

BOOK REVIEWS.

PSYCHOPATHIA SEXUALIS. A MEDICO-FORENSIC STUDY. By
DR. R. V. KRAFFT-EBING. Chicago: W. T. KEENER & Co.
1900.

Interesting as is the work here under discussion, from a medical and a psychological point of view, we are concerned only with its bearing upon the criminal law.

Concerning those who commit "unspeakable crimes," and why they should go unpunished, Dr. Krafft-Ebing says:¹ "My reasons for desiring the abolition of the laws above referred to are the following: (1) The offences referred to in these laws generally spring from an abnormal psychical condition. (2) Only a most careful medical examination can distinguish cases of sheer perversity from those of pathological perversion. As soon as the individual is charged with the offence, he is socially ruined. (3) The majority of urgings are the victims of a perverse instinct of abnormal quality. In qualifying [*sic*] the sexual instinct they are irresistibly forced by physical compulsion. (4) Many urgings are incapable of considering their sexual instinct as unnatural; on the contrary, their own appears to them the natural act, and that permitted by law as *contra naturam*. The moral means of correction which might prevent the sexual transgression are therefore wanting. (5) The definition as to what constitutes an immoral offence is defective, and allows the judge too much latitude.² . . . (6) Theoretical criminal reasons for the retention of the paragraph are never advanced. It does not deter from crime and has no corrective influence, for pathological manifestations are not removed by penal remedies. Decidedly it is not an atonement for a criminal act which can only under certain and mostly false presumptions be considered as criminal, and thus may lead to acts of gross injustice. It must be remembered that in many civilized countries³ this paragraph [of the law punishing pederasty] no longer is in vogue, that in Germany it only exists as a concession to public morality, whilst the latter is based on false principles, and frequently mixes up perversion with perversity. (7) In my opinion, public morality and youth are sufficiently protected, in Germany at any rate, by other paragraphs of the statutes; and I incline to the belief that paragraph 175 does more harm than good, in so far as it favors and abets blackmail—one of the basest and vilest vices."

The abolition of punishment for unnatural crimes, for which our author contends with so much vehemence, is an idea so startling

¹ P. S., p. 547.

² However true of Germany, this seems not to be so in Pennsylvania, at least. See Act June 11, 1879. P. L. 148, § 1. P. & L. Dig. Laws, 1328.

³ Italy, Holland, probably Belgium and Spain, as well as France, unless in the last country it be coupled with public indecency. P. S., p. 562.

that it repels at once any acquiescence in it. Let us, however, examine his reasons *seriatim*. Paragraphs (1), (3) and (4) come to this: These people have an overwhelming desire to commit these crimes; on account of their blunted moral perceptions, they see no sin in their acts, therefore they should go unpunished. Let us test this argument, and first of all we must postulate the position that these persons are not insane. Since, if they were, the law would have no further concern with them than to shut them up in asylums where they might be cured. Assuming, then, their sanity the argument *mutatis mutandis* becomes this: This man has an overwhelming desire to steal; on account of his blunted moral perception he (perhaps by reason of having been brought up in a society of thieves), sees no sin in his act, therefore he should go free. But, it will be urged, the analogy is false. Not at all. In both cases society has the right to protect itself against those who tend to overthrow its established laws. It is not concerned with the sinfulness and folly of the individual onanist, but with the contagion of his crime as to others. Especially as to boys, of whom Dr. Krafft-Ebing says, they "uin them in body and soul."⁴ As to the young he confesses that it is desirable to maintain in force the present laws where children under sixteen or eighteen years of age have been seduced. Here, he admits the weakness of his entire contention. If crimes committed upon the young should be punished, why should not the same crimes committed upon adults be punished in like manner?

Whatever be the true theory of the state punishment of crime—a much controverted point—this much is clear: That as self-preservation is the first law of nature, the state has a duty and a right to prohibit whatever tends to destroy the public welfare. The crimes under consideration, as Dr. Krafft-Ebing admits, have a most pernicious effect upon individuals, and if they should be sanctioned, as it were, by being unpunished, they might, in time, destroy certain communities and ruin the commonwealth.

