

etc., etc. : *Farmer's Loan and Trust Co v. Northern Pacific Ry. Co.*, 60 Fed. Rep. 803 (1894), in which case in addition to an injunction to restrain chiefs of the various Brotherhoods from issuing orders for a strike, twelve thousand employes were forbidden by injunction from combining to quit with or without notice the service of receivers of certain railways, with the object and intent of crippling the property or embarrassing the railroad.

The court declared that the workmen must abandon work in good faith. Where the real design was to compel receivers against their wills to accede to the strikers, and failing therein to cripple the road, the necessary result would be to inflict great loss on the public. Such a conspiracy is unlawful and restraint by injunction an appropriate remedy—preventing, as it does, an almost certain destruction of property.

These cases, it will be observed, are not cases of interference by single individuals, but contain the element of conspiracy, and touch not merely contractual obligations, but also wrongs to property. It would seem, however, that redress should be given also in cases where simple business contracts, though merely in contemplation, are maliciously interfered with, and in consequence loss ensues. Where there is, in fact, a loss due to such interference, the plaintiff has suffered as real damage as though the contract had been made and broken; and the loss being satisfactorily and clearly proved, there would seem no objection to holding a defendant responsible for the consequences of his malicious conduct. It is to be hoped that the courts will come to this view, as well as recognize uniformly, by affording relief in cases of malicious interference in other kinds of contracts, the lack of any sufficient reason at this day for unique deference to the relationship of master and servant.

BOOK REVIEWS.

AMERICAN ELECTRICAL CASES, WITH ANNOTATIONS. Edited by WILLIAM W. MORRILL. Vol. V., 1894-1895. Albany: Matthew Bender. 1896.

This fifth volume of the series of American Electrical Cases brings the decisions almost up to date, and is edited, as its predecessors have been, most commendably.

In view of the value of well collected and ably annotated leading cases, it is a pleasure to note this addition to that class of legal work.

The phenomenal growth of electricity as a commercial factor had led to much important legislation, and a correspondingly increased demand for legal information on the subject. In consequence of

this rapid growth the publisher has determined to bring out a volume of this series each year, commencing with September 1st.

This volume contains one hundred and thirty-one cases reported in full, and over one hundred in addition, of which memoranda are given in notes.

The editor promises that volume VI. will contain a number of interesting opinions, not yet published. *F. S. M.*

HANDBOOK ON THE LAW OF REAL PROPERTY. By EARL P. HOPKINS, A.B., LL.M. Author of Problems and Quiz on Criminal Law, Contracts, Criminal Procedure, Constitutional Law, etc. St. Paul: West Publishing Co. 1896.

The legal profession, and more especially the legal student-body, has for a long time felt the need of a text-book giving the principles of real property as they are applied to-day—divested of those “legal antiquities” generally found in dissertations on this subject. This want has been admirably supplied by Mr. Hopkins who has digested and cited about forty-five hundred English and American cases of standard authority, and abstracted therefrom the leading principles of the modern law of real property.

The volume is divided into sixteen chapters covering the subject as follows:

Chapter I., What is Real Property; II., Tenure and Seisin; III., Estates as to Quantity—Fees Simple; IV., Estates Tail; V., Conventional Life Estates; VI., Legal Life Estates; VII., Estates Less Than Freehold; VIII., Estates as to Quality—On Condition—On Limitation; IX., Mortgages; X., Equitable Estates; XI., Estates as to Time of Enjoyment—Future Estates; XII., Estates as to Number of Owners—Joint Estates; XIII., Incorporeal Hereditaments; XIV., Legal Capacity to Hold and Convey Realty; XV., Restraints on Alienation; XVI., Title.

A new and important feature is the discussion of the Homestead Laws of the United States and of the various states. The homestead right is defined “as an exemption to a debtor of a home free from liability for certain debts.” The rights of landlord and tenant and of mortgagor and mortgagee are treated at length. The chapter on Title is an important feature of the work. The author dwells at length on “the recent ‘Torrens Title Act’ of Illinois, because it is in all probability the forerunner of the introduction into this country of some system of registration of title in place of our present system of the registration of conveyances.” The author fails to note that a similar system has been adopted by Ohio.

The work does not purport to be an exhaustive treatise. It is an elementary volume which, on account of the perspicuity of its style, the accessibility of its contents, and the modern authorities from which its principles are derived, is to be recommended highly to the student as a text-book, and to the active practitioner as a book of reference. *H. W. Scarborough.*

A MANUAL OF COMMON SCHOOL LAW. By C. W. BARDEEN. Syracuse, N. Y. : C. W. Bardeen, Publisher. 1896.

This little work was first published in 1875, and for twenty years has been the only text-book on School Law in general use. It is now for the first time entirely re-written, considerably enlarged, and re-arranged. It consists of three parts ; I., The School Officer ; II., The Teacher ; III., Uniform Examination Questions. The first and third appeal chiefly to New York lawyers and teachers, being based directly upon the law of that state. The second part, however, is more general in its nature, and, as the author states in his preface, "is a safe guide throughout the country, both in school and in court."

