

## CURRENT LEGAL PERIODICALS AND BOOK REVIEWS.

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A TREATISE ON THE LAW OF BANKS AND BANKING. By JOHN T. MORSE, JR. Fourth edition, revised, rearranged and greatly enlarged by FRANK PARSONS. 2 vols. Pp. cv+1490. Boston: Little, Brown & Co. 1903.

Not since 1888, when the third edition of this standard legal text-book was edited by the present editor, has there been any revision or rearrangement of it. The increase in the number and substance of the National Banking Laws, since the appearance of the former edition, would seem alone to justify the publication of this, the fourth edition. To the list of approximately thirty-four hundred cases, which appeared in the book fifteen years ago, there have been added nearly eighteen hundred new cases. This addition of citations, together with some revisions of the subject-matter necessitating an enlargement thereof, has increased the number of pages in the two volumes by one hundred and sixteen. In referring to cases, parallel references to the National Reporter System have been inserted, thus enabling those who have that system available to remain in their own library. So in dealing with the Public Statutes of Massachusetts, the references are to the Revised Laws. In the consideration of the subject of the "Conflict of Laws," early in the first volume, the editor has cited the recent text of Minor on "Conflict of Laws" (1901). This is but another example of the several means whereby the editor and his assistants have thoroughly modernized the edition of 1888.

With the exception of these changes, and to the extent above pointed out, the text remains intact. The arrangement is the same by parts, chapters and sections as formerly. Precisely the same mechanical features of the book, such as the black headlines, the analyses at the beginning of the chapters, and the sub-analyses at the sides of the pages, exist as before. In other words, the integrity of this legal text, so widely and so authoritatively cited, has been maintained, while the changes brought about by nearly fifteen years of statutes and decisions have been noted in the form of the citations and additions of the present edition. That the legal profession profited by the appearance of this text in its inception, is without doubt; that it will find of added value the present and fourth edition, is equally clear of doubt. B. H. L.

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THE LAW AND PRACTICE IN ACTIONS FOR TORTS IN THE  
STATE OF NEW YORK. By J. NEWTON FIERO, LL. D., Dean

of the Albany Law School and Lecturer on the Law of Torts. Author of *Special Actions and Special Proceedings*. Pp. xviii+835. Albany, N. Y.: Matthew Bender. 1903.

This is not a treatise giving the conclusions of the author in the text, with his authorities "hidden in small type in the footnotes"; nor is it merely a digest containing the mere citation of the authorities. The work is a combination of the theory of the Law of Wrongs and the practice in Actions for Injuries to the Person.

The basis of the work, according to the author's statement, is the authorities collated by him in his own practice, following, however, in the main the classification adopted by the leading text-writers upon the subject.

The authorities are classified and arranged so as to be readily accessible, the system which is followed throughout, of placing the citations immediately after the propositions which they sustain, being most convenient.

While the author does not express his views on the weight of authority, the decisions are so noted and arranged as to give prominence to those which are leading and controlling, while the fact that cases have been cited, followed or overruled, is indicated where an important principle is involved.

The work is primarily useful as a statement of the law of New York, but has some value in other jurisdictions owing to the citations made from text-writers on the different topics, credit being always given to the authors.

The combination of Law and Practice in Part II, of the work relating to Torts, gives it an eminently practical character.

As we have said, the work is primarily one for use in New York State and we cannot truthfully say that the book would be of any great value in any other jurisdiction, for though the publisher claims that decisions in point in other states are given, we have been able to find but few cases not decided in New York courts.

The author's treatment is logical and we think of no small value as a treatise on the New York Law of Torts.

*I. G. G. F.*

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CASES ON CRIMINAL LAW. By JEROME C. KNOWLTON, A. B., LL. B., Marshall Professor of Law in the University of Michigan. Assisted by JOHN W. DWYER, LL. M., Instructor in the Law Department of the University of Michigan. Pp. xi+397. Chicago: Callaghan & Co. 1902.

Professor Knowlton has in this volume of 400 pages collected some of the leading cases on criminal law. The book is prepared primarily, as the author states, with the idea of

assisting the student in his study of the substantive law of crimes. The book has at least the merit of a wide selection of cases: of the eighty-eight cases reported, only eight are Michigan cases. The student is thus guarded against reading a number of needless cases outside of his own jurisdiction. But the few cases cited make it impossible to obtain a working knowledge of the principles of the subject, and for that reason the book will prove of little value to the student. *J. A. R.*

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**MANUAL OF FRENCH LAW AND COMMERCIAL INFORMATION.**

By H. CLEVELAND COXE, B. A. Pp. 292. Paris, London, New York: Brentano's. 1902.

