coroners' inquests, at court, on the witness stand and elsewhere. Legal terms are defined more for the use of doctors than of lawyers; for example, the distinction in the words "illusion," "hallucination" and "delusion." Where a term has one meaning in medicine, but is narrower or broader in courts of law, that is pointed out (*e. g.* "abortion," page 220). Bits of sound advice to doctors in matters pertaining to the law are found, as: "He should never be afraid frankly to confess his ignorance. Nothing is more dangerous than for a witness to attempt to guess, for fear of being thought ignorant" (p. 26). Again: "A medical witness should confine his answers strictly to the questions put to him . . . avoiding the tendency to theorize, or speculate upon legal distinctions." There is a reasonable and thoughtful discussion on medical experts' compensation in the first portion of the book.

Taken as a whole the volume accomplishes what it undertakes. To say that it takes the place or in any similar degree satisfies the want of a more copious treatise like that of Wharton and Stillé, would be highly inaccurate. On the contrary, it accomplishes another equally important task, viz: that of presenting to legal and more particularly to medical students, a collection of fundamental principles stripped of detail and prolixity. By the labors of the editor of the present edition, a work of so much importance to students has been made to keep pace with the times.

B. H. L.

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PRACTICE AND PROCEDURE IN PENNSYLVANIA UNDER LEGISLATION FROM 1887 TO 1902, INCLUDING AMENDMENTS TO PRIOR ACTS (Annotated). By ALBERT D. WILSON, of the Philadelphia Bar. Pp. 268. Philadelphia: Rees Welsh & Co. 1903.

Of late years the Legislature of Pennsylvania has been active in dealing with matters of procedure. Books of practice can no longer be relied on without supplementing them with an exami-

nation of the Pamphlet Laws, which have grown both numerous and voluminous. The object of the author has been to extract from the Pamphlet Laws all the legislative enactments from 1887 to 1901, inclusive, in any wise relating to procedure at law within the jurisdictions of the Court of Common Pleas, and to annotate them as fully as possible.

The Acts of Legislation have been divided into two classes, viz: original acts in one class, and supplements and amendments in the other. In the book the arrangement is chronological and regulated by the date of the original act on the subject. The acts which are supplements or amendments to acts prior to 1887 are to be read in connection with the older Digests, those of 1887 and subsequent dates are in chronological order. In all cases each act and its supplements and amendments are in chronological order of the date of the passage of the original act. When an act exhausts the legislation of a subject, it has been treated out at the place it occurs. If it is supplementary or an amendment the author has cumulated it back to the one it supplements or amends, until he comes to the oldest legislation on the subject.

In most cases the acts are quoted verbatim from the Pamphlet Laws. Some are, however, only abstracted, and some have been passed, merely setting forth the title. Where the effort has been made to abstract the meaning of a section instead of verbatim quotations, it is generally introduced by the words "provides that."

The book supplies a long-felt want, and we think will prove a work of great value.

*I. G. G. F.*

THE PHYSICIAN'S DUTY TO SAFEGUARD INFORMATION ACQUIRED IN THE PROFESSIONAL RELATION. By WILLIAM A. PURRINGTON, Lecturer in the University and Bellevue Hospital Medical College on The Relations of Law to Medical Practice. (Pamphlet.) P. 23. New York: Holt Bros. 1902.

That privilege, which the common law attached to communications by a client to his attorney in order that all might feel free to seek the protection of the law, was not thrown about the communications by patient to physician.

In this brief pamphlet the author treats of the various legal phases of the privilege, raised by statute in most jurisdictions, whereby communications by a patient to his physician are kept inviolate. This privilege of the patient carries with it necessarily the duty of the physician to abstain from revealing or discussing the patient's illness, without the latter's consent, unless compelled to do so by order of court. The construction of the

statute raising this privilege in New York is discussed very fully; numerous cases are cited; the mooted questions raised by such laws are set out. The pamphlet is thorough in treatment of the New York law and is pertinent and suggestive for both lawyer and doctor in most of the other jurisdictions of the Union.

*J. G. K.*

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**HISTORICAL METHOD OF THE STUDY OF LAW. ILLUSTRATED BY THE MASTER'S LIABILITY FOR HIS SERVANT'S TORT.** By JOHN MARSHALL GEST. (Pamphlet.) Pp. 28. Philadelphia. 1902.

