

BOOK NOTICES.

Hand-Book of the Law of Contracts. By Wm. L. Clark, Jr. Sheep, 925 pp. Price, \$3.75. West Publishing Co., St. Paul, 1894.

We like the way in which the subject of Contracts is developed by the author of this work. He follows the general lines of Anson in his treatment of a contract and logically traces out its attributes. In spite of the modest disclaimer of originality, Mr. Clark shows that he has not been content to follow the loose statements of either books or cases. In several instances he has insisted upon the logic of the law though the cases have squinted another way. Therein he has ceased to be a mere compiler and has asserted the author's privilege. The black letter headings smack of the class-room, but this, if it be a fault, is not so much Mr. Clark's as it is the publishers', and the publishers declare it to be a positive virtue. For class-room work the book is admirable, but it should be administered in small doses and by a competent physician. For instance, at the beginning the very definition of a contract is a little involved in the mazes of abstruse jurisprudence, which the average law student will find hard to comprehend, and the average law instructor even harder to make him comprehend. Once the principles of a contract are grasped, both instructor and student ought, with a proper selection of illustrating cases, to find the rest of the book plain sailing. Time alone will tell whether the practitioner will use Clark on Contracts. We say this advisedly because the book has some faults which the practicing lawyer will find hard to condone. To illustrate, there are very few concrete examples set out in full to support the theoretical statements, and a lawyer as a rule turns to cases and spurns text-book opinions unless they are haloed by the ages.

A Treatise on the Principles of Pleading in Civil Actions. By Henry John Stephen. Edited by James DeWitt Andrews. Octavo, sheep, lx. + 554 pp. Price, \$4.00 net. Callaghan & Co., Chicago, 1894.

"Stephen on Pleading" is so well and favorably known by those acquainted with legal bibliography that it would be pure pedantic affectation to enumerate its many excellent features in a magazine of this character. Though written seventy years ago it is regarded, even to-day, as one of the most scholarly and logical treatises on the subject. Other authors have made valuable compilations of the different rules of pleading and illustrated them

with explanations and apt examples, but to Stephen belongs the honor of being the first writer to elucidate and scientifically discuss the *principles* underlying these rules. Mr. Andrews, the editor of this edition, believes that students of law should have Stephen's entire work and not mere extracts or wholesale paraphrases of it, as is too frequently the case in many modern works on pleading. He has therefore prepared this edition with special reference to them. The text of Stephen's first edition has been used, and its general arrangement retained, but he has added thereto under the head of Part I., an Introduction, in which he discusses the merits and defects of common law pleading, the distinctive features of code reform, and the relation between the code and common law procedure. He shows most forcibly that while code procedure has abolished the excessive formality that characterized common law procedure, yet the principles of the two systems are identical and unchanged. A knowledge of the latter is essential to an understanding of the former. A chapter on Joinder of Parties, and one on the Election of Remedies, has also been added. Part II. and Part III. are Stephen's text entire, the former containing a summary and connected account of the whole proceedings in a suit, and the latter the principal rules of pleading. The text is supported by carefully selected cases taken from code and common law States, and its value is further enhanced by numerous notes which contain the editor's amplifications, or which show the recent modifications in the rules and forms of procedure. Mr. Andrews has made the work thoroughly modern and practical, and students of law, whether intending to practice under common law procedure rules or code rules, will find this the most recent, and helpful edition of Stephen's treatise. The volume is well bound, the paper is of good quality with dead finish, and the type, both of the text and the notes, large and clear.

American Probate Law and Practice. A Complete and Practical Treatise, Expository of Probate Law and Practice as it Obtains To-day, Including a Discussion of the General Principles Governing the Execution and Proof of Wills, the Devolution of Property, the Administration of Estates, and the Relation Subsisting between Guardian and Ward. Applicable to all States. By Frank S. Rice. xlv. + 785 pp. Sheep, \$6.50 net. Matthew Bender, Albany, 1894.

The author of this work, Mr. Rice, is favorably known to the profession by his masterly and scholarly treatise on "Civil and Criminal Procedure," and his name is a sufficient guarantee that this volume represents painstaking and laborious research, and a

critical and comprehensive presentation of probate law and practice. His volume is the outcome of "an attempt to collate, classify and exhibit the rules that characterize and govern the American Probate Courts and their peculiar methods of procedure." The work is broad and comprehensive and covers the entire domain of Probate Law Practice, and contains numerous references to statutory enactments, adjudications, and valuable judicial utterances bearing upon the subject. The author brings into prominence the fundamental principles of the law and shows with great perspicuity the modifications and amplifications that they are constantly undergoing. His statements of these principles are amply supported by citations from acknowledged authorities, and frequently by very full excerpts from the opinions of judges of courts of last resort,—the author modestly preferring that the reader should have the exact words of the court rather than his own paraphrasing. All the steps by which a decedent's estate passes by probate procedure into the hands of the legal beneficiaries, are clearly and forcibly discussed, together with the judicial interpretation of the statutes which regulate this procedure. The volume bears every evidence of discriminating and scholarly research, of critical analysis and of logical presentation. It is characterized by great lucidity of expression and cannot but prove of value to the profession. For the purpose of furnishing a rational guide to members of the bench and bar of jurisdictions that have not adopted specific practice regulations for their probate courts, the author has inserted at the close of the book the different sections of the codes of civil procedure of the States of New York and California, that relate to probate practice.

