NEW YORK LAW SCHOOL

NYLS Law Review

Volume 3
Issue 2 *VOLUME III, APRIL 1957, NUMBER 2*

Article 9

April 1957

BOOK REVIEWS

BOOK REVIEWS

FROM EVIDENCE TO PROOF. By Marshall Houts. Springfield, Ill. Charles C. Thomas, Publisher, 1950. Pp. 396. $7.50.

THE courses in Evidence currently given in the law schools are concerned for the most part with common law and statutory rules regarding the admissibility of oral testimony and documents. The law student is educated to distinguish between the relevant and irrelevant, the competent and incompetent, and the material and immaterial. A course in Evidence is, in fact, a most indispensable prerequisite to the hopeful aspirant for the Bar examinations. And, furthermore, a comprehensive knowledge of the rules of evidence is likewise of prime necessity for the trial lawyer. Oddly enough, many attorneys who are expert in the law of evidence "know little or nothing about evidence itself—about proof or fact finding." This reviewer is in complete accord with this observation made by the author of "From Evidence to Proof."

What about the art of proving facts? Unhappily the law schools cannot hope to impart practical instruction in this skill because of limitations of time and curricula. Unfortunately for the practitioner, either he finds too little has been well written in this field, or he is content, coincidentally, to develop facility in this specialty as his years of courtroom experience increase.

The aim of this book is to convey an understanding of the fundamentals in the art of proving facts, to stimulate an affirmative and objective approach to fact finding and proof. The aim has successfully met the mark. Dedicated to Earle Stanley Gardner, the noted lawyer, trial analyst and author, a well-thumbed copy of this most informative and well-illustrated volume would not be out of place on the desk of Perry Mason. Nor would it be out of place on the desk of a good trial lawyer.

The major undertaking of the trial lawyer is to prove facts, and to argue successfully the inferences which fairly flow from them. On the other hand, it is an important responsibility of the advocate to disprove seeming facts, and thus prevent inferences unfavorable to the interests of his client. Success in either area is directly related to proper preparation for trial, and complete familiarity and understanding, not alone with the subject matter of the trial, but with every conceivable item of evidence which may be introduced. Only too often attorneys in the courtroom exhibit a poorly prepared case, or display inability to interpret, correlate and evaluate the evidence adduced. Furthermore, with respect to expert testimony, there is too little familiarity with the techniques, tests and methods by which experts reach the conclusions upon which juries so often heavily rely. This is just as true of civil as of criminal cases.

This book will prove of inestimable aid in both fields. The author's background as an experienced lawyer and investigator, his apparent close connection with specialists in the field of law enforcement, have made him well qualified to discuss fact-finding and proof.

Many chapters in this book will appear to be old hat to the experienced courtroom attorney. Those chapters consider eye-witness identification and testimony, confession of guilt, and alibis. But those chapters do have much which is based on recent scientific determination. For example, in discussing eye-witness testimony, the author states:

"The minimum time required for a normal person to react to the sound of a collision and turn his head 90 degrees to the right or left is 1/5 of a second. This means that unless the witness is looking directly at the crash, he does not see it. He sees the result of the collision; and if one car rolls off a sizeable distance from the point of impact,

he may see this. But he does not see the crash. When he describes what happened, he is filling in and reconstructing what he thinks happened—not what he saw."[1]

Now it is obvious that an appreciation of the author's point, properly and artfully brought out in a courtroom, may very well mean the difference between success or failure in the trial of a negligence suit.

There are also informative and lucidly written chapters dealing with such special fields as Document Examinations; Photographic Evidence; the Polygraph and Truth Serums; Scientific Measurements of Intoxication; Fibers—Soil—Blood, Spectographic Analysis; Determinations of Time of Death, and Poison Cases. Parenthetically, in connection with photographic evidence, it is interesting to know that one of the largest photographic processing laboratories will readily furnish an interested party with affidavits concerning the receipt, development and return of film submitted for processing. Needless to say, the possession of such affidavit can do much to obviate an objection to the introduction of such film, when the chain of possession is contested.

