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Book Reviews

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BOOK REVIEWS

A TREATISE ON GUARANTY INSURANCE AND COMPENSATED SURETYSHIP including therein as subsidiary branches, The Law of Fidelity, Commercial and Judicial Insurance, &c. By Thomas Gold Frost, Ph.D.; LL.D., of the New York Bar. Second Edition, enlarged and revised. Boston: Little, Brown and Company, 1909, pp. liv, 802.

Mr. Frost is the author of the "pioneer treatise" on the subjects of Guaranty Insurance and Compensated Suretyship, a work well and favorably known to the profession since its appearance in 1902, and publicly commended by some of the most eminent members of the bar.

The author's large practice, in the metropolis of the country, in cases involving contracts of guaranty insurance and compensated suretyship, and his personal participation in building up the law of these subjects inspired the confidence of practitioners in his ability to speak with authority on any question concerning them and that confidence grew and eventually took the form of a demand for a new edition in which the author should be freer in the expression of his personal views and opinions of the questions discussed by him. In the original edition, the author disclaimed theory and dogma and confined himself to a statement of the law as the courts had declared it, modestly refraining from the expression of his own views and opinions when the absence of well settled principles or precedents might well have invited it and justified it. That there should be demand by many prominent practitioners for a freer expression of the author's own opinions is a rare compliment to his ability as a counsellor on a growing and important branch of the law in which he may justly take great pride. He has yielded to that demand, in a measure, and in the second edition of his work there is present more of the author himself and a freer expression of his own opinions, confined, however, to cases where there is an absence of exact precedents. But it would be a mistake to infer that the appearance of the second edition of this work is due to demands, however appealing, for his own opinions.

The moving cause of the second edition is attributable to the fact that during the six years following the appearance of the original edition, the subjects of guaranty insurance and compensated suretyship have greatly increased in scope and importance and the decisions of the courts relating to these subjects have been numerous. A new edition, therefore, became a necessity in order that the author's work might state the law of these subjects "as the courts have declared it."

The demand for a second edition was met by a complete revision of the former. The work was largely re-written and considerably augmented. The increase in the printed matter is two hundred fifty pages; the additional cases cited approximate five hundred. Frost on Guaranty Insurance, &c, is, in the reviewer's judgment, a work valuable to all who have occasion to inform themselves whether as students or practitioners on the subjects treated.

R. E. B.

THE AMERICAN STATE REPORTS. Containing the Cases of General Value and Authority. * * * Decided in the Courts of Last Resort of the Several States. Selected, Reported, and Annotated by A. C. Freeman, Vols. 120-124. San Francisco: Bancroft-Whitney Company, 1908-1909.

As this set of reports grows older its value increases. Not only is the same good judgment shown in the selection of cases for the later volumes as has been shown in their selection for the earlier ones, but the complete system of reference to notes and decisions to be found in preceding volumes makes it possible for the busy lawyer to trace the development of principles in a surprisingly short time. In nearly every volume, moreover, are to be found new subjects discussed both in the decisions and in the notes. It may not be correct to say that every title of the law is treated in each volume, but we believe that in almost any two or three of them will be found some decision throwing light upon nearly every question that is likely to confront the legal investigator.

Where there is criticism of a decision it is usually well supported by authority and judicious reasoning which ought to be of great assistance to a brief-maker.

DIGEST OF THE DECISIONS OF THE COURTS of last resort of the several states from 1904 to 1909 contained in the *American State Reports*, Vols. 97 to 120 inclusive, and of the notes to cases reported therein. By Edmund Samson Green: Vol. 4, San Francisco: Bancroft-Whitney Company, 1909, pp. xxxiii, 1598.

Since Green's three volume digest of the *American State Reports* appeared in 1904, twenty-eight volumes (97-124) of the series have been published, and this fourth volume of the digest covers twenty-four of these additional books.

It is a well-made digest of these volumes and is also an index to the valuable notes contained in them. If one has the *American State Reports* this digest will be necessary to complete their usefulness to him, and even if he is not so fortunate as to have the series, the digest will be found to be of value, for nearly every title is covered and, as the cases selected are important, the searcher for precedents is referred to recent important decisions on almost every legal topic. A complete list of titles and a table of cases indicating volume and page of the official report where each case may be found—make the digest as complete as may be desired.

THE LAWS OF ENGLAND, BEING A COMPLETE STATEMENT OF THE WHOLE LAW OF ENGLAND. By the Right Honourable the Earl of Halsbury, and other lawyers. London: Butterworth & Co. Agents for the United States: Cromarty Law Book Co., Philadelphia, Lawyers Co-operative Publishing Co., Rochester, N. Y. Vols. 2, 3, 4, and 6. (1908-1909).

The publishers announce that the publication of volume V, which is devoted entirely to Company Law, has been deferred owing to the delay that occurred in the passing of the Companies Act. In the four volumes noted in our caption (2-6) seventeen titles are fully treated (*Bankruptcy—Conflict of*

Laws) and the treatment of *Constitutional Law* is commenced in Volume VI.

As announced by the projectors in the first volume, this work is to form a series of treatises composed by learned lawyers. We expressed some doubt a year ago as to the possibility of compressing such a series of treatises into twenty volumes, and it certainly seems now that more than twenty will be needed for the completion of the work. However that may be, the character of the contributors and the showing thus far made by them indicate that the matter of quality is considered by the editor as of first importance. The American lawyer who wishes to thoroughly investigate a subject will find the work very useful to him, despite the fact that an undue prominence may seem to him to be given to some titles. He may be surprised at first sight that *Carriers* is disposed of in 99 pages, while *Burial and Cremation* and *Commons and Rights of Common* are given 175 pages each, and *Charities* over 250.

