

## CURRENT LEGAL PERIODICALS AND BOOK REVIEWS.

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A DIGEST OF THE LAW OF EVIDENCE. By the late SIR JAMES FITZJAMES STEPHENS, BART., K.C.S.I., D.C.I. With both general American notes and notes especially adapted to the States of New Jersey, Maryland, and Pennsylvania, by GEORGE E. BEERS, of the New Haven Bar and of the Faculty of the Yale Law School, and ARTHUR L. CORBIN, B.A., LL.B.; also of the Faculty of the Yale Law School. Pp. xxxv. + 756. Hartford, Conn.: Dissell Publishing Co. 1904.

The first edition of this book appeared in 1874, and, having been before the members of the legal profession for over thirty years, it is too well known to require a critical review or even a description. "The present work," to quote from the American preface, "is an attempt to adapt the English edition of Stephens' Digest to the needs of the American lawyers generally, and the members of the profession in Pennsylvania, New Jersey, and Maryland in particular." In this American edition the text of the fifth English edition is preserved intact. The American notes, together with the citations of leading American cases, follow each article, and are arranged in sets,—general notes for all the States, and local notes for each of the three States above mentioned. The book, as is well known, is not intended as a comprehensive treatise on the Law of Evidence, but as a manual for ready reference.

*J. K. F.*

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ABRIDGMENT OF ELEMENTARY LAW. By M. E. DUNLAP. Revised by T. F. CHAPLIN. Third Edition. One volume. Pp. iv. + 600. St. Louis: The F. H. Thomas Law Book Co. 1905.

This volume, as the title indicates, is an attempt to present in small compass the fundamental principles underlying the various departments of the law. Anything more than this could hardly be attempted, as will be seen by glancing over the subjects which are summarized in this book. Commentaries on the Laws of England; Real Property; Criminal Law; Common Law; Pleading; Code Pleading; Evidence; Contracts; Commercial Paper; Sales; Agency; Partnership; Bailments; Innkeepers; Carriers; Corporations; Domestic Relations;

Torts; Administration; Equity Jurisprudence; Constitution of the United States; Law Terms and Maxims; Table of British Regnal years; Table of Chief Justices of the Supreme Court of the United States.

In the words of the author the work "is not intended as a substitute for the text-books, but simply to lighten the labors and shorten the work of the student when he shall have carefully read the whole course and commenced his review preparatory to final examination for the bar."

As the book contains a thorough statement of elementary principles of the law, it will doubtless be found by the student to be of great assistance in completing his professional studies.

F. H. S.

KINKEAD'S JURISPRUDENCE, LAW AND ETHICS. By EDGAR B. KINKEAD, M.A., Professor of Law, Ohio State University.

The young man about to enter the legal profession is perhaps more than any one else interested in the relationship between law and ethics. The older practitioner will doubtless have solved many of the problems which the beginner must face. Therefore, although Mr. Kinkead's Lectures on Jurisprudence, Law and Ethics may well prove useful to the practicing lawyer, and valuable to those engaged in instructional work, they will probably be most appreciated by younger readers who are anxious to prepare themselves properly to aid in the administration of justice. Indeed, the avowed purpose of the author has been "to develop and discuss primary and elementary principles for beginners" and "to consider the principles of Law and Jurisprudence and their relation to Ethics." In order to treat this subject adequately Mr. Kinkead has not been satisfied with a mere survey of the present systems of Law and Ethics. He has gone deeper than this. Defining jurisprudence as the "science of what the law is or means and its practical application to cases as they arise," and stating that it "deals with the sources of Law, the Reasons and Principles thereof," he proceeds to a full discussion of its contents. As jurisprudence has to do with the methods of determining what the law is, the four main schools of jurisprudence and the subject, "Legal Education:—Methods and Study," are surveyed and commented upon. A new phase of the subject is thus taken up. Jurisprudence as an historical science involves a consideration of the Systems of Law. With this thought before him the author discusses the Roman Law, the Common Law, and American, and offers some pertinent suggestions concerning

the marked distinction between English and American governmental forms as bearing on the relation of law and morals. After such a comparative and historical survey the places of law and ethics among the sciences and their relation to each other are defined and explained. The conclusion is reached that "The Science of human duty, is the sum and substance of both law and ethics." Finally after taking up the subject of abstract jurisprudence and considering its sources the author passes to the development of the idea of the moral phenomena in the Common Law of Contract and of Tort. As the purpose of the whole book is "to urge a closer affinity between Law and Ethics in actual practice," the volume is appropriately concluded by a treatise on Points of Professional Conduct.

*E. W. E.*

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HINTS ON FORENSIC PRACTICE; A MONOGRAPH ON CERTAIN RULES APPERTAINING TO THE SUBJECT OF JUDICIAL PROOF.  
By THEODORE F. C. DEMAREST.