But we are told that the law "does not deter from crime and has no corrective influence, for pathological manifestations are not removed by penal remedies." Read⁵ the admission of one of these creatures: "The thought of falling into the hands of the police was frightful." It is hardly to be doubted that the laws do deter from these crimes, as well as others.

The argument as to blackmail appears, from a legal point of view, to be entirely frivolous. It is as if one were to say, Let us repeal the law as to arson, since if the incendiary be discovered he may not be denounced, but blackmailed, which is itself a crime. Not at all—it is an additional punishment for the original crime.

While not attempting to join issue with Dr. Krafft-Ebing on medical grounds, yet it seems to us that public policy imperatively demands the stern punishment of all unnatural crimes, which our author declares⁶ to be on the increase.

⁴ P. S., p. 555.

⁵ P. S., p. 287.

⁶ P. S., p. 473.

In conclusion we cannot too much approve the constant use of Latin to hide the hideous nakedness of the facts portrayed in the book. The frequent use of technical terms is also to be recommended, since it renders the book less comprehensible to the "laity," who are best off in total ignorance of its contents. In dwelling so long on this sad subject, we feel there is no need of an excuse, since the problem presented is comparatively new and of vital importance to the state.

ABBOTT'S TRIAL BRIEF. CIVIL JURY TRIALS. Second edition. The Lawyer's Co-operative Publishing Company. Rochester, N. Y. 1900.

This is a second and enlarged edition of one of those useful books which were issued in generous succession by the late Austin Abbott, either alone or jointly with his brother Benjamin V. Abbott—*e. g.*, the "Old Series" reports, "New Series," "New Cases," "Forms of Pleading," etc. To the "office" lawyer, with ample time to study before acting, or to the metaphysical lawyer, who deals only with suppositious cases, this volume, and all *ejusdem generis*, can be of little interest. Even to the practitioner whose litigated business is under common law procedure, the original chapters of this work, which were chiefly under the New York Statutes, may not be available; but to the advocate engaged in the conduct of actions in states (now a majority of the United States) wherein Civil Codes of Procedure have been enacted, to whom courts, trials, and opposing counsel are actual, visible, inevitable realities of his bread-winning life, such a book is of great value. To lawyers in any jurisdiction, the chapters added by the "Publishers Editorial Staff," are useful and helpful in their summaries of law and citations of recent cases—and from a brief compendium of the law of evidence. The titles, "Examinations of Witnesses" and "Exhibition and View," would seem especially interesting—to the general legal reader.

J. W. P.

THE LAW AND PRACTICE IN BANKRUPTCY. By WILLIAM MILLER COLLIER. Third edition. Revised and enlarged by JAMES W. EATON. Albany, New York: Matthew Bender. 1900.

The many friends of Collier on Bankruptcy will scarcely recognize it in its new form. The early editions contained much that was of value as pointing out the probable trend of decision under the Act of 1898 by reference to the decided cases under the old acts. Much of this matter has been superseded by late decisions under the Act of 1898, and some of it has been rendered of no application. The new edition of Collier has discarded all such superseded matter and has turned to the case law under the new act for a commentary upon its provisions. While there is perhaps not quite so much matter in the notes to the various sections, what there is is exceedingly well

written and very much to the point. There is a judicious blending of the apposite decisions under the Act of 1867 with those under the Act of 1898, so that a very complete view of the law is afforded. It has always seemed to the present writer that the only practical way to treat such a subject as Bankruptcy was to follow the divisions of the subject made by the act itself, and not to attempt to group together in a so-called logical treatment sections separated in the act, but which deal with similar or cognate subjects. Such a grouping in treatment depends very much upon the personal equation of the author, and only leads to confusion on the part of those who use the book because their mental analysis of the subject may not be the same as that of the author. The objection that is raised to the treatment section by section is, that it must be in the nature of things somewhat fragmentary. Thus, for instance, it is said that since Section 2 and Section 23 deal with the same head, namely jurisdiction, they should be treated together; that, as parts of Sections 3, 18, and 59 deal with the procedure requisite to the filing of a petition, they should logically go together, and that a person unacquainted with a full text of the act may be led to suppose that he knows practically all the requirements of a petition when he has read Section 3 and Section 18 and may overlook Section 59, but any such difficulty as this, if indeed it be a difficulty, is overcome by Mr. Eaton by a thorough system of cross-references between sections, and the references in the notes to one section, to the cognate sections.

