

BOOK REVIEWS

LAW OFFICE AND COURT PROCEDURE. By Gleason L. Archer, LL. B.
Boston: Little, Brown and Company.

To the young lawyer, fresh from law school training and versed only in the comparisons and contrast of innumerable cases, whose mind has been turned to the proposal or solution of legal problems, every treatise which may aid in the practical work of litigation is of interest. The above-entitled volume is largely adapted to the procedure in Massachusetts; a major portion of the pages are probably of little value outside of that jurisdiction.

Certain topics, however, in the Preparation for Trial, and in the Trial of Suits, are considered with clearness and useful suggestions are made. The advice in regard to familiarity with rules of evidence, to cross-examination and the argument to the jury are worth the study of the inexperienced advocate.

There are numerous illustrations of the questions to witnesses and their answers which elucidate the author's statements. It may be true that the eminent trial lawyer is born, not made; but while intuitive perceptions, celerity of judgment and personal magnetism cannot be acquired from printed pages, it is also true that even imperfect guidance in fields of professional labor, hitherto not traversed by him, may be most profitably sought by the neophyte from such sources as the above work on procedure. Its author has been both kind and wise in writing and publishing it.

J. W. P.

HISTORY OF THE DEVELOPMENT OF LAW. By Honorable M. F. Morris.
Washington: Byrne & Co.

Judge Morris deals, not with the development of a concrete system of law, but with the development of human law in the abstract. He attempts, in other words, to discover what impels man, who has a choice of actions, to select one rather than another. That which constrains him, aside from mere inclination, to do or not to do a particular act is known as the sanction of the law. And the rule of conduct which is to be adopted by reason of these sanctions is known as a law.

While the introduction of this work deals with the origin of human law, the remaining chapters treat of concrete systems of law. But the learned author seems to have forgotten to draw the deductions and conclusions from these desultory facts which the very nature of his work would demand. It is more of a narration of historical legal facts than a disquisition on the philosophy of law.

Judge Morris' intense prejudices are perhaps his most serious disqualification for such a work. He refers to William the Conqueror as an "enterprising ruffian" and to the Anglo Saxons as "bands of bloodthirsty savages," but his treatment of Blackstone is surely scurrilous and undeserving. He thinks the great commentator's "tongue

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should have been palsied that characterized the Feudal System as a 'plan of liberty.' It is a sycophant lawyer, false to all sense of honor, false to the free spirit which was even then growing in England, that made that infamous statement. There are many falsehoods in Blackstone. This is one of the worst and most contemptible of them," and he thinks that Blackstone "deliberately and wilfully uttered an untruth." Are such truculent outbursts calculated to insure the reader's confidence in one whose judicial robes should stand for a judgment unfettered by doctrine or creed?

The book must not be pushed, however, for more than it was intended to be. It is an "Introduction to the History of the Development of Law," and as such sets down many very interesting facts. But the author rushes in where more competent men have feared to tread and pronounces opinions which had been better left unsaid. One must do him the justice of saying that his book is very readable, in fact, entertaining; yet there lurks behind his smooth style the suspicion of insecurity due to a lack of sufficiently exhaustive research.

J. H. W.

A POCKET CODE OF THE RULES OF EVIDENCE. By John H. Wigmore. Boston: Little, Brown and Co. 1910.

In the Pocket Code of Evidence Mr. Wigmore has attempted to give to the profession a practical hand-book of evidence which will supplant the omnipresent Stephen's Digest. Whether or not the law of evidence can adequately be presented in the concise form of a code is open to serious question, but it is believed that Mr. Wigmore's five hundred page 16mo. abridgment of his exhaustive five-volume treatise will go far toward a solution of the problem.

But little improvement could be suggested in the form of the volume. By a system of brackets the reader is warned at once whether a given rule is followed in all jurisdictions, or in some only, and the alternate blank pages afford the practitioner ample facilities for noting the peculiarities of his own jurisdiction. The rules that have as yet not been followed, but which Mr. Wigmore thinks should be law, are also marked in such a way as not to mislead. The elaborate system of cross-references, although not exhaustive, serve as a guide to other rules that may be applicable to the point in question, and citations of sections in Mr. Wigmore's Treatise on the System of Evidence open the way to a more exhaustive study of each rule. Special mention should also be made of the copious index, table of contents and tabular analysis, for the value of any code depends on the ease with which each rule can be found.

