

## BOOK REVIEWS

PLEADING AND PRACTICE IN NEW JERSEY. By George S. Harris, Professor of Law, University of Newark. New York: Baker, Voorhis & Company, 1939. pp. cxliv, 998. \$15.00.

The recently announced revised edition of "Harris on Pleading and Practice," which well deserves to be regarded as the lawyer's bible, comes at a time when it is most needed. The expiration of over twelve years since the first publication of any book is ordinarily sufficient to make a new edition welcome. In this case there is an additional necessity caused by the enactment of the Revised Statutes, whose lack of index has made statutory research a slow and laborious process. In the field of practice at law, at least, the profession now has available to it the same authoritative text with which it is so familiar and upon which it has leaned so heavily, not only revised and brought up to date, but also keyed to the Revised Statutes. Thousands of new authorities have been added, and such statutory changes as have been made are given appropriate treatment. More than seven thousand cases are analyzed, and ten thousand are referred to. The footnote material is more exhaustive than in the former edition, and many of the cases there included are briefly abstracted. Errors discovered during many hours of classroom dissection of the original edition have been corrected, though the book is rare which is totally free of errors.<sup>1</sup>

Highly important is the fact that the arrangement of material has not been disturbed. Matters contained under the original section numbers are to be found under the same number in the new edition. Notes made in the past, therefore, are still accurate and will refer to the proper location of the same point of law in the revised edition. New material is partly included in the original sections and partly in subsections.

The indexing is good, both as to the law and as to forms. A table of statutes, giving the location of various sections of Revised Statutes, Pamphlet Laws, Compiled Statutes and its Cumulative Supplement, is most helpful. The table of cases occupies pages xxxi to cxliv, a total of one hundred and fourteen pages, which is self-explanatory. Finally, the make-up and type arrangement is pleasant and legible.

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1. The form of complaint for deficiency set forth in Section 322, recites, in paragraph 10, that the suit was commenced within six months from the date of sale. P.L. 1933, ch. 82, p. 172, R.S. 2:65-2, provides that such suit must be brought within three months from the date of confirmation of the sale.

This error heavily underscores one of Professor Harris' own precepts—never copy a form. It may be recalled by some that Professor Leach, of the Harvard Law School, in a recent lecture in Jersey City, disclosed that a form for an *inter vivos* trust, printed as an Appendix in "Gray on Perpetuities," was inadvertently taken from a testamentary trust once prepared by a Boston practitioner, and, hence, not having been designed as an *inter vivos* trust, violated the rule against perpetuities in no less than six separate provisions. Caveat copier!!

It would be of little value to review the various sections of the volume as to content. The profession is already so familiar with the work that anything said here along that line would add little, if anything, to their acquaintance with its arrangement. Suffice it to say that the text is so designed as to follow the sequence of provisions in the Practice Acts as closely as possible.

From a teaching viewpoint, of course, the book is to be highly recommended. Though the casebook method has entrenched itself firmly in other subjects, yet in a field of such vast volume as practice in courts of law, there can be little doubt that the textbook is far superior to the casebook. If only because he must wade through the countless statements of a text, each of which may represent one or more cases, the student cannot help but add immensely to his experience. Perception, or the faculty of understanding, has its roots in experience alone. Theory and logic are of value only in the application of that experience. Reason, of itself, has little enough use in answering substantive questions, but it is next to useless in solving problems of adjective law. Simply to be aware that a requirement of some kind exists in a statute or the rules is valuable. It is knowledge that there is a requirement rather than knowledge of what that requirement is, that is to be desired.

This is true, of course, because of practical considerations. Ideally, it is preferable to know what the requirement is, but procedural law is intricate, so much so that no student can hope, during the limited time available, to master a single branch of that law. He may consider his efforts well rewarded if, when confronted with a procedural question, he can say that he is aware of a certain requirement, which he can locate in a relatively short time. On the other hand, the student who painstakingly studies every facet of the subject of the service of process, by examining a dozen cases on the subject, never has time to get even a glimpse of the vast field which he has not yet explored, and will probably conduct his practice, blissfully unaware of the countless pitfalls that lie ahead. There is time enough in actual practice to master specialized fields of procedure in their entirety.

All these considerations, of course, do not mean that the volume is useful only as a student's text. For a single volume, it is surprisingly complete and wealthy with detail, and for that reason, it is of inestimable value to the practicing lawyer. This asset is due entirely to the uncanny ability of the author to express himself briefly but fully, and represents a high degree of achievement in overcoming the deficiencies inherent in all languages. Professor Harris' writings have long been examples of that essential attribute of good pleading—to state a fact briefly and clearly, as is well known to anyone who has ever been initiated into the field of practice and pleading in his classroom.