This little book should receive a most cordial reception. It is full of valuable information. The eminent specialists who have written various parts, the reliable sources from which it has been compiled, make it authoritative.

To one traveling in France it should prove invaluable, especial attention having been given to those subjects of the law which the American Consul-General has found to be "points which interest Americans." The full treatment of such subjects as Bills of Exchange, Promissory Notes, Foreign Companies, Creditors, Patents, Passports, Shipments Destined to Points in France, etc., makes the book a valuable one for nearly every practitioner. The book is alphabetically arranged.

*J. G. K.*

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**CRIMINAL AND PENAL PROCEDURE IN PENNSYLVANIA.** By SYLVESTER B. SADLER, A. M., LL. B. Pp. 796. Rochester, N. Y.: The Lawyers' Co-operative Publishing Co. 1903.

Professor Sadler in the above work has presented a treatise filling a long-felt need in Pennsylvania legal literature.

Every step in criminal prosecution is exhaustively treated, as well as those subjects germane, such as Offers of Reward for Arrest and Conviction of Criminals, Habeas Corpus Proceedings, Costs, Summary Convictions, Actions for Penalties, etc. The several chapter headings will give a more definite idea of the comprehensiveness of the work. They are: Redress for Criminal Acts, Jurisdiction, Jurisdiction as Determined by Locality of Crime, Arrest, Fugitive from Justice, Hearings Before Justices, Bail, Habeas Corpus, Mode of Accusation, Grand Jury, The Indictment, Indictments for Particular Offences, Objections to Indictments, Arraignment and Issue, Limitation and Settlement of Prosecutions, Trial, Juries, Conduct of Trial, Charge of Court, Verdict, Arrest of Judgment and New Trial, Sentence, Appeals, Costs, Pardon, Desertion and Surety of the Peace, Penal Actions, Offences Under Statutes and Forms.

The book is admirably equipped as a reference book. The text is subdivided by heavy block type headings, the footnotes are clear and voluminous, the index is very complete. The case and statute law, thoroughly digested, is thus placed readily to one's hand. The one hundred and eighty forms, comprising the last chapter, constitute no small part of the value of the work.

No Pennsylvania lawyer who has any criminal practice can afford to be without this work.

J. G. K.

#### NOTES ON RECENT LEADING ARTICLES IN LEGAL PUBLICATIONS.

ALBANY LAW JOURNAL.—September.

*Validity in New York of Divorces Granted by Courts in Other States.* Frank Dake. The recent decisions upon divorce cases, which have issued from the Supreme Court, do not seem to have wholly cleared away the uncertainty in regard to the validity in one state of divorces granted in another. Mr. Dake has here clearly presented what he believes to be the outcome of the recent decisions. He claims that it is now clear that a divorce, if valid in the state in which it is granted, is valid in every other, but that the courts of a state have no jurisdiction to divorce parties where neither of them is a resident of that state. This, however, does not seem new; the really new matter is the decision that such residence as has hitherto been considered sufficient is not now, under the recent decisions, held to be any residence at all.

*Tendencies.* Duane Mowry. A pleasant little essay upon our tendency, as a democracy, to indifference, and upon the tendency, as a consequence, to think that democracies are not the best possible form of government. It is said that many think that such a form of government as that of Great Britain is more satisfactory. But this cannot be considered an arraignment of democracy while those who so much admire that empire insist that it is the greatest of democracies. While the author sees and deplors the concentration of wealth; the crime of war which has helped in that concentration, and the placing of power in the hands of the comparatively few, he yet has hope in the future, and a belief in his own country as a true democracy.

*Limitation of a Fee upon a Fee.* J. G. S. A short but completely annotated article upon the law as it now stands in the State of New York, showing the changes made by the statute law in the old rules of the common law.

*Law and Reasonableness.* Hon. Le Baron B. Colt. (Paper read before the annual meeting of the American Bar Association, August 26, 1903.) An excellent paper, as reasonable as the law which it eulogizes. If it does not make any new contribution to the evidence upon which we rest our faith in the reasonableness of the law, yet it puts that evidence before us in a very clear and pleasant way.

