

REVIEWS.

Abbott's Trial Brief Upon the Pleadings in Civil Actions at Law and in Equity, and Under the New Procedure. By Austin Abbott of the New York Bar. Lawyers' Co-Operative Publishing Co., Rochester, N. Y. 1904. In two volumes, sheep, pp. 2120.

Any book which will expedite the trial of causes will not only lighten the burdens of the trial lawyer but will materially benefit the public generally, for the reason that litigants will have the merits of their claims determined more quickly and satisfactorily. The old adage that "a delay of justice is a denial of justice" was never better exemplified than in our present crowded court calendars. From the unskilful manner in which the rules of practice are understood and applied many mistrials result and the burdens of bench and bar are correspondingly increased to obtain final justice in a new trial, or upon appeal.

Mr. Abbott planned his work originally to facilitate the correct application of the rules of practice by collecting together a number of briefs which he had prepared during his busy life. The result of the first edition proved so satisfactory that the entire work has been revised and brought down to date in the light of the great number of later decisions. The work has thus grown from one volume of about 900 pages to two volumes of over 2100 pages. The first volume deals entirely with "Demurrers"; the second, with "Issues of Fact." A new chapter on the "Amendment of Pleadings" has also been added.

The work is useful in any State, for the law and decisions of all States and of the Supreme Court of the United States are carefully noted. The treatment is in every way admirable and the work as a whole may well be regarded as indispensable to the safe conduct of causes.

In his preface the author states that a pleading fulfils a three-fold function, as a notice to the adversary of what he is to meet, as a rule of order, and as a record of justice. Every perfect pleading subserves these offices and it can only be made perfect by a careful attention to the rules of practice that Mr. Abbott and his revisors have tried to make clear.

The work will undoubtedly continue to be increasingly useful, as the matter has been doubled in amount and its practical value equally increased.

M. W. W.

A Treatise on Special Subjects of the Law of Real Property. By Alfred G. Reeves, Professor of Law in the New York Law School. Little, Brown and Company, Boston. 1904. 1 vol., sheep, pp. lxxv and 913.

This is the first of two volumes in which the author intends to give the profession and the student a new treatise upon the law of real property. His aim as expressed in the preface is set forth in a work of convenient size for students and lawyers "the common law of real property, as it is to-day, developed with the aid of the old landmarks of legislation into a system of rounded symmetry and logical beauty, together with the accompanying typical code of one important State"—New York. Students of the law, particularly those in Professor Reeves's classes, would seem to be those for whom this volume is particularly intended; and for them it seems to us admirably adapted. The most prominent characteristic of the book to the reviewer is its clearness and simplicity of statement and arrangement. The whole subject is admirably summarized in the Outline in Chapter IV and in the tabulated summary at the conclusion of that chapter. As an instance of the clear and skillful treatment of an abstruse subject which is often a source of perplexity and confusion to the student we would mention especially Chapter XIX, on the origin and development of the use. The provisions of the New York Real Property Law, which are incorporated in their appropriate chapters in the text, serve to make the book, as the author intended it, "a practically complete treatise on New York real property law," and so especially valuable to New York students, but they do not prevent it from being at the same time one of the best text-books on the particular branches of the law of real property which it treats. The authorities cited seem to have been selected with care and with an aim to secure quality rather than quantity, a most commendable object in the case of a branch of the law so overburdened with authorities as that of real property. The more recent cases are cited in preference to the older ones, a practice which we approve in respect to any subject which like this one is constantly undergoing slight but important changes. Taking the book as a whole, we do not hesitate to recommend it to the student as an admirably clear and careful—though, it may be, somewhat elementary—treatise upon some of the more important branches of the law of real property, and to the general practitioner, but more especially the New York lawyer, as a valuable commentary on the real property law of that State. c. B.

Law in Daily Life. Translated from the German of Rud von Jhering by Henry Goudy, D.C.L. Clarendon Press, Oxford, 1904. Cloth, pp. 169.

