

BOOK REVIEWS.

TREATIES AND TOPICS IN AMERICAN DIPLOMACY. By FREEMAN SNOW, Ph.D., LL.B. The Boston Book Company. 1894.

For several years past the subject of the maintenance of peaceful relations between the leading nations of the world has received an unusual degree of attention. The most important of the resolutions adopted by the Pan-American Congress, which met in Washington in 1889, was that which favored the establishment of a system of international arbitrations which should settle all future disputes between ourselves and the republics of South America. A resolution has recently been introduced into Congress looking toward the introduction of a similar system as regards Great Britain. The highly satisfactory outcome of the Behring Sea Arbitrations has contributed much toward the substitution of a judicial procedure in the adjustment of international differences for the old-fashioned arbitrament of the sword. There never was a time when greater interest was taken in the subject of international relations than at present. It is, therefore, with especial interest that we make mention in these columns of the above-entitled work by Dr. FREEMAN SNOW, who has for many years occupied the chair of International Law at Harvard University. Although compiled primarily for the use of his classes in that institution, and of students of the same subject in other colleges, Dr. SNOW has here given us a work which is likely to prove of the greatest value, not only to those who are interested in studying the history of our times, but also to those members of our bar who, in the practice of their profession, are called upon to deal with questions affecting international rights and the interpretation and enforcement of the provisions of the numerous treaties into which our Government has entered.

The first half of this volume, denominated Part I, contains the full text of the most important treaties which have been

made either by our government with foreign powers, or between different foreign powers, with respect to the rights of this country, beginning with the Treaty of Utrecht between England and France in the year 1713, and ending with the convention for the settlement of the Behring Sea controversy in 1892. Among the treaties included by Dr. SNOW in this collection may be mentioned the Treaties of Alliance and of Amity and Commerce, negotiated by Dr. Franklin with the French Government in 1778; the Treaty of Peace, negotiated with Great Britain in 1783; the Jay Treaty of 1794; the Treaty for the Cession of Louisiana of 1803, and the numerous treaties relating to the Canadian fisheries. This volume includes either the full text of, or large extracts from, treaties made at various times by our government with nearly every civilized nation.

Part II of Dr. SNOW's book is entitled "Topics in American Diplomacy," and contains a series of three carefully written essays upon the subjects of "The Monroe Doctrine," "The Fisheries Question," and "The Behring Sea Arbitration." Under the first of these three heads he discusses the origin and history of the Monroe doctrine, and points out how it has exerted an influence in bringing about general congresses and international conferences of the various nations of North and South America—such, for instance, as the Panama Congress of 1826, the Congress of Lima of 1847, and the Pan-American Congress of 1889, of which the late Mr. Blaine, who was then our Secretary of State, was president. Dr. SNOW also discusses the effect of the Monroe doctrine, at different periods of our history, upon our relations with Cuba, San Domingo, Samoa and the Hawaiian Islands.

His concluding essays upon "The Fisheries Question" and "The Behring Sea Arbitration" contain a succinct account of the manner in which the important questions involved in those famous controversies arose, became the subject of extensive negotiations, and were finally determined, in the one case, by a series of treaties, in the other by the adjudications of an impartial international tribunal.

It is not too much to say that this volume fills a place and

answers a purpose not hitherto covered by any existing work on the subject of international law, and that no library purporting to include the more important law books as they are published from time to time can be regarded as complete without it.

RUSSELL DUANE.

A MANUAL OF THE STUDY OF DOCUMENTS TO ESTABLISH THE INDIVIDUAL CHARACTER OF HANDWRITING, ETC., AND TO DETECT FRAUD AND FORGERY, including Several New Methods of Research. By PERSIFOR FRAZER, Docteur ésciences naturelles. Officier de l'instruction publique (France). Correspondent Der K. K. Reichsanstalt Zu Wien, etc. Illustrated. Philadelphia: J. B. Lippincott Company. 1894.

We have read this book in its entirety excepting the last chapter concerning the law relating to the testimony of experts on handwriting, and from such examination we are able to give it our hearty approval. While we cannot agree with the learned author in everything that he has written, and especially with the conclusions to which he arrived in Chapter 7, concerning "The Sequence in Crossed Lines," and Chapter 14, concerning "Composite Photography," we are, however, able to state that the book is written in a thoroughly scientific spirit and method, and is evidently the work of a conscientious writer. It is, so far as we know, the first systematic treatise on this subject, and the author as a pioneer in a difficult subject is entitled to very great credit for the systematic clearness of his exposition.

