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Recent Legal Literature

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Recent Legal Literature

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RECENT LEGAL LITERATURE

HANDBOOK OF ADMIRALTY LAW. By Robert M. Hughes, M. A., of the Norfolk (Va.) Bar. West Publishing Co., St. Paul, Minn. 1901, pp. xviii. 504, 8vo.

The subject of this work has received but scanty attention at the hands of text-book writers during the past thirty years notwithstanding its importance has been augmented greatly, especially in the last decade, by the growth of our mercantile marine upon the ocean and the Great Lakes, and the expansion of our commercial relations and interests. Indeed, this field in the United States has been left almost fallow for a generation. Not to disparage the valuable treatise of Benedict which will ever rank as standard in its treatment of the pleading, procedure and practice of the admiralty courts, nor those of Henry and of Cohen which were limited in scope and preceded much important legislation affecting maritime interests—the last text-book upon the law of the sea which met with the general acceptance of admiralty practitioners is Parsons on Shipping and Admiralty, published in 1869. It deserves its reputation as a lucid exposition of the principles of its theme and a careful collation of the judicial decisions which have differentiated the admiralty and maritime law of the United States from that of Great Britain and Continental Europe, but its present value is rather historical than practical. Its latest citation from the Supreme Court of the United States is the case of the Siren, 7 Wallace, 152. Since that decision one hundred and seven volumes of the reports of that court have been issued, few of which contain less than two or three important cases bearing upon "the rule of the road at sea," the relations of ship and cargo, and kindred topics. In the same period Benedict, Blatchford, Brown, Bissell, Dillon, Hughes, Lowell, Woods and others have preserved a still greater number of the decisions of the circuit and district courts in admiralty cases. Since 1879 the Federal Reporter has been the depository of the decisions of the latter courts, and since the establishment of the Circuit Court of Appeals the decisions of all these tribunals are to be found in 112 volumes of the Federal Reporter. Those of the Circuit Court of Appeals are also reported in the United States Circuit Court of Appeal Reports. Probably these four hundred volumes, more or less, contain at a low estimate two thousand cases expository of the maritime law. The Limited Liability Act with its amendments, "The International Rules for the Prevention of Collisions at Sea," the "White Law" prescribing the steering and sailing rules for the Great Lakes, the Harter Act regulating and modifying the relations of vessel and cargo and other Congressional enactments have brought to the front questions untouched the older writers, which must be solved by principles unaided by prece-

dents. The equitable principles which mould the decrees of the "chancery of the seas," and the inherent flexibility of its procedure, are constantly developing new instances of its adaptiveness to adjust itself to the changes, progressive and statutory, in the law of the seas and the conditions of modern commerce. Much, therefore, must be unlearned—as much quickly learned. To this end, next to a thorough knowledge of the history and principles of any system of laws, is prompt and ready familiarity with the latest adjudged cases, for these echo the best thought of the bench and bar upon each controversy. Who fails to keep his hand upon the pulse of decisions and note its changes cannot hope for professional success. As well might the mariner lay his course by the lights and landmarks of a century ago. Without undervaluing a well-arranged digest, a better aid to a lawyer's preparation is a good text-book, written by one in love with his subject, well grounded in the principles of legal science, versed in its literature, possessed of a clear style, reflecting in the presentation of his subject a well ordered mind, and vouching for his text with the latest and aptest authorities. Too often the latter merit is lacking and citations paraded which never knew the text. The work is rare which has all these features, but when found is far more serviceable than a pretentious treatise dealing in generalities and obtruding its author's views rather than those of the courts. Such a book is "Hughes on Admiralty." It is modestly put forth in the preface as an elementary work. In the sense that it makes plain to the tyros of the profession the fundamental principles of admiralty jurisdiction and law, and of its pleadings and procedure, and the related topics, it is rudimentary. It is more than this, however, in its treatment of the many branches of its subject. It is a useful handbook for the active practitioner, citing the latest judgments on vexed questions growing out of the recent maritime legislation which has been prolific of legal problems. While keeping abreast of the current of American decisions Mr. Hughes has not omitted recent English authorities upon this branch of the law. The book evidences painstaking and discriminating labor in its preparation and the author's familiarity with the subject. Its value is much enhanced by a collection of statutes regulating ocean, lake and river navigation, the Limited Liability acts, and other legislation which together with the rules and practice in admiralty constitute a useful and convenient appendix. For the young admiralty lawyer it is one of the few books "to be chewed and digested, . . . to be read thoroughly and with diligence and attention." The text quotes freely the exact language of controlling decisions. The statements of facts in illustrative cases discussed are compact and clear. Fully six hundred well selected authorities are cited and listed in the table of cases. Mr. Hughes has produced an excellent work which recommends itself alike to the specialist and the student. The general subject is, of course, too vast for exhaustive treatment in so small a compass, for volumes have been written on the topics of many of its chapters. The author may have paid the traditional debt of the lawyer to his profession in the production of this volume, but it is to be hoped that he will make a still larger payment in the same field of study and that this useful work will receive the enlargement it deserves.