Now, what is important to this reviewer is that this book in discussing many of the fields of investigation referred to above, presents the tests, methods and techniques relied upon by experts in formulating their opinions. The fact that an expert is qualified to give opinion testimony does not necessarily mean that the results he found were based either on modern, up-to-date methods, or upon tests which were properly performed. The author affords the reader an intelligent discussion of many of the reliable tests used in these various fields, and of which the trial lawyer should have an intelligent understanding.

The conclusion that the face of a check was not altered might be unquestioned and accepted, but for the omission to have the check photographed by an infra-red process. A microscopic examination of the flow of ink through the crease of a folded paper, might indicate the forged addition of a word to the document. An alerted observer would be ready to interrogate the expert with respect to these matters of scientific and courtroom interest.

In a Surrogate's Court proceeding, the exact time of death may prove to be of utmost importance. Here, the resourceful examiner would have to be as familiar with the tests concerning rigor mortis as a factor in the determination of the issue, as the most seasoned member of the criminal bar.

From a reading of this book it is found that there is no end to the cases where knowledge of scientific methods and procedures can be used. The reader will learn of the possibility of scientific appraisal in proceedings concerned with the authenticity of wills, and deeds, letters and diaries, and in the broad field of tort liability, in contracts, and certainly in the field of criminal law.

One chapter of this book appeared most unusual and interesting, although somewhat too brief. Under the heading "Figures Do Lie," the author discusses investigative accounting. He states that the investigative accountant

"must go behind the books and balance sheet to determine whether they are real or fictitious, whether the entries are genuine or fraudulent; and in many instances he must construct a set of books from extraneous sources where none heretofore existed. He cannot rely upon normal accounting procedures; and because there is usually a monetary limitation on the number of days he can be employed, he must adopt short cuts which will enable him to detect the critical items most likely to produce results."[2]

Thereafter the author sets forth various aids which should assist the trial lawyer and investigator in determining the truth or falsity of books and records, and related documents dealing with figures. For example:

[1] Page 31.
[2] Page 192.

"Any drastic change in operating routine within four or six months before the bankruptcy petition should be viewed with suspicion as indicating a possible concealment or diversion of assets."[3]

Again,

"In many cases, the books and records of the company will be kept in established order until a period shortly before the petition. They then become incomplete and out of balance. No postings are made from the journal or invoices or sales tickets. This breakdown in bookkeeping routine is indicative of the point at which bankruptcy was first seriously contemplated."[4]

Experts may quarrel with the accuracy of this observation, because such a breakdown in bookkeeping procedures would be construed as an indication that, at that point, bankruptcy was not just contemplated; it was imminent, and had, in fact, already been decided upon.

With respect to stockholders' suits against management, in a small closely held corporation the following advice is given:

"All tax returns should be carefully checked against the corporate books. In many instances they won't agree with the set of books shown the minority. The management may have no scruples against defrauding the stockholders; but they do fear the long arm of the Federal Government in income tax matters."[5]

There are many charts included in the text which will add to the reader's fund of knowledge. Valuable data is furnished concerning stopping distances for various vehicles based upon certain reaction times. There are charts describing the obvious symptoms associated with 51 different poisons, and mathematical conversion tables treating with various units of measurements.

It is to be regretted that some of the chapters which caught this reviewer's eye were too brief, and, coincidentally, interesting subject matter was insufficiently developed. As one example, in discussing the electronic recording of conversations, the author suggests that

"By dubbing and restringing words, however, it is possible to attribute almost any conversation to a person, provided enough of his words are recorded."[6]

Unfortunately, the author fails to describe the technique by which this could be accomplished, and how such falsification and transposition of the spoken word could avoid detection. Consequently, he has omitted that which could be a very interesting sidelight on the use of electronic equipment.

