

BOOK REVIEWS.

THE LAW OF BANKRUPTCY. BY EDWIN C. BRANDENBURG, LL. M. Second edition. Chicago: Callaghan & Co., 1901.

A purely statutory subject, such as that of bankruptcy, is not a very encouraging one on which to write a treatise. The nature of the subject-matter renders very difficult any so-called logical or synthetic analysis. The author of the present volume has taken the only sensible method, and has followed the act throughout, quoting it section by section, and subjoining to each section his comments and discussion and his citation of authorities. He has overcome any lack of comprehensiveness, by repetition, where necessary, and by very complete cross references. Such treatment seems preferable, to a series of separate monographs, for example, on the whole subject of "preferences," taking all the sections bearing on that topic together, or on "suits by trustees," etc. Not much scope is given in a work on a statutory subject for extended discussion of the principles involved, but wherever there have been divergent opinions, the diversity seems to have been clearly stated, and a good resumé of the authorities given, to which the author has added pertinent comments on the decisions. This is illustrated, for example, in the exposition of the authorities on the jurisdiction of the court to adjudge a man bankrupt (page 21), and in the discussion of preferences and their effect on the rights of the parties.

No work yet published on this branch of the law has satisfactorily treated the question of the conflict of jurisdiction of state and federal courts, or defined clearly the extent of the suspension of state laws by a bankruptcy act. It is to be regretted that Mr. Brandenburg has not devoted more space and care to this question, since it needs clearing up. The outline sketch of the history of bankruptcy legislation might profitably be made more complete, but it is presumed that this was not done because the book is primarily intended only as a practical commentary on the present act. A strange confusion of the terms debtor and creditor occurs several times on page 4 that should not have been permitted to creep into the book.

Notwithstanding these minor criticisms the work is a very complete, and so far as we have been able to examine it in detail, a very accurate reference work. The mechanical arrangement of it is evidently designed for convenience in the rapid running down of citations, and its notes contain all the citations under the act of 1898, and all those of value under the act of 1867. It ought to be of considerable advantage to the profession, as being the latest and most complete work on the subject.

F. S. E.

(A Brief of the Modes of Proving the Facts most frequently in Issue or Collaterally in question on the Trial of Civil or Criminal Cases; or) ABBOTT'S TRIAL BRIEF. Second and enlarged edition. Lawyers' Co-operative Publishing Company, Rochester. 1901.

Mr. Austin Abbott the author of a trio of brief books on the Law of Procedure needs no introduction to the profession. Useful and complete as his Trial Brief was found in practice, recent decisions on some, and the growth in importance of others, of the subject there treated required this new and enlarged edition. The editors have added a chapter on Insanity, Paternity and survivorship; enlarged and expanded the chapter on Abandonment and Ability, and reconsidered and restated other chapters in view of recent decisions, making the work in every sense more complete, precise and definite.

A word on the arrangement of the work. It is a dictionary of facts commonly in issue in the more frequent classes of litigation. Each fact is then sub-divided into its various applications to different situations, and under each sub-division is a statement of the modes in which the fact in relation to that situation is permitted to be proved, together with a brief of authorities on the point. To illustrate: the reader desires to know whether he can prove handwriting by an expert. He looks not for Expert Testimony but for Handwriting which is the fact to be proved. Again he wants to know whether he can prove age or title by statement of a person since deceased. He turns not to Hearsay or Statements by Deceased Persons but to Age or Title.

A moment's reflection will convince one of the importance and great usefulness of this work to the practicing lawyer, both in time saved and in confidence resulting from concise understanding of the legality of his evidence and its limits. Cases are won and lost every day on counsel's knowledge or lack of knowledge of evidence. The time of the court and patience of opposing counsel are wasted by immaterial and otherwise irrelevant questions and futile and unreasonable objections to good and legal questions. And by a knowledge of evidence we mean not only the general rules which determine what is and what is not evidence in a particular issue, but also the various modes competent under those rules to prove that fact, coupled with ability to select that mode most prudent under the circumstances, effective at the trial, and safe in case of appeal. Such a knowledge may well be acquired by constant preparation for, and conduct of, jury trials, but careful study of Mr. Abbott's work as now constituted will give in a name equally satisfactory that which otherwise must be learned in a bitter school of experience.