While it would be impossible for any one by reading this work to become an expert on handwriting, it will subserve a most useful purpose by furnishing lawyers charged with investigation of such subjects, the means of making themselves acquainted with the methods of research adopted by those entitled to call themselves experts.

Considering the fact, that there are several professed treatises upon the law of evidence to be found in every law library, much more exhaustive and better in every respect for lawyers'

use than the abstract of Stevens on Evidence to be found in the last chapter of the author, we do not think that this chapter adds anything to the value of the work.

A careful perusal of this work, will we think do much to disabuse the minds of the profession of law of the distrust so generally entertained by them of expert testimony on handwriting. We commend the book to the careful perusal of the profession.

M. D. EWELL.

The Kent Law School of Chicago.

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“THE ART OF WINNING CASES.” By HENRY HARDWICKE, of the New York Bar. New York: Banks Bros. 1894.

The majority of law books deal with the law as a *science*. Most of them are very restricted in their scope, and cover only a very small section of the general subject. In the present volume the author has given us an exposition of the law as an *art*. He tells us not what the lawyer ought to know, but what he ought to do. In the 677 pages of which the book is composed he states a series of rules to guide the attorney in his preparation of a case, in the statement of it to a court and jury, in the examination and cross-examination of witnesses, and in the summing up of evidence preparatory to the securing of a verdict. The work concludes with an appendix containing a number of well chosen selections from the speeches of the great masters of the art of advocacy.

Books of this general character too often deal in obvious generalities instead of giving to the reader those specific and detailed rules and suggestions which afford real assistance to him in his work. From this fault the present volume, with the exception perhaps of a portion of the chapter entitled “Suggestions to Young Lawyers,” is uncommonly free. As an illustration of the exceedingly practical and useful character of its suggestions, the following rules, selected at random, may be cited: An attorney in advance of trial should always cross-examine his own witnesses *separately*; he should never take his eye from a witness undergoing cross-examination on the stand; he should examine a doubtful or dishonest witness.

rapidly; he should pursue the order of time in stating the testimony of witnesses to the jury; he should always go to trial with a brief of facts at hand as well as a brief of the law.

In preparing this volume the author has drawn upon a very wide area for his materials, and in it he cites the examples of many eminent practitioners in support of the advice, and the suggestions which he imparts. Thus he describes Rufus Choate's method of preparing cases for trial, states Scarlett's advice upon the opening of a case to the jury, and makes observations upon the systems followed by such advocates as David Paul Brown and Sergeant Ballantine in the cross-examination of witnesses. References are also made to incidents which have occurred in famous trials, such as that of Queen Caroline, in order to illustrate points made by the author. On questions as to which the opinions of members of the profession differ, for example as to whether it is better to cross-examine a hostile witness gently or harshly, the author gives the arguments which from time to time have been advanced upon both sides. At times, however, the author is given to propounding questions and difficulties to which he does not make any satisfactory answer. Thus, on page 152, he tells us that one of the most dangerous witnesses to deal with is the witness who does not remember, but he is silent as to the manner in which such a witness is to be successfully treated. There are parts of the book also which consist of little more than strings of stories or quotations, which however interesting in themselves are not woven into the thread of the subject dealt with by many observations on the part of the author. The object for which this book was written has, however, most certainly been attained; and there is probably not a single lawyer at the American bar of less than ten years standing who could not try a case much more effectively after reading the work than he could have done before reading it.

RUSSELL DUANE.

A TREATISE ON THE LAW OF BUILDING AND BUILDINGS;
especially referring to Building Contracts, Leases, Easements, and Liens, containing also various forms useful in

building operations, etc., etc. By A. PARLETT LLOYD, of the Baltimore Bar. Second edition, revised and enlarged. Boston and New York: Houghton, Mifflin & Co., The Riverside Press, Cambridge. 1894.

The second edition of this excellent work has just been sent to us for review. Although Mr. LLOYD's work is already favorably known to the profession, in view of the importance of the subject a few words in regard to the method of treatment adopted may not be amiss. Mr. LLOYD treats the subject under four principal titles, building contracts, building leases, easements relating to buildings, and mechanics' liens. Of special interest are the chapters upon the duties and responsibilities of architects and superintendents, performance of building contracts, penalties and liquidated damages, and party walls. The work presents a clear, concise and, so far as we have been able to ascertain, an accurate view of the present condition of the law, and will undoubtedly prove invaluable to the practitioner as a work of ready reference. This by no means implies that, in the estimation of the reviewer, the work is to be regarded as a mere digest of cases. On the contrary, it could with much greater propriety be described as a digest of principles rather than cases. To say as much as this of any work is necessarily to award it a very large measure of praise. On the other hand it should be observed that, in his effort to produce a purely practical work avoiding all useless speculation, the author has failed to trace principles to their origin in a truly scientific spirit, and, therefore, in the opinion of the reviewer, his work not only lacks scientific completeness but in many respects even its practical value is much impaired.