The lawyer should not merely be a student of the law, he should be a student of the facts. He should have more than a casual familiarity with items of business, techniques in applied science, and skills in the arts. His scope of knowledge should be universal and he should be a stranger to no problem. "From Evidence to Proof" fills a need for those who are seriously concerned with the art of proving facts.

HAROLD BIRNS

PROFESSOR OF LAW
NEW YORK LAW SCHOOL

[3] Page 194.
[4] Page 195.
[5] Page 197.
[6] Page 189.

AMERICAN CONSTITUTIONAL LAW. By Bernard Schwartz. Foreword by A. L. Goodhart. Cambridge, England: At the University Press, 1955. Pp. xiv, 364. $5.00.

THIS book by Bernard Schwartz, Professor of Law and Director of the Institute of Comparative Law of New York University, contains a Foreword by A. L. Goodhart, Master of University College, Oxford, England. Published in 1955 it is another in a series of treatises relating to the Constitution of the United States of America that have appeared within the past decade. It purports to set forth, explain and discuss the fundamental law of America,—not all of it to be sure, for the book contains only 232 pages of textual material,—but enough of that law and the interpretation thereof to give, in the opinion of the author, an understanding of how the American Constitution functions. According to Mr. Schwartz, emphasis has been directed to significant changes and developments that have occurred in this basic law in recent years. It is a volume written primarily for the British reader.

The book is separated into two parts of about equal length. The first portion entitled "The Structure" has five chapters,—The Bases of the American System, The Federal System, The Congress, The President, and, The Courts. The material of the second section, entitled "Modern Developments," is presented in seven chapters with headings,—The New Federalism, Presidential Prerogative and the Steel Seizure Case, The Changing Role of the Supreme Court, The Negro and the Law, Civil Liberties and the "Cold War", Administrative Law, and The United States and the United Nations. Although some readers might be inclined to wish that certain fields,—citizenship, religious liberty and the state, war power of the President, for example,—concerning which a considerable body of constitutional law has come into being within recent years, might have been given greater attention than was devoted to them. No one can find serious objection to the subjects selected to illustrate the purpose Mr. Schwartz seems to have had in mind in undertaking his study. This can be said despite the heterogeneous grouping in the second half of the treatise where a number of matters, not all of which are so modern, are found. Possibly there should have been a third part devoted to decisions of the Supreme Court, in other selected areas, as well as to certain subjects now included in Part II. If this had been done, it is thought that the study would have not only greater uniformity and comprehensiveness but also greater clarity.

As would be surmised from the chapter titles, the author in Part I discusses the underlying principles on which the American State was founded and by which its activities are supposed to be controlled. There the three main agencies of the Federal Government,—Legislative, Executive and Judicial Departments,—which are charged with the function of carrying into practical effect the authorities and powers enumerated in the fundamental law in accordance with the spirit of that instrument, are outlined and explained. How these powers, authorities and spirit have changed and expanded over the years is of particular concern to the author.

In Chapter II, The Federal System, America's most novel, and possibly its most permanent contribution to the science of representative government of large land masses of diverse character, is considered. But a discussion of the possibilities of this system as illuminated from the American experience, or the necessity for some such form of government if man shall be permitted to work out his destiny and develop his potentialities free from the daily need to stand guard against an overbearing government, is scarcely touched upon. On the contrary, in rather matter of fact, uninspired language, the author is content briefly to describe the system with the relationships, legal and otherwise, between the National and State Governments, and compare and contrast that system with those found in other modern states a few of which were established on the American model.

In the view of this reviewer, however, the most serious defect of this study lies in the realm of craftsmanship. By count, more than one-third of the words used in the text are in quotations,—a circumstance that raises the question of whether Mr. Schwartz is not indeed an editor rather than an author. This is a serious indictment, but let the pages speak for themselves.

