

BOOK REVIEWS.

HANDBOOK OF CRIMINAL LAW. By WILLIAM T. CLARK, JR.
St. Paul, Minn.: West Publishing Co. 1894.

As the author states in his preface, this book is intended to contain not a mere digest of criminal law, arranged under proper titles, with just enough discussion of principles introduced to serve as a thread on which to hang the cases, after the fashion of so many modern text-books; but a concise and, he might well have added, clear statement of the general principles of that branch of jurisprudence, with enough cases added by way of illustration to fully elucidate the meaning, application, and extent of those principles. It is also confined principally to a statement of common law principles, and very wisely, for the lack of uniformity in legislation throughout the different States is perhaps nowhere so marked as in this department, and to fully define and explain the vast body of statutory crimes, to say nothing of pointing out their differences from the common law, would require more than one additional volume. These principles, then, are really the one essential thing that the judge and lawyer needs. Cases, apart from principles, are, *pace* the West Publishing Company, chaff without wheat, and many a good case has been lost through the failure of the attorney to perceive the principles that underlay it. With this book in hand, even the most slothful practitioner can hardly excuse himself on this score in the future.

As a rule, the definitions and maxims, if the statements of principles may be so called, are clear, brief and to the point. But there are occasional instances which show that it is as hard to improve on Blackstone's definitions as on Solomon's proverbs. True, Mr. CLARK has fared better than the student who, on informing his professor that he thought Solomon might be excelled in that branch, was mildly requested to write a few; but still there are some inaccuracies to be found

here and there. For instance, he defines forgery as "the false and fraudulent making or altering of an instrument which would, if genuine, apparently impose a legal liability on another, or change his legal liability to his prejudice." A forged check, drawn on a bank in which the supposed drawer has funds, hardly imposes any liability upon him. It impairs his right to receive his deposit from the bank, but only by the most rigid technicality can any liability be held to rest upon him. So a forged will, which takes effect only on the death of the supposed testator, imposes no liability on him in any sense, or on any one concerned, except the executor or administrator. The old wording "to the prejudice of another man's right," is better.

The execution of the book is excellent. The system adopted of printing the statement of general principles at the head of each subject in heavy black type, is admirable, and one that might be adopted with advantage by others. The same might be said of the method of annotating, rather than digesting, already referred to. The book is a forerunner of a style of text-book writing that has become popular of late in England, but is as yet rarely seen here, where publishers still cling to old methods, in spite of changed conditions. In matter, method and execution, Mr. CLARK has produced a work that will prove of no little benefit to the profession.

R. D. S.

A TREATISE ON THE LAW OF MORTGAGES OF PERSONAL PROPERTY. By LEONARD A. JONES. Fourth Edition. Boston: Houghton, Mifflin & Co. 1894.

A TREATISE ON THE LAW OF MORTGAGES OF REAL PROPERTY. By LEONARD A. JONES. (Two volumes.) Fifth Edition. Boston: Houghton, Mifflin & Co. 1894.

Although this edition of JONES on Mortgages of Real Property represents an addition of several hundred pages to the text, and although the number of cases cited has been nearly doubled, the bulk of the work is not increased as much as might have been expected, as it is printed in type, which,

though admirably clear, is somewhat smaller than that used in previous editions. Then, too, some matter has been purposely omitted. Thus, the subject of Vendor's Liens has been relegated to the author's separate work on Liens. The chapters on Registration and Notice exhibit the greatest changes, as compared with former editions. The author has incorporated references to the National Reporter System, to the American Decisions, to the American Reports and to the American State Reports. So much for the new edition.

The original work is well known. It is one of those books which aims at giving within its covers all information in any way connected with mortgages. As an illustration of this, observe the chapter on Insurance, which treats fully of the insurable interests of mortgagor and mortgagee, of insurance by the mortgagor for the benefit of the mortgagee, of insurance by the mortgagee, and discusses cases which determine that a mortgage is not an alienation within the clause contained in ordinary policies. This incorporation of a discussion of insurance law into his treatise on mortgages is, perhaps, one of the features of the work which the author had in mind when he expressed it as his conviction that "the law of mortgages is a subject which cannot be treated altogether with reference to general principles." That the author's mode of dealing with the law has met with popular favor, however, is a matter of common knowledge—being evidenced, among other ways, by the appearance of this, the fifth edition.

The fourth edition of Mr. JONES's work on Chattel Mortgages represents an expenditure of time and labor in supplementing the earlier work at least co-extensive with that just referred to in the case of the work on mortgages of real property. This new edition quotes citations of two thousand additional cases, and it has also been found necessary to add to the text in order fairly to state the development of the law which has taken place since the last revision was made. It is always with satisfaction that the reviewer takes up the new edition of a text-book which contains evidences of a growth commensurate with the development of the law—finding, in other words, that he has before him a veritable "new edition"

and not merely a reprint made up to sell upon the basis of the reputation of the original. In this respect Mr. JONES's books are always satisfactory. His method of treatment is, of course, a popular method, by which is meant that he makes no serious effort to analyze tendencies, or, by a scientific application of the historical method to gather from past and present development suggestions as to future growth. But the lines originally laid down are faithfully followed, and the work is brought down to date with scrupulous care.