*Character and Influence of Algernon Sydney.* John Freeman Baker. Mr. Baker fears that the character and influence of Sydney are not as well known as they should be and gives us here a short sketch of the life of his hero. The details of the life of Sydney are given a little too circumstantially, and while an attempt is made to show the heroism of his nature and the principles which were the very breath of his life, the reader is left cold. There is little doubt that there is a very present need of an enkindling presentation of the lives of such men.

**BANKING LAW JOURNAL.—September.**

*The Crocker-Woolworth Raised Check Decision.* This is a very interesting decision to banking circles. It is the case of a raised check on the Crocker-Woolworth bank (raised from \$12.00 to \$22,000), indorsed generally and deposited in a Nevada bank. The bank took it for collection, sent it to the San Francisco clearing house, received payment in the regular way, and the day following the Nevada bank honored its depositor's check for \$20,000. The depositor then fled. Eighteen days later the Crocker-Woolworth bank discovered the forgery and demanded repayment. The Nevada bank was held responsible by the lower court, but the Supreme Court of California held that the Nevada bank was not responsible for the return of the money to the Crocker-Woolworth bank and that the loss must fall upon the latter. The writer of the article takes issue with the decision of the court, and promises a more prolonged discussion later.

*Clearing House Indorsement Stamps.* This is a technical article which takes up with great particularity the liability of the general indorser; collection through clearing house; similar indorsement stamp liability in other clearing houses; clearing house indorsement stamps providing liability of general indorser; indorsement stamps with liability undefined; no provision in other clearing houses. and a final summary.

**CENTRAL LAW JOURNAL.—September 4.**

*Revocation of the Trust by the Settlor.* Morton John Stevenson. Starting out with the proposition that a "voluntary trust once fairly created can only be revoked by the settlor when a clause in the instrument reserves this power, or where there is evidence that the instrument was executed in ignorance of the effect or under mistake, duress or fraud," an examination is made into the precedents upon which the proposition is founded. The circumstances under which the trust can be revoked are then considered, showing that when the settlor intended the deed to be revocable, equity will so treat it.

**CENTRAL LAW JOURNAL.—September 11.**

*The Taxation of Corporate Franchises.* Glenda Burke Slaymaker. Here we begin at the beginning, with the definition of a franchise as given by Mr. Blackstone and also given by the United States Courts. The article goes on to define a corporate franchise and its attributes, the propriety of the taxation of corporations and the development of the law regarding such taxation.

**CENTRAL LAW JOURNAL.—September 18.**

*Extent of the Public Easement in Country Highways.* Henry M. Dowling. The present state of the law on the subject, which limits the use of country thoroughfares to the purposes of the original dedication, that dedication being solely to the use of the road for "passage by actual motion," is not considered satisfactory by the writer of this article. The argument is that necessity compels the use of the road for many purposes, as it has compelled the use of the city street, and that the same rule should govern both.

**CENTRAL LAW JOURNAL.—September 25.**

*Accord and Satisfaction—the Payment of a Lesser Sum than the Whole in Satisfaction of a Debt.* Ben. Kendall. The common law rule, that payment of a lesser sum than the whole in satisfaction of a debt does not discharge the debt, is severely criticised here. The rule is

called "an anachronism brought down by adherence to ancient customs and theories, the extermination of which has been already too long delayed." It is contended that the courts to-day show an inclination to take advantage of the slightest excuse to "vitiate the rule" and examples which sustain the contention are given.

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CANADIAN LAW TIMES.—September.

*The Presumption of Survivorship: The Common Law and the Roman Law.* L. Maxwell Lyon. The English and the Roman law on the subject is first examined, then the question as to the domicile of the parties, in order to ascertain which rule shall govern the distribution of the estate. The Spanish code appears to have arrived at the most reasonable conclusion in its presumption that death occurred simultaneously, in the absence of evidence to the contrary.

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CANADA LAW JOURNAL.—September.

*Summary Judgment after Appearance to Specially Indorsed Writ. The English, in Contrast with the Ontario Practice as to the Conditions Precedent to the Application of the Summary Remedy.* Alexander MacGregor. This is a lengthy article which will probably not appeal greatly to lawyers on this side the Canadian border. A thorough understanding of the English practice, as well as that of the Canadian courts, is necessary to an appreciation of the article.

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THE CANADIAN LAW REVIEW.—September.