Professor Von Jhering has by this work contributed a highly original method of treating the study of law. It consists of a great number of pointed questions dealing with the most ordinary

affairs of life, principally in the subjects of possession, delict and contract. The minutest details of daily life are examined and their legal consequences brought out. The questions demand close thought and a wide range of study, and the whole work is a product of remarkable ingenuity and skill. The book, however, would seem better suited to the original purpose of the author—for scholars at the German universities—than to the ordinary American student, at least, the questions being highly theoretical and based to a great extent on the Roman jurisprudence—a thing, however, to be expected in the work of a great Romanist. However, as the translator says, "the book may be of interest as showing to what delicate legal problems the simplest facts of everyday life may give rise." In Germany and other continental countries the work has run through many editions, but this is the first attempt to reproduce it in English. The translator, Professor Goudy of Oxford, has appended a number of original questions of the same general nature as those of the author. To the student of jurisprudence, the great names of both author and translator will commend the work.

R. H. S.

Chancery Practice. By John G. Henderson, LL.D. T. H. Flood & Co., Chicago. 1904. Sheep, pp. 1170.

The first one hundred and fifty pages of this work embody an account of the origin and early history of the Court of Chancery that is more than ordinarily interesting. They serve as an introduction to a treatise, not mainly on the general practice in Chancery, but rather on that practice as it directly concerns references to masters and others of like authority. The nature of their office and their powers, the manner of reference to them, the hearing before them, their report, and the subsequent proceedings in regard to it, sales by them, and the assessment of fees are fully discussed. Decisions are freely quoted, and the rules and statutory provisions of the various jurisdictions are adverted to at length, and forms are liberally scattered throughout the text. Its rather colloquial style, its constant repetitions, its lengthy quotations, its digressions from the immediate matter at issue to treat of principles common to all branches of the law, if more appropriate to the lecture platform than the text-book, yet serve to enforce and round out the statements of the author. The work well fills a vacancy in the field of legal authority.

W. M. M.

Text-Book of the Patent Law of the United States. By Albert H. Walker. Fourth Edition. Baker, Voorhis and Co., New York. 1904. Sheep, pp. 775.

In 1897, Judge Gilbert construed the opinion of the Supreme Court of the United States in *Coupe v. Royer*, 155 U. S. 581 (1895),

as a disaffirmance of a number of decided cases, among them one in his own circuit, *Hunt Fruit Packing Co. v. Cassidy*, 64 Fed. Rep. 585. This is but one of the many instances of the necessity for a revision and new edition of Mr. Walker's excellent work. Since the third edition appeared in 1895, Congress has enacted six statutes amending the patent laws. These facts together with the great reputation of Mr. Walker as a practicing patent attorney, a lecturer on the patent laws, and the author of the three former editions of this estimable work, render the 4th edition of Walker on Patents an invaluable addition to the library of every patent attorney in the country.

C. B. W.

The Bankruptcy Act of 1898, Annotated and Explained. By John M. Gould and Arthur W. Blakemore. Little Brown and Company, Boston. 1904. Buckram, pp. 263.

The title appearing on the cover is somewhat misleading. "Gould and Blakemore on Bankruptcy" naturally leads one to expect within its covers a treatise on the subject. The work is a copy of the Act of 1898 and Amendments, together with the General Orders and Forms in Bankruptcy, all of which, accompanied by marginal notes and an index, can be obtained by addressing a request to the Clerk of the Supreme Court of the United States. The particular value of the volume under review, however, consists in the annotations at the end of each section. Here the cases that have construed the respective sections, together with brief statements of their holdings, are carefully collected. A work of this kind has been greatly needed, and as the authors have filled this want in an adequate manner, we feel that they deserve the sincere appreciation of those who must cope with the none too lucid provisions of the Bankruptcy Law.

J. H. S.

The Police Power. Public Policy and Constitutional Rights. By Earnest Freund, Professor of Jurisprudence and Public Law in the University of Chicago. Callaghan & Company, Chicago. 1904. Sheep, pp. 819.

The law of the police power is still in its formative stage. For some time the need of an adequate work upon the subject has been felt. This want has now been supplied by the work under review. The author has treated the subject in a manner worthy of its importance and interest, and his work should very materially contribute to a more correct understanding of this branch of the law.

The author has divided his work into three parts. The first develops the idea of the police power, discussing its methods of operation, and showing its relation to the federal government. The second part has to do with the economic interests relating to the

conditions of production and distribution of wealth. This is very uncertain ground and the author recognizes the difficulty of the situation. It is a serious question how far the constitutional right of liberty of contract controls the police power. The chapters in this division on the protection of laborers, combinations of laborers, combinations of capital, and on corporations are timely, and add much to the value of the work. The third part deals with the fundamental rights under the police power, being treated under the three main heads of liberty, property and equality.

