

BOOK REVIEWS.

A HANDBOOK OF BANKRUPTCY LAW, embodying the full text of the Act of Congress of 1898, and Annotated with Reference to Pertinent Decisions under Former Statutes. By H. CAMPBELL BLACK. St. Paul, Minn. : West Publishing Co. 1898.

This unpretentious title was well chosen. While the annotations cover many more pages than the text of the Act, and show a knowledge of the subject that is at once wide and precise, yet they are far from constituting a complete, orderly disquisition into the legal effects of bankruptcy upon commerce. From lawyers, however, already familiar with the workings of the Insolvency Laws, and needing only some help in coping with the problems newly presented by this Act of 1898, the work will receive a warm welcome. Mr. Black has unearthed over twelve hundred cases, almost all of which are suitable for his present purpose, and has so clearly condensed them that often, in a single page, two nicely distinguished lines of decisions are closely drawn up together and sharply defined. One can trace the master's hand throughout in the apt brevity that hits off the salient, differentiating feature of each case.

In the preface it is said : "While the endeavor has been to make the annotations as full as practicable in all the seven chapters, special prominence has been given to the elucidation of those questions which will probably first come before the courts for settlement—questions, that is, of jurisdiction, of procedure, of the persons and corporations entitled to take advantage, or liable to be proceeded against under it, and in regard to the acts of bankruptcy upon which a petition in involuntary cases may be founded."

"It will be proper to declare, further, that the volume now offered to the profession represents the fruits of the author's study and research, extending over a period of many years."

The last assertion is strengthened by the careful balancing of opinion which is everywhere noticeable, and which smacks, in its colorless calm, of the editor of a Law Dictionary. Nevertheless some few marks of haste lead us to believe that the approaching passage of the Act slightly interfered with the due preparations of both the writer and the publisher. Occasionally the cases are ill-assorted. Moreover, repeating the substance of important judicial decisions under various sections of the Act is commendable in a manual of this kind, but it can be carried to excess, as on page 93 of the work—sub-head, buying assent of creditors—which is a mere iteration of what page 86 contains.

Other trifling faults might be mentioned, but they scarcely mar the practical usefulness of the book. Some confusion arises in the

beginning from the words "assignee" and "trustee," and a preliminary chapter on bankruptcy in general ought to be added, to pave the way for more detailed consideration of the Act. Some general information is given, indeed, in the last chapter, but under the misleading caption, "The time when this Act shall go into effect." The sections of the Act are printed in large type, and usually each section is followed by notes in the form of digested cases in point, which cover from one to twenty pages; so that the volume is literally a Handbook of the Bankruptcy Law.

J. J. S.

A TREATISE ON THE MILITARY LAW OF THE UNITED STATES. By Lieut.-Col. G. B. DAVIS. New York: John Wiley & Sons. 1898.

"The term Military Law applies to and includes such rules of action and conduct as are imposed by a state upon persons in its military service, with a view to the establishment and maintenance of military discipline." At the present time, when so many men are under this rule and so much foreign territory governed by it, a book from such a recognized authority as the Deputy Judge Advocate of the United States possesses a peculiar interest. In a large volume Lieut.-Col. Davis has well treated this somewhat complex subject, his language is clear and concise, and, what is all too rare in law books, the arrangement leaves nothing or little to be desired. The work is hardly intended for consecutive reading, being more a text or reference book, yet a perusal of it will result in much interesting information.

In opening, the author sketches the development of Military Law in England to its adoption by the Revolutionary Congress in 1775 for the government of the American army. The present Military Law of the United States consists of statutes, orders, regulations and the unwritten laws or *customs of service*, which are long-continued usages.

Military Law and Martial Law are not synonymous terms. The former applies to military men wherever they are and in all circumstances, while the latter is instituted by proclamation and applies only during time of war in foreign land, or at home when the civil law is suspended. They are both administered by courts-martial, which is an exceedingly old form of tribunal, whose "history can be traced back to a period earlier than the Christian era, especially among the Romans—the most important and powerful of the military nations of antiquity—from whose system of jurisprudence it was borrowed by the Teutonic leaders during the Middle Ages and adapted to the peculiar conditions of the feudal system. It had become fully established on the continent of Europe at the time of the Norman Conquest, and was introduced into England, as an incident of that system, by William the Con-

queror and his immediate successors in the latter part of the eleventh century. . . .