HOWARD W. PAGE.

AN ESSAY ON THE LAW RELATING TO TELEGRAPH COMPANIES.

By EDWARD BROOKS, JR. Lancaster, Pa.: Wickersham Printing Company. 1893.

Mr. BROOKS's view of the development of "The Law Relating to Telegraph Companies" may be gathered from

the following passages in which (after stating the diverse views of the courts) he justly criticises them for their failure to employ the method of agreement and difference in their efforts to get at the truth. "The trouble lies in the fact that every one who has investigated the subject, has searched among the traditions of the common law for some status to which they could relegate Telegraph Companies. No one has seemed to realize that, in the invention of the telegraph, a new discovery was made, a new method of communication introduced, which would require, in its workings, the application of principles other than those which applied to the then prevailing system. The common law furnishes no status which can strictly be said to be identical with that of a Telegraph Company. These companies stand on their own bases and have a status peculiar to themselves."

The author proceeds to analyze the redundant statements of the courts in the matter of determining the measure of liability of a Telegraph Company. He says, "Notwithstanding the diversity of decisions in regard to the status of these companies, the courts have, with one accord, decided that a Telegraph Company is liable only for want of due care. The first question, therefore, which presents itself for consideration is, what is the meaning of the expression, 'due care?' The question is readily answered. 'Due care' is such diligence in respect to the safe transmission of messages, as Telegraph Companies are required by law to exercise. This answer, however, immediately gives rise to another question, viz.: What degree of care or diligence does the law require? This degree of care has been variously stated by different courts to be 'reasonable care,' 'care and diligence adequate to the business,' 'highest degree of diligence and skill;' but what do these expressions mean? 'These are but the varied forms of expressing the requirement of what is known in law as 'ordinary care,' as applied to an employment of this nature,' says Mr. Justice Foster, in *Fowler v. Tel. Co.*, 80 Me. 381, 388. But the question immediately arises, what is meant by 'ordinary care as applied to an employment of this nature?' The answer to this question can only be found by a reference

to some of the more important cases." This citation is a good illustration of the author's critical faculty.

The work is characterized throughout by a clearness of thought and a vigor of statement which make it most interesting and suggestive, and, therefore, valuable. It is an essay as distinguished from a treatise. Mr. BROOKS has, however, collected and discussed all of the most important cases, and his classification of the subject is probably, on the whole, the best that could have been adopted in view of the fact that he steadily adheres to his plan of investigating how far existing doctrines and principles must be modified in order to meet the peculiar requirements of the subject. It, therefore, seems natural to discuss successively as he does, "The Status of a Telegraph Company;" "The Liability of a Telegraph Company;" "The Limitation of Liability by Conditions in the Message Blanks;" "The Measure of Damage."

Each of these heads is, of course, elaborately subdivided. The discussion, under the last head, of "Mental Suffering" (page 54) is particularly to be commended. G. W. P.

THE LAW OF EXPERT TESTIMONY. By EVAN B. LEWIS, A. M., LL. B., of the Philadelphia Bar. Philadelphia: Rees Welsh & Co. 1894.

The author states in his preface that "This volume is intended to give a general treatise [sic] on the law of expert testimony, as it is found in the decisions of the various States, together with the common law principles as they are applied in our courts." After a careful examination of this book, we find that, with its good features, it is not only not exhaustive, but it is, in a number of instances which have come to our notice, inaccurate. Thus, on page 32 we find the following: "The general rule is to exclude any writing for comparison. This is the prevailing English common law rule; and one substantially like it prevails in the New England States, Mississippi, Ohio, Kansas, Iowa, Texas, New Jersey and New York."

The author does not seem to be aware of the fact that the

common law rule has been changed by statute in England, and also in many of the United States, including Ohio, New Jersey, and we believe New York. The author does not appear to be consistent in his statements. Thus, upon pages 44 and 50, we find contradictory statements relative to the identification of blood as human. The quotation from the testimony of the witness in the Cronin case on page 46, is incorrect, as we happen to know of our own knowledge.

