

BOOK REVIEWS.

A TREATISE ON GUARANTY INSURANCE. INCLUDING THE LAW OF FIDELITY, COMMERCIAL, AND JUDICIAL INSURANCES as subsidiary branches. By THOS. GOLD FROST, PH. D., of the New York Bar. Pp. xxxviii+547. Boston: Little, Brown & Co., 1902.

The Law of Guaranty Insurance, which includes all forms of compensated suretyship, is a comparatively new branch of law which has had its whole development practically within the last twenty-five years and chiefly within the last ten years.

The carrying of fidelity insurance risks has had a most wonderful development in this country. Considered purely from a business standpoint, this growth is easily explained. In its character as compensated suretyship it offers sometimes the only method of obtaining positions of responsibility and trust. It relieves friends and relatives of the onerous and sometimes dangerous burdens of becoming private sureties, and at the same time encourages good character, as this is the customary basis of guaranty insurance. It does away with the old time necessity of private bonds which are objectionable for their uncertainty and the financial status of the bondsmen having to be scrutinized in advance. The new style bonds are a business contract and avoid the necessity of intermingling the family connections with the business relation. They are convenient, desirable, and meet with a favorable reception at the hands of the business world because the financial status of the company is usually established, any loss is promptly attended to as a matter of business necessity, and thus is afforded the opportunity for men to surround themselves and their business with absolute protection.

The introduction to the work contains a very interesting account of the historical development of Guaranty Insurance, including its first root and principles in 1720, and its development from the first organized company in England in 1840 down to the present time; showing the beginning in a slightly felt need at that time and the natural growth and gradual increase of its place in commercial business, until now it has become a large and distinct branch of insurance business.

The book will no doubt fill what has become an urgent demand for a work on a subject of growing importance. It is a new departure and a pioneer treatise on an important branch of the law and will satisfy a true need. It will enable the lawyer who does not have time for original research to keep pace with the growth of commercial demands.

In this work the author presents both the theory and practice of all the various branches of Guaranty Insurance, covering all forms of compensated suretyship, such as official and private fidelity bonds, court bonds, and credit and title insurance. To the courts has been left their proper and appointed work of defining the unsettled principles of the subject by future decisions; the writer of the treatise has studied the decisions as they are to-day, deducing from them the rules and principles which make the law of to-day.

The subject has been systematically divided and sub-divided; the sections are numbered continuously; catch words are in full-faced type; references are made to the official reports; and the index is made with care and precision.

J. B. T.

ELEMENTS OF THE LAW OF SALES OF PERSONAL PROPERTY. By WM. L. BURDICK, PH. D., LL. B. (Yale). Pp. xi+214. Chicago: T. H. Flood & Company, 1901.

This book presents in a complete and elementary way all the leading topics of this important sub-division of the law of contracts. While the author has made no pretension to an extensive treatment, nevertheless all the essential questions connected with the subject have been referred to, and all that one requires for a general knowledge of its elements, has been taken up and considered. When he has thought it necessary the author has not hesitated to express his own opinion and throughout has maintained great clearness of statement. While the work would perhaps be of little use to one desiring to read an elaborate and complete treatise on this subject, for the purpose of studying the law of sales from a theoretical standpoint, nevertheless it is particularly suited for a hasty examination of the subject. For this last reason business men should find the book very convenient and well worth examination. We would particularly recommend it to students who have been making a study of the subject and desire something which will give a complete and concise statement, for a review. Special attention has been paid to the students' needs, the plan of the entire book being to employ the facts of the cases in the discussion in order to bring the illustrations of the principles they stand for directly before the reader's notice.

The topic of "remedies" has been treated somewhat more fully than in most works of this character, and a synopsis of the more important principles relating to damages, in connection therewith, has been introduced, which will prove, we think, a welcome aid. In the Appendix there is given, among other things, the text of the recent (1893) English Sale of Goods Act, which is in itself, a most valuable outline of the law of sales, since the

act is substantially a codification of the principles of the common law upon the subject.

In summing up we would say that it is a book worth any one's reading, whether lawyer, student, professional or business man and a very valuable addition to any library.

I. G. G. F.

CASES ON INTERNATIONAL LAW. Selected from Decisions of English and American Courts. Edited with Syllabus and Annotations by JAMES BROWN SCOTT, A. M. (Harvard), J. U. D. (Heidelberg), Dean of the College of Law, University of Illinois. Based on the late Dr. Freeman Snow's Cases and Opinions on International Law. Pp. xxii+961. Boston: The Boston Book Company, 1902.