An intelligent use of this book must also lead to a systematic conduct of the case. Counsel must study his position, conclude what facts he can depend on to get a verdict, turn to those facts,

and there select from the various ways courts or legislatures, permit those facts to be proved, that mode and that witness which will afford his opponent least room for attack, or subject himself to least possibility of disappointment at a critical stage. He is prepared with principles and authorities for any objection to his own evidence, and likewise for any attempt to present evidence to which he is not entitled.

The practical usefulness of the book, especially to the younger members of the profession, can hardly be overestimated. Nor can it fail to meet with even greater commendation from the profession than Mr. Abbott's other brief books, for it is more original, and therefore to a greater extent required in the library of every practising attorney. The Criminal Brief and the Civil Brief treat of the effect of facts when proved in their respective class of case. The Brief of Facts goes a step deeper and considers the *methods of proving these facts* in a court of justice.

T. I. P.

A TREATISE ON THE LAW OF DAMAGES FOR PERSONAL INJURIES.

By ARCHIBALD ROBINSON WATSON, of the New York City Bar, formerly of the Memphis Bar. The Mictrie Company, Charlottesville, Va. 1901.

Very few books bearing the above title are to be found in the law libraries; indeed, sixty years ago there was not an American text-book on the whole subject of "Damages." And at present, although there are some treatises on special branches of this subject as well as some books of general summary, "no one has, apparently, attempted anything approaching a full and exhaustive treatment of damages for personal injuries." As the immense practical importance of the subject is clear, such a book must be invaluable to the legal profession; and as this importance has been recognized in the law schools by a special course on "Damages," students must often have felt the need of a comprehensive treatise. It is this need which the author wishes to supply.

His task was a great one, for his subject necessarily covers all phases of human action in their infinite diversity and continuous development, and there, to do justice, special cases must be decided according to special circumstances. The title "Damages," itself susceptible to at least three definitions, indicates the uncertainty of much of the subject for which it stands. It is true that the simplification of forms of pleading has made the question of recovery more nearly one of the nature of the wrong and therefore much easier of access; but the wrong itself varies so infinitely that the difficulty of bringing the cases into line and deducing from them a general rule of law will readily be appreciated.

The author has met this difficulty in the first place by a careful arrangement of his book. There is a complete index. The chapter heads indicate precisely what is to be found under them, and the references to paragraph headings show just where it is to be found. The book falls naturally into two parts. The first deals with the substantive law, the second with the procedure relating thereto. The former discusses in logical order the three distinct questions arising in the development of every action for damages, viz: as to the injury, the right to recovery and the measure of recovery. The author discusses general rules and theories with marked ease of style and still with much care and analytical ability. We cannot better recommend this book than by indicating as an example the introductory chapter on "Natural and Proximate Cause." The position and application of the doctrine to the subject is first stated; then follows a defining of the loose terms, such as natural, proximate, probable, immediate, direct, primary, used as descriptive of the "Cause." Next we have the historical origin and rationale of the rule, followed by a mention of the various objections, exceptions or modifications made in different jurisdictions. The illustrating cases are very aptly chosen, and with due regard to any state in which the reader may be practicing. This serves as a very sound introduction to the exhaustive study of the Rule of Cause and Effect which follows.

In his comments on evidence, pleading and practice, the author is very minute and suggestive. It will be of interest to know that this book contains some very practical chapters on the evidence of "Financial and Social Position and Domestic Relations; Subsequent Repairs, Changes and Precautions; Exclamations and Complaints of Suffering." On these and related questions the author has done much original work, for they have never been fully discussed and collected before.

It is not often that a writer of law books leaves the beaten path of argument and authority to gather and arrange a mass of unclassified cases and to report on his original investigations. For this reason this book will be doubly welcome, to the student for its able discussion of theories and doctrines, and to the attorney for its practical foresight, which will enable him to meet many a contingency of litigation.

W. L.