HENRY H. SWAN.

United States Courts, Judges' Chambers, Detroit.

CASES ON THE GENERAL PRINCIPLES OF THE LAW OF PRIVATE CORPORATIONS—By Horace L. Wilgus, M. Sc., Professor of the Law of Torts and Private Corporations in the University of Michigan. The Bowen-Merrill Company, 1902. 2 vols. pp. liii, 2103.

In no field of jurisprudence is there greater need of good text books than in the Law of Corporations. There the chief contests of the forum are fought in which established principles are subject to attack, while the rapid development of corporate bodies, their accumulation of wealth and their growing needs result in the incessant pushing forward of new doctrine of uncertain effect. Existing text books are unsatisfactory for the reason that most of them, in so far as they are not digests only (the cardinal sin of the modern text book), merely follow the old masters, while some few in their zealous advocacy of new theories would undermine the solid fabric of our law.

It is the chief merit of the work of Professor Wilgus that he takes his stand above the confusion of the field and neither neglects the old nor ignores the new. It is, on the other hand, the defect of his book that his station is so impartial, his comment so impersonal that some part of the benefit of his clear vision and good judgment is of necessity lost. In other words, it may be regretted that he has not felt free to give us his criticism. An instance in which he has done so in his note on the corporation as a person at page 72, as a collection of individuals at page 109 and as a franchise at page 157, presents a treatise of great value on the subject.

The fundamental conception of the corporation not only underlies corporate law but affects public policy and enters into the most momentous questions of our political life. The necessity of giving effect to corporate action conducted otherwise than through regulation corporate forms, as manifested in the Sugar Trust case in New York (121 N. Y. 582), hardly justifies all the rhetoric of the deservedly admired opinion in that case. Much less does it justify the statement quoted from Mr. Taylor that the corporation as a legal person may be dismissed as a "fiction" and dropped "from the body of the law," or the estimate of Judge Thompson that the primary franchise of being a corporation "is a myth." The judicious comments of Professor Wilgus upon these and similar extreme statements go far toward clearing the air. They will start many a student on the right track and call halt to many an overreaching decision.

The thoroughness of his research is nowhere more apparent than in the historical note at page 72, stating in a most satisfactory and original way what our books in general are content to take inaccurately at second hand.

Nothing in the work is more timely than the notes under the heading Corporate Powers, on capacities at page 924, on partnerships at page 959, on trade combinations at page 973 and on consolidations at page 1003. These notes together with the accompanying cases form the most effective treatise on the law of corporate combinations that has yet appeared, and will be of inestimable service to the student interested in pending litigations of the character of the Northern Securities cases.

While to the eye this work appears at first glance little more than a collection of cases, examination of them discloses such a logical arrangement and subdivision under appropriate headings as to constitute a symmetrical

compendium of corporate law not made up of dicta or inferences by the text writer, but of the most authoritative exposition of the law on every phase of the subjects treated. The work is complete and apparently leaves no subject untouched. It is unfortunate that courts differ upon vital questions, but where such differences exist, leading cases on both sides are given; and this brings us again to the regret already expressed that in all these instances Professor Wilgus has not felt at liberty to favor us with his personal estimate of the law.