The above work was originally undertaken with the idea of preparing a new edition of Snow's Cases and Opinions, covering all the points of the previous edition by judicial decisions instead of references to text-books. But the change was so general that "in justice to both authors" it is published over Mr. Scott's name.

As most of the principles of international law have been settled by judicial decisions, a systematic collection of those cases is very much welcomed by the profession.

The idea underlying the volume is that international law is part of the English common law and as such was imported into the American colonies just like the rest of the common law, except such parts as were inconsistent with the new conditions here.

Since English and American courts have for many years enforced international law, the great number of decisions must have their weight in the decisions of to-day, for precedent should be equally binding in this as well as in other parts of law.

While there are many other sources of opinion on a disputed point, that which is above all most valuable in drawing conclusion is the impartial decision of some judge. These decisions until overruled stand as *law*. Therefore, the author has confined his text to the reported decisions of English and American courts, while matters of mere opinion, etc., have been consigned to the footnotes and Syllabus.

This Syllabus, by the way, is a most important part of the work. It is based on the Syllabus in Dr. Snow's book and serves to round out the principles stated in the text.

By means of numerous references to well-known writers of France, Germany and other of the European countries it affords a valuable direction in comparative research.

The Alabama Claim, Trent Affair, and a host of other famous cases are fully reported and well illustrate the laws that govern

the nations in their dealing with each other, both in peace and in war.

The work fills a long-felt want in the law schools which use the case system; it should also be read with interest by publicists and lawyers and should prove an authoritative basis for reference, for instruction, and for practice in the courts.

R. B. W.

ELEMENTS OF THE LAW OF REAL PROPERTY WITH LEADING AND ILLUSTRATIVE CASES. By GRANT NEWELL, Professor of the Law of Real Property in the Chicago-Kent College of Law. Pp. 438. Chicago: T. H. Flood & Co., 1902.

Mr. Newell's book, as the title states, is an elementary treatise on the subject of Real Property. It is designed to serve as an outline for a course of lectures and quizzes. About half the book is devoted to text and the balance to a collection of illustrative cases. The arrangement followed is based substantially on the lines laid down by Blackstone and subsequent text-writers on Real Property.

The attempt to cover so large a subject in so brief a space makes the treatment necessarily superficial. The book in itself, would not serve as a complete course in Real Property in any law school, but would require supplemental lectures and readings. The treatment, however, is clear and concise, and the arrangement good. Altogether the book serves as an easy introduction to a difficult subject.

J. H. R. A.

MINES AND MINING. A Commentary on the Law of Mines and Mining Rights, both Common Law and Statutory, With Appendices Containing the Federal Statutes and the Statutes of the Western States and Territories Relating to Mining for Precious Metals on the Public Domain and Forms for use in Application for Patent and Adverse Suits. By WILSON I. SNYDER, of the Utah Bar. In two volumes. Pp. ci+1464. Chicago: T. H. Flood & Company, 1902.

Considering the great mineral wealth of the various states and the extensive mining operations in all parts of the Union and the deep importance of the subject, it is strange to think how little attention it has received from writers and publicists.

While many well-settled principles of the common law were adopted in this country, yet the great development of mining in this country has kept the law in a formative state. This may account for the dearth of legal literature on the subject.

Coming under such circumstances, the subject of our review is most acceptable, particularly because the author has gathered together the shreds of law from the various states and territories and woven them together into a systematic text-book. The book, however, did not reach completion without its trials, for just when the first volume was ready to go to press, the whole thing was destroyed by a great conflagration and publication thereby delayed a number of years. But that delay was taken advantage of by the author and important changes in the law laid down by the Supreme Court in the interim were included in the second effort.

Any comment on the various parts of the book is almost impossible, for so wide is its scope that a mere enumeration of the numerous subjects treated would be a volume in itself; for the author has covered the entire field of mineral extraction from the earth's crust, whether by mining, *i. e.*, digging and excavating by means of shafts, tunnels, etc., or by washing and sluicing the alluvial gravel, or by boring for gas and oil.

All these are exhaustively treated, including the subjects of gas and oil leases, the various rights of the parties, also other rights of miners *inter sese*, such as mining partnership and tenants in common operating mines. Numerous diagrams serve well to illustrate the principles set forth in the text.

Appendices contain the Federal Statutes, the State Statutes (annotated) supplemental to the Federal Statute regulating the location of mining claims upon the public domain; the mining laws of New York and Texas; also the Statutes of Missouri and other states relating to the leasing of public and private mineral lands, together with a list of forms in patent proceedings.

A complete examination of all the English and American cases was made, and every case in both these countries and in Canada which was of any value has received consideration and all except those concerning the most elementary principles have been cited.

