

Aron's Notes on Proof (Book Review)

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and separation in fact. Under each of the usual encyclopedic titles and sub-titles (*e.g.*, divorce; causes, defences, jurisdiction, limitation, effect, alimony, etc.) there is summarized the law of each jurisdiction. The text provides the guide and a running commentary on the laws as they appear in the tables. The names of the states are printed in bold-faced type to facilitate reference to the law of a desired jurisdiction. In addition to the tables reference is made at the end of each section to books, notes, annotations and cases in point.

The virtue of this work is found in the collation of the statutes of the various states and in the placing of them in juxtaposition so that a comparative analysis of the different laws is made easy. Much of the text accompanying these tables is superfluous, being merely a duplication or summary of the schedules. Thus an example taken from page 94 on the use of proctors in the American courts:

"In four states intervention is permitted only in divorce cases where insanity is the ground for divorce; in two states only where suit is for divorce and the defendant defaults; in one state only in legislative divorce cases; in one where the divorce is not contested or there is no contest in good faith; in four states only where the divorce is uncontested or the court orders intervention. * * *"

And so on for the remainder of the paragraph. The information here given can be found readily enough in the table on the opposite page, and for the practicing attorney the space could be better devoted to more cases interpretive of the statutes. Those who have studied under the case system and from heavily annotated texts will be surprised at the few case references. Professor Vernier has relied almost exclusively on the words of the statutes.

To students of sociology and members of legislative committees employed in codal revision this work should be of great value. It is here, perhaps, that it will find its largest field of usefulness, for the daily practitioner is hardly concerned with a nation-wide comparison of statutes. The sociologist will find this volume a starting point in the investigation of familial legislation, for the author makes no attempt to discuss the social problems behind the divergence from state to state in the rights and remedies which his book discloses. That such a discrepancy exists we are all aware, but only such a book as this reveals the differences, unreasonable and unaccountable unless we are mindful of the vagaries of our law-making bodies, through the whole width and breadth of this section of our jurisprudence.

Perhaps this book will assist those working for a deeper comprehension of our family problems and indirectly further the movement for a uniform system of divorce, the prospects for which this author is none too optimistic.

THOMAS M. McDADE.

Brooklyn, New York.

ARON'S NOTES ON PROOF. By Harold G. Aron. Connecticut: Georgic Press, 1932, pp. XXIV, 561.

The power of suggestion, it is said, is stronger than the act of expression. One might well confirm the truth of the statement after an evening spent with Mr. Aron's latest contribution to legal literature. The bulk of the material

employed in the text is subjected to criticism and, without a doubt, the choice of weaknesses in the probative law was made judiciously. The judicial system is cast in its true light and the defects appear as black spots on a white surface. Mr. Aron is concerned with a "rational adjustment of rules of evidence and principles of proof to human experience and trial practice, intelligent allocation of judicial skill and ability, and restrictive realignment of activities of members of the legal profession, [which] will accomplish much in overcoming the lack of confidence now existent subjectively, and objectively, in the administration of the civil and criminal law indicated in the numerous inquiries, official, institutional and philanthropic, now concerned therewith."

The opening chapter, entitled "The Probative Law," is replete with definitions and a consideration *inter alia* of proof, evidence generally and more specifically incompetent, irrelevant and immaterial evidence, rules of evidence and the "law" of evidence, the best evidence rule, extrinsic, intrinsic and circumstantial evidence, the parol evidence rule, the hearsay rule and its exceptions, admissions and confessions, notice, statute of frauds, *res ipsa loquitur*, and presumptions. Here are discussed the problems presented in the application of the rules of evidence to situations arising by virtue of the introduction of one or more of the phases thus mentioned. The difficulty the reader experiences at this point is that a mass of propositions is presented without a constructive suggestion for improvement based on a practical analysis for the solution thereof. It may be that the philosophical suggestions and recommendations of a Bentham or the scientific conclusions of a Wigmore are inadequate—the task for the present is to present and advocate reform in the light of necessity, not merely to point out the defects.

Chapter II deals with "Judicial Procedure." The presentation of the material is no less organized. The problem of "judge or jury" has long been hackneyed—and it should have been considered finally in "The Law of Evidence—Some Proposals for Its Reform" published a few years ago. The statutory material, if not new, is interesting.

From the viewpoint of the neophyte, Chapter III is perhaps the most interesting. Mr. Aron states an alphabetical classification and some attributes of proof which in style are novel and to the interested reader form a basis for intensive research.

The balance of the book is devoted to the matter of proof in actions *ex delicto*, *ex contractu*, actions affecting real property, actions against decedent's estates, equitable actions, crimes (with a sectional statement of the penal law of New York State) and a consideration of the police power. Realizing the innumerable problems which present themselves in any phase of law, the author is limited, regretfully, to passing comment or criticism. Here as elsewhere, to employ the words of a notable member of the Bar, "more and not so much is needed."

The volume contains a pocket supplement for the inclusion of authoritative matter and supplemental information. In addition to the author's index, space is allotted for the inclusion of the reader's own suggested index.

Mr. Aron is to be commended for the lucidity of expression and understandable presentation of text material.

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