The book is valuable alike to the practitioner, the student and the instructor. It is well indexed and is supplemented with forms not usually found in the books such as Agreements for Options, Underwritings and Voting Trusts.

JAMES F. TRACEY

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A TREATISE ON INJUNCTIONS AND OTHER EXTRAORDINARY REMEDIES.—Covering Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari or Review. By James Carl Spelling. Second edition, revised and enlarged. In Two Volumes. Little, Brown & Co. 1901.

The revision and enlargement of this treatise consists of the addition of a trifle over a score of short sections—not exceeding five pages of text—and the citation of more than two thousand five hundred additional cases. About half of the new matter applies to injunctions; the rest to the other extraordinary remedies included in the scope of the treatise.

The favor with which the original edition of this treatise was received by the profession was such as to stimulate the author to his best efforts in the work of revision. The merit of the original publication begot the expectation that the work of revision—when that should be undertaken—would be done with equal care and thoroughness. But it is apprehended that in this respect the second edition will be disappointing. All that distinguishes the second edition from the original publication is a brief digest of cases. There is a striking disproportion between the great number of additional cases cited and the insignificant amount of text. The value of a text-book is not to be measured by the yardstick or gauge, it is true; but when the well-known fact "of recent important extensions of jurisdiction to grant the writ of injunction" is recognized and stated by the author (Preface), and when it is further recognized and stated that "a novel and, it must be admitted, extraordinary use of the remedy" (injunction) "has grown out of conflicts between employers of labor and trade unions and other labor organizations," and when such a special student of the subject as the author must be is aware that the remedy against the strike, the lock-out and the boycott has been so extended and become so extraordinary in the almost decade between the first and second editions of this treatise, even the yardstick and the gauge can be trusted to mark the disproportion between the importance of the subject and the author's two or three pages of text—not of elucidation, but of digest.

It is to be regretted that the author's modesty or timidity induced him to refrain from any "expression as to the soundness or unsoundness of judicial interpretation of judicial power," the exercise of which along the special

lines here mentioned, during the interval covered by the second edition of the author's treatise, has disturbed judicial repose, agitated the public mind and, whether right or wrong, has provoked criticism of the courts. It cannot well be doubted that lawyers and judges would have welcomed suggestions on these lines from one so well qualified to offer them as Mr. Spelling.

A comparison of the second edition with the original publication will lead, we think, to the inevitable conclusion that the author has not made that improvement in his treatise which the extension of the subject of injunction within the last eight years demands. ROBT. E. BUNKER.

A TREATISE ON THE RIGHTS AND PRIVILEGES GUARANTEED BY THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES. By Henry Brannon, Judge of the Supreme Court of West Virginia. Cincinnati: W. H. Anderson & Co., 1901, pp. x, 562. 8vo.

Considered from the standpoint of the range of subjects embraced and the extent of the protection granted, the first section of the Fourteenth Amendment to the Constitution of the United States must be deemed to be the most important charter of rights and privileges which the world has ever known. Wrung from the reluctant South, primarily for the protection of the colored race, it has become the great bulwark of the liberties of white and black alike, and furnishes protection not only to natural persons but to corporations also. Its great significance is found in the fact that the protection of rights and privileges is no longer left to the states alone, subject to local influences or sectional differences, but the states themselves are now restrained by the fundamental law of the Nation, and the individual may now claim, as against his state, the protection of the Federal power. A careful consideration of the language will disclose its far reaching effect. "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." The protection of the privileges and immunities of citizenship, the security of life, liberty and property from unlawful interference, and the guaranty to every person of the equal protection of the laws, are the chief purposes for which governments exist. Primarily these purposes are to be subserved by the governments in the states, but if the state shall fail in its duty, the whole machinery of the Federal government may now be set in motion to secure relief.

