

A TREATISE ON THE LAW OF RES JUDICATA, including the Doctrines of Jurisdiction, Bar by Suit and Lis Pendens. By HUKM CHAND, M.A. Printed at the Education Society's Steam Press, Byculla, Bombay. William Clowes & Son, London. William Green & Sons, Edinburgh. 1894.

THE NATURE OF THE STATE. By DR. PAUL CARUS. Chicago: The Open Court Publishing Co. 1894.

SELECTED CASES.

A SELECTION OF CASES AND OTHER AUTHORITIES UPON CRIMINAL LAW. By JOSEPH HENRY BEALE, JR., Assistant Professor of Law in Harvard University. Cambridge: Harvard Law Review Publishing Association. 1894.

AMERICAN ELECTRICAL CASES, being a Collection of all the Important Cases (excepting Patent Cases) Decided in the State and Federal Courts from 1873 on Subjects Relating to the Telegraph, Telephone, etc., with Annotations. Edited by WILLIAM W. MORRILL. Vol. I (1873-1885). Albany, N. Y.: Matthew Bender. 1894.

BOOKS OF REFERENCE.

TABLES FOR ASCERTAINING THE PRESENT VALUE OF VESTED AND CONTINGENT RIGHTS OF DOWER, CURTESY, ANNUITIES AND OTHER LIFE ESTATES; DAMAGES FOR DEATH OR INJURY BY WRONGFUL ACT, ETC. Based chiefly upon the Carlisle Table of Mortality. Computed and Compiled by FLORIEN GIAUQUE and HENRY B. McCLURE. Cincinnati: Robert Clarke & Co. 1894.

PAMPHLETS.

GREAT DISSENTING OPINIONS OF THE SUPREME COURT OF THE UNITED STATES. A paper read at the Seventeenth Annual Meeting of the American Bar Association (1894). By HAMPTON L. CARSON, of the Philadelphia Bar.

PROBLEMS AND QUIZ IN COMMON LAW PLEADING. By EARL HOPKINS. St. Paul: West Publishing Co. 1894.

BOOK REVIEWS.

A TREATISE ON THE FOREIGN POWERS AND JURISDICTION OF THE BRITISH CROWN. By W. E. HALL. Oxford: The Clarendon Press. London: Stevens & Sons, Limited, New York: MacMillan & Co. Price, \$2.60. 1894.

The editors have received the above work, written by WILLIAM E. HALL, the celebrated English barrister, whose well-known text-book on "International Law" has already run through three editions and has placed its author in the front rank of modern English writers upon this subject. The best proof of Mr. HALL's standing in this respect, upon this side of the Atlantic, is the fact that it is the standard text-book on international law in use at the present time at Harvard University.

The subject of Mr. HALL's latest production is necessarily

more restricted in its scope than his earlier work. Much of what he has to say is confined in its application to Great Britain only, and in this respect it differs materially from the majority of the books which are reviewed in these columns. Thus, it contains paragraphs upon such subjects as the status in England of naturalized aliens, naturalization in the colonies, the legality under British statutes of marriages in foreign countries, the powers of British consuls, the jurisdiction of the Crown in the countries of the East and other semi-civilized regions. These sections of the book obviously have no general application except in cases where some question has arisen involving a British statute. On the other hand, there are other sections which would be quite as valuable to the American lawyer as to his British confrère. Thus, the admirable discussion in Chapter IV, of the jurisdiction of the Crown on the high seas, treats of a much-discussed question of international law of quite as much interest here as there. The members of our Bar, if the occasion should arise, will find of great practical value Mr. HALL'S remarks on such subjects as the rights of a State with reference to its subjects abroad, changes of nationality, extra-territorial marriages, and diplomatic agents.

Mr. HALL'S style of composition has always been distinguished for its clearness combined with the quality of great compactness. His statements are classified in paragraphs, appropriately summarized in short marginal notes. This style of arrangement renders the book very easy reading, and one which is very convenient to refer to in search of extracts and references. At the end of the book the author has introduced a system of indices which is a considerable advance upon those generally found in law books of this class. They are five in number, and cover in succession the following topics: Statutes, Orders in Council, Cases, Treaties, and, lastly, the General Index. The use of the book for purposes of practice is greatly aided by this feature of it. The general appearance of the book does great credit to the English publishers, and also to MacMillan & Co., who are the publishers in this country.

