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Book Reviews

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BOOK REVIEWS.

THE CIVIL CODE OF THE GERMAN EMPIRE. As enacted on August 18, 1896, with the Introductory Statute enacted on the same date. (In effect January 1, 1900). Translated by Walter Loewy, B.L. (Univ. of Calif.), LL.B. (Univ. of Pa.), J.W.D. (Heidelberg), Attorney-at-law, San Francisco, Calif. Translated and Published under the auspices of, and annotated by a Special Committee of the Pennsylvania Bar Association and the Law School of the University of Pennsylvania. Boston: The Boston Book Company, 1909, pp. lxxi, 689.

This translation was started by Dr. Loewy in 1906, under the direction of a committee consisting of Messrs. William Draper Lewis, William W. Smithers and Charles Wetherell. It was interrupted by the San Francisco fire with the destruction of Dr. Loewy's library and, when resumed, the original plan of publishing a commentary with the translation was given up because of the appearance, in 1907, of Dr. Ernest J. Schuster's "The Principles of German Civil Law." On account of this delay, also, the translation of Mr. Chung Hui Wang appeared some time before the present one.

A very interesting "Historical Introduction" by William W. Smithers, an "Analytical Introduction" by the translator, Important Statutes of the German Empire, with lists of abbreviations and references, and of divisions and titles of the Code precede the translation.

The peculiar difficulties in the translation of this thoroughly German legal document are acknowledged by the translator and he confesses his occasional resort to the "liberal translation" for passages which have no exact English equivalent. In many instances he has printed in parentheses the German equivalents of doubtful passages so that a reader with knowledge of German may apply the necessary corrective. In general it may be said that the English as such is not so idiomatic as is that of the Wang Translation, but this lack of style is possibly compensated for by the greater clearness of the literal "upsetting." It is to be regretted, however, that in the terms *Sacherrecht*, *Familienrecht* and *Erbrecht* the "recht" has been translated by "right" instead of by "law." This makes the title of the second book "Rights of Things" and exposes the translator to all the virulent criticism that has been poured out on Blackstone for this translation of the *jura rerum* of the Roman legalists. It might be argued that American and English lawyers are familiar with this translation from Blackstone, solecism though it is, but it apparently leads Dr. Loewy to the use of "right" instead of "law" in the titles of Book IV and Book V, and gets the titles of all of the last three books out of harmony with that of Book II which he gives as the *Law* of Obligations. Both Schuster and Wang have used the term law instead of right in each of these titles. This seems to conduce to clarity and consistency of nomenclature, and we may well leave to the Germans themselves the decision

of the question as to whether they are presenting in their code a body of Recht in the objective or the subjective sense.

An especially valuable feature of Dr. Loewy's translation is the elaborate cross reference to most of the modern European and Spanish American Civil Codes.

J. H. D.

THE CORPORATION MANUAL AND CYCLOPEDIA OF CORPORATION FORMS AND PRECEDENTS. Edited by John S. Parker, of the New York Bar. New York: Corporation Manual Company, 1910, 16th Edition, pp. xvi, 1904.

This edition follows the plan of the 15th edition in setting forth the statutory provisions of the several states and territories of the United States including Alaska, Philippine Islands and Porto Rico, relating to the organization, management, regulation, and taxation of domestic business corporations, and the admission, regulation and taxation of foreign corporations doing business in the several states and territories, all arranged under one uniform classification for all the states with the same section numbers for each. The main headings of the classification are the same as the main headings in the American and Decennial Digest headings of the subject of Corporations. This device makes it easy to compare the provisions of the various states, and facilitates the search in the digests for decisions construing similar statutory provisions. So far as it is possible the exact words of the statutory provisions are given. In addition to Mr. Parker's editorial supervision, he has been aided by an editorial staff composed of Franklin A. Wagner, George Tumpson, and Frederick W. Keasbey, with 49 associate editors in the various states. For the most part the associate editor for any state lives in the state whose laws he edits, and is in a position to know the details of the practice of his state. The exceptions are Alaska, Philippine Islands, Wyoming and Mexico. The writer, in the extensive use of the 15th edition has found it to be extraordinarily accurate for the statutes as they existed at that time (1908). Tests of this new edition in several cases where statutory changes have been made show the same care and accuracy. One or more sessions of the legislature have been held in each of the states and territories since the 15th edition was published. For some states the changes have been such as to require a rewriting of the material in former editions. The corporation laws of Canada have been omitted from this edition, but the Federal statutes affecting business corporations including the Sherman Anti-trust Act, the Elkins Act, the Anti-trust provisions of the Wilson tariff Act, the Expedition Act, the Commerce and Labor Act establishing a Bureau of Corporations, and the Federal Corporation Tax Law with the Regulations of the Secretary of the Treasury concerning the same are given. The forms and precedents include the forms for each state in actual use, 70 general forms including option contracts, underwriter's agreement, corporate bonds, debentures, mortgages, and deeds of trust; also 270 "special object and purpose" charter clauses, 11 "general object" charter clauses, 12 "regulating" charter clauses, and acknowledgments and proofs for all the states. Such a work as this is practically indispensable to the practicing lawyer who has or is likely to have a corporation that does business in other states, for a client. H. L. W.

