

Medieval Handbooks of Penance. By John T. McNeill and Helena M. Gamer. New York: Columbia University Press, 1938. Pp. xiv, 476. \$4.75.

This magnificent collection of translations of early medieval penitentials by Professor McNeill of the University of Chicago Divinity School and his philological collaborator, Dr. Gamer, ought to be brought to the attention of lawyers interested in the early history of legal institutions.

The ancient penitentials, *i.e.*, catalogues of dues and penalties imposed upon the sinner for the purpose of his restoration to the privileges of membership in the Church, and, thereby, to grace, not only afford us a vivid insight into the ideals and realities of that world in which early Celtic and Germanic legal institutions were developed, but also allow us to observe the process of a growing "juristification" (*sit venia verbo*) of a field of basically moral and religious character. With the extension of the list of offenses for which penance was required or accepted, and the relaxation by which repeated acts of penance were permitted, a progressive systematization of definition and procedure became necessary. The beginnings of canon law can be found in these documents as well as the interplay of custom, morals, religion and legal regulation in the establishment and preservation of civilized society. The texts give us extensive information on folkways in all fields of life and on customs of a legal or quasi-legal character, on marriage, property, promise, temporal crimes and penalties.

The penitentials advocated the substitution of composition for revenge. Professor McNeill points out that the pattern of composition chiefly exhibited in them is Irish. "Even the documents prepared for use on Germanic soil sometimes employ the language of the earlier Irish works." Should the missionary work of the Irish monks be one of the causes of the development of composition among the Germanic peoples? Numerous striking parallels can be found between the penitentials and the secular laws which were codified at the same period in the Celtic and Germanic lands. Do they indicate an influence of secular law and custom upon ecclesiastical practice, or have Christian thought and Biblical ideas a greater share in the development of the "leges Barbarorum" than it has hitherto been assumed? Professor McNeill properly observes that "it is probably a matter of high historical importance that the secular and ecclesiastical disciplines effectively supplemented each other."

An extensive introduction by Professor McNeill on Penance in the Ancient Church and on Penitentials provides the uninitiated reader with the background knowledge necessary to the understanding of the texts and of medieval practices of "medicine for the soul." Modern psychiatrists might well subscribe to the saying of Gregory the Great that: "the wounds of the soul are more concealed than those of the body and that guidance of souls is the art of arts."

MAX RHEINSTEIN*

Law of Corporate Mortgage Bond Issues. By Ralph A. McClelland and Frederick S. Fisher, Jr. Chicago: Callaghan & Co., 1937. Pp. xiii, 1077. \$15.

It seems almost unexplainable that so little attention has been given, by writers of legal texts, to corporate trust indentures and the bonds issued thereunder, the instruments being so interwoven with the development of the industrial life of the country, and the means of providing so large a part of the invested capital of corporations.

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While a number of articles have appeared in legal magazines, particularly in recent years, discussing various phases of the subject, there has been a surprising dearth of material in textbooks and encyclopedias.

The present work, as explained in the preface, is devoted primarily to corporate trust indentures constituting mortgages on real and personal property of a corporation, as distinguished from corporate trust indentures creating issues of bonds or debentures, secured by collateral or unsecured. However, most of the provisions of the corporate trust mortgages referred to are common to both types of indentures, and the law relating thereto equally applicable to both.

With the exception of two chapters devoted to the power of the corporation to issue bonds and mortgage its property, and corporate and public authorization of their execution and issuance, the subject matter is presented by quoting the more salient provisions of a typical corporate trust deed and following this with a dissertation of the law relating to the provisions quoted. The various provisions are taken up in the order in which they customarily occur in the usual trust deed, so that the work is essentially an annotated trust deed combined with an analysis and discussion of the authors. Many collateral matters like procedure for foreclosure, receiverships and reorganizations are, we believe, wisely omitted, as many books have been written on those subjects.

The problems arising under corporate trust mortgages are carefully analyzed, and the cases cited in the footnotes well selected. The book should be of great assistance to attorneys engaged in the drafting of trust indentures, and to those responsible for the administration of the trusts created. The table of cases in the appendix, with references to the different pages in the book on which they are cited, is especially helpful to the busy lawyer not interested in making an exhaustive study of the particular subject, as the several subjects under which a particular case is cited enables one to form a fair idea of the general scope of that case, thus reducing to a minimum the number of cases he feels it desirable to read.

It is difficult to criticise adversely a book which so satisfactorily fills a long felt need. If one were to look for some criticism, it might be that the form of trust deed in the appendix is from the standpoint of phraseology, not the best. Some of the provisions in the instrument could have been, and should have been more precisely worded. However, I assume it was not intended so much as a model, as to convey an idea of the general form of the corporate trust mortgage.

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Cases and Other Materials on the Law of Taxation. By Robert C. Brown. Indianapolis: Bobbs-Merrill Co., 1938. Pp. xviii, 738. \$6.00.

This is probably the most recent casebook on its subject and will undoubtedly prove to be of great value in the teaching of taxation. The author displays the very desirable tendency to incorporate the more recent rather than the older cases on a given point. There are a vast number of decided cases available on the subject of taxation, and there are many new cases decided each year, so that the problem of selection of decisions for inclusion in a work of this nature is one of peculiar difficulty, which is in-

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