The first page of textual material, page 3, contains 389 words of which 245 are quoted. Page 4, with 423 words contains 95 quoted words, while page 8 has 390 words of which 131 are quoted. Or by taking every tenth page in a sampling process, and by adjudging that each page of the text, exclusive of footnotes, contains four hundred words, the number of quoted words, placed in parentheses, runs as follows: pages 13 (125), 23 (95), 33 (97), 43 (239), 53 (43), 63 (249), 73 (62), 83 (55), 93 (251), 103 (99), 113 (148), 123 (93), 133 (79), 143 (3), 153 (38), 163 (120), 173 (297), 183 (215), 193 (202), 203 (54), 213 (279), 223 (275), 233 (229), 243 (65), 253 (222), 263 (61), 273 (96), 283 (79), 293 (41), 303 (204), 313 (0) and 323 (79).

The result of this sampling of thirty-three pages shows that 4,439 words were quoted. On the basis of the assumption of four hundred words to a page, the sampling demonstrates that slightly more than one-third of the textual material of this book has been qouted by the author which, no matter how smoothly woven among and into his own words, would seem to be quite an astounding performance in a study which claims to be a primary work. True, Mr. Schwartz almost without exception does, in footnotes, cite the sources from which the quotations were taken, but such creditation does not erase the impression that his was more of an editorial job than an original production. In a sense he has written a gloss upon the subjects to which he directed his attention.

Although the total number of words that were quoted in *American Constitutional Law* was not made, even a casual perusal of it will supply convincing proof that the pages selected are not exceptional. The thirty-three pages cited above, chosen at ten-page intervals, refutes any suggestion to the contrary. As a matter of fact, some pages contain a larger number of quoted words than any cited above, and few indeed are the pages which contain none. In this connection attention is directed particularly to pages 31, 34, 41, 50, 52, 65, 85, 180, 194, 229, 241, 248, 261, 279 and 318, among others.

None of this criticism, however, should blind a prospective reader of Mr. Schwartz's book to its substantial value and importance. Within its 332 pages of textual material it manages to cover a considerable amount of ground, and will most assuredly occupy a place in the field of public law. And, who knows, perhaps the British reader, for whom the author has written, may welcome the numerous quotations as evidence of the verity of the exposition undertaken.

The Index of Cases, and the General Index, are to be commended.

PAUL M. HAMLIN

PROFESSOR OF LAW
NEW YORK LAW SCHOOL

MISCELLANY-AT-LAW (*subtitle:* A Diversion for Lawyers and Others). By R. E. Megarry, Q. C. London: Stevens & Sons, Limited (agent—The Carswell Co., Ltd., Toronto, Canada). Second Impression, Revised, 1956. Pp. xvi (Glossary; Abbreviations), 365, and 10 (Table of Cases; Table of Statutes), and 37 (Index) with annotations. $4.25.

THE author[1] of this highly informative and most entertaining collection of essays on judicial writings and general legal literature is best known to the Bench and Bar at this side of the Atlantic as the Assistant Editor of the renowned *Law Quarterly Review*. Mr. Megarry has brought to fruition the long nurtured hope of many to put into permanent form jottings, cuttings, and memorabilia which have struck one's fancy and have kept piling in the corner of a desk drawer invisibly marked for sabbatical divertissement. In confessional fashion, the preface tells us, "the book includes many of the curiosities of the law which, having come my way, have survived the frailty of human memory and of notes often made on fugitive scraps of paper." To the purpose that others may not lose heart, one reads, "most of the raw material is what I have chanced to encounter during the last twenty-five years, usually while looking for something else."

Mr. Megarry's accumulation of a quarter century is presented not in the style and manner of Bartlett; rather by means of admirably composed and ingeniously devised connecting passages the book is read as a continuous whole, in reality—a collection of legal essays generally in the lighter vein and ponderosity *in forma pauperis*. The commentaries by the author give the volume the hallmark of a polished and substantial contribution to the bookshelves of general literature of Anglo-American law. The fragments of opinion and text writings which constitute the warp of the work are particularly characterized by clarity of thought, charm of style, originality of reflection and expression, and striking arrestment.

