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Recent Legal Literature

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RECENT LEGAL LITERATURE

PROBATE REPORTS ANNOTATED: WITH NOTES AND REFERENCES. Edited by Wm. Lawrence Clark. New York: Baker, Voorhis and Co. Vol. IX, 1905, pp. xxii, 706. Vol. X, 1906, pp. xxv, 709.

It seems unfortunate, with our law libraries, public and private, already overburdened with the purchase and maintenance of the vast and rapidly increasing volume of case law, that they should be subjected to the further burden imposed by the duplication or multiplication of reports of cases already published. And yet the very fact that the volume of existing cases is enormous and unwieldy makes the republication of those of particular significance or importance, in series devoted to special subjects, like the "Probate Reports Annotated," of very great convenience if not absolutely necessary. The present volumes edited by Mr. Wm. L. Clark, author of "Clark on Contracts" and of "Clark and Marshall on Corporations" are meritorious additions to the series named. Each volume contains upward of one hundred cases, and volume X contains in addition a large number of cases merely abstracted, deemed by the editor to be of less importance than those reported in full and yet of general application. This is a new feature in the series and one which it is proposed to continue and enlarge in future volumes. Beginning with volume IX the editor has inaugurated another new feature, i. e., the insertion of cross-references to other cases and notes appearing in the series.

The range of subjects is very wide, including many topics not treated in the ordinary text-books on wills and administration, but which are likely to arise nevertheless in the practice and study of probate law. It would seem that the editor has included practically all of the cases of real importance or significance, decided during the period covered. In fact if one were to criticise the selection of cases, it would probably be on the ground that some of the cases here published do not fall within that characterization, and that the opinions do not shed any new light upon, nor state in clearer form, doctrines, long settled and beyond the range of dispute. This is not true however of most of the cases the editor has printed.

Volume IX contains forty-five notes ranging in value from mere cross or additional references to very respectable monographs. Volume X has seventeen of such notes. The annotation has been intelligently done, and much material has been made readily accessible by the large number of cases thus cited. Among the subjects treated in the notes may be mentioned: "Rights of Children Omitted from the Will;" "Power of Probate Courts to Vacate, Alter and Amend Their Decrees and Orders;" "Undue Influence;" "Adopted Children;" "Gifts Causa Mortis;" "Extrinsic Evidence to Identify Property Devised;" "Deed or Will (?);" "Revocation by Marriage;" "Rule in Shelley's Case." The series is of undoubted value to the specialist whether in practice or in scholarship.

H. M. B.

THE LAW OF HOMICIDE. By Francis Wharton, LL.D., author of a "Treatise on the Criminal Law of the United States." "A Treatise on the Conflict of Laws," etc. Third Edition, by Frank H. Bowlby of the publisher's editorial staff. Rochester: The Lawyer's Co-operative Publishing Company, 1907. One Vol., pp. clvi, 1120.

This book is not exactly Wharton on Homicide with Wharton left out, for very considerable portions of his work are scattered through its pages. Yet the man with a citation to the original and seeking to find it in this volume would have the time of his life. The paging and sectionizing are entirely changed, nothing is given to enable the reader to distinguish the old matter from the new, and a very considerable portion, if not the major part, of the original is omitted entirely. According to the publisher's way of stating it the work has been re-written and, in the words of the publisher:

"Such rewriting has seldom meant radical changes in the law, but where he [Wharton] arrived at a statement of law by elaborate reasoning, the present author comes to much the same statement of law through a careful and analytical examination of the cases decided since Wharton's work was written. Many new phases of the subject have, however, been developed since the original work was written. Another difference which makes this new edition much more valuable to the present-day lawyer is that while Mr. Wharton made use of extensive descriptions of particular cases, going into all the facts at considerable length, Mr. Bowlby makes a practice of stating only just so much of the facts as is necessary to bring out clearly the exact point decided." The last edition of Wharton on Homicide (the 2d) was published in 1875.

The title of this book is its principal defect. It tends to induce the belief that this is a new edition of Wharton on Homicide; whereas in fact it is not, but is an entirely new work, in which Mr. Bowlby has made use of so much of Dr. Wharton's material (principally his arguments and speculations) as seemed to him of sufficient present value and adapted to the exigencies of the new plan of treatment. From a rather minute examination of certain paragraphs, here and there, and a superficial examination of the whole, we are convinced that the work has been thoroughly done, and that the lawyer having a case of homicide to try will not find in any other place a statement of the present law of the whole subject and a marshaling of the late cases that can be compared with it. Indeed, if he is not sure of the law in his own jurisdiction he can scarcely afford to be without this book. Its value as an index to the cases and a ready means of judging the value of the discussions in each is greatly increased by the fact that reference is made to the Am. Rep. Am. Dec., Am. St. Rep., L. R. A., and Reporter System as well as to the official reports, so that one having only one of the books in which a particular case is found is told where to find it, and he who has all the reports is informed by the fact that the case is or is not included in one or more series of selected cases, that it has or has not been considered of general importance.