“Courts-martial are no part of the judiciary of the United States, but simply instrumentalities of the executive power. They are creatures of *orders*—the power to convene them, as well as the power to act upon their proceedings, being an attribute of command. But, though transient and summary, their judgments, when rendered upon subjects within their limited jurisdiction, are as legal and valid as those of any other tribunals—nor are the same subject to be appealed from, set aside, or reviewed by the courts of the United States or of any state.”

Courts-martial are divided into two classes—general courts-martial and inferior courts-martial. The former adjudges capital offences, and the latter offences not capital. The composition of both, as regards numbers, is the same. They cannot legally operate with less than five nor more than thirteen members, who must be commissioned officers, and “no officer shall, when it can be avoided, be tried by officers inferior to him in rank.”

“The court assembles at the time and place mentioned in the convening order. The president takes his place at the head of the table, and the members take seats on either side of the president in order of rank as named in the appointing of the court. The judge advocate and the reporter, if there be one, take their places at the foot of the table, where seats are also provided for the accused and his counsel, and for the particular witness who is undergoing examination. . . .

“When the preliminary business has been disposed of, the judge advocate announces that he is ready to proceed to the trial of the accused person. . . .

“The accused is then introduced by the judge advocate. He appears in uniform, without arms, if an officer or enlisted man, and without irons or fetters in any case—that is, perfectly free from restraint as to his limbs and bodily movement—this in order that he may be absolutely free from embarrassment in making his defence.” . . .

The accused is given opportunity to challenge any member of the court, and, if he raises no objection, the court is then sworn to “well and truly try and determine the matter now before them.” The author now devotes considerable space to the arraignment, pleas and such like, which are, in general, those of common law.

“The arguments or statements having been submitted by or in behalf of the prosecution and defence, the court is cleared and closed for deliberation and finding. . . . It is the function of a jury in a criminal trial to determine the weight that is to be attached to the testimony submitted . . . As this duty falls upon the members in a trial by court-martial, it becomes necessary for them to ascertain, *first*, what is alleged against the accused, and, second, whether the allegations contained in the charges and

specifications have been proven beyond a reasonable doubt." . . .

Having maturely considered the evidence . . . the court is ready to pass upon the question of guilt or innocence. In voting, the 95th Article requires that the "youngest in commission shall vote first." The decision both as to guilt and punishment is by majority, excepting in the case of the death sentence, which must be by a two-third vote. "For military offences the form of death sentence imposed is that by 'shooting to death by musketry;' for murder and other common law offences, which are punishable capitally, the sentence usually imposed is that by hanging. The same form is awarded in cases involving ignominy, as for the offence of being a spy, or of desertion to the enemy in time of war.

Evidence is under almost the same conditions as in common law. Chapters are then devoted to Martial Law, Habeas Corpus and the Employment of Military Force; the remainder of the book is devoted to the enumeration of the 128 Articles of War, supplemented by comprehensive elucidation or explanation.

In addition the work contains some valuable matter in the appendices, and altogether we believe that Lieut.-Col. Davis has written a book which will surely gain for itself a well deserved place as a standard in its field. *W. M. C.*

CANADIAN CRIMINAL CASES, ANNOTATED. Edited by W. J. TREMEEAR, of the Toronto Bar. Toronto: Canada Law Journal Company. 1898.

In accordance with the custom, now common, of collecting the law on a certain subject by means of current leading cases with a copious note to each, Mr. Tremear has started a series of criminal cases for the benefit of the Canadian bar. The advance sheets of the first part of Volume I. show a careful selection of those questions on criminal and quasi-criminal matters which have been passed upon by all the Canadian courts since the enactment of the Criminal Code of 1893, while the notes give concise and thorough *résumés* of the previous English and Canadian decisions on each question. Some attempt is made to incorporate the United States decisions, but there are not sufficient of the latter to render the notes of much service to a lawyer of this country, unless he should be looking to foreign reports in search of a precedent.

THE CANADIAN ANNUAL DIGEST FOR 1897. Compiled by CHARLES H. MASTERS and CHARLES MORSE, Barristers-at-Law. Toronto: Canada Law Journal Co. 1898.

The digest includes the decisions of the Supreme and Exchequer Courts of Canada, all the provincial courts and the Privy Council (cases from Canada). It follows, to a great extent, the plan of the English annuals and is well arranged throughout. The delay in its appearance is explained by the fact that the year 1897 was well advanced before publication was decided upon.