

BOOK REVIEWS

Select Essays in Anglo-American Legal History. By various authors. Boston. Little, Brown & Co. 1909. Vol. III. pp. 862.

How can a lawyer advise his clients as to the law when he knows nothing about it? How can he know what the law is when he knows nothing of whence it came or of how it grew? An ordinarily intelligent man who has given careful study to the whence, the how, and the wherefore of the law knows well how hazy and ill-formed and even incorrect his ideas previously were. Another ordinarily intelligent man who has not made the study and who is still wandering through the haze is very generally found to be content and generally asserts that there is no haze. The latter's is another case where ignorance is bliss, but the former well knows that it is not a case where it is folly to be wise.

The three volumes of *Essays in Anglo-American Legal History*, the last volume of which has lately been published, give us liberal measures of the whence, the how, and the wherefore. They do not give us the "law in its application," but they do give light to one who has seen the law in its application and has groped among its inconsistencies and conflicts, has sorrowed at its weakness and rejoiced in its strength. How can a work be called "dry" when it gives us this light? Yet these three volumes will be called dry by those who are still in the haze and do not read far enough to see the light. The essays in Volume III are so much more closely connected with law in its application than are those of the first two volumes, that it is probably wise for a practitioner or law student to read this volume first.

No one can know much about Common Law Pleading or about such a supposedly elementary doctrine as that of consideration in contracts without knowing the history of *assumpsit*. Volume three brings us that history in an article said by Sir F. Pollock to have supplanted all previous work on the subject. How does one find out what is meant by the "law merchant," why it was not "common" law, how our judges have the authority to use it? These volumes answer the question. Here we find light on the history of corporations, that realm in which we are continuing to make history; and we are given the fruits of the best

investigation in the growth of all the branches of commercial law, torts, property, wills, administration of estates, and domestic relations.

Study these essays and learn to know that legal scholarship and understanding do not consist in learning some judge's statement that the doctrine of *caveat emptor* has been abolished in Missouri. It is wiser to know, if it can be known, the history of that doctrine, the extent to which it ever has been a part of the common law, and the various things of which the buyer has been compelled to beware. Doubtless there are some things of which he is compelled to beware even now. No legal principles are definite and certain in their statement and application, and we cannot learn and apply them as we learn and apply a mathematical formula.

These essays would not all be "dry" even if they threw no light on our clients' affairs. Some facts in legal history are interesting for other reasons. Who would not like to know something about the Court of the Dusty Foot? Who would not enjoy the spectacle of Lord Chief Justice Coke slaying the Court of Requests, attacking the Lord Chancellor in an effort to deprive him of his wig, and driving the Ecclesiastical Canon lawyers into monasterial sanctuary and the Lord High Admiral into the sea? One cannot see these spectacles as he can see the comic opera. There is some labor involved. He who fears labor and prefers the darkness will continue to avoid these essays. Unfortunately, clients will continue to employ him. Fortunately, they will often get their money's worth. These volumes do not contain all the legal light there is. Yet it is sad not to know Maitland, and Bryce, and Pollock, not to know Ames, and Baldwin, and Wigmore, and Holmes, and Williston. It is sadder yet not even to desire to know them.

The committee of selection and publication deserve the thanks and congratulations of English and American lawyers and law students.
A. L. C.

The Transfer Tax Law of the State of New York. By George W. McElroy of the Orange County Bar. 2nd ed. Matthew Bender & Company, Albany, N. Y. 1909.

The so-called collateral inheritance tax law of the State of New York has for the profession at large a double importance,

for its sections furnish the model upon which the laws of certain other jurisdictions have been framed and a vast amount of property owned in all parts of the country comes within the jurisdiction of New York and is subject to the provisions of its transfer tax law.

The present book was issued during the summer of this year and is a second edition, the earlier edition having been published four years ago. Mr. McElroy, in his position of assistant chief clerk in the transfer tax bureau of the State Comptroller's office at Albany, has had an unusually good opportunity to observe the working of the law and to become familiar with the numerous practical questions involved in its administration. The book has the advantage of being of the present day, an important feature of a work dealing with a topic of the law comparatively new, the original act in New York, having been passed less than a quarter of a century ago.

In dealing with the subject of the New York transfer tax, a writer must bear constantly in mind that the past and present are closely knit together, the original provisions being preserved substantially in the revisions through which the act has passed. The earlier laws are in this work set out generally in footnotes accompanying the discussions of the provisions in their present form.

The present book is in effect an annotation of the act, as the arrangement is according to the sections, beginning with number 220 and ending with 245. Between seven and eight hundred cases are cited, nearly all New York decisions. The style of the work is clear, the discussion at most points sufficiently full, and the mechanical execution, good. The first edition has stood the test of the requirements of the profession and the present one is an improvement upon it at many points. The book has a fuller index than is ordinarily found in a law book and at the end is a useful collection of forms.

Of course a work of this character is mainly valuable not because it furnishes an authoritative exposition of the law, but because it lends practical aid in the settlement of estates and in pointing the way to the cases. This edition of the book will doubtless meet a ready welcome from the profession.

G. E. B.