On the whole, there seems to be no doubt that the arrangement of the book is the proper one. It has in addition a merit which seems to be lacking in most of the books which follow this system, in that the notes to the various sections are not mere sketches of a perfunctory sort, but are thorough and scholarly discussions of the points raised. A great improvement in the present edition is the enlargement of the type in the notes, which was perhaps too small for comfort to the eyes in the earlier editions. The paper and presswork also seem to be somewhat better in the present edition than in the earlier ones. On the whole, we believe that Collier is the most convenient and satisfactory reference work for a practitioner in Bankruptcy that has been given to the public.

O. J. R.

ELECTRIC LAW. By J. A. JOYCE and H. C. JOYCE. New York : Banks Law Publishing Company. 1900.

This is an excellent book. We have no hesitation in saying that the authors have fulfilled the purpose set forth in their preface; to wit: "to clearly, understandingly and logically present to the profession the entire law on the subject of electricity, with the reasons for its application, and so furnish the Bench and Bar with a work which will not be a mere reference text-book, but a treatise, and one which can be consulted and used to advantage by courts and lawyers, and be also of practical value, both to them and to electrical corporations." In view of the use of the book by non-lawyers, the full dis-

cussion of elementary law in anywise *germane* to the comprehensive general subject is explained. This exposition of matters of common knowledge to the profession will be appreciated by business men, to whom the Sixth "Title" on Contracts by Telegraph will be very useful. On the other hand, these matters of primary learning will in nowise hinder the lawyer who seeks for information on any of the numerous and obscure points of the general subject, which are well presented in the volume in hand.

In another matter, too, our authors have been very successful; that is, in supplying "the needs of both the case lawyer and the one who relies upon principles." In fact, the dual aspect of the book has been so well managed that much of the text might stand alone, after the manner of the civil law authorities, who have little concern with the doctrine of *stare decisis* and look rather to the intrinsic reason of rules of law. And the citation of cases is thorough enough to satisfy the most voracious of case-digesters.

In view of the immense labor involved and the excellent result obtained, "Electric Law" is like to become a standard book.

E. B. S., Jr.

REGISTERING TITLE TO LAND. BY JACQUES DUMAS, L.L. D
Chicago: Callaghan & Co. 1900.

As we ordinarily understand registration in the United States, we mean what Dr. Dumas calls, an imperfect system of registration, to wit: registration of deeds; but the author clearly shows its incompleteness. The holder, under a registered deed, may only claim a right of priority against a third person whose right has not been made public, and he is constantly exposed to the consequences of any defect in his grantor's title.

Now, a perfect system of registration has for its object, to make a title absolutely indefeasible. It contains three distinctive features: (1) Grant of an absolute title; (2) compulsion; (3) compensation for errors. In only five or six countries has the complete system gained a foothold. A brief view of its workings in Australia, under the management of Sir Robert Torreas, will show its purpose. The owner of land there makes application to the "register," who refers the question of title to a board of "examiners of titles." They pass upon the applicant's right to the land and the register gives him a certificate setting forth the nature of the estate. This certificate vests the estate indefeasibly. If it should happen that the examiners made a mistake and the real owner was deprived of his property, then a compensation was paid to him for the full value of the lands, which fund is raised by a contribution on the value of the land. The benefits derived from this are twofold: (1) No adverse claim can be raised to disturb the owner, under the registered title; (2) it affords great facility in further dealings with the land, because the next vendee has to look no further than the certificate of his vendor.

