

BOOK REVIEWS.

A COMPILATION OF BAR EXAMINATION QUESTIONS AND ANSWERS. By *Wilson B. Brice*. Pp. 229. Paper. Matthew Bender, Albany, N. Y.

We recommend this to all students intending to take the New York Bar. It contains over six hundred questions and answers, along with rules of admission. No better way of finding what the student ought to study for can well be conceived than a compilation of the questions asked for the past five years. The answers are terse, well put and supplemented with copious references to cases and text books. The only criticism we have to make is that at times it is all reference and no answer. Doubtless this was decided upon by the author because of the greater advantages to be derived from looking the cases up. This, however, is not our theory. The book is of questions and answers, and only a text book in a subdued way, and therefore incomplete every time a mere reference is served without an answer. So far as we have looked over the answers they are quite correct, though at times we disagree, e.g., on pages 1, 2, 3, it is laid down without citation, that by the death of a beneficiary under a life insurance policy the interest lapses. We understand the rule to be that a lapse takes place provided a new appointment is made, otherwise not, since the interest is vested. So *Walsh v. Ins. Co.*, 61 Hun. 81. But the student may well rely on the accuracy of the compilation which has been gotten up with evident care, though occasionally there is room for a difference in personal judgment.

A TREATISE ON COVENANTS WHICH RUN WITH THE LAND, OTHER THAN COVENANTS FOR TITLE. By *Henry Upson Sims*, of the Birmingham, Ala., Bar. Chicago, Callaghan & Co., 1901.

In this book Mr. Sims has violated tradition and done himself credit in at least two particulars: these are brevity and direction. His book is sizable to look at—can be carried through the streets without embarrassment; and it is consecutive to read—gives a distinct impression of unity and purpose. In short, it is what it professes to be, and what most law books only pretend to be, namely, a treatise. Mr. Sims believes that in modern times and in crowded cities it grows more and more desirable that covenants other than covenants for title should be allowed to run with the land. He regards it as unfortunate that the English decisions have greatly curtailed—especially on the burden side—the operation of such covenants. And the entire purpose of his treatise is to precipitate, out of the modern chaos of the subject, a better principle, which he finds to be already endorsed by the majority of American courts. This he attempts to compass by proving that early English decisions are founded on a misconception of earlier English decisions, and that the running of the burden is the creature, neither of equity, nor of statute, nor of that feudal tenure subsequently cut off by the statute of *Quia Emptores*, but of the original common law warranty. His method is synthetic. Mr. Sims' book is not without an exposition of the actual state of the law, nor is it without a concrete discussion of the most usual covenants.

BISHOP ON STATUTORY CRIMES. Third edition. Revised and enlarged. By *Marion C. Early*. J. H. Flood & Co., Chicago. One vol. Pp. 995, sheep.

The present volume is simply the second edition with whatever notes and citations have been necessary to make the work thoroughly up-to-date. The first part of the book is given up to a very complete exposition of rules governing the interpretation of statutes, especially those pertaining to the criminal law and its procedure. The rest of the work is a discussion of the various offenses under separate heads. Each crime is discussed as to its effect and the procedure thereon. The work of revision has been very ably carried out, and the book should be of great use to the practitioner.

CASES AND STATUTES ON THE PRINCIPLE OF CODE PLEADING. By *Charles M. Hepburn*.

Since the enactment of the first code in the United States, that of New York, in 1848, the growth of the system and science of code pleading has been ever steady and increasing. Strange as it may seem, however, when one considers the infinite number of text and case books on other subjects, it has remained for Mr. Hepburn of the Cincinnati Bar, to bring out the first compilation of cases on Code Pleading. For this reason alone, the book should be valued, but it is more than a mere compilation of cases, containing, as it does, sections of the various codes, which by the aid of the cases are more comprehensive and clearly explained, than as formerly, by the use of a dry text book on the subject, was possible. The subject is embraced under a few heads only, "The One Form of Civil Action," "In Whose Name the Action Should be Brought," etc., etc. The book should, and undoubtedly will, soon find its way into our law schools, as an efficient expositor of the text book.

DISBROW'S DIGEST OF THE CODE. Second edition. Pp. 151. Buckram. Matthew Bender, Albany.

The preface of this little work explains its object. We quote from it: "A great deal of time and thought has been expended upon the work. It is needless to state that its value depends inversely upon its size. The aim has been, not to make a substitute for the code, but to make a reference to go with the code, which will show at a glance all of the provisions relating to any subject." It is designed primarily for law students, and none can appreciate better than they, anything that illuminates or lightens the New York code, with its tireless prolixity, apparent mania for detail and haphazardness.

In the main the author has accomplished his purpose. His classifications are clear and comprehensive, and will prove invaluable to one who has before him the weary waste of four thousand and more sections of the code. We are inclined, however, to differ with the author regarding what a digest ought to be, and in fact feel sure that his book is and ought to be more than a reference and rather is an attempt to boil down the code. We arise from a reading of it convinced that this result has been in a great part achieved, not, however, without many a flaw in the detail and considerable imperfection in the execution. A cursory examination has disclosed a few that we ought to notice.

On page 6, the various proceedings are thrown into six divisions: Actions, special proceedings, arbitration, submissions, provisional remedies, and State writs, and almost immediately following a special proceeding is defined to be any proceeding not an action. To be scientific the proceedings enumerated should have been classified under the head of special proceedings. In places not restricted to a few, we have found clearness sacrificed to conciseness, as on page 9, where the natural inference would be that the sheriff holds the chattel when the party is meant. That a plaintiff may sever an action against joint parties after service has been made upon part, is not only an inaccurate excerpt but clearly bad law, in such cases the parties must also be *severally* liable. (Page 36.)

No more roundabout way of expressing what may not be interposed as a counterclaim can well be conceived than "nor a cause of action except such as are enumerated in this chapter relating to limitations, being sections 376 to 397," when it would have done to say that, a barred claim cannot. The chapters on Orders would have been clarified by making mention of the important distinction between orders grantable *ex-parte* and upon notice. The definitions of a frivolous pleading as one bad in law and a sham pleading, one false in fact, are clearly inadequate. There must be superadded a palpable insincerity and insufficiency so that no issues are raised. (Page 46.) On page 56 it is said "where the case is tried before the jury an exception must be taken at the time of the trial and before the return of the verdict." This is misleading. Exceptions and rulings on evidence must be contemporaneous, while exceptions to the charge may be taken before the return of the verdict. Resort to Letters Rogatory is bad, not, as the author seems to think, because the force of a commission is expended once a foreign jurisdiction is reached, but as the code says when the ends of justice demand them notwithstanding a commission may issue. (Sec. 916.) Commissions no more than Letters Rogatory have extra-territorial force, and both rest on comity.

These examples will serve to show that there is room for improvement in accuracy. But we must remember that the qualities that make a digest good, clearness, fullness and terseness, are very apt to run counter of one another. The defects that have struck us have this redeeming feature, they are obvious and do not go to the substance of the work. We cannot say so much for the typographical work, which has permitted numerous misspellings and erroneous citations to creep in to mar the work. The English at times, is not to the Queen's taste, and should have been given the attention it deserves. For faults such as these there is no excuse. We regret also that there is no index, without which no law book is complete. A set of the ordinary forms would have added to its utility. Despite all of which, one preparing for the New York Bar will find in this little work, not it is true, a *Gradus ad Parnassum*, but a great help in his lugubrious wrestle with the New York code.