The foregoing title might well belong to some extensive and monumental work founded on the theories and experiences of every age and contained in many a ponderous tome. However, the sub-title narrows the scope covered and gives a clearer picture of what the reader is to expect, viz., a modest and very interesting little treatise, covering some 115 pages, that can be comfortably read in a single evening.

"Objected to, as incompetent, irrelevant and immaterial" might better have been the title, as the work is, in the main, a close analysis of these three elusive words, their use and misuse in forensic practice, and of various opinions held in regard to them as evidenced by examples selected from cases which are quoted and cleverly commented upon.

The book is divided into four sections, of which the first contains definitions, suggestions, explanations and investigations of such terms as Evidence, Issue and Objection. Having found that objections are divided into two classes,—specific and general—the author proceeds to consider these under two circumstances each, whereby four positions in which counsel may find himself are investigated, namely: (1) and (2) "the general objection sustained (or overruled);" (3) and (4) "the specific objection sustained (or overruled)."

Then comes the analysis proper of the words "incompetent," "irrelevant" and "immaterial," where the "etymological indications," "lexicographic suggestions," "text-writers' definitions" and "judicial definitions" are examined.

The second section treats of "cases, adjudicating upon objections" and contains some highly interesting and suggestive matters; while the third and fourth sections deal respectively with "striking out, and disregarding evidence" and "motions to direct and to set aside, verdicts."

The aim has apparently been in no sense to attempt the settlement of any mooted questions, but rather to suggest lines of thought and action—"Hints," as the title has it. In this Mr. Demarest has been very successful and his lucid and logical conclusions, drawn after each topic has been covered, are especially helpful along these lines. To the student this book is of particular interest, as many clear glimpses of actual, practical, work-a-day, rules of evidence, are afforded, which can never be the case, within the law school alone.

*Joseph Chapman.*

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A TREATISE ON THE LAW OF DOMESTIC RELATIONS. By JOSEPH R. LONG, Professor of Law at Washington and Lee University. Pp. 455. Keefe-Davidson Company, St. Louis.

As its title implies, this book is devoted entirely to the subject of domestic relations. Prof. Long has divided the subject into four parts: Husband and Wife, Parent and Child, Guardian and Ward, and Infancy; the last of which, though hardly a "relation," is incidental to and inseparable from all the domestic relations. Usually the fourth division of this subject is devoted to the relation of Master and Servant, but, as Prof. Long says, the relation of master and servant as a purely domestic one is now of small importance, the law relating to it being more a matter of contract, agency and tort. The subject is treated generally and most of the questions are discussed under the Common Law and afterwards as they are affected by legislation. The whole subject is one in which the Common Law has been very much changed by statute, resulting in considerable conflict of law in the several states. There is no attempt to specialize on the law and decisions of any one jurisdiction, but the various rules and legislation on the same questions are given and ably discussed. The text is well supported by citations at all points from various jurisdictions, including frequent ones from Massachusetts, New York and Pennsylvania.

The work was written with the idea of instructing the student and the development and connections of the principles are so set forth as to make them readily understood. The style of the text is especially commendable for its simplicity and

force. The work should, therefore, make an excellent textbook for a course on this subject, or for a student who does not otherwise cover the ground. To the practitioner its chief value is as a careful study of the fundamental principles of the subject and their development, rather than as an exhaustive collection of the authorities.

*Henry P. Erdman.*

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THE AMERICAN LAW RELATING TO INCOME AND PRINCIPAL.

By EDWIN A. HOWES, JR., of the Suffolk Bar. Boston: Little, Brown and Company. 1905.

This brief edition, as stated by the author in his preface, is designed to set forth and explain the various rules of law applicable to the separation of the returns from investments into what is properly income and what should be held as principal. It is supplementary to works on Trusts (of which it is largely a branch) which do not give it the detailed attention its importance deserves.

The first subject considered is that of "Wasting Investments," and under it are discussed leasehold estates, mines, oilwells, quarries, bonds and so on, including a very clear exposition of both the American and English law on timber.

The next subject in order is Dividends on Shares of Stock, under which are given the several kinds of dividends; their basis; which may properly be paid out as income, and in what cases the accountant must use his individual discretion and judgment. The prevailing rules in the leading jurisdictions are especially set forth; also a full citation of authorities on disputed points; otherwise only such cases as are necessary to illustrate the given principle, are given, which, incidentally, is a feature of the book.

Wherever an illustration or an actual application of a principle is deemed conducive to clearness and understanding, it is given.

In the same general manner the author treats of other divisions of the subject, such as "Apportionment of Loss or Profit," "When Enjoyment of Income Begins," "Outlay," and closes, after dealing with the "Apportionment of Current Income," by giving a Summary of the Statutes of the Various States bearing upon that question.

We feel that the work cannot help but prove valuable to lawyers and to trustees and accountants, and to such we recommend it.

*C. D. S.*