The book is well written and the author deserves great credit for the clear and comprehensive manner in which he has treated the subject.

J. J. F.

The Conveyance of Estates in Fee by Deed. By James H. Brewster. Boobs-Merrill Co., Indianapolis, 1904. Sheep, pp. 607.

Professor Brewster, we understand, has been engaged in writing the manuscript of this book for more than seven years. He does not tell us so in his preface, but modestly states that "those most familiar with this important part of real property will most readily conceive the difficulties in treating it within the compass of a single volume." All must appreciate this difficulty, and those who read the work will admire the manner in which the author has performed the task.

The topics are discussed in the following order: alienation in general; the chief methods of voluntary alienation; different kinds of deeds; the date; the parties; recitals; the consideration; the operative words; the description of the property; exceptions; reservations; conditions; covenants—for title—other than for title; signing; sealing; attestation; acknowledgment; delivery; the conveyance of the real estates of infants—of persons of unsound mind—of married women; the homestead in conveyancing; capacity of corporations to purchase and convey real property; capacity of aliens; capacity of convicts; disability of grantor arising from adverse possession; the examination of title, and registration of title.

In commending the author's achievement, we should not overlook the excellent work of the publishers. They have had the book printed in large type with generous spacing between the lines. This feature, which we cannot praise too much, is often overlooked. The lawyer's eyes ought not to be put to the constant strain of following lines so closely set that he must often use a pencil to follow them. Law printing should advance with the progress of general publication, which has a view to the comfort and eyesight of the reader.

The profession will doubtless give "Brewster on Conveyancing" the welcome it deserves, as shedding new light upon a subject covered with the dust of obscure and minor treatment by other text writers, and will eventually raise it to the position of a standard work.

J. H. S.

The Law of Waters and Water Rights. By Henry P. Farnham, Associate Editor of the Lawyers' Reports Annotated. Lawyers Co-Operative Publishing Co., Rochester, N. Y. 1904. 3 vols., pp. 2956. Sheep.

To say that these volumes form the most comprehensive, thorough and accurate exposition yet published upon the law of waters and water rights is but justice to the author. They contain, in fact, a complete commentary upon the law as applicable to this important subject in all its various branches.

The scope of the work includes international, national, state, municipal and individual ownership, rights and liabilities. The author treats of the subject in three parts, according to the relation between the parties to the controversy. Part I treats of the rights of states and nations, discussing international, constitutional and statutory rights. Part II deals with the rights between public and individual, some of the leading topics presented under this head being navigation, riparian rights, canals, harbors, wharves and docks, ferries, fisheries, municipal water supply, drainage, unsafe streets and premises, nuisances. Part III is devoted to rights between individuals, such as watercourses, damming back waters, irrigation, appropriation, mill rights, surface water and drainage springs and wells, rights between landlord and tenant. The table of cases cited,—some seventeen thousand, and almost all with parallel references to the various reports—and an excellent index, make the contents more available to the practitioner.

The discussion of Municipal Water Supply and Drainage,—questions of the first importance to every municipal corporation—receives very full treatment, some six hundred pages being devoted to these topics. To practitioners in western States the thorough presentation of the subject of Irrigation will prove of especial value. And the chapter on Appropriation as that doctrine prevails in the totally arid States of the far West and in a modified form in the Pacific coast States undoubtedly is the most exhaustive as well as lucid statement of the law upon this topic yet written.

We have no adverse comment to make upon this work. It reveals the patient and intelligent study of years and its intrinsic value will justify a place for it in every well-equipped law library. In our judgment it will soon be recognized by the profession as the standard treatise upon this subject.

B. F. H.

ARGUMENT OF MR. LEVY MAYER, General Counsel, before the Judiciary Committee of Congress against the Constitutionality of the Anti-Injunction Bill. Paper, pp. 24.

THE LAND REGISTRATION ACT OF HAWAII. Robert Grieve Printing Co., Honolulu, 1904. Paper, pp. 98.

AMERICAN BAR ASSOCIATION: PRESIDENT'S ADDRESS. By Francis Rawle. 1903. Paper, pp. 80.