In this lecture, delivered before the law students of the Temple College, the author emphasizes the importance of the study of the historical development of legal principles. The master's liability makes an excellent subject for such study. In ancient times the servant or slave was a member of the employer's household, and primitive conceptions held the head of the family liable for the servant's wrongs. As the social status changed, men became liable for their own acts and those authorized or ratified by them. The development from direct command to implied authority, and thence to the principle of the scope of employment has gradually gone on to the present time.

This development is aptly illustrated from literature and the sources of the law.

*J. A. R.*

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**STATUTORY LAW OF CORPORATIONS IN PENNSYLVANIA. INCLUDING ANNOTATIONS AND A COMPLETE SET OF FORMS.** By JOHN F. WHITWORTH and CLARENCE B. MILLER. Pp. xi. + 930. Philadelphia: T. & J. W. Johnson & Company. 1902.

This volume contains the statutes relating to the creation and regulation of corporations in Pennsylvania. The authors have gathered them together and have properly classified and arranged them under appropriate subjects, with full annotations.

As the title indicates, it is purely a collection and convenient arrangement of the statutes themselves and not meant to be a text-book on the Law of Corporations. The acts, as well as their titles, are generally given in full except in unimportant matters. The constitutional provisions relating to corporations and the Corporations Act of April 29, 1874, with its supplements, are first taken up in the order given and then the volume is divided into commercial headings with the laws relating thereto, conveniently arranged under sub-heads in heavy-faced type. It is a full and complete collection of the statutory law relating to corporations of every kind. It is necessarily technical, but it will commend itself for its general utility to those connected with corporate interests.

It is especially a book for ready reference, the paragraphs are consecutively numbered, the last chapter contains a collection of the most important forms, which have been prepared with special reference to the requirements of the various statutes, and there follows a copious index.

The book is presented in the usual good form of the publishers, who have spared no care and means to make the work useful.

J. B. T.

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A TREATISE ON EQUITY PLEADING AND PRACTICE, WITH ILLUSTRATIVE FORMS AND PRECEDENTS. By WILLIAM MEADE FLETCHER, B. L., Professor of Law of Equity Pleading and Practice in the Law School of Northwestern University. Pp. xxxv + 1368. Saint Paul: Keefe-Davison Company. 1902.

The student and the practitioner have many fountains already opened to them at which to drink to satiety of information upon the subjects treated in this book. It has, however, been prepared with much care and will be useful as a systematic, and as the latest, work upon the topics of which it treats. The author is correct in treating pleading and practice as closely interdependent, for a study of the conduct of a suit necessarily requires attention to the averments of the plaintiff and the answer thereto of the defendant. There must be what Chitty long ago called "the statement in a logical and legal form of the facts which constitute the plaintiff's cause of action, or the defendant's grounds of defence."

Therefore, after chapters on the General Nature of Equity Jurisdiction, Persons Capable of Suing and being Sued in Equity and Parties to Suits in Equity, there are valuable pages given to Bills, Pleas, Answers, Disclaimers, Amendments. Procedure is treated under appropriate and separate divisions, *e. g.*, Process, Taking Bills Pro Confesso, Appearance, Feigned Issues, Hearing, etc. The index, vital to a good law-book, seems to be carefully prepared and there are added, in an appendix, the Ordinances made by Lord Chancellor Bacon and The Equity Rules of the Supreme Court of the United States. These two titles suggest an overwhelming roll of great names, great causes, great historical events.

As is well known, pleading and procedure in civil actions, other than equity and admiralty, conform to the pleading and procedure in the courts of record in the state in which the federal court, of the former, is held. (Rev. Stat., sec. 914.) Hence in common-law suits these are as varied as are the changes from Wentworth's pleadings to the latest code of man millinery. The law is very different in cases of equity. Here is a separate and distinct chancery jurisdiction with a procedure regulated by the rules of the Supreme Court and intended to be uniform everywhere in the United States. This alone makes well-established

precedents of great value. It is in consideration of this procedure that Mr. Fletcher's book is most helpful for study as well as for reference. His laborious statements, his many citations, his useful forms and his orderly arrangement are valuable for study and for reference.

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THE ALASKA-CANADA BOUNDARY DISPUTE UNDER THE ANGLO-RUSSIAN TREATY OF 1825; THE RUSSIAN-AMERICAN ALASKAN TREATY OF 1867; AND THE ANGLO-AMERICAN CONVENTIONS OF 1892, 1894 AND 1897. An Historical and Legal Review. By THOMAS HODGINS, M. A., one of His Majesty's Counsel and sometime Scholar in Civil Polity and History in the University of Toronto. Pp. 26 Toronto: Wm. Tyrrell & Co.; Wm. Briggs. 1903.