As a practical hand-book the substance of the volume may be open to criticism on the ground that too much space is devoted to a statement of the law as it ought to be, thus making reference to the law as it is less easy. Such Utopian discussions of what the law should be, ideal though they are, and sometimes more theoretical than practical, no doubt have an important place in exhaustive treatises, but it may well be argued that, in a hand-book designed for quick reference they are an unnecessary encumbrance. On the other hand, a writer of the depth and genius of Mr. Wigmore would scarcely be satisfied with a mere digest which any drudge might produce, and it is to be sincerely hoped that at least in the newer jurisdictions this phase of the code will have a potent influence in breaking the chain of useless technicalities with which the law of evidence is bound.

As a practical hand-book for lawyers and as a road to the adoption of rules that shall be the "ministrant tools" instead of the "tyrannous masters" of our judges, the Pocket Code of Evidence will prove itself of great value. But, as Mr. Wigmore in his admirable preface reminds us, it is, after all, "the spirit that gives life to the rules." "What the Law of Evidence, and of Procedure, nowadays most needs is that the men who are our judges shall firmly dispose themselves to get at the truth and the merits of the case before them. Until they become of this disposition and spirit, the mere body of rules, however scientific, however sensible, however apt for justice, will minister to them in vain."

H. E.

BIOGRAPHICAL STORY OF THE CONSTITUTION—A STUDY OF THE GROWTH OF THE AMERICAN UNION. By Edward Elliott. New York: G. P. Putnam's Sons, 1910.

The history of the American Constitution, from either a historical or legal point of view, does not in the average instance attract the lay mind. It is too intimately bound up with such troublesome doctrines as nullification, secession and state sovereignty, to appeal to one who is neither a student nor a scholar. No gleam of interest is awakened in the bosom of the general reading public by a discussion of the implied powers, or of the question, does the constitution follow the flag?

In the present instance, however, the author has gone far towards affording a readable and instructive account of the general development of the nation's fundamental document. As is suggested by the title, the book is not a technical legal work. It wisely refrains from any claim to completeness or exhaustiveness. In twelve chapters the author treats of as many prominent men in our constitutional history, and their influence on the trend of constitutional interpretation. It is most interestingly done, due perhaps to the fact that the personal element is much in evidence and the reader is made to feel the intensity and sincerity with which opposing constitutional doctrines were maintained by their respective advocates. However, the method of treatment has its disadvantages, as the reader is left with the impression that this is a government of men, not of laws, a feeling that is, perhaps, justified by the subject of the last chapter.

The basic note that runs through the book is the struggle to discover the nature of the union between the several states. The bitterness of the contention on this point, and the difficulty of its solution, are admirably brought out, and the reader feels no small thrill of patriotism when he reaches the point where the War of the Rebellion concluded the difference and proved that the union was a unit.

An appendix contains the documents most intimately connected with the growth of the union, and affords an opportunity for the most valuable kind of study on the subject of the work, that of the original sources.

E. S. B.

THE STATUTE AND CASE LAW OF THE STATE OF NEW JERSEY RELATING TO BUSINESS COMPANIES UNDER THE ACTS CONCERNING CORPORATIONS, WITH ANNOTATIONS AND FORMS. By James B. Dill, Judge of the Court of Errors and Appeals of New Jersey. Edition of 1910. Sinickson & Sons. Co. Pp. 250.

Subsequent to the edition of 1902 of this work, divers statutes have been passed and many important decisions concerning corporations have been handed down. The rapidity with which the law on corporations changes and the importance of these changes makes this present edition extremely valuable, for it contains all these, including those of the last bound volumes of reports. The author has wisely retained the form and notation of his previous edition, thus making it of easy access for those familiar with the prior work. His decisions in the Court of Errors and Appeals display a vast knowledge on the subject and his annotations in the present volume an ability to express that knowledge concisely and accurately. Where he has expressed a personal opinion, there is the possibility that it will shortly be read into an actual decision, a result not usual in text-book opinions.

The book is primarily a hand-book of ready reference. The digests of cases are reliable and the forms correct. It is a book that will be of valuable assistance to the busy lawyer or layman in any way interested in a corporation existing, incorporated, or to be incorporated in New Jersey; whether he be an incorporator, a director, a stockholder, or merely a creditor of such a corporation. Each can readily ascertain his rights and duties, as the Court has declared them, rather than as the author thinks they should be.

J. B. L.