The Study of Cases. A course of Instruction in Reading and Stating Reported Cases, Composing Head Notes and Briefs, Criticising and Comparing Authorities, and Compiling Digests. By Eugene Wambaugh, LL.D., Professor of Law in Harvard University. Second edition Student's Series. Cloth, \$2.50 net; sheep, \$3 net. Little, Brown & Co., Boston, 1894.

The title page as given above, and the author's prefatory statement that "the aim of this volume is to teach students the methods by which lawyers detect *dicta* and determine the pertinence and weight of reported cases," convey a very clear idea of the purpose and scope of this little volume. The first part of the book is devoted to an examination and a critical analysis of the essential features of every well-reported case, and the method of determining its true doctrine. The value of a precedent, and the

means of ascertaining whether a case is a precedent for a given doctrine, are clearly discussed; also the weight to be given *dicta*, and the method of distinguishing between it and the propositions of law involved in the opinion of a judge. The value of learning how to examine cases for the purpose of sweeping away antagonistic, and of reconciling conflicting opinions, is fully brought out in a chapter entitled "How to Criticise Cases." The entire work is designed to show the correct way to discover, summarize, combine, attack, support and otherwise utilize reported cases. For the purpose of giving the student training in this work, the second part of the book contains seventeen carefully selected cases, arranged in order of their difficulty, for him to practice upon.

Cases for Analysis. By Eugene Wambaugh, LL.D. Cloth, \$3 net. Little, Brown & Co., 1894.

This volume, containing some ninety cases on contracts and torts, has been prepared by the author to supplement his textbook on "How to Study Cases," mentioned above. Its purpose is to give the student a larger number of carefully selected cases to analyze, criticise, and digest, and to thus thoroughly train and familiarize himself with the proper method of using authorities. The cases appear to be well chosen and might be used with advantage to supplement the student's study of contracts and torts.

A Review in Law and Equity for Law Students. Together with a Summary of the Rules Regulating Admission to Practice Throughout the United States. By George E. Gardner, of the Mass. Bar. 300 pp. Price, \$2.75 net. Baker, Voorhis & Co., New York, 1895.

This book will be welcomed by that large class of students who have acquired their legal knowledge from a study of elaborate and exhaustive treatises on the principal subjects of law and who, as they approach their bar examination, desire a hasty review of the various subjects for the purpose of crystallizing their diffuse and oftentimes hazy ideas. The author has reviewed clearly and briefly the entire field of law and equity, and his book, containing a concise statement of the leading principles of each, is an epitome of the best text-books in use in our various law schools. The subject of Real Property, one of the most difficult to master, though treated with brevity, is nevertheless very clearly presented. The various estates are carefully defined, and then illustrated by well selected examples which materially aid the student in comprehending the technical differences of each. The chapter on Quasi Contracts, a subject of increasing importance and one which many text-books overlook entirely, deserves especial men-

tion for its concise but clear presentation. Among the other principal subjects discussed are Contracts, Torts, Pleading, Evidence, Criminal Law and Corporations. A student who masters this volume will have a clear knowledge of the principal subjects of law and may approach a bar examination with confidence. The volume is tastefully bound in half sheep.

The General Digest (annual, 1894) for the year ending September, 1894. Vol. IX. Prepared and published by the Lawyer's Coöperative Publishing Co., Rochester, N. Y.

For another year to come the editor's rooms are secured against peril of violent winds by the arrival of this sheet-anchor whose legal weight is surpassed only by its physical avoirdupois. In a book of this class the indexing is the essential. Here the indices are first-class, both as to mechanical system and as to completeness, and do more than their usual share of the work. The cross-references only might be more full. The scope of the book is unusually large, covering all the American reports and law periodicals, as well as all the important English and Canadian cases. The digester's work is perhaps better than usual, especially in Patents. The mechanical construction is good. On the whole the Digest shows that steady advance which is the best kind of growth and on which both publishers and public are to be congratulated.

American Cases on Contracts. One volume. Octavo, 750 pages. Price, \$6.00 net. By E. W. Huffcut, Cornell University Law School, and E. H. Woodruff, Leland Stanford Junior University. Banks & Brothers, New York.

This new work contains a concrete exposition of the principles of the law of contracts. Leading American cases are cited to illustrate the principles in their order. The arrangement of cases follows the logical analysis of Anson in his work on Contracts. Formation, Operation, Interpretation, and Discharge of Contract, is the order of treatment. The cases are given in detail sufficient for an understanding of the facts to be reasoned about, of the opposing considerations brought to the mind of the judge, and of the final decision. By this means of acquiring legal knowledge the student's interest is aroused in seeing the necessity of it. It is an advantage that the cases are so printed that the principles involved in each cannot be seen without carefully reading the case. The work is a strong argument in favor of the inductive method of teaching the principles of law by the use of cases that have been carefully adjudicated.