Miscellany-at-Law is divided into three main parts, successively and quaintly entitled "Homo Sapiens",[2] "Pith and Substance",[3] and "Cursus Curiae".[4] The branches of the law which sprinkle the pages are as varied as the law reports themselves. They are incased in such fresh and savory captions as "Philologists of the Highest Order", "A Resounding Slap", "Sinning in Their Graves", "The Uplifted Knife", "The Clapham Omnibus", "These Scambling Reports" and "Of Peculiar Language".[5]

To this reviewer, the task of appraisal may best be accomplished by testimonial to the expert handling of rich materials, a gilt-edged balance of subject matter, and the

[1] R. E. Megarry, Esq., Q. C., of Lincoln's Inn, Barrister-at-Law, Reader to the Inns of Court School of Law, Special Lecturer, City of London College Summer Course in English Law and Comparative Law, consultant to the British Broadcasting Company program "Law in Action," member of the Lord Chancellor's Law Reform Committee, and the Incorporated Council of Law Reporting.

[2] The essays comprising this part are entitled successively: the Chill and Distant Heights; Philologists of the Highest Order; Stuff and Silk; There's Nowt so Queer as Folk; Stranger than Fiction; Cakes and Ale; A Resounding Slap; Baron et Feme; The Golden Met-Wand.

[3] (In continuation:) The Chancellor's Foot; An Ungodly Jumble; Sinning in Their Graves; A Patriotic Duty; The Uplifted Knife; Mutcomb's Hackney; The Flushed Moorcock.

[4] (Continued:) Judico Me Cremari; Blowing Hotter; The Clapham Omnibus; A Horse High and Unruly; Dumb but Eloquent; These Scambling Reports; The Trail of the Calf; Not Wrong but Pretty Odd; and, Of Peculiar Language.

[5] Pages 25-40, 107-110, 158-172, 179-191, 260-269, 288-303, and 349-365 respectively.

high merit of selection. With a warm sense of confidence, it is precise to say that Mr. Megarry has not disappointed the foreshadowing of the subtitle: "a diversion for lawyers and others."

Though the work is essentially a mine of judicial anecdote and wit, in the reviewer's mind, the volume identifies itself with an unusual amount of research and solid scholarship as represented by the woof of the work. There is full documentation of materials through innumerable citations of court opinions,[6] statutory references,[7] and those from legal and non-legal books and periodicals emanating principally from the British Isles and the United States.

Indices of the keen interest, fascination, and learning which extrude from the production may be gleaned from the following gems. "And/or" in an affidavit; copyright and burlesque; curious careers in the law; dead hand slaps living body; exploratory operations on judges; fuliginous obscurity; golden scales and political hotheads; headnotes to law reports; I as a Christian name; Jewish judgment; cheaper to kill than maim; and larrikins of the law.[8] Also, comments on the vicissitudes of connubial existence; testator's right to nonsense; "O. K." as a commercial barbarism; libelous photographs; a case that can quadrate; jural relics borrowed by Ireland; judges retiring for a necessary purpose; angels performing saltatory exercises; unhealthy working conditions in courts; welter of chaotic verbiage; well-meaning sloppiness of thought; beware of Yo Yo; and, Land of Zero.[9] To the foregoing one might add contributions from the realm of verse ranging from "Daisy Bell" to the Bard of Avon; and curios, *per* Ben Trovato.