The ideas embodied in this amendment are, of course, not new. Wherever men have struggled for protection against the arbitrary power of government, these were the rights for which they were contending. Whenever in Magna Charta, or in Bill of Rights, an enumeration of fundamental rights is made, these rights will be found to be the ones most carefully protected. It seems therefore preëminently fitting that in the greatest charter of government ever adopted by a free people, these rights should be secured against attack. As against the Federal government itself, this was accomplished by the first eight of the Amendments; and now, as against the states, the Federal government is also charged with the duty of their protection.

The Fourteenth Amendment was adopted in 1868. The history of its adoption is full of interest, but the story is too long to be recounted here. T h question of the purpose and effect of the new provision was first judicially approached in the famous cases known as "The Slaughter House Cases," decided by the Supreme Court of the United States in 1872. The decision was made by a bare majority, and the friends of the Amendment were surprised and grieved at what they deemed to be a narrow and mistaken view of its scope and influence. Time, however, has worked a change, and although Mr. Justice Miller then declared that he doubted very much whether the provision forbidding a denial of the equal protection of the laws would ever be construed as applying to any other class that the colored race, subsequent events have demonstrated that it is vastly more important to the white race, and much more frequently appealed to by them for their protection. In short, as contended by Mr. Justice Swayne in his dissenting opinion, this amendment, fairly construed, rises "to the dignity of a new Magna Charta," and its beneficent effect is yearly growing more and more apparent.

The literature upon the subject is not abundant. In 1898, Mr. Guthrie published his brief but interesting and valuable series of lectures, suggesting that in the future a more exhaustive treatise might appear, but it has not yet been published. Judge Brannon has therefore done well in attempting to gather together the cases in which the Amendment has been applied, and he has collected them with much diligence and care. The result can not fail to be useful to anyone interested in the subject.

The book bears many evidences of haste or inexperience in preparation. There is no symmetry in style, and the sense of proportion is largely lacking. Long and somewhat grandiloquent comments are followed by condensed and ragged paragraphs which are evidently the rough notes of cases incorporated in the text without rewriting or expansion. As a whole, however, the book will be found useful and many of the defects in style will doubtless disappear when a new edition gives opportunity for revision.

FLOYD R. MECHEM

BOONE ON REAL PROPERTY.—The Bancroft-Whitney Co. have recently issued a second edition of Boone's Real Property Law. The first edition published in 1883 was in two volumes. The present edition is in three and contains 1743 pages of text and citation of authorities. The first two volumes have been considerably enlarged and the third, which has been added to this edition, is regarded by the author as supplementary to the first two. "The opening chapter," he says, "treats generally of the rights and duties of landowners and the following chapters treat in detail the various remedies to which landowners may resort to protect their rights and interests, or to obtain redress in case of their wrongful invasion." The volumes are small 12mo. The publishers have used good white paper, firm and not too heavy, and the page of open clear-faced type is pleasant to the eye. This is not a small and insignificant matter in any volume intended for the use of persons who are frequently compelled to tax their eyes with work for several consecutive hours without rest.

We think, others may not agree with us, that the volumes are too small. They can be readily held in one hand. Lawyers, however, do not read law

books for recreation or relaxation, swinging in a hammock. They no longer demand, it is true, the huge and heavy quartos in vogue two centuries ago. But if we mistake not, the practicing attorney of today looks upon a 12mo or 16mo law book, with a feeling akin to that with which the soldier in an active campaign regards a toy pistol, as a source of danger to its unfortunate possessor.

Any treatise on a special law subject is necessarily a book of reference. Such works, where the common law prevails, are not regarded as the source and fountain-head of the law, but at best as excellent guides and pleasant companions for one in search of the Temple of Justice and the shrine of the blind goddess. They are consulted for information as to the latest decisions and the trend of the judicial thought of the day touching the new questions and the new problems that are continually arising. Each volume of such a work should contain as much matter as possible upon any given subject and not be unwieldy. It is far more satisfactory, because it saves time, fuss, and trouble, if what one seeks is found between the lids of some one volume and is not scattered here and there through two or more. If a law book can be readily held with both hands and conveniently read it is not over-bulky in our judgment.

