the very modern life insurance trust is discussed and a form of such trust is given.

Part two devotes itself to the disposition of property, and here trusts of all kinds are considered with an extremely practical treatise on the law of wills, considering even the question of the capacity of the testator, the formality of the execution of the instrument, the attestation by the witnesses, the matter of undue influence and fraud; and all such practical matters as one would expect to find only in a treatise of the law of wills. Here also is the discussion of remedies other than the denial of probate or the establishment of constructive trusts; and all questions not common in practice relating to mistake by the testator, conditions arising therefrom, and the various forms of revocation.

Part three takes up the interpretation of wills particularly as to the trusts created thereby, which the author has always particularly in mind; and the subject of precatory trusts is well discussed. In this section the author arrives at his subject of future interests, which was the goal he had in mind. The discussion of remainders vested, contingent and executory, left in the conveyor or given to others, the rights of reverter and reversion, and powers of appointment are ably and clearly set forth. The rule in Shelley's case finds its place and explanation, without doubt as to its meaning or application, as well as the very refined distinction as to definite or indefinite failure of issue.

The chapter of this part of the book relating to dispositions to a class and to heirs or next-of-kin, which is often a stumbling block in the construction of wills, is admirable and helpful.

Within these thousand odd pages, Professor Powell has given us a great deal of useful legal information, not only theoretical but practical.

NEWARK, N. J. DANIEL L. CAMPBELL.

THE NEW JERSEY LAW OF EVIDENCE. By Frank G. Turner. New York: Clark Boardman, Ltd., 1933. pp. lxxx, 464.

Progress in law-book publication is strikingly attested by the contrast between the work entitled "New Jersey Law of Evidence," by Frank G. Turner, which came out in 1913, and "Turner's New Jersey Evidence," which has just issued from the press. The earlier work contained a two-page "Table of Contents," a a four-and-a-half page "Index," and about 260 pages of text, making a total of 267 pages. The present volume, extremely good-looking and well printed, with a thirty-nine page "Index," a fifty-nine page "Table of Cases," and 423 pages of text, totals 540 pages. Yet the two books are substantially identical in all essentials, excepting the annotation of cases subsequent to 1913 in the later book.

The present work is divisible into two parts. The first sets forth the Evidence Act and a number of conveniently related enactments, with annotations of cases and case-rulings under each section. The second part consists of a series of chapters each entitled with one of the familiar main headings or divisions of the subject and devoted to a statement of the case-law of New Jersey pertaining to its title, with foot-note citations of supporting cases. The author's annotations to the Evidence Act have defects of both commission and omission. For instance, the author nearly always reproduces verbatim the language of the case-syllabus itself without attempting to condense the ruling or to restate it, although invari-

ably a restatement is required in the interests of both clarification and emphasis, as well as space and time saving. For instance, in citing[1] *State v. Mussikee,* 101 N.J.L. 268, the author copies verbatim the case-syllabus (6) which, it happens, is itself not clear, and does not adequately and precisely state the related rule which is to be found in the decision. In this way the usefulness of the case-reference is materially lessened, if indeed it is not wholly lost to the user of the text. The same objectionable feature appears strikingly in the annotation[2] to *Eckman v. Wood,* 108 N.J.L. 105, where the author sets forth verbatim the first syllabus of the case, which is extremely lengthy and detailed, when the point could have been expressed more clearly and forcefully in one-fifth the space. On the other hand, in the annotation[3] to *Yatman v. Day,* 33 N.J.L. 32, by using a part of the case-syllabus alone, the author makes a statement which is so abbreviated and unprecise, as to be vague and obscure. The inadvisability of this sheer reproduction of a case-syllabus is strikingly displayed by the author's annotation[4] of the ruling in *Aller v. Aller,* 40 N.J.L. 437, under Section 15 of the statute, in which the specific and significant point that the section does not apply to a voluntary sealed instrument where no consideration was intended, goes unmentioned.