The chapter on Suspension and Expulsion contains an interesting discussion of the relative merits of corporal punishment and expulsion as means of disciplining refractory pupils. The use of the former is now discouraged, if not forbidden, by public opinion ; while the latter is inconsistent with the compulsory education laws in force in some states ; yet one of these two methods of punishment must be the last resort of the teacher in extreme cases. This dilemma leads the author to conclude that in such cases corporal punishment should be inflicted rather than expulsion, as otherwise the boy whom one tingling blow of the ferule might have saved often grows up in low-bred ignorance ; but that some new means of punishment, superior to either of these, might and should be invented. The author proposes that every system of schools should have a Truant School, not penal but reformatory, to which refractory pupils may be sent.

The book contains a very complete tabular analysis of its contents, as well as a list of references to Superintendents' Decisions in the State of New York, and to statutes of the various states. It will undoubtedly be useful to both lawyers and teachers.

W. M. H.

A TREATISE ON CRIMES AND MISDEMEANORS. By SIR WM. OLDNALL RUSSELL, KNT., late Chief Justice of Bengal. Three Volumes. Sixth Edition. By HORACE SMITH, Benchet of Inner Temple, and A. P. PERCIVAL KEMP, M. A., Barrister at Law. London : Stevens & Sons, L't'd, Sweet & Maxwell, L't'd. Boston : Little, Brown & Co. 1896.

The first edition of "Russell on Crimes" was published in England in 1819 ; nineteen years ago the fifth edition appeared ; this year furnishes an International Edition. No American edition has appeared since 1877, the year of the fifth English edition.

There is no doubt that this is the greatest work extant on the criminal law. The whole work has been judiciously gone over by the editors. These gentlemen have preserved the original design of the work, making a slight change, however, in the arrangement, so that now the work is logically arranged according to the subject

matter, and not according to the exigencies of symmetry in the size of the volumes, as formerly. Nor have they deemed it their duty, fortunately for those who use the work, to add to each page a bewildering jungle of "recent cases." By the elimination of superfluous matter, and by abbreviation where possible, the present volumes exceed in size the last edition by but a few pages. All indictable offences, with the exception of treason, are treated. This crime was not included for the reason given by the author in the edition of 1819: "On account of the great additional space which the proper discussion of that important subject would have occupied, and because prosecutions for that crime . . . are always so conducted as to give sufficient time to consult the highest authorities." A treatise upon the law of evidence in criminal prosecutions forms the larger part of the third volume. In some instances, the notes of the editor of former editions, Mr. C. S. Greaves, have been retained.

The international feature of this edition is, in part, thus presented: "A new departure has been taken in the introduction of notes affording, it is hoped, some guide to the sources from which information may be obtained as to the state of the law in America upon the particular subject treated of in the text. . . . The editors have, therefore, thought it would be impossible in a work, like "Russell on Crimes," to do more than indicate the source from which interesting light may be obtained by the inquirer upon any topic under discussion; and to this end they have availed themselves in a large degree of Mr. Bishop's most ingenious and lucid book on the Criminal Law." [New Commentaries on the Criminal Law, by J. P. Bishop, 8th Ed., Chicago; Flood & Co., 1892]. . . . All that the editors have attempted to do is to indicate some of the sources of information from which an American or English reader may derive assistance upon points where the English and American law appear to be in any degree at variance. To have attempted more than this—to have incorporated the American law with the text, or even to have discussed the American law in detail in the notes—would have produced nothing but confusion, unless the whole scheme and character of the work were to be entirely altered."

The wisdom of this conclusion and of this course is apparent; hence, in addition to the American cases always cited in a separate note, one finds constant cross references to Mr. Bishop's book. The former recognition given to "Russell on Crimes" in America, the fact that our common law is derived from the English common law, the similarity and frequent identity of the Criminal Codes of both countries, the judiciously-prepared annotations, should make this work exceedingly useful to the American criminal lawyer. In passing we may notice that some part of our Criminal Code of 1860 appears to have been adopted *verbatim* from the English statutes.

The first volume contains Books I. and II. Following a chapter headed General Provisions, in which are treated various matters

relating to criminal procedure, appear chapters upon Persons Capable of Committing Crimes, of Principals and Accessories, of Indictable Offences. The discussion of Principals and Accessories is very complete. In Book II. are treated the Offences Principally Affecting the Government, the Public Peace, or the Public Rights. More than one hundred pages are given to perjury and subornation of perjury, equally sub-divided into the elements of the offence, the indictment, and the evidence competent on the trial for perjury.

The second volume contains the discussion of Offences against Property, Public and Private. Here, of course, burglary, robbery, larceny, embezzlement, false pretences, etc., forgery and arson are completely treated. In the discussion of larceny the Editors have inserted the judgments of Smith and Stephen, J.J., against conviction, and of Cave, J., and Lord Coleridge, C. J., in favor of conviction of that offence in the ably considered and much discussed case of *R. v. Ashwell*, 16 Q. B. D. 190 (1885). It will be remembered that this is the curious case in which the prosecutor gave the prisoner a sovereign believing it to be a shilling, while the prisoner received it believing that he was receiving a shilling, and upon the discovery of the mistake refused to return the excess. The conviction was affirmed by a court evenly divided—seven judges favoring conviction, while seven opposed it. The decisions contained in the Appendix to this volume, on repealed statutes relating to embezzlement and to forgery, will be useful.