Had not the author in his preface indicated clearly that his work has been written for the use of the bar, for men in actual practice, we should have concluded that he had in mind in its preparation the needs of the student first entering upon the study of this ancient branch of the law. Not having been written however for the student it is not an adverse criticism to say that the work is not adapted to his needs. What the student, who enters upon the study of real property law, requires at first is a clear statement of the leading principles of the science, free, as far as possible, from all conflicting and confusing exceptions and limitations. Such general rules should be accompanied by a clear statement of the reason for their adoption. After the student has mastered a bold and faithful outline of the subject, he is prepared to enter upon a practical study of the law, a painstaking examination of the application of those general principles to concrete cases. We do not wish to be understood as criticizing by these remarks the leading case system of law study. The laboratory system of investigation is often essential in obtaining exact and practical knowledge of a particular subject, but it is not necessarily the beginning of wisdom.

Since this work was written for the active practitioner it is entitled to consideration from his standpoint. That a second edition has been called for within the short period of eight years is weighty evidence that the work has met with a favorable reception. And yet we are forced to say it falls short of being an ideal manual for the working lawyer. The practitioner desires a work differing materially from the one adapted to the wants of the student. He is searching for a clear and lucid filling in of the outlines of the law which he is presumed to know. He desires that his attention shall be directed to the limitation of general rules, and that he be furnished with a careful and methodical analysis of their application to concrete cases, after the manner of those great masters, Littleton, Coke, Blackstone, and Kent, the whole accompanied by a careful citation of authorities that are really and tually in point. The author has not given the practitioner a work of that

character. He has cited a large number of cases but there is very little in the text to indicate the particular principles of the law which those citations establish.

The author is not always happy and discriminating in his selection of definitions. For instance, in treating of fixtures he gives a definition found in the case of *Carlin* v. *Ritter*, 68 Md. 478, 6 Amer. St. Rep. 467, that "by the term fixture, in its legal sense, is meant something so attached to the realty as to become, for the time being, a part of the freehold, as contra distinguished from a mere chattel." The question of what is or what is not, a fixture was not before the court in that case. The question presented for decision was the right of a tenant, who had taken a new lease of the premises for a further term, to remove fixtures before the expiration of the new term, which he had annexed during the first term of his lease and which he might have removed before its expiration. The court held that he had abandoned to the landlord the fixtures previously annexed by taking a new lease. The decision did not call for any definition of a fixture. The character of the property in controversy was not in question. The definition must be read in the light of the question before the court for decision. It is a definition of an immovable fixture. We do not understand that the court held that the fixtures in question before they were abandoned were a part of the freehold and not mere chattels. If the question was presented to the Maryland court as to whether trade fixtures should be assessed as personal property belonging to the tenant or "a part of the freehold," we have no doubt that such fixtures were chattels.

The law governing fixtures is in a state of deplorable uncertainty and yet there are some questions fairly well settled, and one of them is, that not every fixture is a part of the freehold. Indeed in every case where the character of a given fixture is involved the very question to be decided is whether or not that particular fixture is movable or immovable, a chattel or a part of the realty. It is perhaps unfair to Mr. Boone to call attention to his treatment of the subject of fixtures. He devotes only seven sections to that particular subject. If he had taken all that space and given simply a clear definition, followed by a brief summary of the rules adopted by the courts to determine as between vendor and vendee, landlord and tenant, etc., what are regarded as movable or immovable fixtures in a given case, he would have had no space to spare and he could have claimed the merit at least of having erected a finger-post.

More than one-third of the text is given up to citations of authorities. This would greatly commend the work if the text had been well digested, but unfortunately you can seldom be at all certain what may or may not be found in any particular case cited. The work contains no table of cases and furnishes, therefore, no means of ascertaining whether a given case has been cited, or if cited, in what connection. The author is well qualified to give both the student and the bar a work upon the law of real property that would be far more satisfactory than the present treatise.

