BOOK REVIEWS.

A DIGEST OF CASES DECIDED IN FRANCE RELATING TO PRIVATE INTERNATIONAL LAW. By Pierre Pellerin (Stevens & Sons, London, 1914).

This brochure is a collection of something over a hundred cases and compressed into as many pages, chosen from the decisions of the French Civil and Commercial Courts, including the Court of Cassation, between 1896 and 1913, and concerning English and American interests.

The decisions are mostly culled from the well known "Journal de Droit International Privé" of M. Clunet, the eminent French lawyer, and from the "Recueil des Sommaires" and the "Revue de Droit International Privé de Horn."

The cases relate principally to company law, jurisdiction of French courts and their procedure, the execution of foreign judgments, the transmission of property by inheritance and by will.

The book is really a digest of synopses, translated from the journals mentioned. Each synopsis is preceded by a still further condensed summary of the subject matter, which in the majority of cases seems to be far more inclusive than the synopsis. The facts of the cases are not stated and this lessens their value as precedents for the English or American lawyer.

The names of the litigants are not given, but the court and the date of the decision make it possible to refer for greater detail to the French reports. The author would have saved the reader time and trouble, had he given the reference of the case in the French reports.

Among the more interesting cases we note one of the Court of Lille, of 1912 (page 38), on the French income tax law of 1872 and 1890 as applied to an English corporation, in which it is decided that the tax only affects dividends distributed and in the possession of stockholders and that hence an accumulated profit allotted to existing stockholders in the form of an increased capital is not taxable and that it cannot be argued that the profit was in effect paid out as dividends and paid back as a subscription to increased capital.

A decision of the Commercial Court of Lyons, 1910 (page 53), is suggestive of a useful line of inquiry into the law of other countries. The case decides that a foreign corporation, unregistered in France, may yet be sued as a corporation by a French creditor in France, service being had upon the de facto branch existing there.

The decision of the Court of the Seine, 1912 (page 56), to which the author has appended a translation of the law of June 15, 1872, concerning the loss of negotiable securities, is interesting as a derogation upon Articles 2279 and 2280 of the Civil Code. These two articles lay down the rule governing the bona fide purchaser for value of chattels. The rule is that such a purchaser is protected against the true owner in all cases except those of articles lost or stolen. While in these cases, if the article is purchased in market overt, the true owner cannot recover it without reimbursing the bona fide purchaser the price he paid. The law of 1872 provides protection against the loss of securities "to bearer" (including stock so issued) by any means whatever. This protection is an opposition lodged against the debtor on the instrument, a process not unlike a notice sent to a bank by the maker of a check stopping payment on it.

As a whole the cases are exceedingly interesting. They would be more useful if the facts were given and the synopses were not so brief. We regret to note that the book is replete with typographical errors, wrongly divided and, in not a few instances, wrongly spelled words. The translation is at times awkward and at times incorrect, as where the author translates (750)
excutoire (p. 75 ff.) by "executory," the French word meaning "enforceable" without any further act. It is not to be expected that the reader, unfamiliar with French legal terminology, will understand that "common law" (p. 45) means the Civil Code.

The author states in his preface that it is his intention to publish a similar collection of French decisions on private international law every five years and it is hoped that so useful a work will be made of more practical value by greater expansion.

L. B. R.


It is part of the genius of the common law to boast of its pure empiricism and borrow copiously from foreign sources without credit. Roman and Dutch jurisprudence were plundered to round out its system; while in this country the French philosophy had a preponderating influence in the eighteenth century and the English utilitarians in the nineteenth. It would seem as if German philosophy might dominate legal thought in the twentieth century and this for several reasons; the socialist writers of the last generation have received popular recognition and are talked about if not understood; the American post-graduate student has drawn his inspiration largely from the German university; while the great material and political success of the new German Empire naturally carries with it authority for its thinkers. Hence the lawyer today should at least be curious about literature that may be the fashionable jargon of his children. The latest addition to the Modern Legal Philosophy Series, edited by a committee of the Association of American Law Schools, is a translation of the "Lehrbuch der Rechtsphilosophie," of Dr. Josef Kohler, professor of law at the University of Berlin, whose varied talents have been exhibited in many fields of learning. The work is prefaced by introductions written by Mr. Justice Carter, of Illinois, and Professor Caldwell, of McGill University, and is concluded by critical reviews from the pens of Lasson and Duarte.

In the philosophy of law Dr. Kohler is the recognized head of that school of German thought known as neo-Hegelian, although more independent of the master than others "of that ilk." Combating the ideas of natural law and absolute law, his thesis is that law is to be considered as a cultural phenomenon having a part in the evolution of man, constantly changing to adapt itself to the progress of society and furthering progress by so moulding rights and cultural values that the hampering, illogical elements are reduced and civilization strengthened. From this viewpoint the law of persons and of property, of civil and criminal procedure, of the state and the nations is discussed with a view to arriving at principles that may form the basis for systematic jurisprudence. Perhaps the most valuable contribution to juristic thought will be found in his insistence that the chief function of law is to reduce the elements of blind chance in human society. However, his acceptance of the doctrine of the relativity of law permits the learned author to accept institutions which can only be characterized as absurd but which find support in the Prussian bureaucratic society, of which he is so distinguished a member. A somewhat truculent tone toward other schools of thought is characteristic of the editor rather than the scholar: and may be due to that vague feeling prevalent here as well as in Europe that the conservative must strike heavily if he would be felt. But even though the reader may disagree with many of the statements so confidently made, he will find food for solid thought in many parts of this volume, which ably summarizes the viewpoint of one important group of jurists. And if already wearied by the mawkishness and superficiality of the socialistic jurisprudence he may find Dr. Kohler bracing.

W. H. L.

This delightful book is the result of the author's lectures delivered to the students at the Law School of the University of Minnesota. It is essentially a student's text book for it is short and to the point. The author has grasped the attention of the student by omitting foot notes. To the student who can only hope to grasp the broad general outlines of a subject, a text which is over burdened by foot notes and innumerable citations, is the least desirable. To him it seems as if the tail is wagging the dog.

In this short work the author has collected and arranged all the essential principles of practice and procedure in the federal courts. He explains the requisites of the original jurisdiction and how they must be pleaded; how and when cases may be removed from the State court; and the proper method for appellate practice. He has taken the recent Judicial Code and condensed it into a few workable rules which can easily be grasped by the student. To a student in the civil procedure and the constitutional law courses this book is indispensable. There is not a phase which is not dealt with in some form or other.

Altho this book was intended primarily to be for the use of students, yet it can be heartily recommended to the practitioner on account of the thorough and scientific arrangement of the general principles.

D. D. S.