

BOOK REVIEWS.

By G. W. P.

A TREATISE ON THE LAW OF NON-RESIDENTS AND FOREIGN CORPORATIONS, AS ADMINISTERED IN THE STATE AND FEDERAL COURTS OF THE UNITED STATES. BY CONRAD RENO. Chicago, T. H. Flood & Co., 1892.

This work attempts a classification of the many decisions that discuss the rights of a citizen of the United States who sues or is sued in a court other than that of the State in which he resides. To accomplish his purpose the author of such a work must meet and surmount many obstacles. The cases upon which he must build up his treatise lie scattered through the reports of our fifty-one States and through the United States reports, so that he is certain to meet with contradiction and difference of opinion. The decisions are complicated in many instances by the fact that the Court is at the same time deciding two questions of substantive law—one growing out of the cause of action, the other relating to the rights of the non-resident—and also a question of procedure, which often remains to be considered when the other phases of the case have been disposed of. In addition to these difficulties, the author is likely to be tempted by the importance of some particular application of a general principle to vitiate his classification by treating the species as if it were the genus. To this temptation Mr. RENO has occasionally yielded, although upon the whole the arrangement of his book is reasonably logical and consistent. Chapter I deals with a "Non-resident's Right to Transact Business;" Chapter II discusses "Qualifications and Exceptions" to the general conclusions theretofore drawn; Chapter IV is entitled, "Right to Sue and Liability to Suit;" while Chapter III, exhibiting the fault adverted to above, is concerned with "*Investments of Non-residents.*" So much of this third chapter as deals with various questions of taxation should have been separately treated under an appropriate heading, and had this course been followed the author would probably have been led to treat the subject of taxation with greater fullness, which would have been an advantage. So

much of the chapter as deals with *Gelpcke v. Dubuque—et omne id genus*—either ought to have been discussed under Chapter VI, “The Choice of Courts—State or Federal,” or the discussion ought to have been omitted altogether. For if that inconsequent decision is understood to establish a right in favor of a non-resident, it naturally finds its place among the exceptions to the so-called general rule that the Federal courts will follow State law. Indeed, Mr. RENO is forced to refer to it again in this connection in a foot-note to page 93. If, on the other hand, that decision is seriously looked upon as an exercise of the jurisdiction to prevent the impairing of the obligation of contracts, then it has nothing to do with non-residents as such; for the protection of the Federal courts might ultimately be sought in such a case as well by the home citizen as by the foreigner. In the foot-note already referred to Mr. RENO says: “The true ground of this disregard of State decisions is not entirely free from doubt. The author inclines to the view, however, that the true ground is that such overruling State decisions, rendered after the making of the contract in suit, impair the obligation of the contract and violate the national constitution; and therefore the laws of the several States are not ‘rules of decision’ in the Federal courts, because the Constitution ‘otherwise requires or provides.’” But the Constitution of the United States merely provides that no State shall *pass any law* impairing the obligation of contracts, and one would suppose that the use of the word “pass” indicates that the reference is to legislative and not to judicial action. No such modifying word restricts the language of the Judiciary Act of 1789, from which Mr. RENO here quotes, for that Act declares that the laws of the States shall constitute rules of decision. But Mr. Justice STORY in *Swift v. Tyson* decided that this signified only the *statute* laws of the States. If, therefore, the broad language of the Judiciary Act of 1789 refers only to legislative action, how can Mr. RENO be right in suggesting that the restricted language of the Constitution extends further and contemplates judicial action as well?

The seventh chapter of Mr. RENO'S work is entitled "Suits in Federal Courts;" the eighth deals with the "Locality of Suits in United States Circuit Courts;" the ninth with "Attachment and Garnishment;" the tenth with "The Title of Assignees in Insolvency and Receivers as against Attaching Creditors;" and the eleventh and twelfth with "Judgments by Default against Non-residents." The three concluding chapters are concerned respectively with "Divorce," "State Insolvent Laws" and "Statutes of Limitation." These chapter titles will give our readers a general idea of the scope of the work. The portions of it which treat of attachment and garnishment and of judgment seem to us to be particularly valuable, while in the chapter on "Statutes of Limitation" the author has compressed a great deal of useful information into a small space. As appears from the title of his work, Mr. RENO has paid special attention to the liabilities and immunities of foreign corporations, and the profession will find in those pages which are concerned with this topic a clear and succinct summary of the law pertaining to these juristic "non-residents."

There are many minor points of excellence in the book which indicate careful and thorough investigation on the part of the author. Thus, to mention one instance among many, we are glad to note that Mr. RENO does not fall into the common error of suggesting discrimination between residents and non-residents as an essential vice of State regulation of interstate commerce. He properly quotes Mr. Justice BRADLEY'S language in *Robbins v. Shelby Taxing District* as practically overruling *Hinson v. Lott* and the earlier cases on this point.

The book is provided with a complete index, which includes a valuable table of "Cases Overruled, Revised and Criticised." The table of cases cited conforms to the usage established by the best modern text-books and gives after each case a reference to the report as well as to the page on which it is cited. The publishers have done their work well and the book presents an attractive appearance.