Nor is the author free from error in assigning cases to the various sections of the statute. Thus he places under section 15 a case which no relation thereto whatsoever, viz. *Morris Canal and Bank Co. v. Ryerson,* 27 N.J.L. 457, holding that parol evidence may be introduced to show the true consideration of a deed, although it is at variance with the consideration expressed therein. Incidentally this case which belongs under the heading of "Parol Evidence" is not mentioned in the annotations of the author's chapter on that title.[5] Similarly under Section 23 of the Act (relating to truth as a defense to libel), he annotates inappositely the case of *Schenk v. Schenk,* 22 N.J.L. 208, apparently and only because it is a case on libel. On the other hand, these annotations are manifestly incomplete. For example, under the very first section of the statute certain important cases are unmentioned, viz. *State v. Henson,* 66 N.J.L. 601, holding that the word "crime" as used in this section means any crime and that the word "conviction" therein includes a plea of *non vult contendere; State v. Snyder,* 93 N.J.L. 16 holding that a plea of guilty is equivalent to a conviction under this section; *State v. Mosely,* 192 N.J.L. 94, holding that a mere arrest or indictment does not affect the credit of a witness (citing this section); and *Huff v. C. W. Goddard Coal &c. Co.,* 106 N.J.L. 19, holding that a conviction for reckless driving cannot be shown to impeach a witness under this section. Unmentioned also, under Section 15 of the statute[6] is the important case of *United & Globe Rubber Co. v. Conard,* 80 N.J.L. 286, in which our Court of Errors and Appeals gives its sanction to the rule ennuciated by the Supreme Court in *Aller v. Aller, supra.*

We come now to the second part of the work, in which the author undertakes to summarize New Jersey case-law on Evidence in the form of distinct statements of rules based upon specific cases. Here, while adopting the accepted categories of the subject, he nevertheless abandons the well-recognized classifications

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[1] p. 2.
[2] p. 3.
[3] p. 3.
[4] p. 19.
[5] p. 132, *et seq.*
[6] p. 18.

within each category and proceeds to arrange his case-material in a manner which is as strange as it is novel. His scheme is this: he selects a key-word or key-phrase for each case, descriptive of some factual aspect of the case, and treating these key-words as if class-designations, he arranges them alphabetically and sets forth under each one the ruling on the point of Evidence embodied in the particular case. For example, in the chapter on Admissions[7] the first six key-words or phrases are: ACCIDENT, ACCOUNTS AND ENTRIES, ACKNOWLEDGEMENT, ADMISSIONS OF OTHERS, AFTER TRIAL, AGENCY; in the chapter on DECLARATIONS[8] the first six key-words are: ACCIDENT, ACCOUNT, ADVANCEMENT, AGENT, AGREEMENT, ANSWER; in the chapter on PAROL EVIDENCE[9] the first six key-words are: ACCEPTANCE, ACCOMMODATION, ACCOUNTS, ACKNOWLEDGEMENT, AGREEMENT, ALTERATION. That this scheme of classification is unconventional is not merely a formal demerit but an extremely substantial one; for it renders the subject-matter far less useful and available to the practitioner than if it were presented in accordance with the system of classification to which he has been trained and is accustomed. Nor is there anything of intrinsic value in the author's scheme to recommend it. It is unjustified either by logic or by practical considerations. To be sure in certain instances the key-word or phrase has either a broad significance and scope or a specific importance which make it generally useful, but this is an accidental felicity, too rare to vindicate the method. As glaring examples of its defects the following may be noted:

In the chapter on ADMISSIONS:[10]

"CROPS. Although not mentioned in an agreement for the sale of land, it may be shown by subsequent admissions of the vendee, that the green grain in the ground was reserved." (Citing case)[11]

"PIANO. Declarations of workmen sent to remove piano as to its condition and fitness for use as musical instrument held inadmissible against owner as hearsay, and beyond scope of employment in action for its rent." (Citing case)[12]

In the chapter on PRESUMPTIONS:[13]

"CONFIDENCE. It will always be presumed, unless the contrary appears, that sisters repose confidence in a brother." (Citing case)[14]

