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Clark on Receivers (2nd Ed.) (Book Review)

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subject to the Interstate Commerce Act it will prove useful. A person entirely unfamiliar with the subject will find in it interesting information, stated in simple terms, as to the way in which rates are made. To one who turns to the book for education in the subject for the purpose of applying his knowledge in his business, the book will prove useful if it indicates to him the complicated character of the problem which he is approaching and the need for deeper research, but will prove dangerous if he looks upon it as a complete statement of the law and the economic principles governing his business.

The bibliography at the end of the volume would be more complete had the author referred, in addition to the books mentioned, to such leading authorities on the subject as "Railroad Rates—Services—Management" by Vanderblue and Burgess; "Railroad Rate Regulation" by Beale and Wyman; "Wyman on Public Service Corporations"; and "Fuller on the Interstate Commerce Act."

PARKER MCCOLLESTER.

New York City.

CLARK ON RECEIVERS, 2nd Ed. By Ralph E. Clarke. Cincinnati: The W. H. Andersen Co., 1930, Vols. 2.

The subject of this review comes to us, in the language of its preface, as a treatise. Surely, a treatise on any branch of the law is always a "consummation devoutly to be wished." Opinion, however, will differ on the definition or description of a treatise. Unseemly as it would be here to dilate on what a treatise is or is not, it may not be amiss to present a triple classification of texts, which has seemed satisfactory, at least to the reviewer.

In the first group would be placed the efforts of those self-styled treatise-writers, whose labors have resulted in nothing more than a summation and sometimes an elaboration of what has been more succinctly and accurately stated in *corpus juris*. While the writings of the prolific authors of this group are over-crowding the shelves of our law libraries, the justification for their existence must be traced in a great measure to the commercial aspirations of their authors and publishers.

In the second group is the treatise. Here, the primary aim is not compilation, not enumeration, not specialization in the commercial sense. The purpose, on the other hand, is solution, comparison in the broadest sense, and finally what Judge Cardozo has described as the reconciliation of the irreconcilable, the merger of antithesis, the synthesis of opposites. Here is the alpha and omega of legal research, here is something more far-reaching than law itself,—here is life. In this group are found our Willistons and our Wigmores.

The third group is not a compromise between the first and second. It is rather a distinctive species which is the product of the evolution of law and business. Its aim is both scientific and efficient. It recognizes the colossal bulk of the law and the intricate ramifications of but one of its branches. It sees the bewilderment of the practitioner as he plods from book to book, preparing his case in one phase of the law. Finally, it tries to help him by compiling in one or two volumes the known substantive and adjective law on a specific topic.

For this reason, if for no other, a product of the third group is deserving of a place in the firmament of law books. It is, doubtless, impossible to include in a few volumes enough data to enable a practitioner to become a man of one book in a particular field. Nevertheless, although a lofty ideal be unattainable, enough good may be derived from its pursuit to justify the effort.

Clark on Receivers belongs in the third group according to your reviewer. A mere glance at the Summary of Contents and the analysis at the head of each chapter will suffice to demonstrate the intricate and ramified applications of the Law of Receivers. No general encyclopedia of law nor any product of the first group would be adequate for the matter which has been so excellently classified and elaborated by the author. It would be futile here to enumerate the many types of receivers and receiverships that are treated. Suffice it to say that Mr. Clark has made a contribution to his profession and that others who are to follow in this necessary method of compilation will do well to imitate his exhaustiveness and clarity.

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CARMODY ON PRACTICE. Edited by B. G. Bonomi. New York: Clark Boardman Co., 1930, Vols. 2, pp. 1554.

The first edition of Professor Carmody's work appeared in 1923, when the Civil Practice Act had been in effect but two years. It immediately became the standard practice manual of the profession. When it was written there were few New York decisions explaining the significance of some of the innovations introduced by the Civil Practice Act. In his chapter on declaratory judgments, for example, the author had to place his main reliance on the English cases.

Now that more than eight years of litigation under the new practice has settled most of the doubtful points, it is appropriate that Professor Carmody's work has been rewritten. At this task he was engaged at the time his death lost him to the profession.

The new work is more than a later edition of the old. It is enlarged and exhaustive. It is an encyclopedia of civil cases in this state. It is to be issued in twelve volumes, the first two of which are now off the press.

The first volume is an introduction, dealing with the history of procedure, both at common law and equity, as well as the history of the New York practice statutes, the "Field" code of 1848, the "Throop" code of 1876, and the present Civil Practice Act of 1920; the distinction between actions and proceedings; the courts of the state, their history and jurisdiction; officers of courts, including judges, attorneys, sheriffs and clerks, and what the author terms "tools of practice," that is, affidavits, motions, undertakings, and so forth.

The historical matter, invaluable to the student, is hardly less valuable to the practitioner. There can never be an understanding of the rule of today if we forget why it replaced the rule of yesterday. To find this historical matter concisely reviewed in the first volume of this standard practice manual should save the practitioner much searching among original sources.