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Book Reviews

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BOOK REVIEWS

AMERICAN FAMILY LAWS. Vol. V, Incompetents and Dependents. Chester G. Vernier, assisted by J. Rex Dibble and Richard A. Frank. Stanford University, California: Stanford University Press, 1938. Pp. xxxiii, 707.

The concluding volume,¹ as originally planned, of the five-volume set of statutory materials relating to the American family has just been issued under the competent editorship of Professor Vernier, whose services in compiling and arranging the diverse and voluminous enactments on the subject of the domestic relation have rightfully earned him and his assistants the thanks and commendation of the legal profession.

The present volume in no way suffers from comparison with the earlier volumes, reflects a sensible continuation of the original plan of arrangement, and carries the general subject into those portions of the field of family law generally bounded by the topics of Infants, Aliens, Drunkards, and Insane Persons. Careful treatment has been accorded the familiar problems falling under these heads, but even unusual side-lights, such as the problems of competency to act as witnesses, of service of process on incompetents, of labor laws, and the like, usually found grouped with other legal subjects, have found appropriate places in the current volumes. An index to the entire series appears with this volume, but unfortunately the cover title fails to disclose this fact and obscures a ready means of access to the set.

Eleven years of intensive effort by the author and his assistants have resulted in presenting in five compact and handsome volumes such a wealth of material so conveniently arranged that the lawyer, the legislator, the social worker, and the student should use this set for many years to come as an easy starting point for any and every investigation of the law of the family as it is to be found in any of the American jurisdictions. Unfortunately, publishers of statutory materials have not infrequently found that volumes scarcely a year old have been rendered outmoded by legislative action in the interim. It is not surprising, therefore, to learn that a supplementary volume is

¹ Vol. I was reviewed in 10 CHICAGO-KENT REVIEW 222, Vol. II in 11 CHICAGO-KENT REVIEW 224, Vol. III in 14 CHICAGO-KENT REVIEW 199, and Vol. IV in 14 CHICAGO-KENT REVIEW 300.

in the process of compilation and will be issued shortly; this will not only provide a means of bringing the entire set up to date but will also be an interesting commentary on present trends in the law of the family. It is only to be hoped that Professor Vernier will not rest on the laurels he has justly won by these efforts but will thereafter devote his energies to the development of similar studies of statutory law in other fields sadly in need of such treatment.

A ready survey of local law might well now be made by some ambitious member of the Illinois Legislature, using as a basis therefor these volumes, from which he would find a fund of ideas for needed revisions of Illinois statutes dealing with the family relation. The noticeable absence of Illinois statutory material in the set significantly discloses how willing the lawmakers of Illinois have been to rest satisfied with common law principles rather than to emulate the action of the solons of other states in bringing our family law abreast of the times.

WILLIAM F. ZACHARIAS

THE MIND OF THE JUROR AS JUDGE OF THE FACTS. Albert S. Osborn. Albany, New York: The Boyd Printing Company, 1937. Pp. xiii, 239.

The author of *Questioned Documents* (1910) and *The Problem of Proof* (1922) has furnished the legal profession with still another work, this time giving a layman's view of the problems, legal and otherwise, involved in the contentious trial. Under the somewhat misleading title of *The Mind of the Juror* he has taken occasion to lay bare his impressions of the typical American jury trial and attempts to evaluate the separate elements of such a proceeding. His primary position, however, appears to be that of defense pleader for the jury, and his efforts bend mainly in the direction of explaining why they arrive at the erratic verdicts they sometimes hand down. He traces the blame therefor not to the door of the juror, whose inadequate intellectual level has frequently been cited as the cause, but rather to that of the none too ethical lawyer-advocate who misuses legal procedure to suit his own ends.

Working upon the background of his experience over many years as an expert witness, the author draws a reasonably good

picture of the contemporary trial scene in the form of a series of short essays on particular parts thereof. The picture will interest any intelligent reader, will furnish the trial novice with many suggestions of what not to do as well as what to do, and will provide the "reformer" of legal procedure with many ideas for him to advocate, but above all it serves to administer a castigation to the legal profession for the faults of some of its members.

One finds, however, that these collected essays are not a little redundant, are interspersed with random thoughts which tend to distract attention from the main subject, and are disposed to wander into fields foreign to the title. Impatience is also provoked in the reader by the discovery that important problems about the mind of the juror on which very little has been written are scantily treated, while obvious points are belabored far more than is necessary. The proposed reforms in the conduct of trials are not novel, and many of them have been adopted in various parts of the country. Some suggestions, such as the proposal to permit comment on the failure of defendant to testify in a criminal case, leads one to wonder if the layman author ever thought to investigate the problems of constitutional law inherent therein. Such weaknesses cast doubt on the validity of his final conclusion—that the legal profession stands, though whether deliberately or heedlessly is not made clear, in the way of reform of trial procedure.

WILLIAM F. ZACHARIAS

CASES ON CODE PLEADING. Archibald H. Throckmorton. St. Paul, Minnesota: West Publishing Company, 1938, Second Edition, American Casebook Series. Pp. xxiii, 756.

The recent extension of code pleading into Illinois warrants the attention of the earnest student of the law, whether in practice or in school, to the second edition of Professor Throckmorton's collection of cases and materials on this subject. While considerably revised and shortened, the new book gives adequate treatment to the pertinent provisions of the Illinois Civil Practice Act of 1933, which the author recognizes as likely to have considerable influence on the future development of reformed procedure. It also contains, in a timely appendix, the new rules

of the Supreme Court of the United States relating to civil procedure in the federal court system.

Of merit also is the consideration given by the author to the subject of amended and supplemental pleadings, not usually found in collections of cases on this subject, and noteworthy, too, are the copious references made in the volume to law review articles bearing on the general problems of reformed pleading. A further useful teaching device is to be found in the sample forms of pleadings used, wherever possible, to introduce each division of the subject. Theoretical pleading principles tend to confuse the untrained, inexperienced mind but are made more readily workable by reference to such concrete illustrations.

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