

BOOK REVIEWS.

THE LAW OF LIBEL AND SLANDER. By MARTIN L. NEWELL.
Second Edition. Chicago: Callaghan & Co. 1898.

The same Common Law which protects the person and property of the individual from harm is also careful of his good name. *Fama volat*, say the ancients. The gossiping phrase "they say," works a more harmful, because a more subtle injury, and more impairs a man's right to the pursuit of happiness, than physical violence.

The earliest cases on the Year Books are of *scandalum magnatum* and the action for private defamation comes into use later. For, in days of dawning civilization, men are either more honest in their expressions concerning others, or are restrained by the wholesome fear of retaliation on the part of the injured. And the prime reason that caused the courts at first to give pecuniary damages for defamation of character was to prevent private feuds and blood-shed, rather than the doctrine that a man's character, like his land, is his own, and is not to be trespassed upon by careless neighbors. Yet there is a curious resemblance between the law of defamation and that of trespass on real property. One has the same absolute right to his good name as to the sole use of his own land. The very act of defaming, like that of trespassing, implies malice. Whether one says what he has no right to say, or walks where he has no right to go, his deed is alike actionable. Privileged occasions in the law of defamation are but the commons and highways of the Real Property Law, which any one can use freely so long as he does not come into conflict with the equal rights of his fellows. These two branches of the law, also, have been more often abused than any others. In what other subject will we find so many actions resulting in damages assessed at one penny or a like trivial sum, showing that spite, or a spirit of quarrelsomeness actuated the plaintiff, rather than any real injury? On reading any selection of cases on Slander and Libel the triviality and absurdity of many of the causes of action seem almost a caricature of law, but the principle underlying them is true and necessary to be preserved.

Newell has prepared an exhaustive treatise on the law of Slander and Libel in all its branches. The first three chapters are devoted to an historical review of the law showing its high state of development under the Codes of the Civil Law, its decline with the decay of the Empire and onrush of barbarism, and its new birth when stable governments became again the order of the day.

The arbitrary distinction between slander and libel is deplored. There is little reason to-day that a statement defamatory when written should not also be defamatory when spoken; malice, the gist of the action, exists alike in both cases, and the division is not only unscientific but confusing.

Especially clear are the chapters on Privileged Communications.

By keeping constantly in mind the reason for this exception to the rule, namely, public policy, the author is enabled to sift the many contradictory cases and make a broad and level road through the debatable territory.

Pleadings, Evidence, Damages, each have chapters devoted to them. In short, this may be called a compendium of all useful knowledge on this branch of law. This edition has been enlarged by sections upon "restraint of libels by injunction," "publication by telegrams, postal cards, etc.," and the progress of the law has been followed, the decisions since the first edition being cited.

Counsellor Newell has prepared a standard work, his thoroughness and attention to all the minutia of his subject are not excelled. He is not content with citing cases, leaving to the practitioner the labor of looking to see if they have any bearing on the text, but has carefully digested a great number of cases, arranged so as to prove from the very fountain of the law, what the law is. These cases are systematically arranged, so that they can be referred to without first looking over the entire book to find out where each one is. As a digest alone, it is invaluable.

One lack about the book makes it pre-eminently of value to the practitioner; it is a plain statement of the Law. Mr. Newell does not try to do missionary work and to bring others to his private opinions, by advancing theories and attempting to show that courts and counsellors have erred from the beginning, and that the full truth has been revealed to him alone. This fault, so common in our modern so-called law books, but happily altogether wanting in this work, makes them almost worthless, save as curious exhibitions of mental gymnastics.

Lastly, the work of the proof-reader is especially to be commended. If one is to judge by the appearance of most of the volumes bound in law calf, called law books, and perpetrated upon a long suffering public, proof reading has lately gone altogether out of fashion. After the eyes have been offended, and the patience exhausted in reading such books, a glance at the attractive page and correctness of text in "Newell on Slander and Libel" is a relief, indeed.

J. D. McM.

UNITED STATES BANKRUPTCY LAW OF 1898. With Marginal Notes and Index. Washington: Washington Law Book Co. 1898.

WAR REVENUE LAW OF 1898. With Index. Washington: Washington Law Book Co. 1898.

The importance of having small and complete copies of the War Revenue and Bankrupt Laws close at hand is apparent. These two pamphlets, published by the Washington Law Book Company, are printed in convenient form and are well indexed. The Bankrupt Law pamphlet contains excellent marginal side-notes, or "headings," prepared by E. C. Brandenburg, Esq., of the Department of Justice, Washington.