Reference, as each topic is taken up, to the monographic notes on it in the L. R. A. will also be found of great assistance to persons having access

to those reports. A like reference to similar notes in other places would have increased the usefulness of the book still more, and it is believed might have been included without any considerable increase of expense nor any undue advertising for competitors of the publisher. J. R. R.

CREAM OF THE LAW. The best things from the best cases, edited by Emerson E. Ballard, formerly editor of "Ballard's Law of Real Property." Crawfordsville, Indiana: Cream of the Law Company, Vol. 1, pp. 695; Vol. 2, pp. 854; 1905, to date; Vol. 3, Advance Sheets, pp. 160.

In the above entitled serial publication, the editor proposes to issue in quarterly numbers, what he considers the gist of current decisions rendered in the highest courts of all the states, whenever such decisions involve some new proposition, a novel application of a well established principle or a new statutory construction of general value. The plan, as outlined, is to present an accurate statement of the precise question decided in a selected case, followed by the quotation of important passages from the decision, together with authorities cited. Collateral citations of the case under consideration are given, thus enabling the lawyer to readily refer to the National Reporter System or the several series of selected and annotated reports where such case may be found.

An index in each number relieves the user from following a scheme of classification, and cross references are freely used. This index is cumulative for each volume only. Were it cumulative from volume one to date it would make readily available all the material contained in all the volumes by referring to the last index only, which will come to be a decided advantage when the series shall have grown to many volumes. A valuable feature of the index is its reference to articles in leading law periodicals. Many of these are the work of specialists who have devoted much time to careful research along a chosen line, and which are unknown to readers who have not access to the law periodicals. Such references are to be found monthly in *Case and Comment*, and in Vols. 15 and 18 of the *Harvard Law Review*, and they have helped to fill the place of a supplement to *Jones' Index to Legal Periodicals*. It is therefore gratifying to many to know that Mr. Ballard is making this one feature of his work and the arrangement of references to Cream of the Law, to notes in the American State Reports, Lawyers' Reports Annotated, Am. and Eng. Annotated Cases and to law journals under one alphabet should greatly facilitate the labors of the brief maker.

A publication of this kind is of course subject to the criticism that cases selected as valuable by one may be rejected as of little worth by another, and, while there is a most excellent purpose in view, the real appreciation of such a work can only be expressed after several years' use have tested it and it has not been found wanting. G. E. W.

THE AMERICAN POLITICAL SCIENCE REVIEW is a new quarterly magazine published by the American Political Science Association. The Review contains original articles and critical reviews of recent publications in the various

branches of political science,—such as constitutional, administrative and international law, comparative jurisprudence, Roman law and political theory. But its special features are the News and Notes and Bibliographical Indices. The News and Notes deals with the current legislation of Congress, the State Legislatures and foreign countries; with important political events in international, national, state, municipal, local and colonial affairs; and with important judicial decisions on questions of public law. The Bibliographical Indices covers books, government publications and articles in legal and scientific periodicals on subjects in public law and political science.

It is the aim of the Review, as of the Association, to interest lawyers concerned in the broader aspects of the law and also public officials, as well as those engaged in academic work and the general student of political problems. And it furnishes material by which all of these classes can readily keep abreast of the latest developments in this broad field of knowledge.

Professor W. W. Willoughby of Johns Hopkins University is Managing Editor of the Review; and with him are associated as a board of editors, Professors John A. Fairlie, of the University of Michigan, Frank J. Goodnow of Columbia University, John H. Latane of Washington and Lee University, Charles E. Merriam of the University of Chicago, Paul S. Reinsch of the University of Wisconsin, B. F. Shambaugh of the University of Iowa, Eugene Wambaugh of the Harvard Law School, and Robert H. Whitten of the New York State Library.

From the first two numbers of the Review, issued in November, 1906, and February, 1907, it is evident that this Journal proposes to maintain the highest standards both as to the quality of its articles, and as to material appearance. The first number contains an article on The Usurped Power of the Senate, and two papers on the race question in the South. The second number contains two articles on State Constitutions, and the annual address of Albert Shaw, President of the Association. The magazine is printed on excellent paper, with large type and broad margins. The subscription price is three dollars per year; or the Review with the Proceedings of the Annual Meeting of the Association is sent to members of the Association.