

BOOK REVIEWS.

CONTRACTUAL LIMITATIONS. Including Trade Strikes and Conspiracies and Corporate Trusts and Combinations. By CHARLES A. RAY. Rochester: The Lawyers' Co-operative Publishing Co.

A book written by an Ex-Chief Justice of the Supreme Court of Indiana in a clear, concise and forcible style, with the conclusions logically presented, upon a subject that must of necessity demand a most thorough knowledge of the law, past and present, with all its various and numerous changes, and the reasons therefor.

The book needs only a superficial glance to show the reader that the author does possess this knowledge to a remarkable degree and also a wonderful familiarity with the thousands of cases, both old and new, directly and indirectly applying to the subject treated. In the citation of this mass of cases there is shown an exhaustive research into every branch of the subject, not only as the law is expounded by the courts of the several states and the Federal courts, but also by the English courts. Using the cases as a basis through every part of the work, the history of each different branch of the subject is shown. Commencing with the earliest principles of the common law, the numerous changes in the law rendered necessary from the changes in conditions, and the law's gradual expansion is clearly set forth, and the reason for a contract, formerly legal, being declared illegal and void to-day, or *vice versa*, is logically presented.

One of the most marked characteristics of the work, and one seldom met with and, therefore, all the more worthy of praise, is the total absence of long drawn out arguments to show what the law ought to be, according to the author's ideas, nor is there any theorizing upon what it will be when present conditions have changed.

The author has endeavored to show the application of public policy and only twice, in what amount to minor details, has he lost sight of his object. He says, that while public policy is uncertain and fluctuating, yet it is true that whatever contract conflicts with the moral sentiment of the times, or contravenes any established existing interest of society, social, commercial or political, is void as against public policy. Thus he has endeavored to bring All Contracts, Trade Agreements and Strikes, and all Corporate or Partnership Trusts and Combinations to this judgment, and it needs no deep study of the work to see that the object sought after has been attained.

The work is of such wide range that it has been necessary to reiterate many of the old and well established principles of the law, in order to reach a logical conclusion. This has been done in every subdivision of the work, omitting nothing necessary to form completeness. And while it has been necessary to do this, yet there has been no waste of space but simple, clear statements of the principles with their application to the law as it now stands. In

the same manner the work of citation of cases has been treated. Throughout the text many opinions from celebrated cases have been quoted verbatim, while many others are cited in the excellent notes. So that you not only have a valuable text book to quote, but also have ready reference to numerous cases, pro and con, without having to make the original search. And the manner in which these cases are cited render unquestionable their application to the subject matter treated.

However, it is here that one fault, about the only one in the the book, is very evident. The statutes, both Federal and of most of the states, are given, as are likewise cases, but the arrangement is not of the best. It is to be regretted that there has been a failure to make an arrangement of the states in their alphabetical order, and the statutes and cases cited in that order, and thus the book made more valuable as a work of reference. For, upon reference to a particular subdivision, in order to find thereunder the law or the cases of a certain state given altogether, it is necessary to read the whole subdivision, and portions of the law of one state will be scattered through the whole and mingled with that of the other state. This objection does not apply, however, to the chapter devoted to Trusts, which as one of the most important in the whole work is also one of the best. The several states are arranged alphabetically and under this arrangement are given the constitutional provisions and statutes, with the citation of cases relative to the subject. In this chapter the author has been especially careful to show what are and what are not legal combinations, and to point out the various deceits made use of to contravene and to obtain the protection of the law.

The chapter on War as Affecting Contracts is, although short, in keeping with the high standard set by the other parts of the work. It is a clear and concise statement of the law and is, of course, made more valuable at this particular time when the country is in a state of war.

Contracts in Restraint of Trade and the Modifications of the Rule is a subject of unlimitable possibilities in itself, and one hard to confine to so short a space. However, the chapter on this subject, while long, is necessarily so; and the history of the subject, with the numerous changes of the law, is most thoroughly dealt with. The handling of this subject in such a clear and logical manner and yet keeping it subordinate to the general subject is most commendable.

