

THE AMERICAN LAW REGISTER

FOUNDED 1852.

UNIVERSITY OF PENNSYLVANIA
DEPARTMENT OF LAW

Editors:

FRANCIS H. SHIELDS, Editor-in-Chief.

J. AUBREY ANDERSON, Business Manager.

PAXSON DEETER,

ROBERT EBY,

ALBERT SMITH FAUGHT,

WM. HORACE HEPBURN, Jr.

JOSEPH KNOX FORNANCE,

WALTER C. MONTGOMERY,

GARFIELD SCOTT,

E. PHILIP STAIR,

FRANK BOYCE TUPPER,

CHARLES W. WEBB.

SUBSCRIPTION PRICE, \$3.00 PER ANNUM. SINGLE COPIES, 35 CENTS.

Edited by members of the Department of Law of the University of Pennsylvania under the supervision of the Faculty, and published monthly for the Department by J. AUBREY ANDERSON, Business Manager, at S. W. Cor. Thirty-fourth and Chestnut Streets, Philadelphia, Pa. Address all literary communications to the EDITOR-IN-CHIEF; all business communications to the BUSINESS MANAGER.

CURRENT LEGAL PERIODICALS AND BOOK REVIEWS.

THE LAW AND PRACTICE AS TO RECEIVERS APPOINTED BY THE HIGH COURT OF JUSTICE OR OUT OF COURT. By the late WILLIAMSON KERR, M.A. Fifth edition. By WILLIAM DONALDSON RAWLINS. London: Sweet & Maxwell Co., Ltd. 1905.

This is an excellent little book, and the editor of the new edition has performed his work well. While the author's general arrangement of the work and the substance of his language, so far as it correctly expresses the present law and practice have been preserved, there has been by the present editor a good deal of pruning and trimming, not only of the original text, but also of past accretions to it, and as a result the book, unlike many law books which have reached a fifth edition, is still a "homogeneous whole."

Though the book is not without direct application to our American practice, except, of course, where it deals with special statutory provisions, as the English Conveyancing Act of 1881, its chief interest to an American lawyer will be that it will show him how much more general is the practice of appointing receivers in England than in this country. Turning to the second chapter which deals with the cases in which a receiver would be appointed, we find that out of its 96 pages, only 14 are devoted to what we would call the appointment of receivers in the case of insolvent corporations, an equal and in some cases a greater amount of space being devoted to the appointment of receivers in the case of executors and trustees, in cases between debtor and creditor and in partnership cases, while almost as much space is devoted to the appointment of receivers between mortgagor and mortgagee, other than corporate mortgagees. The book increases an impression gained from the persusal of other English works on practice subsequent to the Judicature Act, that most of our jurisdictions have much to learn from England in the matter of the practical efficiency of legal remedies.

W. D. L.

THE CORPORATION LAWS OF PENNSYLVANIA, 1903-1905, INCLUDING RAILROADS AND STREET RAILWAYS, AND THE RULES AND FEES OF THE STATE DEPARTMENT FOR INCORPORATING IN PENNSYLVANIA. By JOHN F. WHITWORTH and CLARENCE B. MILLER. Philadelphia: T. & J. W. Johnson & Co. 1905.

Several years ago Whitworth and Miller's "Statutory Law of Corporations" was published. The purpose of the present volume is to bring that work up to date. To those who have the former book, this supplementary volume will be a welcome addition.

As its name indicates, the present work comprises all the laws relating to corporations passed by the Legislature in 1903 and 1905. The laws are classified and indexed, together with a table showing what prior laws are affected by the new legislation. The rules and fees of the State Department governing incorporation in Pennsylvania are also given in full.

From this short synopsis it can readily be seen that the book is of great practical value, inasmuch as it gives a convenient and easy access to the recent laws on corporations, and saves one from endless time and trouble in looking through cumbersome digests and pamphlet laws.