Of the English Bench, Mr. Megarry has drawn most heavily from the pens of Scrutton L. J., Lord Macnaghten, MacKinnon L. J., Lord Atkins, Bowen L. J., Lord Sumner (Hamilton L. J.), Jessel M. R., and Lord Mansfield C. J. A morsel from the quoted opinions of each of these illustrious sons of Dame Justice is herewith noted as a pure gesture of intellectually gustatory anticipation. "Personally, I do not understand the difference between a thing dangerous in itself, as poison, and a thing not dangerous as a class, but by negligent construction dangerous as a particular thing. The latter, if anything, seems to be the more dangerous of the two; it is a wolf in sheep's clothing instead of an obvious wolf."—*per* Scrutton L. J.[10] "Income tax, if I may be pardoned for saying so, is a tax on income."—*per* Lord Macnaghten.[11] "A statement using the words 'intend' or 'intention' in form may be, in substance, a representation in fact. If one says 'I am growing old; I do not intend to live long,' in form, he states an intention, in substance, he states a melancholy fact."—*per* MacKinnon L. J.[12] "The fact is that there is not and never has been a presumption that every one knows the law. There is the rule that ignorance of the law does not excuse, a maxim of very different scope and application."—*per* Lord Atkin.[13] "I believe that *obiter dicta,* like the proverbial chickens of destiny, come home to roost sooner or later in a very uncomfortable way to the Judges who have uttered them, and are a great source of embarrassment in

[6] No less than one thousand cases commencing with the Year Books.

[7] Approximately one hundred statutes ranging from Magna Carta to the Landlord and Tenant Act of 1954.

[8] At pages 28, 92, 10-15, 110, 329, 354, 191, 289-290, 43, 182, 258, and 23.

[9] Respectively, pages 111-126, 158, 28, 199-200, 158, 229, 288-289, 177, 352, 241, 201, and 224.

[10] Hodge and Sons v. Anglo-American Oil Co. (1922) 12 Lloyd's List L. R. 183 at 187.

[11] London County Council v. Attorney-General [1901] A. C. 26 at 35.

[12] Salisbury (Marquess) v. Gilmore [1942] 2 K. B. 38 at 51.

[13] Evans v. Bartlam [1937] A. C. at 479.

future cases."—*per* Bowen L. J.[14] "I think, however, that Lord Bacon's warning against inquiry into the causes of causes applies equally forcibly to a microscopic analysis of the incidents of a casualty as a means of discovering the proximate cause. His phrase appears to me to apply equally to an infinitely intensive analysis as to an infinite historical retrospect."—*per* Lord Sumner.[15] "The modern doctrine is not to hold a will void for uncertainty unless it is utterly impossible to put a meaning upon it. The duty of the Court is to put a fair meaning on the terms used, and not, as was said in one case, to repose on the easy pillow of saying that the whole is void for uncertainty."—*per* Jessel M. R.[16] "If courts of law will adhere to the mere letter of law, the great men who preside in chancery will ever devise new ways to creep out of the lines of law, and temper [it] with equity."—*per* Lord Mansfield C. J.[17]

Lest the impression be made from the foregoing that the book under review is confined, in the main, to the timeless and universal judicial exertions of the author's homeland, let it be well marked that the contributions from the American Bench, books[18] and legal periodicals[19] are in abundant evidence. The reader will encounter a fair number of commentaries on the Constitution, the federal judicial system, restrictive laws, and the doctrine of *stare decisis* in the Supreme Court. In pertinent point of interest, Oliver Wendell Holmes[20] would appear to lead the Anglo-American Bench in numerical consideration. The quotations include the Massachusetts opinions, those of a predominantly distinguished thirty year service as associate justice of the United States Supreme Court, *The Common Law,* and the *Pollock-Holmes Letters.*[21] On this promontory stand also Benjamin N. Cardozo,[22] his New York opinions and those following appointment to fill the vacancy created by the resignation of Holmes, and from whose, *The Nature of the Judicial Process,*[23] the title of Mr. Megarry's initial essay, "The Chill and Distant Heights" is borrowed; and Learned Hand[24] whose contributions to the development of American jurisprudence made his judicial career one of the most illustrious in judicial annals.

