

Michigan Law Review

Volume 3 | Issue 4

1905

Recent Legal Literature

Victor H. Lane

University of Michigan Law School

Horace LaFayette Wilgus

University of Michigan Law School

Gustav Stein

University of Michigan Law School

Horace LaFayette Wilgus

University of Michigan Law School

Follow this and additional works at: <https://repository.law.umich.edu/mlr>



Part of the [Legal Writing and Research Commons](#)

Recommended Citation

Victor H. Lane, Horace L. Wilgus, Gustav Stein & Horace L. Wilgus, *Recent Legal Literature*, 3 MICH. L. REV. 338 (1905).

Available at: <https://repository.law.umich.edu/mlr/vol3/iss4/6>

This Regular Feature is brought to you for free and open access by the Michigan Law Review at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Law Review by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.

RECENT LEGAL LITERATURE

AN OUTLINE OF THE FRENCH LAW OF EVIDENCE. By Oliver E. Bodington, B.A. (Lond.), of the Inner Temple, Barrister-at-Law. London: Stevens and Sons, Limited, 1904. pp. viii, 199.

The author's preface informs us that he was led to write the book as the result of his experience in conducting international litigation. The wide variance between the methods of proving facts under the French and English systems often resulted in serious difficulty, because evidence taken outside of France, and according to rules of the English law, was not always admissible in the courts of France. The book is written to afford a handy manual setting forth the general principles of the French law of evidence for the guidance of foreigners interested in litigation in the courts of France, and the author seems well to have accomplished his object.

Added interest is given the book because of its being a comparative study of the French and Anglo-Saxon systems. It is written in English and is therefore one of the quite rare books on any branch of modern foreign law available to English-speaking students in their own tongue.

Translations of the French Civil Code, Code of Commerce, Code of Civil Procedure, and Code of Criminal Procedure, so far as they bear upon the subject of evidence, are found as an appendix.

V. H. LANE.

A SUMMARY OF THE LAW OF PRIVATE CORPORATIONS. By Leslie J. Tompkins, Professor of Law, New York University. New York: Baker, Voorhis & Company, 1904. pp. xxxi, 263.

CASES ON CORPORATIONS, prepared for use of students in the University Law School, 2nd Edition. By Leslie J. Tompkins. New York, 1903. pp. 300.

The design of Professor Tompkins in preparing these works has undoubtedly been to meet the demand for a text and collection of cases of such size as could be used satisfactorily in law schools which can give from twenty-four to thirty-six hours of class work to the study of corporations, and also perhaps to furnish a work from which the student, studying alone, could obtain and master the general principles of corporation law, without the burden of going through the distracting and conflicting details necessarily given in the larger works. These two small books certainly will admirably accomplish these two purposes. As he says in the preface to the first: "The idea in mind has been to state in a systematic way the rules of law on the subject, and to state them in as few words as possible. In doing this the language of the decisions, and in a few instances, the language of the text writers, has been used, the writer finding it unnecessary, and in many cases impossible, to state the rule more concisely or accurately." In doing this the author has used excellent judgment and great care, for it is not the extensive quotations of tiresome decisions of the padded text-book that are given, but instead the most concise and vigorous statements of the best judges taken from the leading cases, are given in an orderly arrangement.

The second work is a condensation of about 260 cases, most of them taken from the larger collections of cases on the subject of private corporations; the condensation, of course, has been necessarily very great, and as the cases now stand in this work, they vary from ten or twelve lines to five or six pages,—yet so far as our examination has gone the essence of the case, upon the point which it is designed to illustrate, is given in such concrete form as to show the bearing of the decision.

The two books follow the same order, and the chapters are: History, definitions and classifications of corporations; the creation and citizenship of a corporation; the corporation and the state; the powers of a corporation; general powers and ultra vires; liability of a corporation for torts, crimes, etc.; membership—its rights, remedies, and liabilities; management; transfer; creditors' rights and remedies; combinations; and promoters.

