BOOK REVIEWS.

THE LAW OF NEGOTIABLE INSTRUMENTS: STATUTES, CASES AND AUTHORITIES. Edited by ERNEST W. HUFFCUTT, Professor of Law in Cornell University College of Law. New York: Baker, Voorhis & Co. 1898.

A collection of cases on Bills and Notes, with Professor Huffcutt's name upon it, is entitled to more than passing notice. One's first impulse would be to institute a comparison with the famous collection made by Professor Ames, of Harvard. The result would disclose considerable similarity in the positions taken by each of these authorities. For example, on page 327, n. 1, of the book under review is found the following statement: "The doctrine that a bill or note requires *any* consideration is of comparatively recent origin. It was unknown in the time of Blackstone (2 Comm. 446), and early American cases are to be found in which it appears to be denied or doubted: *Bowers* v. *Hurd*, 10 Mass. 427; *Livingston* v. *Hastie*, 2 Cai. (N. Y.) 246. But the modern cases now uniformly hold that a bill or note, executed and delivered as a gift, is unenforceable for want of consideration."

It is to be observed that this is precisely the stand assumed by Professor Ames. The plan of the book, however, differs widely from that of Professor Ames. Professor Huffcutt divides his book into two parts—Part I containing the American Negotiable Instruments Law, as represented by the New York Act of Assembly, and the English Bills of Exchange Act. The cases in Part II illustrate the various sections of the acts quoted. In Article I, Part II, the student will find an interesting historical account of the Law Merchant. Many of the cases to be found in Professor Ames' collection are replaced by cases which, in some respects, are improvements upon those of the former. Furthermore, Professor Huffcutt cites authorities in a more impartial way. To this extent the student will be benefited and his mind will not be perplexed by hair splitting. As the English Bills of Exchange Act is in reality a digest of the English Law upon the subject, and as the New York Law is largely based upon the English Act, the plan adopted should produce good results. The sections are illustrated, in many instances, by the very cases from which the law was derived, and the learned editor's notes in this connection are especially valuable, and, to the student, suggestive.

From the general scheme of the work and the fact that the path which Professor Huffcut has marked out for himself is an original one, it will be perceived that the task thus undertaken was not a light one. That the selection, arrangement and classification of authorities was a work of magnitude admits of no doubt, and though the editor acknowledges his indebtedness to the eminent authorities who preceded him, his must have been the lion's share of the labor. That the student will profit thereby, that the copious citations will be useful to the practitioner, and that the book is a

valuable addition to the literature on the subject of Bills and Notes, may be predicted with safety by the reviewer. *G. F. D.*

A TREATISE ON THE LAW OF COLLATERAL SECURITIES AS APPLIED TO NEGOTIABLE, QUASI NEGOTIABLE AND NON-NEGOTIABLE CHOSES IN ACTION. By WILLIAM COLEBROOKE. Second Edition by GEORGE A. BENHAM. Chicago: Callaghan & Co. 1898.

The perusal of 750 pages of this volume has proved to be a perhaps instructive, but not intensely interesting task. The book is written on the old-fashioned digest plan, if it may be so described, as opposed to the historical plan now in use in the better class of text-books. The inevitable result is seen in numberless repetitions of the same thought in different forms—the inference being that the digest is made up of a succession of quotations from different decisions along the same line, with a result which, however useful as a digest, can hardly be said to be a lucid method of teaching law. Illustrations of this defect may be soon noted in the eighth chapter on "Misappropriation of Negotiable Instruments in Pledge," where the same fundamental thought is repeated some six or seven times in the course of the chapter, each time accompanied by different citations in the foot-note.

There are exceptions, however, to this rule, as, for example, Sections 19 and 20 set forth in a clear, historical order, the rule in the United States Supreme Court, with respect to the title of the "holder for value" of negotiable instruments as collateral security for a pre-existing debt; and, again, in a note to Section 75, the English authorities on the question of "notice" in regard to "misappropriation of a pledge" are carefully discussed.

In addition to this fundamental objection to this book as a text-book, there are a number of criticisms about its method which appear on even a cursory examination. The division into five parts, to, wit, Negotiable Collateral Securities, Negotiable Notes and Mortgages, The Parties to the Instrument, Quasi Negotiable Collateral Securities and Non-Negotiable Collateral Securities, is of very doubtful value as throwing any light on the development of the subject—the third part in particular, which is, in fact, an equitable discourse on the surety's rights, being of very questionable appropriateness. Again, the system of foot-notes is unique and very difficult to understand; a series of numbered notes (the numbers being contained in the text in the usual way) are apparently supplemented by a series of lettered notes, but the letters do not appear either in the text or in the numbered notes; the result is, that it is very hard to see just where the lettered notes belong, especially as in many instances they run over a number of pages. Possibly the explanation is, that the numbered notes were by the original author and the lettered notes by the editor of the second edition, but in any event the system is not very helpful to the reader.

A few cases of ungrammatical or incomplete sentences occur; as, for example, at the top of page 206.

