



1901

## BOOK REVIEWS

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'99.—Miss Helen Louise Sanford, daughter of Mr. and Mrs. C. P. Sanford, and Harrison Hewitt were married Oct. 2, 1901, at Miss Sanford's home, 30 Dwight street, New Haven, Conn.

1900.—Franklyn L. Hutton has returned from a trip through the Orient and will start in business at 35 New street, New York, with William E. Hutton & Co., members of the New York Stock Exchange.

1900.—A. Storrs Campbell of the Connecticut Bar has an office in the Sage-Allen building, Hartford, Conn.

1901.—Edward J. Conley has commenced the practice of law in Chicago with offices at 1601 Unity building.

1901.—Joseph H. Neece is in the law offices of Candor & Munson, Williamsport, Pa.

1901.—John T. Smith is in the offices of Alexander & Green, 120 Broadway, New York City.

1901.—Wilfred C. Lane has entered the offices of John R. Smith and R. E. Storrs, corner Second and Mulberry streets, Macon, Ga., for the practice of his profession. In connection with his regular practice he will give a course of lectures in Mercer University of that place.

1901.—Harry A. Jones is in the law offices of Franklin P. Iams, St. Nicholas building, Pittsburg, Pa.

## BOOK REVIEWS.

THE LAW OF CONTRACTS. Second Edition. By *Edward Avery Harriman*. Little, Brown & Co., Boston, 1901. 1 Vol., pp. 385.

Aside from an increase in the amount of matter in the book, and the number of citations made necessary by the recent important judicial decisions, and some re-arrangement of the order of the chapters, there is little change to be noted in the present edition. The author has had to make a few corrections in his specific statements of the law.

The departures in this country from the principles of the common law as applied by the English courts are very carefully explained, with the reasons for such departures, thus giving an accurate description of the present state of American law in this respect.

Among these departures from the common law which have received support in certain American jurisdictions, the author mentions the doctrine that acceptance in addition to the delivery is necessary to give validity to a deed. This he declares is a striking instance of the modern tendency toward a unification of the theories of formal and simple contracts, which have been in the past entirely distinct.

Another of the special American developments of the law explained in this book is substantial performance as a ground for recovery on a contract, some condition precedent of which remains unperformed. This doctrine has its origin in the equitable rule which permits a court of equity, if it takes jurisdiction of the case, to decree specific performance, with compensation for the breach, in cases of contract broken, provided the breach does not go to the essence of the contract. Substantial performance in an action at law is an extension of this equitable doctrine to cases of which a court of equity would never have had jurisdiction. It has been most often applied in those states where the distinctions between law and equity have been largely obliterated.

The exception to the common law rule that no one can enforce a contract who is not a party thereto, which is found in most of the states, is thoroughly discussed. The author explains that this doctrine has no foundation in principle, being a pure case of judicial legislation, which has been widely adopted throughout the United States.

A very commendable feature of the book consists in duplicate references to the National Reporter System. In many cases, also, citation is given referring to some collection of leading cases. Such a citation indicates the importance of the cases, showing, as it does, that the particular scholar whose collection of cases is cited has thought the case worthy of selection from the great mass of authority.

As an index to a better comprehension of the great and ever increasing number of decisions on this branch of the law, this book is invaluable. Being clear, concise, condensed and yet comprehensive, it bids fair to be very widely used. It is well indexed.

FEDERAL EQUITY PROCEDURE. By *C. L. Bates*. T. H. Flood & Co., Chicago. 2 vols., pp. 1407.

This work is a very complete and comprehensive treatise on the procedure in suits in equity in the circuit courts of the United States, including also appeal and appellate procedure. In addition there is an appendix which contains the Constitution of the United States, the various judiciary acts from 1789 to 1891, the rules of the Supreme Court of the United States, and other rules of practice in equity, in admiralty, etc. The index is very complete and the references are given with much minuteness; the index applies as well to the appendix as the main work itself. Such a book should be of great value and assistance to the great body of lawyers, relieving them of an immense amount of personal research and investigation. The subject is first discussed from the historical point of view, being compared with the chancery procedure in England. After dealing with the parties to a suit and the court's territorial jurisdiction, the author states fully the procedure both of the prosecution and the defense, from the preparation and filing of the original bill to the final decree. No phase of the subject seems to have been omitted, the work in its entirety being admirable.

THE LAW OF SALES OF PERSONAL PROPERTY. By *Francis M. Burdick*. Little, Brown & Co., Boston, 1901. pp. 260.

The enormous additions which are being made to that kind of property which the law classifies as "personal" additions, not only in specific but in relative value,

give a corresponding increase to the importance of that branch of the law which deals especially with personal property. This book, therefore, treating, as it does, of the sale of personalty, takes up a most practical question for the law student, and it furthermore deals with it in a direct and practical way. While, as has been said, the subject is an important one, yet by wisely leaving out a discussion of such subjects as consideration, mutual assent, the capacity of parties, etc., which belong to the study of the general law of contracts and which a student, in taking up the sales should have already mastered, the author has made his book one really adapted for the student and not a treatise. But we think that one or two important subjects, as, for example, the specific performance of a contract relating to personal property, have not received the attention which they merit. While it is true that suits for the specific performance of such contracts are in general not maintainable, yet the fact that a decree for specific performance will sometimes be granted is an important one and we think the tendency of the courts is to widen somewhat the privileges in that respect. *Dock v. Dock*, 180 Pa. 14; *Gough v. Crane*, 3 Md. Ch. 119. Furthermore, the author passes entirely over the fact that where the contract concerning personal property amounts to a trust, the performance of such a duty will be specifically enforced, no matter what the nature of the particular property may be. *Johnson v. Brooks*, 93 N. Y. 337. Accompanying the text book there is an admirable book of cases completely covering the subject in the order in which it is taken up in the text.

YALE BICENTENNIAL CALENDER—As a souvenir of Yale and its Bicentennial, the calendar appeals to the alumni and friends of Yale. It is an attractive grouping of photographs, pensketches and calendars, covering the fifteen months from October 20th, 1901, to the end of 1902, and is arranged, designed and copyrighted by a graduate of the Yale Art School, Jessie Craig Harger of the Yale Literary Staff. The ornamental cover follows the Bicentennial color scheme. The calendars are on sale at Augur's, Judd's, Pease's, Tiernan's, and at the Co-op, and cost one dollar.

## BOOK NOTICES.

The following books have been received for review since our last issue:

A HANDBOOK ON PARLIAMENTARY PRACTICE. By *Rufus Wapples*. Callaghan & Co., Chicago.

FOSTER'S FEDERAL PRACTICE. By *Roger Foster*. 2 vols. Callaghan & Co., Chicago.