*Liabilities of Trade Unions and Their Members.* A. G. Galt. This is rather an attempt to show how far the law of Canada agrees with that of England in regard to the liabilities of trade unions, than an article on those liabilities as a whole. The line of decisions is mentioned, but no argument made and no special conclusions attained except as to the local law.

*The Supreme Court of the United States: Its Place in the Constitution.* Hon. Joseph H. Choate. It is not necessary to state that the article is interesting, learned and valuable. Some of the later decisions are not touched upon, the latest cases commented upon being the income tax cases.

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CHICAGO LAW JOURNAL.—September 4.

*Legal Maxims.* Hon. Murray F. Tuley. This is continued from the August article, and takes up the familiar maxims: He who seeks equity must do equity; equity imputes an intention to fulfill an obligation; equity aids the diligent, not those who slumber on their rights; equity follows the law, and gives an exposition of each in turn. Judge Tuley shows, under the last caption, how equity did not and does not follow the law.

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CHICAGO LAW JOURNAL.—September 11.

*Legal Maxims.* (Continued.) This is the last instalment of these interesting articles, and the maxims being finished, equity as a whole is considered, and a eulogy of the principles of equity concludes the paper.

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CHICAGO LAW JOURNAL.—September 18.

*The Law of the Doctrine of Ultra Vires, as it Pertains to Private Corporations.* R. W. Churchill. The "Introduction" contains a bitter arraignment of modern corporations. To the tendency of corporations to attempt the exercise of unauthorized powers, and to usurp privileges

which have not been granted them, is attributed the "evolution by the courts of the wholesome doctrine of *ultra vires*." The doctrine in question is then thoroughly examined.

CHICAGO LAW JOURNAL.—September 25.

*The Doctrine of Reasonable Doubt.* J. S. Burger. This is an able and earnest defence of a doctrine which has recently been attacked by men eminent in the profession of the law.

GREEN BAG.—September.

*Rufus Choate.* Joseph B. Moore. Choate is here called "the most brilliant and perhaps the most learned man of his time." Anecdote and illustration are brought forward to show that this is no vain praise, and all go to the making of a very readable paper.

*Laws Governing Civil Malpractice in the Middle Ages.* Charles Greene Cumston, M. D. Although the middle ages form the period chosen for the paper, we begin with Egypt, Greece and Rome, and reach the middle ages through the ancient Germanic law. In all codes and by all nations the medical man has been held to some sort of liability for malpractice.

*Ought Church Property to be Taxed?* Duane Mowry. The author takes the affirmative of the question and argues his point well. One argument for taxation is that exemption argues a union between church and state, another that it promotes the accumulation of great wealth in the hands of an undying corporation, another that it favors a certain portion of the community at the expense of the rest.

*A Century of Federal Judicature. IX.* Van Vechten Veeder. This article is illustrated with excellent portraits of Justices Gray, Fuller, Harlan, Brewer, Brown, White, Peckham and McKenna. The text is devoted to the life and labors of Justice Gray, with whom the series of papers ends, the author not taking up the lives of any of the living justices. Lists of the cases on which they have delivered opinions are given, however, in order to give an idea of the character and extent of their labors. This closes a valuable and entertaining series of papers.

*Wrong without Remedy: A Legal Satire. V. The Trust Balked.* Wallace McCamant. This fifth paper carries the hero through a fight with a trust in which the trust does not win, neither does justice.

LAW STUDENT'S HELPER.—September.

*The Business Lawyer of To-day.* James B. Dill. (Address before the Michigan Social Science Association, February 6, 1903.) This is merely an abstract of the speech delivered by Judge Dill, but it gives a very fair idea of the speech itself, as the extracts are copious and well selected. Mr. Dill is very sure that the business lawyer of to-day is as important a factor in the life of the community as any of the former types of lawyer have ever been. As a corporation lawyer he is equally sure that the corporation lawyer is a blessing to humanity, and he makes a very good argument in support of his belief.

VIRGINIA LAW REGISTER.—September.

*Mechanics' Liens in Virginia.* John Garland Pollard. The prefatory note to this article shows clearly that the confusion which usually follows an attempt to codify a part of the law is felt in Virginia since the codification of the mechanics' lien law in 1887. The paper is an attempt to make the law as it stands to-day intelligible. This is done by annotating abundantly the paragraphs of the law itself and of the various amendments thereto.