

BOOK REVIEWS

FACTS, OR THE WEIGHT AND VALUE OF EVIDENCE. By Charles C. Moore. Two volumes. Northport, Long Island: Edward Thompson Company. 1908. Pp. cixxii, 1-730; 731-1612.

This is a most interesting and readable work and shows an almost incredible amount of personal research on the part of the author. Its title is no index to the scope of the work except as it signifies a discussion of the problem of determining the facts of a case rather than the law. The fourth and last edition of "Ram on Facts" bears the date of 1890, and since that time no work of any pretensions covering this subject matter has been written. The recent magazine articles and book by Prof. Munsterberg, of Harvard, entitled "On the Witness Stand," aroused sufficient interest to show that Mr. Moore's larger and more nearly legal treatment of the same subject matter will be well received. The most striking structural characteristic of this work is its detailed classification. Volume I, after four chapters of a general nature, deals with the kind of proof necessary in the actual trial of cases. Chapter V, bearing the title "Sound and Hearing," seems to cover every possible fact that could arise in this connection, and Chapter VI, on "Light and Sight," is equally complete in detail. The detailed classification of subject matter is illustrated by the following in the chapter on "Sound and Hearing." A paragraph each is given to "Noise of Electric Cars in General," "Noise of Electric Car on Up Grade," "Noise of Electric Car on Down Grade," "Noise of Electric Car Running Slowly," "Noise of Electric Cars at Night," "Noise of Vehicle Preventing Hearing Electric Car," "Noise of One Electric Car Preventing Hearing Another," "Wind and Rain Preventing Hearing Electric Car" and "Sound of Gong of Electric Car." Other subjects are treated in like detail. Distance, Speed and Weather each have a chapter.

Volume II offers the greatest general interest in the discussion in Chapters XV and XVI of the subject of Memory. Just what the practical value of this discussion will be to the practitioner cannot be estimated, for Mr. Moore has treated the subject matter in a way attempted by no other writer. After a general discussion of "Physical Conditions Affecting Memory," in which numerous cases and instances are cited, the author continues the subject under the same detailed classi-

cation which characterizes the entire work. "Memory of Dates," "Memory of the Time of Day," "Estimates of Periods of Time" are treated in numerous paragraphs replete with striking instances and often enlivened with quotations from general literature. The locomotive engineer's memory, the attorney's, innkeeper's, bank-clerk's, notary's, signal service officer's, etc., are all treated in separate paragraphs.

The chapter entitled "Credibility of Witnesses in General" is second in interest only to that on "Memory." The infinite detail is again shown in the author's classification of persons. He gives separate paragraphs on the credibility of the following as witnesses: Clergymen, Priests, Gamblers, Lawyers, Opium Fiends, Seamen, Orientals, Hindus, Indians, Negroes, Seducers, Prostitutes, Detectives, etc.

Mr. Moore has adopted the historical rather than the discursive method. He tells what has been done by juries and said by judges relative to the subject matter of his work. While glaring errors of courts and juries are set out in infinite detail, suggested remedies are rare. The text will rarely fail to point out to the practicing lawyer just how the fact he seeks to prove has been juggled by courts and juries, but even in the remarkable chapters on "Memory," Mr. Moore fails to offer a remedy for the condition he so clearly points out. No recent work of greater general interest has appeared, but the student and philosopher will find in Mr. Moore's work more facts for the basis of their theories than the practicing attorney will find assistance for the problems of the trial of causes.

R. W. B.

HISTORY OF THE ROMAN-DUTCH LAW. By the Hon. J. W. Wessels. Grahamstown, Cape Colony: The African Book Company, Limited. 1908. Pp. XV—791.

One of the principles on which the English conduct their colonizations is to leave intact, wherever possible, the local law of the countries which they bring under their governmental system. This principle has contributed no little to their success as a colonizing nation. Coming to South Africa they found in full force there the Dutch law, which is almost entirely Roman in origin. The need for an adequate treatise in the English language on this law must have been felt from the first, but was not met until the present year, when this book was published. It is divided into two parts. The first is historical and deals with the progress of the Roman law from early Frankish times

through all the troubled history of Holland down to the nineteenth century. The second part is devoted to substantive law and forms a very complete commentary. This book is to be recommended to anyone having business or legal dealings with Holland, or any of the South African states or Dutch colonial possessions.

S. B. S.

THE SCIENCE OF JURISPRUDENCE. A TREATISE IN WHICH THE GROWTH OF POSITIVE LAW IS UNFOLDED BY THE HISTORICAL METHOD AND ITS ELEMENTS CLASSIFIED AND DEFINED BY THE ANALYTICAL. By Hannis Taylor, LL. D. New York: The MacMillan Company. 1908. Price, \$3.50 net. Pp. LXV—676.

It is refreshing to find a book of the scope of that before us among the mass of works on a single branch of the law, or on the law of a single limited jurisdiction, which continually pour from the press. The author is thoroughly imbued with the modern scientific spirit and makes full use of modern scientific methods. These methods are comparative and generic. With their aid the author proposes to examine all law and extract the fundamental principles, thus creating a true science of jurisprudence. Casting his eye over this wide field he discovers that the world has produced only five distinct systems of law, the Roman, the English, the Mohammedan, the Hindoo and the Chinese, and throws aside the last three as of no interest to the civilized world. Of the two remaining systems, Roman and English, a detailed and interesting history is given. The two chapters treating of the external history of Roman law and the external history of English law form the heart of the book and together compose about two-thirds of its contents. The general thesis of the book is that the permanent part of the Roman law is its body of private law, while on the other hand the glory and crown of the English system is its public and governmental law, and this is destined to remain. The conclusion is that the typical state of the future will have a government and a body of public law after the English model and a body of private law taken mainly from the Roman. France, Louisiana and the South American states are cited as examples of this amalgamation of the two systems.

The author of this work is also the discoverer of the pamphlet first published in 1783 by Pelatiah Webster on which rests that writer's claim to be considered the inventor of the

basic principles of the Constitution of the United States. The pamphlet is printed as an appendix and considerable groundwork is laid for it in the text. The claim has given rise to considerable controversy which cannot be entered here for lack of space. However, the present volume is in no wise injured by the inclusion of this matter and if the criticism of the future justifies the importance given to it, this work will be the more authoritative for having it.

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