Mr. Hodgins here presents a very timely history of the Alaska-Canada boundary dispute from the Canadian point of view. His proposition is briefly this: By the Anglo-Russian treaty of 1825, wherever the summits of the mountains should prove over ten marine leagues from the ocean, the limit of Russian possession (to which the United States has succeeded) was to be marked "by a line parallel to the windings of the coast and which should never exceed the distance of ten marine leagues therefrom." The use of the word "ocean," Mr. Hodgins says, is important, in view of the fact that the draft for the treaty contained the word *sea* instead of *ocean*. The coast of the ocean is very different from the coast of the sea. The coast of the ocean does not follow the meanders of the shores of territorial waters, but follows a line from headland to headland. Such is the only line from which to measure the ten marine leagues inland consistently with the remainder of the treaty of 1825.

The Hon. John W. Foster has reached a very different conclusion from Mr. Hodgins's. He concludes that "Russia was to have a continuous strip of territory on the mainland around all inlets or arms of the sea, and that the boundary line was not to cross, as claimed by Great Britain, such inlets or arms of the sea at the distance of ten marine leagues from the coast line of the Pacific Ocean" (*National Geographic Magazine*. Nov., 1899).

If *sea* in a draft was changed to *ocean* in the treaty, there has likewise been a change on the other side to offset it. Canada has changed to the present "headland" claim, from an attitude of Great Britain in 1857 acknowledging the entire American claim as asserted to-day (see Map of Hudson Bay Company ordered printed by the House of Commons, 1857).

Says Mr. Hodgins: "Diplomacy has failed to settle this boundary controversy, because it proposed what ex-President Cleveland has denounced in another case as 'extensive spoliation.'"

The two claims are diametrically opposed. It is for the

recently appointed Alaskan Boundary Commission under the Alaska Boundary Treaty to decide which side intended the spoliation. But whatever be the event in that tribunal, the pamphlet under review is none the less a scholarly presentation of the Canadian claim.

*J. G. K.*

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PEPPER AND LEWIS' NEW DIGEST. A Digest of the Laws of Pennsylvania from 1897-1901, annotated by Notes and References to the Decisions bearing thereon together with tables of the Sections of the Constitution and of Acts cited and construed in cases reported since 1897, and of the Acts amended, repealed, etc., during 1899 and 1901, being a Supplement to "Pepper and Lewis' Digest." By GEORGE WHEARTON PEPPER, A. B., LL. B., of the Philadelphia bar, Professor of Law in the University of Pennsylvania, and WILLIAM DRAPER LEWIS, LL. B., PH. D., of the Philadelphia Bar, Dean of the Faculty of Law in the University of Pennsylvania. Vol. IV, cols. ccliii + 1216. Philadelphia: T. & J. W. Johnson & Co. 1903.

With the present volume this admirable digest of the laws of Pennsylvania has been brought as nearly to date as is compatible with that elaborate and exhaustive plan which in the original work and in the first supplement volume has proved so acceptable to the busy practitioner. The digest of the laws passed during the sessions of 1899 and 1901 arranged alphabetically under appropriate titles is annotated by notes and references to the decisions bearing thereon. This digest is prefaced by five lists, the value of which, for purposes of rapid yet exhaustive search into the present state of the law, can be appreciated by a reference to their titles. These are: A list of Sections of the Constitution and Acts of Assembly cited and construed in cases reported since 1897; a list of acts amended during the sessions of 1899 and 1901; a list of acts repealed during the sessions of 1899 and 1901; a list of acts expressly saved from repeal, or not affected during the sessions of 1899 and 1901; and a list of acts extended during the sessions of 1899 and 1901.

The "list of Sections of the Constitution cited and construed in cases reported since 1897," is a new feature which should prove of great working value.

To the previously mentioned digest and lists are added a list of cases cited and an index, which embrace volumes three and four, thereby making the two supplement volumes as one.

The black letter headings are more numerous, the type is more legible, than in previous volumes.

This volume, to our minds, not only sustains the value of the original work by bringing it down to date, but by its added features and admirable system of cross-references greatly enhances the value of the previously published volumes.

*J. G. K.*