G. S.

COMMERCIAL LAW. By D. CURTIS GANO, of the Rochester (N. Y.) Bar, assisted by SAMUEL C. WILLIAMS, teacher of Commercial Law in the Rochester Business Institute. One volume, pp. 399. New York: The American Book Company. 1904.

Of the making of books purporting to teach "business" or "commercial" law, there is apparently no ending. These volumes are generally excellent as far as they go, and do good service as text-books in high schools, or enable the busy man to get some idea of lines of business and of the legal principles underlying them in divisions of commercial operation other than his own.

The volume at present under consideration is somewhat different from the ordinary run of business law text-books, being more pretentious and going into the purely technical side of business law in some detail. The wisdom of strengthening the statement of legal principles by a reference to and abstract of leading cases is of course entirely a matter of opinion, but to us the plan appears to be a good one, even when adopted in a book of this character. The subjects treated of include contracts, sales of personal property, negotiable instruments, agency, bailment, partnership, corporations, insurance, real property, to which are added chapters on courts and their jurisdiction, pleading and practice, and an appendix containing sections on limitation of actions, interest tables, days of grace, statute of frauds, married women, exemption laws, chattel mortgages.

This summary of the contents will give some idea of the scope of the work. It is sufficient to say that this appears to be among the best of the books dealing with this subject that we have seen, and that it will be found excellent for use in high schools or academies, or for freshening up the memory with regard to the practical details of ordinary business operations.

F. H. S.

THE PRINCIPLES OF THE ADMINISTRATIVE LAW OF THE UNITED STATES. By FRANK J. GOODNOW, LL.D., Eaton Professor of Administrative Law and Municipal Science in Columbia University. New York: G. P. Putnam & Sons. 1905.

In about five hundred pages Professor Goodnow presents an admirable summary of our administrative law. In the endeavor to give the general reader a work of a size not forbidding, the author has been compelled to omit exhaustive discussions of his topics. He has contented himself with general

principles, leaving the special student to work out for himself their application in the five or six hundred cases cited in the foot-notes. The book will be most valuable as a scientific classification of the principles. A mere glance at the table of contents shows this. The first of the six books, into which the volume is divided, gives the general bearing of administration to the other two departments of government, the legislative and judicial; the second describes the federal administration, or, as it is here named, "the central administration;" the third, local administration; the fourth, the qualifications, rights and duties of administrative officials; the fifth, the methods and forms of administration, statutes and their execution; the sixth, the control over the administration, over an officer by his superior, by the courts, and by the legislature.

Now a student of constitutional law wishing to see the application of the Eleventh Amendment, or of *Marbury v. Madison*, notices at once that it fits into control over an officer by the courts, and how this general topic is related to the whole study.

P. D.

PROBATE REPORTS—ANNOTATED. VOL. IX. CONTAINING RECENT CASES OF GENERAL VALUE DECIDED IN THE COURTS OF THE SEVERAL STATES ON POINTS OF PROBATE LAW. WITH NOTES AND REFERENCES. By WILLIAM LAWRENCE CLARK, of the New York Bar; author of "Clark on Contracts," "Clark and Marshall on Corporations," etc. Pp. 706. New York: Baker, Voorhis & Co. 1905.

Following out the plan of this series of reports, which is to give in about one volume a year contemporaneous in recent decisions of the highest courts of the different states upon matters cognizable in Probate and Surrogate Courts, this volume has appeared.

A feature distinguishing it from previous volumes of the series is the presence of numerous and copious notes, prepared by the editor as supplements to reputed cases. As among the most exhaustive of these notes may be mentioned those on the rights of children omitted from a will, the power of probate courts to open, correct, vacate, or modify their orders, judgment in decrees, annuities, post-nuptial agreements between husband and wife, releasing wife's dower or other interest to husband's estate, attorney's fees for procuring letters of administration, who may sue on claims due estate, title of heirs, etc., and right of action in relation to real estate, adoption of children in relation to probate law, revocation of wills by marriage or birth of child, conditions in wills against con-

test or presentation of claims against estate, estoppel to contest or claim against will by acceptance of legacy or devise, supplying omissions in construing wills, and release by heir of interest in estate of ancestor.
E. P. S.