B. M. Thompson

The Clerks' and Conveyancers' Assistant.—A collection of forms, etc., for the use of the Legal Profession, Business Men and Public Officers, with

copious instructions, explanations and authorities. By Benj. V. Abbott and Austin Abbott. Second edition, revised and enlarged by Clarence F. Birdseye. New York, Baker, Voorhis & Company (1899). One vol., pp. x, 1091, sheep, 8vo.

A book of forms is indispensable to the busy lawyer, and "Abbott's Assistant" has long been recognized as one of the best books of the kind. The present work is well filled with forms of all sorts which suggest to the discriminating and thoughtful counsel, learned in the law, appropriate expressions for use in framing nearly every variety of legal instrument.

"Business men" often draft such instruments for themselves—probably more often than a far-sighted economy would dictate—and it is unfortunate that books of this character, compiled by those whose professed aim is to assist them in such work, are often prepared with too little patient care.

It is precisely in regard to those instruments that business men are most likely to draft and execute without the advice of the legal profession, that many works of this sort are inaccurate, and it is to be regretted that this new edition of Abbott's Forms is not as reliable a guide as it should be.

For example, in the chapter on chattel mortgages, the "statutory provisions" of each state concerning such mortgages purport to be given, but the statements are incomplete, and in many instances erroneous.

There is no suggestion that in Illinois (p. 254) the mortgage shall be acknowledged by a resident mortgagor before a justice of the peace only (or, in certain cases, before the county judge), and one might naturally infer that it could be acknowledged before a notary public, especially as that official is named in the form of acknowledgment given for chattel mortgages (p. 250). Such an acknowledgment, however, by a resident mortgagor, is ineffectual under the statute: *Long* v. *Cockern*, 128 Ill. 29. No mention is made of the requirement in Illinois that a note secured by a chattel mortgage shall so state on its face, nor of the effect on the mortgage of a neglect to comply with this requirement: R. S. Ch. 95 §25. No reference is made to the requirement in Ohio (R. S. §4154) that there must be a "statement of claim" on the mortgage by the mortgagee, his agent or attorney, under oath, before the mortgage is filed; but the effects of an omission of this "statement" are serious: *Benedict* v. *Peters*, 58 Oh. St. 527.

It appears (p. 258) that there "are no special provisions [in Ohio] in regard to the foreclosure of chattel mortgages"—whereas it is provided, as in many other states, that certain chattel mortgages must be foreclosed in a Court of Record: 91 O. L. 339 (1894). The Ohio "statement of claim" is similar to the "affidavit of good faith" required in some states, for example, in California, Montana, Utah and Vermont, and while this important requirement is noted under each of the four states just named, it is with the important omission, as to each of them, that such affidavit must be by the parties, both mortgagor and mortgagee, or, in certain contingencies, by their agents; nor is the distinction noted between such states, where the affidavit must be by all the parties, and states where it must be by one only (*e. g.*, Washington). No mention is made in some cases (*e. g.*, Montana) of the necessity for acknowledgment. Indeed, no one can discover from these "statutory provisions" (pp. 253-261) in what states such a mortgage *must* be acknowledged, in what states it *may* be, and in what states an acknowledgment is of

no effect. Nor can he learn in what states a chattel mortgage is to be recorded, or transcribed *in extenso*, and in what states it is to be simply filed for preservation and inspection. It is stated, for example, that in Michigan and Kansas it "must be recorded" (pp. 254, 255), whereas in fact, in those states, it, or a copy of it, is to be filed simply; while it is said that in Ohio and Vermont it must be filed, whereas in Vermont it really must be recorded, and in Ohio, since 1878, it may be recorded; *Stevenson* v. *Colopy*, 48 Oh. St. 237. It may be observed that all of these points might have been noted without taking much space, for the change of a word would, in many instances, have been enough; but even if several lines were needed, they should, for the sake of accuracy, have been taken.

Under the title "acknowledgment" one might expect to find some of the errors and omissions just mentioned corrected and supplied, but, if so, he will be disappointed. Indeed, this chapter is not free from similar blemishes. For instance, the only Michigan form of a certificate of acknowledgment (p. 33) is inappropriate for Michigan, if not fatally defective, and the statute authorizing it was repealed over four years before this work was published. (Pub. Acts, 1895, No. 185.) The useful "American Bar Association Forms" of certificates of acknowledgment for an individual acting in his own right, by attorney, and for a corporation grantor, which have been adopted in Michigan and in five or six other states, are, by the way, not specially mentioned.