From this brief statement we can readily see the benefits which Dr. Dumas says, registration has provided: (1) Security. Registra-

tion protects the registered owner against ejectment, because registration can never be subject to rectification; it also protects the owner who by mistake has been registered out of his land, by giving him compensation. (2) Simplicity. Compared with the trouble of examining titles, this system renders clear what was once intricate. (3) Economy. As shown by the Australian system the cost is only nominal.

This system is becoming more and more popular. It has been adopted by Illinois, Ohio, and Massachusetts. Dr. Dumas says the chief objection to it is made by the legal profession, based on the fear of its advantages, rather than of its deficiencies.

F. W. S.

THE MARITIME CODES OF ITALY. By HON. F. W. RAIKES. London: Effingham Wilson. 1900.

Our author has had wide experience in maritime codes, having previously translated and edited the codes of Belgium, Holland, Portugal and Spain. The maritime law of Italy includes a code for use in war-time and is important also because of its origin in the Roman law and its consequent relation to codes of like nature as a fountain head. The work under discussion is hardly more than a translation of the Code, with short explanatory notes, accompanied by citations of English and Italian cases. It may be that a larger book would be out of place now; at all events, a work of this nature would form a very durable foundation for a bulkier volume. As an exposition of statute law it will be of value to all who are at all concerned with Admiralty practice.

J. M. D.

CASES ON INSURANCE. Edited by EDWIN H. WOODRUFF, Cornell University. New York: Baker Voorhis & Co. 1900.

The man who studies law by the case system regards as invaluable the production of such a book as "A Selection of Cases on the Law of Insurance," recently published by Professor Edwin H. Woodruff, of Cornell. A case book of this kind serves two purposes: (1) it is a great time saver to the student, who otherwise has to search through the reports, and (2) it presents the whole aspect of the law in a clear and concise way. Professor Woodruff is perfectly familiar with the needs of the student, in such a work, having edited more than one book of the same sort. In the table of contents is to be found an analysis of the law of insurance which, if carefully followed in reading the cases, will give the student a broad general knowledge of the law as it is to-day, for the very latest decisions are contained therein. Perhaps the most noteworthy feature of the book is the author's effort to simplify the work of the student. Thus, instead of using a dozen cases to illustrate one phase of the law, we find only three or four. If a case illustrates more than one

principle, Professor Woodruff always makes a cross reference to it under that particular sub-head.

The author has spared no pains to make the statement of facts in each case as clear as possible. For instance, in the case of *People's Street Ry. Co. v. Spencer*, 156 Pa. 85 (1893), page 341 in this book, he has borrowed the whole statement of facts from Professor George Wharton Pepper, as found in his comment on the case in 33 AMERICAN LAW REGISTER. N. S. 134.

Frequently are to be found the editor's own notes at the foot of the page, and also digests of other cases relevant to the sub-head of his analysis then being considered. As is usual in books of this kind, there is a complete list of the cases cited in the book and a general index, from which the student can easily find the law bearing on any particular subject.

F. W. S.

THAMES RIVER LAW. By G. PITT-LEWIS, J. C. London. Effingham Wilson; Swett & Maxwell: 1900.

This book is simply a compilation of the Acts, By-Laws and Regulations of general public interest, governing the use of the Thames River.

Its purpose, as is emphatically stated by the author, is that it is not to be used as a law book, but simply as a book of reference, giving the rights and liabilities of those who use the river Thames for pleasure or for profit.

F. W. S.

THE TRADER'S GUIDE TO THE LAW AFFECTING THE SALE OF GOODS. By LAWRENCE DUCKWORTH, of the Middle Temple, Barrister-at-Law. London: Effingham Wilson. 1900.

The author has endeavored within a very few pages to give an exposition of the Sale of Goods Act 1893. The Guide contains, in addition to the text of the Sale of Goods Act 1893, the substance of the Factories Act 1889. The book is written in a popular manner and it is difficult to tell with what accuracy the law is laid down, because the author cites no authorities. As its title suggests, it is simply a guide and not an authority.

F. W. S.