

BOOK REVIEWS.

SOHM'S INSTITUTES OF ROMAN LAW. Translated by LEDLIE.
Second edition, XXII, 639. Oxford, 1901.

Those who are familiar with the earlier form of this work will need no assurance of its value. Perhaps no single volume furnishes a better introduction to the elements of Roman law. The style, too, is "juicy" and attractive. The present edition is translated from the ninth edition in German. A peculiar feature is the number of additions in view of the German Civil Code.

In Part I, "The History of Roman Law," the Pretorian Edict is treated more fully than in the first English edition, and all of Chapter III is new matter treating of the Roman law subsequent to Justinian up to the adoption of the German Civil Code. The tremendous results of Savigny's work—both in the creation of the Historical School, and, as a consequence unforeseen by him, in the replacing of the corpus by the German Civil Code—are indicated in § 28.

In Part II, the Law of Persons is treated quite differently in the new edition. Sohm retains the peculiar order that puts Remedial Law before Property Law—as "Law of Property (General Part)." In this "Law of Procedure," he has made extensive alterations and additions in view of Professor Wlassik's "*Römische Prozessgesetze*," particularly in §§ 49 and 50. In § 81, Sohm abandons his former theory in favor of Keller's view, and says: "The literal contract of Roman law was a fictitious loan which operated by virtue of the *literæ*—i. e., by virtue of the writing in the codex as such, irrespectively altogether of the facts actually underlying the relations between the parties—to impose on the debtor an abstract liability to pay a fixed sum of money."

In view of Rudolph von Jhering's "The Mouse-trap of Roman Law" in his "*Scherz und Ernst in der Jurisprudence*," peculiar interest attaches to Sohm's new account of the *usucapio pro herede* (acquisition by prescription of an inheritance). Sohm gives no less than three diverse views of this peculiar institute of the early law. If Jhering were still alive, a few "puffs at his '*rechtshistorische cigarre*'" might occasion an additional one! The book contains an admirable introduction on the nature of the subject, and the sources and fundamental conceptions.

E. S. S.

THE LAW AND POLICY OF ANNEXATION, WITH SPECIAL REFERENCE TO THE PHILIPPINES. By CARMAN F. RANDOLPH.
New York: Longmans, Green & Co., 1901.

This is a valuable book. The author writes with great learning and conclusive force. However, it is out of our province to enter

upon a discussion of the policy or impolicy of annexation. The fact that in the case of the Philippines we have on our hands a lightly assumed burden, which ere long promises to become too heavy to be borne, is a subject within the domain of politics and not properly to be considered in a legal magazine. As an exposition, then, of the constitutional law, applicable to our new possessions, the first four chapters (being three-fourths of the text), are most brilliantly and forcibly argued. It seems impossible to escape in *logic* the author's conclusion that "the Constitution follows the Flag." He also argues strongly against any supposed necessity by force of political considerations to override the first conclusion at which he arrives. The great excellence of the book, however, lies in the fact that it expounds a coherent general theory of constitutional law applicable to the Philippines, and the author, by testing it in the important situations in which it might have to be applied, finds it is above all else practical. It seems clear, indeed, that the many arguments advanced against the possibility of having a satisfactory government in our island territories, under the Constitution, are all unsound. This brings us to the dilemma presented by our author: that the Philippines are a part of the United States or they are not; if they are we must govern them under the Constitution, if they are not we cannot govern them at all.

After considering the condition of affairs in the Philippines, the author turns to the status of Cuba in relation to our Constitution, and points out the anomalous nature of our occupation of that island. He is unable to find any authority in the Constitution for our remaining there, unless it be the war power. This he thinks, while not a wholly satisfactory one, will be a sufficient legal reason for our administration of the island.

The book contains an appendix of documents relative to the questions involved.

Without further enlarging on the book, suffice it to say that it contains a most learned and able argument on the constitutional questions arising out of annexation.

The paper and print of the book are excellent.

E. B. S., Jr.

GLANVILLE. BEAMES' translation, with an introduction by JOSEPH HENRY BEALE, JR., Professor of Law in Harvard University. John Byrne & Co. Washington, D. C., 1900.

This edition of the "Treatise on the Laws and Customs of the Kingdom of England in the Time of King Henry the Second," which treatise has usually been ascribed to, and is generally known as that of, Ranulph de Glanville, chief justice in the reign of Henry the Second, is, with the exception of the introduction, merely a reprint of the translation of "Glanville," by John Beames, Esq., of Lincoln's Inn, published in 1812.

But while the edition may be considered less worthy of note generally on this account, it may well receive the attention especially

of those interested in legal classics and the history of the English common law, since it includes a clear and comprehensive introduction by Professor Beale, in which the mooted question of authorship, the character of the treatise and its relation to the law, are discussed, and since it presents the translation of 1812 in an attractive and more modern typographical form.

C. T. B.

CHARTER PARTIES AND BILLS OF LADING. By LAWRENCE DUCKWORTH, of the Middle Temple, Barrister-at-Law. London: Effingham Wilson, 1901.

In this day of so great commercial activity, it is almost necessary for every man, be he lawyer or layman, to have a general idea of the law regulating the customary steps taken in the shipment of goods to a foreign land. This, we believe, he can get from Mr. Duckworth's book, which is an epitome of the law, embraced within one hundred pages.

The book is divided into two parts. The first, dealing with charter parties, explains their nature and interprets many of the phrases and clauses contained therein, in the light of decisions of the English courts. The Acts of Parliament bearing on this subject are also cited and commented on.

The second part contains a very good statement of the law relating to bills of lading.

Perhaps the most noteworthy feature of the book is the fact that numerous authorities, many of them the latest decisions, are quoted in support of the author's assertions.

The ordinary forms of a charter party and a bill of lading are given in the appendix.

At the end of the book will be found a very comprehensive index and also a table of the cases cited.

F. W. S.

LAW RELATING TO GENERAL AND PARTICULAR AVERAGE. By LAWRENCE DUCKWORTH. London: Effingham Wilson, 1900.

This little book was written "for the convenience of underwriters and other persons who desire to possess a concise statement of the law on the subject of Average." Within its limits it is an excellent exposition of a very difficult subject, and furnishes an excellent introduction to one branch of admiralty law. The type is excellent and the book compact.