RUSSELL DUANE.

THE HISTORICAL DEVELOPMENT OF THE JURY SYSTEM. By MAXIMUS A. LESSER, A. M., of the New York Bar. Rochester, N. Y.: The Lawyers' Co-operative Publishing Co. 1894.

The author in his preface has rightly described this work when he says that his claim for consideration is based rather on "originality of treatment and presentation of materials at hand than on originality of research." The book is a careful compilation of the opinions of other writers on the different subjects treated, with copious and well selected extracts from their works. The work may be divided into two parts; first, a description of the institutions providing for the trial of the facts of a cause in other systems of jurisprudence; and secondly, a history of the jury system as developed in England from a combination of Norman ideas of administration and the character of a judge, with the old Anglo-Saxon procedure. Thus Chapter II is a description of the Dekarts of Greece, consisting in the main of extracts from GROTE'S HISTORY, and Chapter III treats of the Judices of Rome. When we come to the second part, or history of the jury proper, the extracts from Forsyth naturally increase, in fact Mr. LESSER, follows in the main the arrangement and endorses practically all the opinions of that learned author.

There are one or two statements by the author, or rather statements cited by him with approval, that would bear some modification. For instance, is it correct to say that Roman judicial procedure was to a great extent derived from and formed by that of Athens, see p. 29; or that King Alfred restored the hundred in England, p. 40. It is true in the last case that the first mention we find of the hundred in England is in the laws of Alfred, but the very irregularity of the boundaries of the hundred, and its subsequent importance seem to indicate not only its prior existence, but that the king simply adapted to his own purposes a living institution.

W. D. L.

THE LAW OF PLEADING UNDER THE CODES OF CIVIL PRO-

CEDURE. By EDWIN E. BRYANT. Boston: Little, Brown & Co. 1894.

This work is a welcome addition to the "Students' Series." The author is well known as the Dean of the Law Faculty of the University of Wisconsin, and his experience as a teacher of law has stood him in good stead in gauging the wants of students in respect of a concise treatise on Code Pleading. Before beginning his discussion of the code system, Professor BRYANT gives a condensed account of courts of law and the common law system of pleading, and a summary view of courts of equity and of pleadings therein, as well as of the civil law system of pleading. If the modern law student cannot make a careful investigation of pleading at common law, preparatory to his study of code pleading, he will find it well worth his while to read the concise statement which occupies some thirty-five pages of Professor BRYANT'S work. The statement of the rules of pleading is, indeed, as the preface points out, "merely a condensed summary of those rules as given in STEPHENS'S admirable treatise," while the sketch of the equity system "follows the arrangement of Lord REDESDALE and STORY." But the reader will be quite ready to concede the author's claim of novelty in "the combination of a condensed summary of the common law rules of pleading, an outline of the equity system of pleading, a general statement of the code system as now exhibited by statute and interpretation, and an analytical index of the code provisions relating to pleading in the twenty-seven code states and territories.

As the author has elected to stand or fall with STEPHENS'S method of treating pleading at common law, he must face the criticism to which the work of that distinguished writer is believed to be open—the criticism, to wit, that it fails to attach sufficient importance to the scope of the issues raised by the several traverses, and thus fails to impress upon the mind of the student the vital connection between the system of pleading, and the law of evidence. Perhaps, this failure is particularly to be regretted in an introduction to the study of code pleading, for the student will be too apt to overlook

what is believed to be one of the most serious objections to the code system—namely, the waste of time in the trial of causes which results from the obliteration of the “issue,” and the consequent admission of vast quantities of irrelevant testimony. This is, perhaps, the only adverse criticism of the book that can with fairness be made. All else is unqualified praise—both as to arrangement, analysis and exposition.

G. W. P.

OUTLINE STUDY OF LAW. By ISAAC FRANKLIN RUSSELL, D.C.L., LL.D. New York: Baker, Voorhis & Co. 1894.

