



1914

## Book Reviews

Kentucky Law Journal

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### Recommended Citation

Kentucky Law Journal (1914) "Book Reviews," *Kentucky Law Journal*: Vol. 2 : Iss. 8 , Article 3.

Available at: <https://uknowledge.uky.edu/klj/vol2/iss8/3>

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and pleasure to voice their opinion. Like a trumpet it would sound their voice over the state of Kentucky and call them together to execute their plans. The lawyers and laymen are servants of the people and should disclose to them their opinion and plans. The Kentucky Law Journal is ever ready to make this disclosure. During the next session of school its columns should be filled with their diction. The trumpet now sounds the call of the servant to duty. We trust that each alumnus will obey the call.

We the staff in delivering the care and publication of the Kentucky Law Journal into the safe hands of our successors, with earnest solicitation ask that they be aided by each and every practicing attorney of the commonwealth of Kentucky.

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## BOOK REVIEWS

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“Principles of Judicial Proof,” Compiled by John Henry Wigmore, Professor of the Law of Evidence in the North Western University Law School. (Little, Brown & Co., Boston) I Vol. \$6.00 Net.

A scientific treatment of the subject by an able author. Professor Wigmore is as well known as any authority on the law of evidence in this country.

Following are some of the recent comments on his work in Evidence:

“Not only the best but the only authority in this country and England”—Harvard Law Review. “The Standard authority on Questions of Evidence,”—Justice D. J. Brewer, Supreme Court of the United States. In the present work of the author advances the proposition that heretofore too much consideration has been given to the Question of Admissibility and not enough to the Science.—The Principles of Proof,—The Value of a Mass of Evidence, and Law to ascertain that value. The author treats the subject in a very thorough, interesting, and scientific manner. He takes for his basis, Psychology, and General Experience and illustrates by Judicial Trials.

Following is a brief summary of the Contents: Introductory: General Theory of Proof. Part I. Circumstantial Evidence, which embraces, Evidence to prove an event, condition, quality, course, or effect of external inanimate nature; Evidence to prove identity; Evidence to prove a human trait, quality or condition, including Evidence to prove moral character, motive intent, etc.; Evidence to prove the doing of a human act; and the Datum Solvendum. Part II. Testimonial Evidence, which embraces Genuine Human Traits affecting the trustworthiness of testimony, including race, age, sex, mental disease, moral

character, bias experience, etc.; The elements of the testimonial process itself as affecting the trustworthiness of testimony, including perception, memory, narration, language and demeanor as a means of expression, confessions of guilt, etc.; The Interpretation Specific Testimony to establish the extent and sources of error, including classification of "Impeaching" or discrediting acts, etc. Part III. Problems of Proof in masses of mixed evidence. Numerous extracts are taken from the works of such authors as Hans Gross, author of "Criminal Psychology." Francis L. Wellman, Esq., of New York, author of "The Art of Cross Examination"; Charles C. Moore, Esq., author of "A Treatise on Facts, on The Weight and Value of Evidence," and many others. Nearly two hundred carefully selected cases are reprinted for the purpose of illustration. We recommend the book to both the student and practitioner.

"Brief Making and the Use of Law Books." (West Publishing Co., St. Paul). Two vols. \$3.50 net. Third edition by Roger W. Cooley, Professor of Law, North Dakota University; and Charles Leslie Ames. Since the second publication of Brief Making, in 1910, much interest in the subject has been manifested throughout the country both in law schools and in the profession. This interest has grown into a demand for a more comprehensive and thorough up-to-date treatment of the subject. Consequently, some of the best legal talent in America has been influenced to contribute to the new work. An entirely new analysis of the subject has been worked out in the light of experience and of a fuller knowledge. It is based purely upon the logical order of the different divisions of the subject, and upon practical consideration of class-room instruction. Part I. "Where To Find the Law," by Alfred F. Mason, editor of The American Law School Review, and Part II., "How To Find the Law," by Roger W. Cooley, Professor of Law, University of North Dakota, deal with matters of Legal Bibliography, and have been almost completely rewritten. Part III., "Use of Decisions and Statutes," by Eugene Wambaugh, Professor of Law, Harvard Law School, is divided into six comparatively short chapters. After drawing briefly the distinction between statutes and decisions and a short treatment of the interpretation of decisions, the author takes up in detail the subject of authority. And in this connection he has originated a very unique diagram to illustrate the various kinds of authority. In the other chapters he deals at length on the doctrine and dicta of the case as precedents, and the construction of statutes.

Part IV., "The Trial Brief," by Edson R. Sutherland, Professor of Law, University of Michigan, and Part V., "The Brief On Appeal," by Henry S. Redfield, Professor of Law, Columbia University, are both

treated in a comprehensive and practical manner. Part VI., Appendix. List of American Reports, Federal and State, showing the manner of designation. The different volumes and the place where the National Reporter System connects with the different series. English Reports listed in both alphabetically and chronological order. List of Digest; table of abbreviations, &c.

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## Important Cases Decided by the Court of Appeals of Kentucky During the Month of April, 1914

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### WYATT'S TRUSTEES, ET AL. VS. GRIDER, ET AL.

This appeal was prosecuted from the Warren Circuit Court, and involves the question of the power of trustees to sell lands belonging to infants, which power is given under the following will.

"I, Laura Wyatt, being of sound mind and disposing memory, do make this my last will and testament as follows:

"(1.) I want all my just debts paid.

"(2.) I want my trustee named hereafter to use all my property for the maintenance, support and education of my two infant daughters, till they are educated or quit school. My daughter, Lena, is in business.

"(3.) Subject to the foregoing provision, I give and devise to my five children in equal parts all my real and personal estate of every kind and character, to be held in trust till the youngest child is twenty-one years of age and then divided between them equally, provided that if three of my children be of age and all such agree that it would be best and so advise, my said trustee may dispose of said property and give the said three their interest and retain in trust and all the remainder for the benefit of the said other infants till they arrive at age respectively."

The question then arises whether or not the language of the will dispenses with the necessity of complying with the provision of the Civil Code regulating the sale of infant's lands; the court says:

(1.) "Where under a will, power is given to a trustee to dispose of the property devised if three of the testatrix's children, on arriving at age, so agree and advise, and the property is sold at a judicial sale which is void by reason of the fact that the infants were made plaintiffs and not served with process as required by the code, the fact that three of the infants, who were then of age, filed an answer ratifying and confirming the sale, is not sufficient to validate the proceedings or vest the purchases with title, and presents no defense to an action by the purchaser to have