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## Book Reviews

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## BOOK REVIEWS

### HANDBOOK OF AMERICAN CONSTITUTIONAL LAW

By Henry Rottschaefer.<sup>1</sup> West Publishing Company, St. Paul, Minn., 1939.  
Pp. cxi, 875. Price: \$5.00.

From one standpoint, these are hardly propitious days for publication of constitutional treatises. The task of seeking to mould the great body of constitutional cases from the past to the present into an understandable and more or less symmetrical and growing pattern furnishes discouragement enough; but in addition, writers in this field must be prepared often to discover that, ere the printer's ink has dried, what was described as law is now but legal history. Already the United States Supreme Court has rendered obsolete a number of Professor Rottschaefer's summaries on constitutional issues. Nevertheless, this new addition to West's Hornbook Series will receive warm acceptance. Even in an era of fundamental legal reformations, lawyers require the assistance of new books to bring them up to date. Indeed, in such times, this aid is more vital than ever. For while scenes may shift instantly, these books, in freezing momentarily, for the reader, the movement of the law, provide a pause within which to take stock of events and to plan future courses.

For a handbook, this work has an agreeably surprising breadth of scope. In addition to topics normally treated in constitutional law courses, it discusses constitutional issues which are often relegated to conflict of laws, criminal procedure, and administrative law courses. The book is inviting to the constitutional law teacher not only because of this breadth of scope but also because of its rather even emphasis on all topics discussed.

It has often been observed that no two judges have ever fully concurred on their constitutional interpretations and judgments. It will scarcely occasion surprise that the reviewer, as a teacher nourishing his own pet notions as to the effect of various constitutional cases and doctrines, disagrees with a number of the author's conclusions and theories. What was more surprising to the reviewer was that agreement and common ground with the author was as extensive as it proved to be.

Often in the course of the book, Professor Rottschaefer summarizes the effect of a line of decisions without specifying the concrete facts upon which his cited cases rest. While his generalizations are sound and usually meaningful to one

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<sup>1</sup>Professor Rottschaefer is professor of Constitutional Law at the University of Minnesota.

recognizing the particular citations, failure to stress the fact situations may cause the author's statements to lose much of their significance when read by one unfamiliar with the citations. Obviously, this condition is the result of efforts to condense and save space. It is a matter of judgment, however, whether the "game is worth the candle."

No review of this work would be complete without a reference to the valuable bibliography of periodical literature and to the impressive collection of leading cases, numbering well over 4000, which are liberally interspersed throughout the book.

OCTOBER 16, 1939.

D. J. FARAGE

## LAW OF MARRIAGE AND DIVORCE IN PENNSYLVANIA

By Abraham L. Freedman and Maurice Freedman.

Joseph M. Mitchell, Philadelphia, 1939. Volume I. Pp. xxv, 931. \$10.00.

This volume covers the substantive law of marriage and divorce in Pennsylvania. Volume II, to be published later, will deal with procedure and forms and certain additional substantive matter, and, evidently, will contain an index and table of cases.

Too often a text book devoted to the law of one state consists merely of a digest of the local decisions and the text of the statutes, or else is made up merely of a compilation of the general rules, culled from the actual language of the opinions. Such texts must necessarily prove inadequate and even misleading, for an understanding of the law of one jurisdiction is not possible without an appreciation of the historical background and the evolution of and modern trends in juridical thought and legal concepts. Even in the field of Divorce Law, which supposedly is purely statutory in this country, the great bulk of the law is found, not in the statutes but in the cases; and here the courts are evincing a tendency to test the rules pragmatically, in the light of sociology and social statistics, and to discard or modify them when they are found not to be conducive to the promotion of family solidarity or to the fair adjustment of the interests affected by the actual break up of the family. Even the express language of a statute may be found not to mean what it says, where the court feels that its literal interpretation does not correspond with present attitudes toward particular activities in the family fold. An apt illustration of this is the Pennsylvania case of *Wilson v.*

*Wilson*,<sup>1</sup> where the court, after a consideration of the Canon Law doctrine and law in other states, concluded that "impotent, or incapable of procreation" means "impotent and therefore incapable of procreation." Hence a text on the law of one state must be historical, analytical, comparative, and critical, as well as contain a discussion and citation of all the local decisions and statutes.

The present volume complies with these requirements of a good text. The teaching experience of one of the authors<sup>2</sup> is reflected by the careful, thorough, analytical, and critical treatment of each topic; while the collaboration of an active practitioner<sup>3</sup> is evident in the occasional questions and suggestions of a purely practical nature. The book contains an exhaustive citation of all the Pennsylvania cases, appellate and lower court, and the text of the Divorce Law and of the laws relating to marriage. For the student or lawyer who wants to make a complete study of a particular point there are numerous references to the leading law review articles, to the annotations, and to the general text books. It is the only work which deals with the law of marriage in Pennsylvania.

This text is a valuable addition to the legal materials on Pennsylvania Law.

F. E. READER

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<sup>1</sup>126 Pa. Super. 423, 191 Atl. 666. Discussed in the text in Sect. 136.

<sup>2</sup>Abraham L. Freedman is Professor of the Law of Domestic Relations, Temple University Law School.

<sup>3</sup>Maurice Freedman is a member of the Philadelphia Bar.