A layman or a prospective student of the law who wishes to understand the very general doctrines of jurisprudence and to obtain a clear impression of the fundamental principles which regulate the relationship of citizens to each other and to the state would be well to read Professor RUSSELL'S work as a starter at least. As the preface states, the book is a collection of forty-eight lectures, “mere summaries of what was much amplified when presented orally,” combining the consideration of international law, constitutional law, and civil polity, with the various subdivisions of municipal law. There is, of course, much that applies only to the state of New York (the work is primarily designed as a preparation for study there) but the first fifteen lectures are devoted to a broader field.

The author's style is truly original. It is forceful, clear and emphatic. But we wish he had not been compelled or persuaded to reduce to such very thin consistency some of the fifteen chapters above referred to. The process of condensation and reduction has, we fear, impaired the constitutional strength of the subject. This is especially true of “Equality Before the Law” and “Studies in Constitutional and Political History.” The titles of these chapters suggest a boundless field of fascinating research. A glance at their contents reveals the very limited extent to which the author takes us.

The work, however, is intended as an outline as we said before, so that the above criticism amounts to a mere regret. The very brevity of the book, combined with its

interesting, even entertaining style, should tempt the student or lay reader to pursue the subject to greater depths, and this is presumably the object most desired by the author.

W. S. E.

THE LAW OF A MASTER'S LIABILITY FOR INJURIES TO THE SERVANT. By W. F. BAILEY, one of the Judges of the Circuit Court of Wisconsin. St. Paul, Minn.: West Publishing Company. 1894.

It may be safely said that there is no branch of the law which has developed at so rapid a pace within the last few years as that which treats of the liability of the master for injuries to his servants. It affords a splendid field for the efforts of the legal literary harvester, as the ripeness of the subject renders it exceedingly interesting. It is pleasant to think that a lawyer and a scholar of Judge BAILEY'S ability should have been selected for the work, and the wisdom of the selection is evidenced by the very able discussions of the principal cases and the scholarly arrangement.

Chapters I to VIII, inclusive, treat of the various duties of the master to the servant.

Chapters IX, X and XI, of the risks assumed by the servant.

Chapters XII, XIII, XIV, XV, XVI, XVII and XVIII, of fellow-servants.

Chapters XIX, XX and XXI, of contributory negligence.

Chapter XXII, of independent contractors.

Chapter XXIII, of contracts limiting liability.

Chapter XXIV, of contracts releasing claims.

Chapters XXV, XXVI and XXVII, of procedure.

The great body of case law which is annually introduced by the Appellate Courts of the various States renders complete digesting almost impossible, except when confined within very narrow districts. It is necessary, therefore, for text writers to specialize, taking up some important branch or sub-division of the law and reducing the decided cases bearing upon it to something like a system. But the great difficulty

seems to be, and, in fact, it is the one objection which we can see to this very careful and conscientious work, that the text writer, in order to make this book of a respectable size, devotes considerable space to the discussion of subjects only indirectly connected with the apparent scope of the work. Thus, we find in Chapters XX and XXI a very lengthy discussion of the doctrines of contributory negligence, which, while very much in order in a work of negligence, seems hardly proper in a work covering the law of a Master's Liability for Injuries to his Servant. But these instances are rare in Judge BAILEY'S book, and even though they may be objectionable from a standpoint of a perfect text-book, they are, nevertheless, valuable contributions to the literature of this subject.

The citation of cases is very full and complete throughout, and the index carefully prepared. The "externals" are in excellent taste, and we take great pleasure in recommending this work to the profession as a valuable addition to the literature of the law relating to master and servant.

JOHN A. MCCARTHY.

RESTRICTIONS UPON LOCAL AND SPECIAL LEGISLATION IN STATE CONSTITUTIONS. By CHARLES CHAUNCEY BINNEY, of the Philadelphia Bar. Philadelphia: Kay & Bro. 1894.

The substance of Mr. BINNEY'S work exceeds the limits naturally inferred from the title. Without being a great work it is nothing less than a scholarly exposition of the whole question of local and special legislation in this country as it stands to-day viewed in the light of numerous decisions from the courts of many States. It is, as far as we know, the only work upon this at once theoretically interesting and practically important subject.