"DOCUMENT. Nothing can be legally presumed against a party neglecting to give notice to his opponent to produce a document at the trial." (Citing case)[15]

In allocating cases to his various chapters, the author is not infrequently misled into patent error, as in his chapter on "BEST AND SECONDARY EVIDENCE"[16] where he sets forth (under key-word "Marriage") the ruling that "After the lapse of many years, slight proof of an actual marriage, followed by

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[7] p. 64, *et seq.*
[8] p. 92, *et seq.*
[9] p. 132, *et seq.*
[10] p. 64, *et. seq.*
[11] p. 70.
[12] p. 79.
[13] p. 107, *et seq.*
[14] p. 110.
[15] p. 113.
[16] p. 165, *et seq.*

long continued living together as man and wife, is often the best and only evidence that can be obtained," a point which has nothing whatsoever to do with the best evidence rule.

In his chapter on DECLARATIONS[17] his citation of the case of *Higgins v. Goerke-Kirch Co.* 91 N.J.L. 464 is ill-advised, since the case more appropriately belongs in his chapter on RES GESTAE[18] in which it is not mentioned. The same can be said of his citation[19] of the case of *Brewer v. Porch,* 17 N.J.L. 377, which is out of place there, and belongs in the chapter on EXAMINATION OF WITNESSES[20] where, however, no reference to it is found. Indeed a test-examination of the cases which are embodied by the author in a single chapter, viz. the chapter on "Parol Evidence" (p. 122, et. seq.) demonstrates this erroneous tendency to an exceptional degree. In at least sixteen instances in that chapter alone the cases cited and made use of are unrelated to the "Parol Evidence Rule" or to the title of "Parol Evidence" as conveniently understood. These case are: *Homeopathic Mutual Life Ins. Co. v. Marshall,* 32 N.J. Eq. 103 (p. 133;), *Ruckman v. Ransom,* 35 N.J.L. 565 (p. 135); *Gansevoort Bank v. Carrigan,* 69 N.J.L. 404 (p. 135); *State v. Overton,* 85 N.J.L. 287 (p. 135); *Veader v. Veader,* 89 N.J.L. 399 (p. 137); *Meurer v. Kilgus,* 86 N.J.L. 243 (p. 142); *Clark v. City of Elizabeth,* 40 N.J.L. 172 (p 142); *Vandervere v. Gaston,* 25 N.J.L. 615 (p. 145); *State v. Manetti,* 90 N.J.L. 582 (p. 147); *Halpern v. Shurkin,* 98 N.J. Eq. 28 (p. 150); *Mairs v. Sparks,* 5 N.J.L. 606 (p. 150); *Ware v. Chew,* 43 N.J.L. Eq. 493 (p. 150); *Veghte v. The Raritan Water Power Co.,* 19 N.J. Eq. 142 (p. 151); *Den v. Clark,* 10 N.J.L. 217 (p. 151); *Freerman v. Marsh-Albertson v. Smith,* 3 N.J.L. 65 (p. 151).

While these defects of form and substance seriously impair the value of the work considered as a digest, the fact remains that it embodies in a neat and handy volume most of the rulings on evidence in our reports; and on that account the book may be acceptable to many lawyers as a ready survey of the field.

WALTER J. BILDER.

NEWARK, N. J.

A JUDGE TAKES THE STAND. By Joseph N. Ulman. New York: Alfred A. Knopf. 1933, pp. 285.

In an interesting informal manner, and with disarming candor, Judge Ulman in his book simplifies for the layman some of the apparent intricacies of our legal machinery, and reveals to the lawyer and jurist his observations of the nature of law as a social force.

While Judge Ulman ostensibly wrote for the layman, he in fact makes an invaluable contribution to the student of the law. He does not write with the purpose of proving a thesis. His opinions emerge boldly through the interesting recital of his experiences on the bench. In the main he seeks to describe "law in action," that is the actual administration of the law as distinct

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[17] p. 92, *et seq.*
[18] p. 252, *et seq.*
[19] p. 95.
[20] p. 266, *et seq.*