VINCENT P. BIUNNO.

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NEW YORK CIVIL PRACTICE MANUAL, by Harold R. Mediva, Edward O. Carr and John F. X. Finn, 1938, West Publishing Co., St. Paul, Minnesota, 758 pages. The Manual fills a long felt need in providing a concise, authoritative and up

to the minute guide to civil procedure in New York. It is a volume that is indispensable to New Jersey practitioners who have occasion to try cases in New York and invaluable to students who have the desire to study practice in New York for use either in practicing there or for preparing to take the bar examinations in that state.

The book presents the amendments of 1936, 1937 and 1938 and sets forth in full the text of the Civil Practice Act, the Rules of Civil Practice, the Surrogate's Court Act, the N. Y. City Court Act and the N. Y. City Municipal Court Code. The authors then follow with approximately one hundred pages of selected sections touching criminal law and procedure, county law, domestic relations law, business law, tax law, property law, motor vehicle law and various and sundry other phases of the law in New York.

The book is completed with a comprehensive statement of Court Rules of the most important courts of the state and city of New York. The indices have been compiled and edited with an eye toward constant use by the practitioner and are therefore most comprehensive and detailed, making the problem of finding and determining a procedural question relatively simple.

The book is printed in double columns, thereby conserving space and enabling the authors to compress into some seven hundred pages a veritable encyclopaedia of New York practice. For the sake of completeness, footnote references have been eliminated except in cases where references to the old code or historic annotations were felt to be of great need.

Painstaking paragraph divisions with full descriptive headnotes for each article make this work a veritable primer for form and accessibility. Each paragraph is numbered and carries after it a citation of the source from which it was taken, thus giving the user a full and complete reference easily traceable to its source.

It is indeed a book worthy of a place on the shelf of any lawyer or law student and serves both as a quick and complete guide for the practitioner as well as a truly valuable source of reference for the student and research worker.

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CASES ON MORTGAGES, American Casebook Series, Second Edition, by Morton C. Campbell, 1939, West Publishing Co., St. Paul, Minnesota, 794 pages.

"Cases on Mortgages" is a revision of an earlier work on the same subject by the same author. It is a complete and comprehensive study of the subject of mortgages and has retained in its revision the arrangement and features which have proved so successful from a pedagogical standpoint in the earlier edition. It is written in a clear manner and shows the results of keen and comprehensive research and the author's almost twenty years of experience in teaching the subject.

The book is very logically arranged and covers the subject with extreme accuracy. Beginning with Theories of Mortgage, especially as affecting Form, Right of Possession and Payment, it follows through the logical steps in the review of the subject. Following the general discussion of the theories of mortgage

the author treats of equitable mortgages, mortgages in substance, the mortgagor and Redemption in Equity. The problems of foreclosure is most amply discussed under five distinct headings, namely, strict foreclosure, foreclosure by entity, foreclosure by judicial sale, foreclosure under power of sale in general and foreclosure under power of sale in Minnesota.

Following the lengthy discussion of foreclosure Mr. Campbell treats of statutory redemption after foreclosure sale, accounting, discharge, transfer of interest of the mortgagor, and equitable reinstatement and extinguishment. The next four topics are treated most voluminously and comprehensively. The author displays keen analysis and tremendous labor in presenting his treatment of the questions of priorities, assignment of mortgages, circuitry of lien and marshalling. A corporate mortgage recently prepared by collaboration between two New York law firms for clients, completes the volume.

The leading cases used to illustrate the various divisions and subdivisions of the book have been painstakingly selected to illustrate most clearly each point and to be as recent and up to date as is possible. This makes the volume valuable from the point of view of the instructor and the student.

The use of hypothetical questions with ample citations to answer each one, interspersed throughout the book following each topic discussed is an innovation in text books. Its value, however, is beyond measure. The questions show a keen knowledge of pedagogy and the problems of the student, in their selection. They bridge the gap that too often exists between the cases cited and the problems that arise in the students' minds. The use of this type of question makes the book valuable to the practitioner as a reference and a means of clarifying mortgage problems which may arise in his practice.

The book is replete with citations to cases, law review articles and texts and is abundant with citations of New Jersey cases. The voluminous and all-encompassing footnotes make the volume most complete from every angle in the phases of the subject which it attempts to present.

Studied from every angle, this volume is not just another book for the avid collector of legal tomes but it is a source from which the student may get a complete and logical training in the subject of mortgages, from which the research worker may receive satisfactory aid and direction and to which the practitioner may turn for guidance, clarification of his problems and authoritative legal information in solving problems that may arise in his practice

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