The first chapter takes up the subject in a general descriptive way under the heading "The Treatment of Local and Special Legislation in England and the United States. Chapter II points out the distinctions between general, local, and special laws. Chapter III is devoted to the essential point of classification (*i. e.* the arrangement into groups of the individuals who

are the subject of legislation). The succeeding chapters deal with the effect of the restrictions upon local option, and the control which they exercise upon legislative discretion. The main body of the work is admirably supplemented by a thoroughly useful descriptive list (Chapter V) of the "Restrictions Actually in Force in the United States," classifying the restrictions with regard to the subjects affected by them, and containing a reference to the location of the restrictive clauses in the various constitutions.

Excepting the criticism that the first and second chapters might well change places, the arrangement of the book is clear and logical. The work belongs to that class of legal productions which may be described as treatises not without the useful features of the text-book pure and simple. It is of practical value in the preparation of a constitutional brief, as well as instructive to the student.

The notes, index and list of cases referred to are sufficient. The form of the volume is convenient, and the printing excellent.

W. S. E.

PRECEDENTS AND FORMS OF INDICTMENTS, INFORMATIONS, COMPLAINTS, DECLARATIONS, PLEAS, BILLS IN CHANCERY, ANSWERS, REPLICATIONS, DEMURRERS, ORDERS OF COURT, BONDS AND WRITS, Adapted to practice in United States criminal and civil cases, together with forms and instructions pertaining to the accounts and fees of United States attorneys and commissioners. By OLIVER E. PAGIN, Assistant United States Attorney for the Northern District of Illinois. Chicago: Callaghan & Company. 1894.

The contents of this book are fully indicated by its title. It contains 629 forms for criminal cases, 125 for civil and 14 for accounts and fees of United States attorneys and commissioners, in all 768 forms. First are given general forms for indictments and other pleadings, and for complaints before United States commissioners, warrants, etc. Their arrangement then follows the title "Crimes and Offences" in the Revised Statutes: Crimes against operations of the government, elective franchise, official misconduct, against justice,

under maritime jurisdiction, counterfeiting, postal crimes, relating to merchant seamen, under internal revenue laws, and miscellaneous offences, under which latter head are forms for indictments under section 5209, relating to embezzlement and misapplication of funds of national banks. The forms for civil cases are arranged under the titles, admiralty, customs, internal revenue, post office and miscellaneous. Under the title, accounts and fees of United States attorneys and commissioners, are given the forms for accounts and the certificates to be attached thereto; also the sections of the Revised Statutes relating to this subject, instructions issued by the Treasury Department, regulations prescribed by the accounting officers, and memoranda of decisions of the courts. The book contains throughout notes with references to cases in which disputed points of pleading have been passed upon. There is a table of contents, table of cases (with volume and page of the report) and, which is most important, a very full index with cross references. The author has compiled his book with care and skill, and has spared no pains to make it complete. Its value can perhaps be fully appreciated only by those who are daily engaged in the drafting of indictments and other pleadings in the United States courts. To them the book fills a long felt want and will be a welcome assistance.

ROBERT RALSTON.

NOTE.—On account of lack of space the reviews of the following works are postponed until the November number: *A Treatise on Disputed Handwriting*, etc. By Wm. E. Hagan. *A Legal Document of Babylonia*. By Morris Jastrow, Jr., Ph.D. *An Illustrated Dictionary of Medical Biology*, etc. By George M. Gould, A. M. *Digest of Insurance Cases*. By John A. Finch. *Vandegrift's Tariff Manual*. *Jewett's Election Manual*.

The Editors offered two prizes for the best and second best Annotations by members of the graduating classes (Class of 1894) of the various Law Schools of the country. They take pleasure in awarding the first prize to Mr. Edgar H. Rosenstock of Cornell, 1894, for his Annotation on "Warranty;" and the second prize to Miss Mary M. Bartelme of the Class of 1894, of the Northwestern University Law School of Chicago, for her Annotation on "Contracts to Make Wills;" both of which Annotations appear in the pages of this number.