Something like twelve hundred cases are cited, and a table of cases and fair index are given, in the small text-book. Several typographical errors are noticed, mostly in the case book, but these, and the incorrect statement in next to the last paragraph on p. 3, of the text-book, will undoubtedly be corrected in later editions.

Where the larger works can not be used in instruction, for lack of time, these two books will furnish a very good substitute, and the student studying alone will find them well suited to his needs; even the lawyer, who does not make corporation law a specialty, will find them useful and interesting for review.

H. L. WILGUS.

THE EXPANSION OF THE COMMON LAW. By Sir Frederick Pollock. Boston: Little, Brown and Company, 1904. pp. vii, 164.

The feeling that a man would experience on emerging from a wild jungle to the banks of a grass-bound river must be akin to those of one who takes up a volume of Mr. Pollock's after the perusal of the general legal literature. It is more than a mere relief. It is a positive refreshment and stimulant. The vigorous style, the sound scholarship, the hopeful tone of his books are in strange and pleasing contrast to the sibylline language and philosophic pedantry affected by some of our judges and text-writers. He is as clear in his *Land Laws* as in his *Jurisprudence and Ethics*, and he that runs may read. We can now study law books that are not only instructive and exact, but also entertaining.

But Mr. Pollock has a more heroic rôle to perform. He is rescuing principles from the avalanche of decisions and shows us a way out of the dreadful maze. And these principles must not be destroyed. The doctrines that aroused the unstinted praise of Montesquieu, who did not fully understand, and of De Lolme, who did, and to which other peoples turn when they wish to reform their own systems of law (e. g., *Gneist*, Preface, 1882, to *Englische Verfassungsgeschichte*), contain within them an essence worth preserving. These principles grew out of the genius of the people, and have been found sufficient to meet successfully all changes for a thousand years. And it is to these principles that we must look to settle the grave controversies of the future (*Gneist*, supra, §§ 53, 52).

For such services we are bound to Mr. Pollock. The "Expansion of the Common Law" continues his work. The book contains a series of lectures delivered at several of the American universities, and two of them were published in this Review. An outline of the others has also appeared, 2 MICHIGAN LAW REVIEW, 128, 159, and it is not further necessary to comment on them. That it is useful goes without saying. It is interesting to note that despite the unavoidably general character of the work a possible way of meeting the combination-problem is pointed out (p. 131). Finally the same can be said of this book that can be said of the other productions by the author, namely, it is worth having.

GUSTAV STEIN.

WHERE AND HOW, A HANDBOOK OF INCORPORATION. By John S. Parker, of the New York Bar. New York: The Broun-Green Co., 1903. pp. 164, with supplement, 1904.

This small manual consists of four parts: I. A digest and comparison of the laws of New York, New Jersey, Maine, Delaware, West Virginia, South Dakota, and Massachusetts, relating to the formation and regulation of business corporations; II. Comparative tables of organization taxes and fees, and annual taxes or license fees; III. Taxation of business corporations in New York; IV. Formation and management of business corporations.

Under part I, a digest of the provisions of the statutes of the seven states, upon fifty different points relating to the constitution, incorporation, purposes, powers, stock, duration, debts, management, meetings, voting trusts, inter-holdings of shares, consolidation, liability of shareholders, directors and officers, amendments, reports, and taxation, is given, which will be found of great value in answering the perplexing question now so often asked, Where is the best place to incorporate?

This part is much the most valuable to the average lawyer, and its value depends mainly upon the care used by the compiler,—to search, abstract accurately, and arrange uniformly, the statutes of several states so as correctly to answer the same set of questions is a difficult matter and takes an amount of care, patience and judgment out of all proportion to the apparent result. The author seems to have performed this task very well, indeed, and has made a helpful little manual. The tables in part II, save much calculation; part III is mainly useful to the New York lawyer, or to one advising a corporation doing business in that state; part IV, seems to be designed to help the layman who is organizing, or who becomes an officer in a corporation,—being some practical suggestions as to the organization and management of a corporation. The mathematics of cumulative voting on page 152, is about the only point in this part of special value to the lawyer. The price of the book is only twenty-five cents, and is well worth that to any one interested at all in corporation law.

H. L. WILGUS.