Nevertheless, in spite of such imperfections, this work is to be commended as one of the most useful collections of general forms; like any useful tool, it must be used by one who knows how to use it.

JAMES H. BREWSTER

NOTES ON THE UNITED STATES REPORTS.—A brief chronological digest of all points determined in the decisions of the Supreme Court, with notes showing the influence, following and present authority of each case, as disclosed by the citations, comprising all citing cases in that court, the intermediate and inferior federal courts, and the courts of last resort of all the states. By Walter Malins Rose. Twelve volumes and an Index. San Francisco: Bancroft-Whitney Co., 1899-1901.

This is a work made up of two leading features admirably united. It is, in the first place, a full and exhaustive digest of all of the points involved in all of the cases in the United States Supreme Court Reports from 2 Dallas to 172 U. S., chronologically arranged.

It gives, in the second place, all of the citations of each of these cases upon each of the several points involved in it, in all subsequent cases in the Supreme Court of the United States, all of the lower Federal courts, and the courts of last resort of all of the states and territories. This occupies twelve large volumes. The thirteenth volume is an index-digest of all this matter, referring both to the original volumes of reports and to the previous volumes of Notes, thus becoming at once not only an index to the reports themselves and valuable as such, but also the key to the wealth of citations grouped together in the previous volumes. This index follows the scheme of classification used in the Century Edition of the American Digest.

No mere statement of its contents can give any adequate idea of the enormous labor which the preparation of this work must necessarily have involved;

neither can it give any adequate idea of the enormous value of the finished product. Regarded as a mere digest, the work is invaluable because it brings to the surface not only all the familiar matter but also many points of interest and value which have heretofore not been digested at all.

But it is from the standpoint of the citations that this work is most important. With industry and patience little short of marvelous, all Federal and State reports have been searched for citations of each of the cases reported in the United States reports; notes and abstracts of the cases so citing them have been made; and the whole enormous mass has been classified, arranged, condensed and rewritten until under each point decided in the original case there is to be found collected not merely a list of the other cases in which that case has been cited but statements of the point and holding of each of these citing cases, so that the full and precise effect of all is obvious at a glance.

The amount of "side-light" which this system of annotation throws not merely on the case itself but upon the whole range of questions more or less closely related to it, is remarkable, as a single illustration may serve to indicate. *Brown* v. *Maryland* (12 Wheat. 410) involved primarily but one question—the right of the state to tax the importer or the importation of goods. Incidentally many other questions were discussed, or suggestions made, the "original package" doctrine perhaps being the most conspicuous. These discussions and suggestions have since proved to be extremely fertile, and the annotation of this case shows that thirteen such related points have been gathered from it and applied in 231 Federal and 224 State cases.

The United States reports are invaluable to every practitioner. In the Federal field—and all the movements of the times are tending to increase its scope and influence—these decisions are, of course, supreme and final; but even in that field wherein, by reason of the residence of the parties and the like, questions of general law arise for determination, the decisions of the Supreme Court have come to be almost authoritative, If any proof of this were needed, these Notes themselves furnish conclusive evidence in the countless instances in which the Federal cases have been cited, approved and followed by the State tribunals. Even without the United States reports, the Notes would be of very great value and importance, but to the owner of those reports these Notes are indispensable. The books are well printed and bound, and in quantity the measure is overflowing, as the volumes will average more than 1000 pages each.

FLOYD R. MECHEM

BRITTON: An English translation and notes, by Francis Morgan Nichols, of Lincoln's Inn, Barrister at Law, with an Introduction by Hon. Simeon E. Baldwin, LL.D., professor of law in Yale University, John Byrne & Co., Washington, D. C., 1901. Sheep, 8vo. pp. xxvii, 649.