MUNICIPAL FRANCHISES.—A Description of the Terms and Conditions upon which Private Corporations enjoy Special Privileges in the Streets of American Cities. By Delos F. Wilcox, Ph.D., Chief of the Bureau of Franchises of the Public Service Commission for the First District of New York and author of "The American City" and other works. In Two Volumes. Volume One—Introductory—Pipe and Wire Franchises. Rochester, N. Y.: The Gervaise Press, 1910; Distributing Sales Agents, Engineering News Book Department, New York, pp. xix, 710.

This is a most timely work. In many cities of the United States very valuable rights, amounting to monopolies, have been granted in the streets without adequate compensation. This donation of what is in reality public property has often been the result simply of lack of foresight, often it has been the result of bribery. To the indifference of the people in general concerning their own real welfare must be attributed to a very great extent the unfortunate condition of franchise matters in most of our cities. The author of this work states his purpose to be "to simplify, as far as possible, fundamental conceptions as to the nature and purpose of franchise grants; to state as clearly as possible the necessary conditions to be imposed in connection with various classes of franchises; to describe the best types of franchises actually in force in different cities of the country;" and to discuss principles of taxation, rate regulation, public service commissions, and municipal ownership.

The volume just issued contains a preliminary discussion of underlying principles and chapters illustrative of electric light, telephone, telegraph, water, sewer, heating, pipe-line, gas and other similar franchises, while in volume two will be discussed the various classes of transportation franchises and questions of taxation and regulation. The author has been at great pains to collect franchises from a great number of cities and if he had done nothing more than this the book would be well worth while; but he has pointed out the good and bad features—sometimes not easily distinguishable—of actual grants, and the result is a work that must prove to be of great value to public officials, franchise seekers, or private citizens who desire to learn more of the problems involved in this most interesting and important subject.

SHIPPERS AND CARRIERS OF INTERSTATE FREIGHT.—By Edgar Watkins of the Atlanta (Ga.) Bar. Chicago: T. H. Flood & Co., 1909, pp. 578.

This work is confined mainly to a statement of the law governing the relations of and transactions between shippers and carriers of interstate freight, as determined by Congressional Statutes, the decisions of the Federal Courts (some state decisions are also referred to) and the rulings and opinions of the Interstate Commerce Commission. The larger constitutional questions arising under the "Commerce Clause" are but incidentally referred to, or most briefly discussed. The book thus purports to cover a field, hitherto but little occupied, but one of great importance to the classes indi-

cated in the title. After a first chapter relating to the validity and scope of the "Act to regulate Commerce," there are several chapters discussing the several factors in rate-making, discrimination in rate-making, in billing and by other devices, the enforcement of the Interstate Commerce Act, by the Commission, and by the courts, and various matters pertinent thereto.

The "Act to Regulate Commerce" and amendments thereto are annotated with the decisions of the courts and the opinions of the Interstate Commerce Commission. All or portions of several other acts of Congress indirectly affecting commerce, are printed, and somewhat discussed, e. g., the twenty-eight hour law, the Sherman anti-trust law, the safety appliance acts. This part of the work is marred by frequent failure to distinguish, by mechanical devices, between the text of statutes and comment or annotation. The use of different types or of quotation marks would have spared the reader some unnecessary labor.

In his preface, the author says he decided "that where the state of authorities justified, the law should be given as nearly as might be in the language of the courts having final authority to announce the law." The book is not therefore to be judged as an original treatise or commentary. And such, in truth, it is not, for it consists in very large part of quotations from the sources above indicated. This will not, however, prevent its being very useful to shippers, carriers and their lawyers. It brings together in one place a large body of statute and judicial law relating to its subject, and this makes it a convenient manual of great usefulness. Despite a few misspellings and other inaccuracies, mostly typographical, the author has done the work indicated in his preface, with intelligence and fidelity.

H. M. L.

A POCKET CODE OF THE RULES OF EVIDENCE IN TRIALS AT LAW. By John Henry Wigmore, Professor of the Law of Evidence in the Law School of Northwestern University. Boston: Little, Brown and Company, 1910, pp. liii, 566.

Any work in the law of evidence which comes from Prof. Wigmore must claim attention. This so-called "Pocket Code" is intended, in the language of its author, "to provide the practitioner with a handy summary of the existing rules of evidence and at the same time to state them in a scientific form capable of serving as a Code."

As all practitioners appreciate, there is no branch of the law as to which it is so necessary that his knowledge be immediately available as in this law of evidence.

So often is the necessity for the application of some rule of evidence unanticipated, and so often do the exigencies of the trial forbid particular investigation as to important and material questions in the law of evidence, that it is most important that knowledge of it be full and accurate and that the practitioner may readily refer to the authority on the subject. This being true the value of a book like this "Pocket Code" depends first upon

its being accurate and by a recognized authority and second upon the practitioner's familiarity with, and comprehension of it.

This "Code" follows in its treatment the larger work by the same author which has been so universally accepted by the profession and this is sufficient evidence of its accuracy and that it will be recognized by the profession generally as authoritative.

Its value therefore to any practitioner is to be proportionate to his effort to *know* the book. It is not too much to say that if he will, in connection with the larger treatise, familiarize himself with this book until he comprehends what is within its small compass he will know the law of evidence, and be able readily to point to the particular proposition on the authority of one to whom the court will listen.

V. H. L.