Volume III. includes Books IV., devoted to Offences against the Persons of Individuals, and V., devoted to Evidence. Murder and Manslaughter are exhaustively treated with full American references.

Each volume contains a complete index and mechanically the books could not be improved. The progress of the criminal law, and the statutory changes occurring since 1877 rendered a new edition useful. The profession has received a very ably edited work.

W. B. L.

THE JEWISH LAW OF DIVORCE according to BIBLE AND TALMUD, with some References to its Development in "Post-Talmudic Times." By DAVID WERNER AMRAM. Philadelphia: Edward Stern & Co., Inc. 1896.

There are two quite opposite points of view from which a critic may be expected to review a volume. The first both in frequency and in importance is that of one who, entirely familiar with the subject-matter of his book, is prepared to add from his store of knowledge some suggestions, whether friendly or unfriendly, as to the method in which the writer has accomplished the result before him; and this is what may properly be called the field of "criticism." The other is that of one who finds in the volume a subject-matter quite unfamiliar to him and reads it with a view rather to learn than to teach—rather to make the best of what he finds than to take exception to what he does not find, or even to the manner

of writing and method of composition. Conceding that this latter point of view is not really that of a critic, or hardly even the more modest one of a reviewer, it is, nevertheless, the only one possible to the ordinary reader of such a volume as the "Jewish Law of Divorce," and it is, therefore, proposed simply to call attention, in an entirely uncritical way, to one or two of its leading features.

In the first place, the writer is undoubtedly correct in his view that the study of the Jewish law as found in the Bible and in the Talmud, its interpreter, is a most useful one to the student of modern comparative law. Its peculiar importance is due not only to the fact that it contains a somewhat complete exposition of the laws of a nation in the early Patriarchal age, but also to the further fact that this early code has been continued and modified and extended for centuries, so that a continuous development of what may fairly be called "common law" is presented to the student, in comparison with which the student of the English common law is, in respect to length at least, of very secondary importance. Some points, too, about this Jewish "common law" are in themselves very remarkable; it will doubtless surprise the ordinary lawyer to know, for example, that in the very early Jewish times a system of Married Women's Separate Estates had been developed, and that, in spite of the recognized rights of the husband in the Patriarchal age as the head of the family, the wife's right after separation to the custody of her children was very early conceded.

Another important topic, which is constantly touched upon by the writer, though not fully developed by him, is the anomalous position of the Priests and Scribes under the Jewish law, who seem to have occupied the triple position of makers, expounders and enforcers of the Jewish law. Probably at an early age they would have indignantly denied the statement that they were, or claimed to be, makers of the law, but no one who has read the pages of Mr. Amram's volume and seen how the early Biblical precepts were at first simply explained, and later even set aside without any explanation, could fail to charge them with being—in respect to Religious law at least—the legislators of the Jewish people. In view of their powers, it is quite remarkable that their authority should have been exercised so moderately these many centuries. That to-day it is recognized as generally as it was two thousand years ago; that is a striking tribute to the conservatism of these Judges of Israel.

Returning to the subject-matter of the book itself it may be divided into two parts, the theory and principles of divorce on the one hand, and the practice of divorce on the other. With respect to the former—commencing with the Patriarchal theory of the absolute right of the head of the family to do what he chose with his own, and consequently to divorce his wife absolutely at pleasure (a right which was frequently exercised in early Biblical times, beginning with Abraham's treatment of Hagar), the various Priests gradually and by means of fiction, which would have done credit to

the early English judges, deprived the husband of this absolute power, and subsequently again, by affording to the wife the right of divorce, succeeded in elaborating a theory of divorce which, so far as causes were concerned, is strikingly similar to that in vogue in many of our American states, and would seem to suggest the inference that in such an intimate branch of the law as that of family relations, it does not always require an advanced stage of civilization to arrive at a most satisfactory result. The procedure of divorce also seems to have had a considerable development, originating probably in the simple right of a husband to dismiss his wife informally, and without writing and ending in the formal "Get," which, in its complexity and prolixity is aptly compared by Mr. Amram to the modern deed; further, the laws with reference to the attestation and delivery of the "Get," bear in many respects striking analogies to the modern development of the law with reference to the attestation and delivery of a deed.

The writer has been fortunate in avoiding the introduction into his volume of too much technical law, and the result is an interesting and instructive, though simple, exposition, which, as suggested at the outset, cannot fail to be of interest to the student of the early institutions and comparative law of the most elementary, and perhaps the most important branch of Domestic Relations. It is obviously intended, not as a practical hand-book for the Jewish lawyer, but as an introduction for the unlearned Christian to a new field of general knowledge. It is simple justice to say that the writer has accomplished his intention in a very satisfactory manner, and suggested some interesting topics of investigation which will doubtless be pursued by some of his readers.

Reynolds D. Brown.