

BOOK REVIEWS

THE LAW AND CUSTOMS OF RIOT DUTY. By BYRON L. BARGAR.
Published by the Author. 1908. Pp. 323.

Within a brief space the author has included not only a detailed statement of the law governing the conduct of those in charge of military forces during times of insurrection or riot, but also many valuable directions, based apparently upon his own experience, as to the actual management of militia in the field. From a legal standpoint, the book possesses the merit of containing an accurate statement in language, usually clear, but occasionally unnecessarily complicated, of the questions of law with which an officer in charge of troops on riot duty will be frequently confronted. For use by such persons the book will prove very valuable, but for the student or for the practitioner the book is of comparatively little importance, because it contains rather conclusions of law than an analysis of the legal principles involved. It should, however, be noted that the author does not claim that his little volume is a legal treatise, but rather that, as stated on the title page, it is a "guide for national guard officers and civil authorities." For this purpose the book is adequate and helpful. The carefully drawn distinctions between the powers and duties of those in charge of the military forces and the civil authorities whose responsibilities they frequently assume, is particularly to be commended. The forms included in the text of the book for proclaiming martial law and similar purposes are well drawn and can be used in many instances without further elaboration.

R. D. J.

THE POWER OF SPECIAL TAXATION. A CRITICAL ANALYSIS OF
SPECIAL TAXES FOR LOCAL AND PUBLIC IMPROVEMENTS. By
HENRY N. ESS. Kansas City, Missouri: Pipes-Reed Book
Co. 1907. Pp. x, 389.

The object of this work is to demonstrate that the present system of taxation for local improvements, particularly as established in our western states in the form of contractors' tax bills, is unconstitutional. The conclusions of the author

are based primarily on certain decisions of the Supreme Court of Missouri. His chief grievance (for, from the querulous tone of the whole book that phrase is not improper), is that in some instances property has been assessed for local improvements, although at the same time damages have been awarded to the owner for the results of the same change of grade or other public work. See especially the case of *Smith v. Kansas City*, 128 Mo. 23, sustaining the legality of this result. On this decision Mr. Ess comments as follows (at page 289) :

"This doctrine is the quintessence of malicious anarchy in its most hideous form. It betokens a return to savagery and barbarity." The most absolute and despotic government on earth never has done and never can do worse. The arch-fiends and devils of hell, with all their legendary tendencies to evil, cannot equal much less excel it!"

This quotation is fairly typical of the spirit in which the whole work is prepared. Such language does not carry conviction. This treatment is unfortunate, because the subject of the legality of the excessive assessments for local improvements is one of such importance, especially to non-resident investors, as to warrant a more exhaustive and a more judicial examination than is furnished in the present work.

R. D. J.

THEATRICAL LAW. THE LEGAL RIGHTS OF MANAGER, ARTIST, AUTHOR AND PUBLIC IN THEATERS, PLACES OF AMUSEMENT, PLAYS, PERFORMANCES, CONTRACTS AND REGULATIONS. By J. ALBERT BRACKETT, LL. B. Boston, Mass.: The C. M. Clark Publishing Co. 1907. Pp. xviii, 503.

The weakness and the strength of this book are discernible in its introduction and are easily traced through the whole.

"The decisions of the courts on matters pertaining to the stage, and all manner of amusements to which the public is admitted, are no distinct phase of the law, merely an application of established principles to those subjects."

This statement is so true that even opposing counsel could hardly take exception to it, but the attempt to write a text-book on the law of these subjects as though that were a distinct phase results necessarily in a congeries of kindergarten essays on such diverse departments of the law as copyright, negligence, contracts, landlord and tenant, damages, and equity jurisdiction, illustrated by theatrical precedents. To treat these subjects adequately would be to produce an encyclopædia, which this thin volume is not, and to treat them inadequately is small

help to the hurried attorney. The fact is that this book, though produced with all the trappings of the legal tone, is not for the lawyer. It might save him some labor over digests, but could hardly do more. Its habitat is not the bar, but the rialto.

Proceeding, the introduction points out the extreme importance of knowing what you are about when coming into relations fixed by contract or law.

"The careless individual who signs a contract without thought or advice, or assumes relations without knowing his responsibility therein, is most often the one who complains of lack of justice and unfairness in the courts."

To lighten the burden of such ignorance resting on the theatrical profession is the real mission and value of this work, and for this purpose it is admirably well done. It ought to find a place in the curriculum of every school of dramatic art and be possessed by every member of the profession not yet sufficiently advanced to retain his own lawyer.

S. B. S.

A SUPPLEMENT TO A TREATISE ON THE SYSTEM OF EVIDENCE IN TRIALS AT THE COMMON LAW CONTAINING THE STATUTES AND JUDICIAL DECISIONS 1904-1907. By JOHN HENRY WIGMORE. Boston: Little, Brown & Co. 1908. Pp. xiii, 458.

This book, which appears as volume V of "Wigmore on Evidence," brings down that standard work to July 1, 1907. The earlier volumes have already been reviewed in these columns. The supplement contains but little addition to the text of the earlier volumes. The notes as to recent cases and statutes are concise and clear. A very commendable feature of the supplement is the excellent index, with its references not only to the sections in the current volume, but also to the four earlier ones. In the author's preface of the recent decisions there is a brief but suggestive analysis of his views as to the general tendencies shown in recent decisions to do away with the "Opinion Rule," to recognize a broader application of the doctrines of "New Trials for Erroneous Rulings" and to permit judges "to give instructions of law upon the effect of particular pieces of evidence."

R. D. J.