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Recent Legal Literature

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RECENT LEGAL LITERATURE

ANALYTICAL TABLES OF THE LAW OF EVIDENCE, FOR USE WITH STEPHEN'S DIGEST OF THE LAW OF EVIDENCE. By George M. Dallas, LL.D., and Henry Wolf Biklé, A M., LL B. T. & J. W. Johnson & Co., publishers, Philadelphia, 1903.

Various attempts have been made to tabulate the law of evidence, of which the work before us is a conspicuous example. Though the labor of tabulation is valuable to the author, as all efforts at analysis and systematic arrangement of the principles of any subject are, it is still questionable whether the result in a particular case is of corresponding value to others.

If a tabular analysis of the matter of a book like Stephen's Digest of the Law of Evidence, which in itself presents but the great outlines of the subject, is to be of great assistance in the use of the book, it would seem that it must be so, largely because it presents at a glance the relations of the various rules of evidence to each other. The mechanical or physical difficulties alone, incident to the presentation of a such a scheme are very serious, particularly when this is attempted in an octavo book, and with a subject so complicated as is that of the modern law of evidence. The authors have done as well as could be done, under these conditions, but the question is at best still an open one as to whether a tabulation of Stephen's Digest in this form will be of much real value to the ordinary student, for whom this work is primarily intended.

The scientific investigations of such masters in this field of the law as the late Professor James B. Thayer, of Harvard, and Professor Wigmore, of Northwestern, have been of such value in the elucidation of this subject that it is at least doubtful whether there is to-day a real need for any work upon this subject which does not take account of their service. The authors of the book before us, aside from the development of their scheme of tabulation, have attempted no original work, the annotations through the book being selections from those in Professor Chase's second American edition of Stephen's Digest. This work of selection is in the main well done, and after all that has been said, it is doubtless true, that the enthusiastic student of the law of evidence will find the book interesting and of some assistance to the better comprehension of Stephen's Digest.

V. H. LANE

A TREATISE ON THE LAW OF WILLS. Including also gifts *causa mortis* and a summary of the law of Descent, Distribution and Administration. By John R. Rood, pp. lxvi., 635, Chicago: Callaghan & Co. 1904.

The foregoing work, being by one of the faculty of the department of law of the University of Michigan, will not be reviewed at length in this REVIEW,

THE AMERICAN LAW OF LANDLORD AND TENANT. By John N. Taylor. *Ninth Edition.* Revised by Henry F. Buswell. 2 vols. pp. cxv., 541, xv. 592. Boston: Little, Brown & Co. 1904.

Little, Brown & Co. have just issued the ninth edition of Taylor's Land-

lord and Tenant. The binding, paper and presswork are admirable, quite up to the high standard of excellence which that firm has attained. Mr. Taylor's treatise has, ever since its first appearance, nearly forty years ago, been a standard authority. The present edition has been very carefully edited by Mr. Henry F. Buswell, the editor of the eighth edition.

Some of the old text has been rejected, much of it has been rewritten and considerable new matter, nearly one hundred and fifty pages, has been added. The numbers of the old paragraphs have been retained and new paragraphs have been given supplementary numbers. When new matter has been added to a paragraph it is enclosed in brackets. This method of editing is a great help to the lawyer as it enables him to find very readily that part of the text referred to in any decision old or recent.

We have for many years, had frequent occasion to consult this treatise of Mr. Taylor's and we have always done so with pleasure and profit. His arrangement of the subject is satisfactory and his style lucid, precise and condensed. The work in its present form is complete and comprehensive covering nearly every question that can arise between landlord and tenant. We are inclined to think that it is too comprehensive and covers too many phases of the subject. For instance, in treating of the parties to the contract, there is a full discussion of the abilities and disabilities of infants, married women, idiots, lunatics, trustees, guardians, mortgagors and mortgagees in possession, covering one hundred pages. All this pertains to the subject. It cannot be said to be wholly foreign, or indeed foreign at all in one view of the case. It therefore was not regarded as "matter clearly having no reference to the topic of the work" and was not expunged by the editor, the treatment he accorded matter of that kind, as he says in the preface. Mr. Taylor's original purpose, as he informs us, was, "to furnish a compendium, which should not only be useful to the profession in the ordinary routine of business, but of easy reference to every member of the two great classes of society whose rights and duties are the subject of inquiry." Conditions have greatly changed in the last half century. The number of reports has increased enormously, and there is no lack of conflicting decisions rendered by nearly fifty independent tribunals. What the active practitioner of to-day desires is to find in a text-book, upon any special subject, a full and comprehensive discussion of every question that pertains specially to that particular topic. For instance, if a lawyer has occasion to refer to a work on bills and notes the chances are that he is not seeking information as to whether or not an infant, lunatic or married woman can make a valid promissory note, but rather what are the rights and liabilities of the holders and parties to such an instrument assuming *that it is valid*.

It is true that whatever Mr. Taylor has written upon his subject and whatever has since been added to the original text, are germane to the subject. A thread of unity runs through both the woof and warp of the law in all its varied branches. The infant, married woman, lunatic and idiot, however, stand in nearly the same relation to any and every contract and it would be therefore more satisfactory if the abilities and disabilities of the members of those classes to contract generally or specially, should be considered fully by itself in a work confined to that one subject. There is a strong tendency, no more marked to-day, perhaps, than formerly, for a law writer, for every

writer for that matter, to leave his chosen field on every chance opportunity, to gather bouquets from the surrounding preserves. The habit is not to be commended, and has had much to do with creating in the profession an undesirable demand for encyclopedias of the law.

The reader would be quite mistaken if he inferred from these suggestions that the writer in making them had the work under consideration in mind. Any lawyer who wishes to add to his library a work on Landlord and Tenant cannot do better than to obtain the present edition of Taylor: and he will have to go far afield to do as well, elsewhere. If the editor had omitted some two hundred pages or wraps and had added that number to a fuller and ampler discussion of the questions that pertain especially to the relation of landlord and tenant, we think the work would have been still more acceptable, because more useful to the profession.

In this connection we might add, by way of illustration, that the second volume contains one hundred pages of forms. Good forms are a great help to the busy attorney. These forms are excellent, but just as good forms can be found in books containing nothing save forms used in every department and branch of the law. It is desirable, more convenient, to have all the forms that the practitioner may have occasion to use between the covers of a single volume.

B. M. THOMPSON