The work as a whole shows years of hard, consistent labor and research, coupled with a very extensive personal knowledge of the subject. In no other way could we have been given so comprehensive a treatise on the subject of mining, a treatise which considers almost every possible detail in its every phase.

The two volumes will afford most interesting reading to laymen and a work of inestimable value to the legal profession.

A. L. R.

SHEPARD'S PENNSYLVANIA STATE CITATIONS. Second edition.
New York: The Frank Shepard Company, 1902.

This is the second edition of a most useful standard work, making it complete to date. There are several additions and improvements. It is printed in larger type and not only shows

where a case has been reported in the Official Series, Atlantic Reporter, American Decisions, American Reports and American State Reports, and where cited in the Pennsylvania Superior Court Reports; but also whether or not a case has been appealed to the United States Supreme Court. It gives all the subsequent citations of such case, and shows the exact point in the syllabus to which it has been cited. This enables the practitioner to ascertain at a glance the particular point of law or practice to which any case has been cited in the later decisions. There are also parallel references, showing whether a case has been affirmed, reversed, criticised, distinguished, explained, followed, harmonized, limited, modified, overruled, parallel case, or same case. It is a work of great practical value as it does away with the necessity of going through all the reports where a case has been subsequently cited. There is also a supplement to Shepard's Pennsylvania State Annotations contained in Volume 202.

M. B. C.

THE PROCEEDINGS OF THE ILLINOIS STATE BAR ASSOCIATION.
Twenty-sixth Annual Meeting, Chicago, July 17 and 18, 1902,
compiled by JAMES H. MATHENY, Secretary.

This is a most comprehensive and interesting report. It contains, besides a careful record of the proceedings and the report of the various committees, the annual address by the president, John S. Stevens, and the special addresses by W. J. White, of the Montreal bar, John N. Jewett, Judge Murray F. Tuley, the presidentelect, and William E. Church. The lawyer, the highest type of lawyer, is described in the president's address as a man who has room in his mind for literature and art and poetry, who is open to all the refining influences of life and cultivates them.

M. B. C.

THE LAW OF WITNESSES IN PENNSYLVANIA. By WILLIAM TRICKETT, LL. D., Dean of the Dickinson School of Law.
Pp. xxix+717. Philadelphia: T. and J. W. Johnson & Co. 1902.

This treatise is the work of one of the most scholarly of the teachers of the law in Pennsylvania. To the profession Dr. Trickett is well known by his essays in various fields of jurisprudence, and to the general public his name is not unfamiliar, because of the complimentary nominations which he has received from the minority party in Pennsylvania for the highest positions in the state courts.

The Act of 1887, relating to the competency of witnesses, together with the supplementary Acts of 1891, 1893 and 1895, ren-

dered necessary some compilation of the state decisions upon the multitude of questions involved. No phase of the law enters into the life of the active practitioner so intimately as that which relates to the inclusion and the exclusion of legal proof. The effect of relationship, either personal or professional as affecting the evidence of a related party,—the admissibility of the testimony of an interested party in a civil proceeding,—the employment of expert evidence,—the methods of proof of handwriting, etc., etc.,—these are fruitful subjects, and it is well that a systematic and scholarly attempt has been made to gather together the consensus of opinion in the courts of this commonwealth.

In Pennsylvania the common law conception of competency was originally limited by the Act of 1887; then, as successive complications were brought to light, the statutes were amended. Thus, under the Act of 1887, a party to a contract could not ordinarily testify, where the other party was deceased. This seemed just, but as cases developed in which there might have been a neutral party present at the making of the contract, it would sometimes happen, in a suit by the executor of a deceased partner, against the surviving partner, that a neutral party would appear as a witness for the plaintiff, whereas the defendant was incompetent to explain his own part in the transaction. This led to the Act of 1891, which allowed the surviving partner to testify when there was a living witness who had testified against his interest. Such were the steps of growth in the law on this phase of the subject, and it is indeed fortunate that Dr. Trickett's well-planned treatise has appeared to lend system to the whole subject.

F. S. E.

A STUDY OF THE COURT OF STAR CHAMBER, LARGELY BASED ON MANUSCRIPTS IN THE BRITISH MUSEUM AND THE PUBLIC RECORD OFFICE. A Dissertation submitted to the Faculties of the Graduate Schools of Arts, Literature, and Science of the University of Chicago, Department of History, in Candidacy for the Degree of Doctor of Philosophy. By CORA L. SCOFFIELD. Pp. xxx+82. (Pamphlet.) Chicago: The University of Chicago Press. 1900.