Some titles the average American lawyer will perhaps ignore, but if subsequent volumes are up to the standard of those that have so far appeared, he must, we believe, consult the work before he can rest assured that his own work has been thoroughly done. The contributors are, as a rule, men who have given special attention to the topics of which they treat. The citation of authorities seems to be complete in the sense that the latest decisions are noted, though we believe that some of the earlier cases of importance are occasionally omitted, apparently for the reason that the principles they announce are embraced in later statutes, or are fully discussed in later decisions. The matter of the articles is well arranged and the law is stated clearly, concisely and, apparently, accurately. The complete tables of cases and statutes, and the full indices and tables of contents add greatly to the utility of the work. It is an undertaking that ought to receive encouragement from the American Bar.

THE LAW OF AUTOMOBILES, SECOND EDITION. By Xenophon P. Huddy, J.L.B., of the New York Bar. Albany: Matthew Bender & Company, 1909, pp. xxvi, 364.

While most of the litigation concerning automobiles simply requires the application of old principles of law to new facts, it is convenient to have at hand a book like this referring to decisions in this special class of cases. The book is designed for laymen as well as for lawyers and may be read with profit by owners and operators of what Dr. Schouler refers to as "this costly toy, which only the few can afford to keep and own." ("Ideals of The Republic," p. 277).

The first edition of Mr. Huddy's book was issued in 1906, since which time a large number of cases concerning automobiles have been decided, and these are referred to in this edition. The former edition contained a useful compilation of the laws of the several states on this subject, but there is no such compilation in this edition, although some of the statutes are referred to in the foot-notes. Uniformity in legislation upon a matter of such general interest is certainly desirable, and a statement of the leading features of the statutes, with a discussion of them, would probably lead to this uniformity; hence it seems that a fuller consideration of the statutes would have increased the value of the work.

CASES ON THE LAW OF PARTNERSHIP. Including Limited Partnerships, Selected from Decisions of English and American Courts. By Eugene Allen Gilmore, Professor of Law, University of Wisconsin. American Case Book Series. James Brown Scott, General Editor. St. Paul: West Publishing Co., 1908, pp. xvi, 638.

This is one of the first issues of the new series of case books planned on a most comprehensive scale by the well-known firm of law book publishers, whose imprint it bears. The series is confessedly not based upon a new plan, but is put forward with the hope of remedying some of the defects of the standard case books.

The chief criticisms upon our present case books are: First, they "not only devote too little attention relatively to the inculcation of knowledge, but they sacrifice unnecessarily knowledge to training," and; second, they make the economic mistake of asking a student to pay for twelve hundred pages of text when he can use only six hundred in the ordinary two hour course in which most subjects are presented by the law schools. The new series of case books attempts to correct both these shortcomings by presenting so far as is possible only leading cases, by condensing statements of facts when necessary, by using only such cases as develop or establish essential principles, omitting unnecessary dicta and giving short extracts of cases bearing on particular points. The editor has attempted, however, to give enough cases under each topic to show the development of the law in that field.

Inasmuch as the present volume, as well as the series as a whole, is put forward with the idea of improvements in what may be called the pedagogics of the subject, it seems rather idle to offer any criticisms of the books prior to a careful test of them in class. The volume on Partnership seems to give an excellent selection of cases and the name of the editor guarantees that the selection has been carefully made and wisely arranged, but only practical use of the book in the class room can determine whether this collection will be an improvement over the older one. It has been the experience of teachers using the standard series of case books that the apparent defects of a single volume of the series in not presenting all the necessary principles of the subject, are corrected in the correlative volumes of the series, so that a final judgment on the work of the editors of the present series will have to be deferred until the volumes on correlated subjects are before us.

J. H. D.

CASES ON DAMAGES. Selected from Decisions of English and American Courts. By Floyd R. Mechem, A.M., Professor of Law in the University of Chicago, and Barry Gilbert, A.B., LL.B., Professor of Law in the University of Illinois. American Case Book Series. James Brown Scott, General Editor. St. Paul: West Publishing Co., 1909, pp. xxiii, 626.

This is a revision of the third edition of the "Cases on Damages," published by the senior editor some years since. The revision, which is in the main the work of the junior editor, has been made along the lines laid down for the series in general. About one hundred and fifty of the cases of the old book have been published in the new and a somewhat greater number of

new cases has been incorporated with these. Space for the additions has been found by cutting out something over a hundred of the old cases and the omission of extraneous matter in all the cases included within the present collection. A re-arrangement of the subject matter has been made, based in general on the plan of "presenting general principles as an entirety in the first part of the book, and the measure of damages in particular actions in the latter part." Somewhat greater attention seems to have been given to the presentation of the several themes of the subject in the historical order of their development. The new cases bring the subject down to date and by the condensation in editing a considerably more elaborate treatment of principles is possible within the prescribed space. It is, however, a common experience that ten short cases make a more difficult lesson for the student than five cases of double the length, and there may be some question as to whether one of the criticisms on the old book, namely, the difficulty of covering the ground within the allotted period, is met by the new arrangement with its greater condensation. The reviewer, however, will personally take great pleasure in using the new edition with classes of the grade in which the old edition has been found so effective.

If one may judge by the numbers above considered, the series as a whole is sure of a welcome by the teachers of law, as being an effort to remedy the defects of our old instruments of teaching. The publishers have brought together a number of our most learned law teachers under the direction of a skillful editor and the whole enterprise is managed with an attention to the business detail of book making that leaves nothing to be desired. J. H. D.