PENNSYLVANIA LAW AND PROCEDURE IN DIVORCE. *The Law of Divorce and the Proceedings to Obtain a Divorce in Pennsylvania, together with a Full Collection of Forms.* By HAROLD M. STURGEON, of the Erie County Bar. Pp. xxxii + 509. Philadelphia: T. & J. W. Johnson & Co. 1905.

We hear much at present concerning a "uniform" law of divorce. The proposition is discussed both in professional and lay circles. Therefore as a presentation of the law of divorce in Pennsylvania Mr. Sturgeon's book is timely.

The book is intended for the legal fraternity. The author makes no endeavor to propound and advance his view of the ethics of divorce. He contents himself with a lucid and orderly statement of the principles and statutes upon which our law of divorce is based. And surely this is commendable, for the reason that the average practitioner desires to know what the law really is, rather than to know what arguments may be advanced for or against a principle or statute upon which it is based. On this question of the severance of those ties which make possible the fundamental institution of society, each is capable of thinking for himself, and conclusions will be as varied as are the degrees of intelligence and depths of insight in human nature.

The author quotes copiously from the opinions rendered in decided cases bearing upon the subject of divorce, and makes no statement whatever unless it is supported by authority.

The book is divided into two parts: Part I, being a statement of the law; Part II, being an exposition of procedure. Chapter XXXVIII contains the forms that are followed in divorce proceedings. A cursory glance at the index shows that it is complete and exhaustive. Altogether it can be said with truth that Mr. Sturgeon has compiled a book which is admirable in its treatment of the subject, in its construction and arrangement.
C. W. W.

ANCESTOR-WORSHIP AND JAPANESE LAW. By NOBRISHIJE HORZUMI, Professor of Law in the Imperial University of Tokio; also of the Middle Temple, Barrister-at-Law. Tokio: Z. P. Maruza & Co., Ltd. 1901.

In a little book of less than a hundred pages, this subject, somewhat novel to Western minds, is ably presented from the

point of view of an ancestor-worshiper himself. As ancestor-worship was doubtless never practiced on the continents of Europe and America, very little consideration has been given to the subject by Western writers; but in view of the position which Japan has recently taken among the nations of the world, anything which has to do with a custom so fundamental to the morals, laws and institutions of that country becomes especially interesting.

After dealing very briefly with ancestor-worship in general, the author proceeds to describe the institution as it exists today in Japan, and then shows its relation to Japanese law, which is the main subject of the paper. It is interesting to note the use in the early part of the fifth century of a mode of proof which centuries later was employed by the English in determining the guilt or innocence of those accused of crime. This was the "Kuga dochi," or "ordeal of hot water," whereby the truth or falsehood of the clan-names borne by the people was tested.

The author's clear and concise treatment of the subject makes the book worth reading. R. E.

LAW IN DAILY LIFE. Translated from the German of RUD. VON JHERING. With Notes and Additions by HENRY GOUDY, D.C.L., Regius Professor of Civil Law in the University of Oxford. Pp. xi + 169. Oxford: The Clarendon Press.

In this little work is presented a collection of legal questions connected with the events of everyday life, which were collected and used as an aid in teaching. In daily life many legal relations and transactions arise, which, owing to the insignificance of the object involved, rarely lead to an action, and so escape notice, but which are none the less valuable to beginners for educational purposes. An examination of the book will surprise even the practicing lawyer, as showing to what intricate problems the simplest facts of everyday life may give rise. It should therefore prove to be full of interest to the practicing lawyer and layman, and of very great practical value to student, teacher and law examiner. W. C. M.