

BOOK REVIEWS.

'THE LAW'S LUMBER ROOM, By FRANCIS WATT.' London: John Lane, The Bodley Head; Chicago: A. C. McClurg & Co. 1895.

If one is looking for a short cut to the law as it is, such a book as this will not aid him materially. But to layman as well as lawyer in whom dwells the love of the antique, the curious, and the romantic, it will appeal strongly. The author has invaded the "Lumber Room" of obsolete laws, and has unearthed for our inspection the most curious of the old customs and statutes of an England of another age. He describes clearly, where it is possible, the origin, growth, and decay of these fantastic laws, and illustrates their operations by examples drawn from the old reports and court rolls. Especially striking and interesting, perhaps, are his chapters on "Peine Forte et Dure," "The Custom of the Manor," "The Law of the Forrest," and "Sanctuary."

C. D. Foss, Jr.

WHITTAKER'S SMITH ON NEGLIGENCE. With Notes by J. A. WEBB. St. Louis: The T. H. Thomas Law Book Co. 1896.

Mr. Smith's second edition was published in England in 1884. Two years later Mr. Whittaker, of the Cincinnati Bar, presented to the profession an American edition of the book. This year brings a new edition of Mr. Whittaker's American Notes.

Mr. Smith's work is based upon the Roman law classification of the degree of care required by law in the performance of various duties: neglect of duties requiring (1) ordinary care, (2) more than ordinary care, (3) less than ordinary care. After a chapter defining negligence, the author devotes a chapter to each of these classes, which, with chapters respectively on Contributory Negligence, Presumptions, Actions for Injuries Causing Death (Lord Campbell's Act), and Damages, constitutes the work. These general divisions were minutely subdivided by Mr. Smith. The American editors have added a large number of similar subdivisions, taken from the recent development of the law. They have selected such parts of the text as are rendered most important by constantly recurring decisions, and have added under a brief note a full list of the authorities, frequently giving the facts of cases, usually the rule of law contained in them. The manner in which this has been done will render the work of great use to the busy practitioner; he will find Mr. Smith's clear exposition of the law most abundantly illustrated by the American cases. An example will suffice: After devoting several pages to defining

and illustrating Probable and Remote Cause, the editor classifies the decisions into the Effect of Intervention of Third Persons, of Plaintiff, of Defendant, of Forces of Nature, Tendency to Disease, Fires, and The Act of God. The decisions cited and quoted upon the law applicable to Carriers of Passengers, of Goods, and to Sleeping-Car Companies, constitute an epitome of the legal lore upon those subjects. The text upon Contributory Negligence, Neglect of Duty by Attorney and by Fellow-Servants, is most completely illustrated. The editors have added a very useful classification of the cases upon the Liability of Municipal Corporations with Respect to its Highways. The insertion of cross-references to the several reporter systems will add to the usefulness of the work.

W. B. L.

HANDBOOK ON THE CONSTRUCTION AND INTERPRETATION OF THE LAWS. Hornbook Series. By HENRY CAMPBELL BLACK, M.A. St. Paul: West Publishing Co. 1896.

Mr. Black's new volume on The Construction and Interpretation of the Laws, merits our careful attention. As he says in his preface, "it has been built up solely from primary sources, the decided cases." Continuing, the author also says: "It is no longer assumed to be the province of the judiciary either to quibble away or to evade the mandates of the legislature. On the contrary, modern authorities recognize only one rule as absolutely unvarying, namely, to seek out and enforce the actual meaning and will of the law-making power. Thus the doctrine of 'equitable' interpretation has become obsolete."

The scope of this work can best be illustrated by reference to the contents of some of the leading chapters. Chapter II deals with the Construction of Constitutions, and herein, of uniformity in construction, mandatory and directory provisions, implications, grants of powers, injustice, and inconvenience, and extraneous aids in construction. Chapter IV deals with Statutory Construction, Presumptions, and herein of the presumptions in aid of interpretation, those against unconstitutionality, against inconsistency, against impossibility, against injustice, inconvenience, absurdity, implied repeal, etc. Chapter V deals with Statutory Construction, Words and Phrases, and herein of technical and popular meaning of words, commercial and trade terms, general and special terms, express mention and implied exclusion, relative and qualifying terms, permissive and mandatory terms, etc. Chapter VI deals with intrinsic aids in statutory construction. Chapter VII with extrinsic aids in statutory construction. Chapter IX with strict and liberal construction, and herein of penal statutes, statutes against common right, remedial statutes, statutes against frauds, legislative grants, etc. Chapter XIV deals with construction of codes and revised statutes. Chapter XVI deals with the rule of *Stare Decisis* as applied to statutory construction. Chapter XV.III deals with

the interpretation of judicial decisions and the doctrine of precedents. Mr. Black, in the seventeenth chapter, makes a brief examination of the nature of dicta and the reasons for their lack of authority. His chapter on the Force of Precedents is especially well considered.

The arrangement of this treatise is good. The cases are as well selected and as accurately cited as can be done in text-books. The work is well written. The typography speaks for itself, with the exception that the breadth of the printed page is too great. The index may also be criticised for not being what it should be, although it is far better than that contained in most text-books.

George Henderson.

THE PRINCIPLES OF INTERNATIONAL LAW. By T. J. LAWRENCE, M.A., LL.D., Rector of Girton, and Lecturer in Downing College; Lately University Extension Professor of History and International Law in the University of Chicago, etc., etc. Boston: D. C. Heath & Co. 1895.

There is cause for congratulation that Dr. Lawrence, whose essays have been so helpful to students of International Law, has found the opportunity to issue this timely book. A clear, concise, accurate, readable, and up-to-date treatise has been needed, and this volume possesses these characteristics to a marked degree. The subject is dealt with so as to show on the one hand its relation to ethical principles and on the other its dependence on the facts of history. Of course a book of less than six hundred and fifty pages cannot treat so large and complex a subject at all exhaustively; nevertheless, a surprising amount of information has been crowded into this compass. Where further investigation on particular points is desired, the references in the foot-notes will doubtless be found of assistance.

In spite of all the praise due to this admirable book, it is not perhaps wholly satisfactory from an American point of view. Anglo-American affairs might, even where concise treatment is aimed at, be considered at greater length, and so as to leave a little different impression. For instance, speaking of the Fisheries Treaty of 1888, which aroused so much discussion, the author mentioning its rejection by our Senate, states merely that it contained a "minute and accurate delimitation of the bays within which the inhabitants of the United States were forbidden to fish by the treaty of 1818, and an equally elaborate description of the privileges and duties of American fishing vessels in Canadian ports and harbors." The purpose of this treaty was, indeed, to remove causes of misunderstanding with respect to the treaty of 1818, but it is more than doubtful whether it would have been successful in that direction. Its provisions were stated in such ambiguous terms that its satisfactory interpretation would have been extremely difficult, especially in view of the varying construction put by Canada and the United States on the Treaty of 1818. Moreover, it made