The name "Court of Star Chamber" generally suggests that infamous instrument of the English crown once used to crush those who had fallen, justly or unjustly, under royal suspicion; but the author of the above shows that the court, being of an appellate nature, probably exercised at first a really beneficial influence. Private suits, especially, received an impartial trial, but suits affecting the crown did not fare so well. That the court fell into ill repute was due to the political ends which it was made to subserve.

It is not generally known either that this court exercised legislative as well as judicial powers, the most famous of its ordinances being the rules and regulations laid down for those engaged in the printing business. These and many other interesting points about this famous court are presented in the above work.

It also contains a very complete list of printed books on the subject, state papers and historical collections, together with a catalogue of the manuscripts in the British Museum, which make it a very valuable aid to those desiring to make a closer study of the subject.

R. B. W.

THE LAW OF REAL PROPERTY. Being a complete compendium of real estate law, embracing all current case law, carefully selected, thoroughly annotated and accurately epitomized; comparative statutory construction of the laws of the several states; and exhaustive treatises upon the most important branches of the law of real property. Edited by EMERSON E. BALLARD, editor of "Deed Forms Annotated," "Ballard's Real Estate Statutes of Kentucky," "Ballard's Ohio Law of Real Property" and one of the authors of "Ballard's Real Estate Statutes of Indiana." Vol. VIII. Pp. xxxii+888. Chicago: T. H. Flood & Company. 1902.

As the title shows, this is the eighth volume in the author's series on Real Property, his purpose being to keep the above excellent work abreast with the progress of the law.

The volume is based on the 3,392 cases decided since the publication of Volume VII, and brings the work right up to date. It is especially valuable to the profession because it devotes most attention to cases which contain learned discussions of, or collations of authorities, on important topics and novel situations, or which construe some new statute of general importance, instead of rehashing long settled principles or citing and applying local statutes.

Its accuracy and conciseness should render it a great saver of time to the busy lawyer.

R. B. W.

THE STATUTORY AND CASE LAW, APPLICABLE TO PRIVATE COMPANIES, with special reference to THE GENERAL CORPORATION ACT OF NEW JERSEY AND CORPORATION PRECEDENTS APPLICABLE TO CORPORATIONS GENERALLY. By JAMES B. DILL. Fourth edition. 1 Vol., pp. xxxiv+582. New York: Baker Voorhis & Co., 1902.

This is the fourth edition of a work which first appeared in 1898. No apology need be offered for the number of editions, as the

public is eager to have the law of the state, which is most consistently working out a corporate scheme, conveniently arranged to date by one so eminently fitted as the author. The third edition was published in 1901. Since then there has been legislation "relating to the conversion of preferred stock into bonds; broadening the powers of corporations to issue bonds, and to the removal of any restrictions upon the right of the corporation to put the bonds upon the market at the market price." Among the interim decisions, is the important case of *Berger v. United States Steel Corporation*, which determines the relative rights of the majority and minority stockholders.

The body of the book consists of the constitutional and statutory provisions of the law of 1896, with the subsequent amendments, with full annotations from the New Jersey decisions. But what is, perhaps, as valuable to the student, and certainly to the practitioner, are the concrete illustrations of corporation precedents. The history of the United States Steel Corporation can be traced, beginning with the charter, followed by the by-laws, the statute authorizing the bond issue, the statute allowing the sale of bonds under par, the certificate creating the issue of bonds and the conversion of preferred stock; the decision in the *Venner and Berger* cases and the opinion in full of the Court of Errors and Appeals in the *Berger* case. The author rightly says: "Factual illustrations of the creation, organization, and maintenance of important companies are as worthy of close study and analysis as abstract treatises upon the theory of the law."

The work contains 375 forms, giving all the detailed forms necessarily included under the following heads: Organization, which includes subscription, underwriter's and option agreements; certificates of incorporation, with specific object clauses for all kinds of businesses, general clauses, capital clauses from the charters of the leading corporations, and clauses regulating business; by-laws; organization meetings; reports; amendments and changes; corporate mortgage and bond; agreement of consolidation and merger; voluntary dissolution, and foreign corporations.

The work is carefully indexed. There is a general index which contains the references to the statute and case law in detail; a statute law index which is a reference list of existing statutes providing for the organization and maintenance of specific companies not included in the "Act Concerning Corporations"; a table of cases; special index to precedents, sub-index to specific object clauses, and an index to the charters of specific companies.

This work is invaluable not alone to the New Jersey lawyer, but to the lawyer generally who would keep abreast of the development of corporation law.

J. H. R.