G. W. P.

THE BENCH AND BAR OF NEW HAMPSHIRE, including Biographical Notes of Deceased Judges of the Highest Court and Lawyers of the Province and State and a List of Names of those now Living. By CHARLES H. BELL. Boston and New York: Houghton, Mifflin & Co. The Riverside Press, Cambridge. 1894.

In this book we gain an accurate and well-stated digest of those lawyers and judges who established the reputation of the New Hampshire Bar as it was some years ago. Of course among the list are many whose reputation has not reached beyond the limits of the State and, perhaps, have hardly been known as lawyers within its limits. But ATHERTON, BARTLETT, THORNTON, BELL, MASON, RICHARDSON, WEBSTER and WOODBURY are names which, in their day and generation, had a much wider significance and were borne by men who throughout New England at least were esteemed good lawyers, wise judges and able men of affairs.

The biographies contain many amusing incidents of the personal peculiarities of the subjects to which they refer, and among the New England States the Bar of New Hampshire has stood pre-eminent in that interesting respect. An equal freedom from conventionalities has manifested itself on the Bench, and if current report be believed the present Chief Justice surpasses all his associates and predecessors in that unenviable regard.

Boldness and independence of mind in giving utterance to

the law upon the Bench, we cannot have in too great degree and the State is to be congratulated that so many of its judges have possessed these characteristics. The decision of *Britton v. Turner*, in Vol. 6 N. H. Reports, at page 481, on the entirety of contracts indicates these qualities and is greatly to be commended.

The biographies are interesting also as marking the change which has manifested itself in the profession within the last thirty years. In the earlier days the important questions of law arising from the necessity of adopting the common law to the affairs of our new country offered a field in which the ablest lawyers of New Hampshire labored faithfully and well.

As a result the decisions of New Hampshire courts are a high authority upon points of common law practice and procedure and upon the fundamental principles of the law of contracts, torts, equity and real estate.

But with the establishment of these fundamental principles and their crystallization into decisions repeatedly sustained, the profession has ceased to find within the State a field which could develop and occupy the best abilities of its members.

For the main occupation of the lawyer to-day is the protection of property rights already established. The great questions of public rights and to an extensive degree also of private rights have been passed upon and defined in all the States. Questions as to commercial rights and powers are in the main the sources of activity upon which the lawyer in any State can depend for occupation. And in the smaller States or one where the growth of business has been comparatively small or confined within narrow channels, there have not arisen new questions of property rights or questions upon which depended large financial interests.

The only exceptions have been those of railway or manufacturing corporation law, and there the precedents in other States have been clear and well established. As a consequence young men of promise have not been attracted into the profession from other States, but on the contrary young men of promise in the State have been attracted out of it, and so as a further consequence the decisions of its courts and the

arguments of its lawyers are not of the importance or interest that they have been.

But as portraits of men who from small beginnings and with few advantages worked themselves up into commanding position among their cotemporaries, they are interesting, and it cannot be gainsaid that the lawyers whose labors are here described were men who fearlessly, faithfully and with signal ability discharged the duties which they were called on to perform.

The printing, paper and binding are unexceptionable, as is usually the case with work from the Riverside Press.

Manchester, N. H.

G. W.

THE ANNUAL OF THE LAW OF REAL PROPERTY. Edited by
TILGHMAN E. BALLARD and EMERSON E. BALLARD. Vol. 2.
Crawfordville, Ind.: The Ballard Publishing Co. 1893.

Legal literature has reached the point where compendiums of particular branches of the law, if well done, have an assured place. The second volume of the Messrs. BALLARD's work brings the law of Real Property down to the present year, continuing from Volume I begun a year earlier. As we said, in reviewing the first volume, the only true test of the success of such a production is the demand for it, and there is every evidence that this one has already met with that success.

Volume II contains a smaller number of cases reported in full than the previous volume. It is to our mind a mistake to insert the full report of *any* cases. The real use of a work of this kind is to direct the practitioner to the authorities for which he is in search, not to reproduce those authorities. It is upon the reports themselves that a lawyer must ultimately rely. The province of compendiums is to guide him by a short cut to his goal. The Ballard Annual does this far better than any mere digest can do, for on account of its elaborate arrangement and index, and especially the fact that something more than dry and insufficient syllabi are given, a far more correct estimate is given of the importance of the original cases, and whether or not they are applicable to the point being studied.

W. S. E.