The work on the same subject by Dr. Henry Wade Rogers is much superior to the work in question, which, as we have stated before, is neither exhaustive nor accurate. A critical study of the English language would have improved the phraseology of the work. See, for instance, the preface and page 19, 14th and 15th lines, and page 27, 3d and 4th lines of the second paragraph.

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POCKET MANUAL OF RULES OF ORDER FOR DELIBERATIVE ASSEMBLIES. By Lieut. Col. HENRY M. ROBERT. Chicago: S. C. Griggs & Co. 1894.

This compendious little manual, which has now reached its one hundred and fifth-eighth thousand, richly deserves the success it has achieved. In its own peculiar domain it has no rival. Compared with the antiquated inefficiency of CUSHING, and the dogmatic unreliability of REED, its pages, with their clear definitions and statements of principles, their abundant explanations and full cross references, are as a modern scientific text book, beside those that obtained in our grandfather's days. If there is any doubtful point not elucidated in its pages, the man who can point it out deserves a prize for his keenness of sight. And in spite of this scientific completeness and accuracy, it is withal so simple that misunderstanding of its statements would be inexcusable. With this book in his hand, no chairman can be pardoned for those errors with which we are all so familiar in the deliberations of church and society meetings.

The book is its own best eulogy; but if there is one feature that deserves praise above others, it is the tabular arrangement of motions at the beginning of the work, which gives at a glance the status and requirements of every motion that can be put—questions more puzzling than any others—which alone would render the book not merely invaluable, but indispensable, to any one who would clearly understand the rules of parliamentary practice.

R. D. S.

THE LAW OF REAL ESTATE BROKERS AS DECIDED IN THE AMERICAN COURTS. By STEWART RAPALJE. New York: Baker, Voorhis & Co. 1893.

This little book, in the words of the author, is not put forward as a treatise, but rather as a compilation of the case-law upon the relation of real estate broker and customer. It is clear that it is the broker's book, written from his standpoint, to meet his necessities, settle his doubts, and "deter him from rushing into court with a case." The work is a concise digest of about nine hundred important cases upon the law of principal and agent as applied to real estate transactions. The first part treats of the powers and liabilities of the broker, including his authority to act for and bind his principal. The second and more important part is devoted to the very interesting subject of compensation, particularly the right to commissions and suits for commissions, with special reference to the various defences set up by ingenious customers.

The work, as has been said before, is not a treatise. There is no historical or legal discussion whatever, no attempt to criticise or reconcile conflicting dicta and rules. The text comprises a succession of brief and compact syllabi, joined by the familiar "Thus," "but," "so," "where," etc., with footnotes devoted to citations. An author who believes this form of writing of use to laymen simply deceives himself. A layman's law book must contain full and patient explanations of first principles. The layman is merely bewildered by the best of digests. This work, however, will be of service to the attorney whose practice includes a real estate business, and

to the title and real estate officers of the many trust companies that are fast monopolizing the business of settlements.

W. H. L.

A STUDY OF THE DEGENERACY OF THE JAWS OF THE HUMAN RACE. By EUGENE S. TALBOT, M.D., DD.S., Chicago, Ill. Philadelphia: The S. S. White Dental Manufacturing Co. 1892.

THE ETIOLOGY OF OSSEOUS DEFORMITIES OF THE HEAD, FACE, JAWS AND TEETH. By EUGENE S. TALBOT, M.D., DD.S. Third Edition.

These two books, which we have examined with much interest, should prove a lasting monument to the industry and learning of their author. The question of degeneracy of the jaws in its relation to the administration of criminal justice was presented in evidence in the case of the *People v. Prendergast* in the City of Chicago, in which case the learned author was called and examined as an expert. It seems to the writer that anyone with unprejudiced mind, examining the statistics so industriously collected by the author, will be compelled to regard his conclusions with respect. To treat such conclusions with ridicule, as was done by some of the alleged experts in this case, is, to take a charitable view, evidence of ignorance. To give these works such a notice as they deserve would occupy too much space; but, among other questions therein considered, we would call particular attention to Chapters X, XI, XII and XIII, respectively, of the work secondly above described, treating upon "Crime," "Prostitution and Sexual Degeneracy," "Moral Insanity," "Pauperism and Inebriety" and "Intellectual Degeneracy."

No practitioner of law called upon to investigate a case in which the alleged criminal presents stigmata of degeneracy as was the case in the *Prendergast* trial, can afford to pass by this work.

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