This is the second volume in the Legal Classic Series—a very commendable project by the publishers to reprint the early treatises of the English Law. Lord Coke calls Britton "an excellent work written in the days of Edward I, of the common laws, which remain to this day." Blackstone speaks of the author as one of those "to whom great veneration is paid by students of the common law," cited as authority, and "for the most part law at this day." Reeves says, in the older works the law was "disguised in the Latin tongue,

whereas Britton addresses you in the technical style of the law," and Finlason adds "its study is a highly desirable, if not an absolutely essential preliminary to the study of the Year Books," the first of which dates from 1292. It is further of historic value as the first text-book of English law in the Norman-French, instead of Latin; as the first English attempt at codification; and as embodying the policy of the astute king to "warp and wrest the common law . . . in favor of the royal prerogative, and represent the whole administration of justice as depending on the royal authority." Its words are "We have caused," "We will and command," etc.

In the six books and 129 chapters are treated, Authority of Justices and Officers, Personal Pleas, Pleas of the Crown, including forgeries, counterfeiting, murder, treason, arson, burglary, rape. larceny; Treasure-trove, Franchises, Wrongs, Appeals, Distress, Weights and Measures; Disseisins, Estates, and the wrongs thereto; Intrusions interfering with feudal incidents. Pleas relating to advowsons and church property; Dower and entry; Proprietary Actions, including pleas of right, heirs, successions, inheritance, degrees of kindred, essoins and attorneys.

The definitions are valuable—"A freehold is a possession of the soil or of services issuing out of the soil by a freeman, holding a fee to him and his heirs, or at least for term of life." "Some things are corporeal, as those which one may touch." "A title to freehold may be acquired . . . by succession of inheritance, feoffment, confirmation, quit claim, recognizance, judgment, escheat, reversion, dower, curtesy, fee tail, in mortgage, or by condition."

The date and authorship are uncertain. More than twenty-five manuscript copies of the fourteenth century are still extant in England. One of these, now in Cambridge University Library, calls the book "*Summa de legibus Anglie que vocatur Bretone;*" and in 1330 "a book called Bretoun," was bequeathed to the Guildhall in London. It was printed in Latin (Redman) in 1530, as "an oracle of the law;" in Norman-French (Wingate) in 1640; in English (Kelham) in 1762; and in 1865 Mr. Nichols published both the French text and the English translation here given. Judge Baldwin's short and interesting introduction takes the place of the much longer one of Mr. Nichols, but Mr. Nichols' notes are preserved.

The monk Florilegus, in 1342, attributes the book to John Bretoun, bishop of Hereford. Coke accepts this and adds, the bishop was of "great and profound judgment in the Common Laws." Prisot, C. J., in 1457, stated the book was written by the bishop in 1277. Since the bishop died in 1275, and the book refers to statutes of 1285, and 1290, there is difficulty here. Selden thought it was "a royal abridgment of Bracton," whose name was frequently spelled Briton or Breton; but it contains very little of Bracton, and that differently arranged. Others surmise it was written by some one of the judges commissioned by Edward, of whom there were John le Breton (1300), Johannes de Barton de Riton (1304), and John de Bretaign (1305). Nichols places the date as probably 1291. Wingate after reviewing the authorities thinks the bishop wrote it, and Edward adopted it and added the statutes, but adds: "When all is said that may be, concerning questions of this nature, yet every one must and will be therein wholly left to the latitude of his own fantasie." And so we leave it.

The work is finely printed on good paper, with full table of contents and good index. Of the Legal Classic Series, Glanville is the first volume, and Britton the second, skipping over the great work of Bracton. It is hoped the publishers will find some way to include this in the list, and make it more available than the ponderous volumes of the Twiss edition.

H. L. WILGUS

REVIEWS TO FOLLOW:

Cyclopaedia of Law and Procedure.
Page on Wills.
May on Insurance.
Elliott on Insurance.
Chatterton's Probate Law.
American State Reports.
Freeman on Void Judicial Sales.
Hammon on Chattel Mortgages (Michigan and Illinois).
Hirsch's Tabulated Digest of Divorce Laws.