

THE
AMERICAN
LAW REGISTER

VOLUME { 48 O. S.
 { 39 N. S.

FROM JANUARY TO DECEMBER, 1900

PHILADELPHIA:
PUBLISHED BY THE EDITORS.
1900.

Copyright, 1900,
By
THE EDITORS.

BOOK REVIEWS.

GREENLEAF ON EVIDENCE, SIXTEENTH EDITION. Edited by JOHN H. WIGMORE. Vol. I. Boston: Little, Brown & Co., 1899.

The AMERICAN LAW REGISTER has already published some paragraphs of this latest edition of Professor Greenleaf's book, in the form of an article by Professor Wigmore, entitled "One View of the Parol Evidence."

The writer of this article therein suggests that the so-called "Parol Evidence" Rule does not really concern the doctrine of evidence, but simply declares certain things which might otherwise be proved, to be legally immaterial for some reason of substantive law. It is a doctrine imposing restrictions upon the sort of data that are to be considered as effectively supplying the terms of the legal act—that act's terms having been reduced to a single memorial by a process of integration.

This article appears in the text of Mr. Wigmore's Greenleaf at pp. 434, *et seq.*, under the head "Another View of the Parol Evidence Rule," immediately following the original sections on the subject, and we refer to it to illustrate the manner in which the present edition has dealt with the text. Up to this time the work has run through fifteen editions without any substantial alteration of the text, but Professor Wigmore has found a different treatment necessary. As he says in his preface, statutory changes, development of doctrines and new applications require additions too cumbersome for notes, and the requirements of a practical treatise have made it desirable to omit portions of the text which no longer state the law. Moreover the editor has found it necessary in many instances to transpose the original sections in order to remedy errors in the order of treatment. All omitted sections have been placed in an appendix, and matter inserted is indicated by brackets, the system of numbering and lettering the sections being such that the reader can readily refer to the original text and ascertain the original arrangement, while at the same time having the advantage of the more modern form and an unbroken text made up of current law.

Much more than the space gained from omissions from the original text has been taken up by three entire chapters (IV, V and XI), and more than a hundred new sections added by the present editor. Some fifteen thousand cases are cited, covering, in a large number of questions having particular interest, all the available authorities.

Of the chapters inserted entire from Mr. Wigmore's own pen, Chapter IV deals with Real Evidence—the presentation of the object itself for the personal observation of the tribunal called by him "Optic Preference;" Chapter V treats of Circumstantial Evidence as bearing on the subject of Relevancy, and Chapter XI with the exceptions to the hearsay Rule formed by evidence of regular book

entries made in the course of business. The treatment of the subject-matter of these chapters is clear and concise and the citation of authorities ample.

Among the portions (not comprising whole chapters) inserted by Mr. Wigmore, particular attention may be called to the discussion of the so-called "Best Evidence" Rule, Sections 97a, *et seq.* He there points out that the oft-quoted principle "that one must bring the best evidence that he can," while perhaps once useful as a general principle, cannot now be regarded as a fixed rule, as it is not true to the facts and does not hold out in its application; and that in so far as it does apply, it is unnecessary and uninstructional. "It is roughly descriptive," he says, "of two or three rules which have their own reasons and their own name and place and are well enough known without it." These sections clear up, in a brief and convincing manner, some of the obscurity which surrounds the subject in the minds of many practitioners and in not a few text-books and decisions, and together with the sections on the "Parol Evidence" Rule, above referred to, add much value to a work which has already stood the test of time. We understand that the book has already had a large sale and can recommend it alike to the student and to the practicing lawyer.

C. H. H.