A very considerable number of misprints also appear; as "no"

surrender for "to" surrender, on p. 232; "sale" for "scale," on p. 235; "paaties" for "parties," on p. 310; "is" for "in," on p. 341; "fide" for "fides," on p. 532; "fo" for "for," on p. 553 and "sub-pledgee" for "sub-pledge," on p. 554. A curious abbreviation of the word "justice" is seen in the form of "jus.," as Matthews, Jus., on pp. 491, 538 and 742, Miller, Jus., on p. 534, and many other instances; apparently, however, the peculiarity is not always present; as, see Rapallo, J., on p. 550. A certain carelessness in the preparation is seen on p. 638, where Pennsylvania and Missouri Statutes are referred to not only without giving the text, but even without giving the proper reference to the digest or pamphlet laws.

After these comments have been made, it is only fair to add that the writer seems to have fairly exhausted his subject, and if the desideratum were a digest and not a text-book, the result would possibly be satisfactory. Indeed, as it stands, the volume will probably be of some practical use as a reference book to a lawyer, though of no use to a student or practitioner who wishes to study the subject as a whole. *R. D. B.*

THE LAW OF MINES AND MINING IN THE UNITED STATES. By DANIEL MOREAU BARRINGER and JOHN STOKES ADAMS, of the Philadelphia Bar. Boston: Little, Brown & Co. 1897.

Owing to the vast growth of the mining industry, especially in the west during the past few years, and the constantly increasing litigation and number of decisions bearing thereon, the "Law of Mining" has taken its place with the many other subjects, which, starting as insignificant parts of a larger branch of the law, now merit the attention of lawyers as a special study. Although our authors claim that the law of mines has no "logical" existence as a separate branch of jurisprudence, yet their work itself, the amount of care and learning which has necessarily been expended to bring its varied parts together into a concrete whole, thoroughly convince us that the Law of Mines is a "practically" distinct subject and must be so regarded by those who wish to understand questions relating to it.

Many of the questions treated of in the work have been considered more or less incidently and imperfectly by writers on Real Property, Contracts, Torts, Easements, etc., but here we have a comprehensive treatise on every point which could in any probability arise on a mining question, and one arranged in a logical and orderly fashion, making it easy of access on each particular branch of the subject.

The method of arrangement is somewhat striking, but is on the whole justified by the results obtained. Instead of long chapters with interminable foot-notes covering nearly the whole of each page, the authors have sub-divided each chapter into a number of heads, and have given under each of these heads a short, succinct and accurate statement of the law (together with the opposing view, if any,) which rarely occupies more than a page. To this there is

appended a digest of all the leading cases throughout the country, arranged chronologically under each state, the states being given in their alphabetical order. Not only are the facts of each case stated, but all important parts of the opinions are given *verbatim*. Of course, such an arrangement would be impossible in treating of a subject such as Negligence or Property, where a vast multitude of cases are necessary, but the two thousand cases here given are well digested without unduly extending the size of the volume, thus giving the busy lawyer a treatise and digest in one.

Recognizing the importance of some knowledge of geology by lawyers who attempt to conduct a case on a subject so little understood by those who have not enjoyed a scientific education, Mr. Barringer opens the work with an extended essay on the origin, formation and nature of each mineral which is likely to be dealt with, presenting in untechnical language its chemical and physical consistency and the conditions under which it may be found. This essay, well illustrated by wood cuts, is, to the majority of persons, not only convenient, but necessary to a proper understanding of any case which involves the techical questions.

The first chapter of the work is devoted to property rights in minerals, the sub-divisions discussing the rights as they vary with the kind of mineral, the estate of the person who is in possession of the land, etc. Then logically follows a consideration of the mere right to take the minerals from the soil without owning the latter, involving an exhaustive discussion of mining leases and the rights and duties of the parties thereto, which continues for three chapters.

Chapter V. is concerned with the rights of the sovereign power over minerals, and from this we are lead to the great bulk of the work, namely, how the right of the sovereign is gained by private persons. These chapters, from VI to XVIII, contain a full and complete statement of the law in regard to the various kinds of mining claims, how they must be located and established, the numerous regulations and formalities necessary to obtain the patent and the effect of the Statute of Limitations.

Having described how the miner obtains his claim, the authors then consider his rights and liabilities to others in the next four chapters, in which are discussed natural rights and easements of importance to miners, such as those relating to water and to the surface and latteral support of the soil. The balance of the work comprises several incidental chapters touching, among other things, the joint ownership of mines and various statutory provisions respecting the employment, health, safety and pay of mine employes. To the whole is appended a reprint of the United States Statutes and the Land Office Regulations on the general subject.

Messrs. Barringer and Adams are to be sincerely congratulated upon the production of a work which not only displays great research on the subject, but which is written in interesting and scholarly style and is arranged in a manner most convenient to lawyers. The fact that the book is published by Little, Brown & Co., speaks for its mechanical excellence.