Apart from Holmes and Cardozo, the Supreme Court Bench is represented by Associate Justices Louis D. Brandeis, Felix Frankfurter, William O. Douglas, Robert H. Jackson, and Owen J. Roberts. The United States Court of Appeals gives us, in company with Learned Hand,—Circuit Judge Jerome N. Frank,[25] and Associate Justice William Hitz.[26]

There are, as well, contributions from the various state judiciaries. In New York

[14] Cooke v. New River Co. (1888) 38 Ch. D. 56 at 71.

[15] Clan Line Steamers Ltd. v. Board of Trade [1929] A. C. 514 at 530.

[16] Re Roberts (1881) 19 Ch. D. 520 at 529.

[17] Doe d. Perrin v. Blake (1769) 1 Collectanae Juridica 283 at 321.

[18] E.g., HOLMES, THE COMMON LAW (Boston 1881); POLLOCK-HOLMES LETTERS (2 v. Cambridge 1941); CARDOZO, THE NATURE OF THE JUDICIAL PROCESS (New Haven 1921); THE GROWTH OF THE LAW (New Haven 1924).

[19] E.g., American Bar Association Journal, Harvard Law Review, Yale Law Journal, Cornell Law Quarterly, and Michigan Law Review.

[20] Massachusetts Supreme Judicial Court, Justice (1882-1899); Chief Justice (1899-1902); United States Supreme Court, Associate Justice (1902-1930).

[21] See note 18, *supra.*

[22] New York Court of Appeals, Judge (1914-1927), Chief Judge (1927-1932); United States Supreme Court, Associate Justice (1932-1938).

[23] See note 18, *supra.*

[24] United States Court of Appeals (Second Circuit), Circuit Judge.

[25] Second Circuit (New York, Connecticut, and Vermont).

[26] District of Columbia.

and from the Court of Appeals, Cardozo apart,[27] Judges John C. Gray, John F. O'Brien, and Greene C. Bronson. The Appellate Division of the Supreme Court furnishes the names of Presiding Justice William W. Goodrich,[28] and Associate Justices Edward Patterson,[29] and John Woodward.[30] And from the Supreme Court emerge James J. Roosevelt,[31] and William M. Rose.[32] Other state benches call forth Jeremiah S. Black,[33] Logan E. Bleckley,[34] William F. Cooper,[35] William P. Lyon,[36] John Wilkes Hammond,[37] Tully Scott;[38] and for the distaff, Mrs. Hortense Ward, Miss Ruth Virginia Brazzil and Miss Hattie L. Henenberg.[39]

To conclude, *Miscellany-at-Law,* as a diversion for lawyers and others, roundly fulfills the expectations aroused. Be that as it may, as a collection which exhibits an effervescent devotion to the law, the beauty and perfection of craftsmanship, and a wide range of philosophic outlook, erudition and wisdom, the volume bears the colophon of a celebrated contribution to the contemporary literature of law. It will become a silver link, a silken tie which mind to mind and heart to heart binds the Anglo-American Bench and Bar.

FRANKLYN C. SETARO

PROFESSOR OF LAW
NEW YORK LAW SCHOOL

[27] See note 22, *supra.*
[28] Second Department (1902).
[29] First Department (1902).
[30] Second Department (1902).
[31] Justice, First Judicial District (1850).
[32] Official Referee, Onondaga County (1933).
[33] Chief Justice, Supreme Court of Pennsylvania (1853).
[34] Chief Justice, Supreme Court of Georgia (1891).
[35] Chancellor, Chancery Court at Nashville, Tennessee (1875).
[36] Associate Justice, Supreme Court of Wisconsin (1871).
[37] Associate Justice, Supreme Judicial Court of Massachusetts (1909).
[38] Associate Justice, Supreme Court of Colorado (1916).
[39] Special Chief Justice, and Special Associate Justices respectively. Special Supreme Court of Texas (1925).