The last part of the book contains several chapters on Conspiracy. Beginning with the common law origin of Conspiracy the author traces the history of the offence and gives a definition that will meet the present requirements. In order to work toward a logical climax there are several subdivisions of the subject of Conspiracy, as against the Individual, the Government and the Public Welfare, followed by a most important subdivision relative to strikes and the relations existing between a conspiracy and a "strike." This

portion of the work has the fault, that is, there is too much history. In this chapter the author has permitted his personal opinion to lead him into an unnecessarily severe scoring of the subject. However, this is not a great fault nor does it do any injury to the book as a legal work and a book of reference. These two chapters are interesting, aside from their legal value, both on account of the clear forcible style in which they are written and the endeavor to reconcile the cases that have arisen. The fault lies, in thus digressing into personal opinions in these chapters that they are not strictly consistent with the avowed purpose of the book, *i.e.*, to state what the law is and to bring the subject to the judgment of public policy.

However, a book with such few and small faults can well be said to be faultless and deserving of the greatest praise. After the digression spoken of above, the law of England and of the United States, as to Conspiracy and the present condition of the law concerning Trade or Labor Combinations, Picketing, Boycotting, etc., are ably and learnedly compared. There is a thorough citation of cases and of statutes, old and new, which give the entire history of the several subdivisions and while it is impossible to reconcile all the cases, yet it has been done wherever possible.

The Appendix contains, among other things, a letter expressing the views from the cotton brokers' standpoint regarding "futures" in cotton; the same force necessarily controlling "futures" in grain and other farm products. As a learned writer's representation of a debated question, the author very properly considers it too valuable to be lost to the readers of his work. In the Appendix are also given the proposed bills to prevent dealing in "options" and "futures," with comments upon the same, and the discussions, protests, and objections that have arisen since the introduction of the bills referred to.

After completing a study of the work one must give the author full credit for accomplishing the task imposed upon himself and congratulate him upon the thoroughness with which this is done, and while there are faults, yet they are few, and the proportion of fault to good is infinitesimally small.

Clifford S. Beale.

COURTS AND THEIR JURISDICTION. By JOHN D. WORKS, formerly one of the Justices of the Supreme Court of the State of California. Second Edition. Cincinnati: The Robert Clarke Company.

As announced on the title-page, this is "A treatise on the jurisdiction of the courts of the present day; how such jurisdiction is conferred and the means of acquiring and losing it." The subject of the book is one of everyday importance to the practitioner, and is dealt with in a practical way that makes the book available as a ready reference in the daily emergencies of a busy lawyer's life. While the principles underlying the questions treated are not

neglected, the author has avoided the error of some text book writers, namely, that of indulging a propensity for fine woven theoretical discussions at the expense of practical utility. He has gathered from the cases the established propositions of law included within the field of his research, and placed them in a systematic sequence that exhibits some originality, as well as a capacity for logical classification. It is to be remarked, though, of the cases cited, that they might sometimes be desirably increased in number, and that there is a predominance of citations from Western State Reports that gives the appearance of a limited and partial investigation in their compilation.

The many questions upon which the decisions are at variance have received the special attention of the author, and with the cases pro and con he gives the reader the benefit of his own opinion of what may be considered the most accepted and best supported view of the law. The chief divisions of the book are: General Principles Affecting Jurisdiction; The Means of Acquiring Jurisdiction; and Common Law, Equity and Statutory Jurisdiction. Under these headings the subjects pertinent to them are intelligently arranged and fully discussed. The distinct jurisdictions, such as probate, divorce, criminal, etc., receive separate treatment; and prominence is given to subjects of daily use, like the kinds, requisites and service of original process.

The treatise, as a whole, should prove serviceable to the profession within the scope outlined by its author.

H. L. H.

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The publishers of this work are to be commended for the promptness with which the installments appear—a feature which all users of the Digest must appreciate. The current volume is as complete and as accurate as its predecessors.

J. C. H.