

CURRENT LEGAL PERIODICALS AND BOOK REVIEWS.

A TREATISE ON THE LAW OF INTERCORPORATE RELATIONS. By
WALTER CHADWICK NOYES. Pp. xlviii+703. Boston: Little,
Brown & Co. 1902.

We have here a useful hand-book for the active practitioner; a compendium clearly written, logically put together, moderately exhaustive, yet concise in statement to a most admirable degree. It cites the latest judgments on vexed questions and points of judicial authority peculiarly applicable to the recent turmoils regarding the adjustment of relations between the bodies that guide and control our business world. The author's preface is enlightening: "The modern business instrument is the corporation," and the "legal questions growing out of the relations . . . [which] corporate conjunction involves . . . furnish the subject matter of this treatise."

One part of his book has involved a "process of amplification"; namely, that part treating of the "Consolidation of Corporations" (Part I); the nature and possibilities of "Corporate Sales" (Part II); the nature and possibilities of "Corporate Leases" (Part III); and the power and authority for "Corporate Stockholding and Control" (Part IV). And it is with satisfaction that we learn and observe that the material for every chapter of the book was deemed to be of sufficient importance to warrant "a systematic examination of original sources." If for no other reason, the validity of that confession will give the book surpassing value.

The second part of the book has necessitated a process of reduction. So that in Part V (about one-third of the book), under the heading "Combinations of Corporations," there is a most difficult, if not a hopeless task attempted, viz: of reducing to a set of principles a mass of conflicting decisions, though the author (and he is a judge of the Court of Common Pleas in Connecticut) would qualify this statement by saying "apparently conflicting decisions." There is a very successful formulation of the Rules of Public Policy, made upon a basis of rules taken from eight different sorts of cases; and there is a no less successful article on "Legislation affecting Combinations." The fact that every rule and every set of cases is classified according to states, and also chronologically, adds a value to the work which no student of this momentous subject dare overlook; at the same time what commentary there is is wholly commendable for lucidity, systematic arrangement, and unmistakable care in thought and statement.

The theory of this second part of the work is said to be "that the validity of a combination depends upon considerations of public policy," expressly opposite to that underlying other treatises upon this same subject of Combinations, one of which (Mr. Eddy's) has as an underlying theory that a combination of capital, to be unlawful, must be a conspiracy. Labor combinations, however, are not within the consideration of Judge Noyes' book.

There is no undue, in fact there is remarkably little, theoretical discussion or comment upon conflicting views; the book did not demand it; the rather successful undertaking of deducing helpful principles from both legal judgments and state and federal legislation has accomplished all that the busy lawyer could demand. The desire of the lawyer is answered; he is given the fundamental principles and such theories as will reasonably reconcile a mass of unsettled doctrines. A capital index and a table of cases (there are over sixteen hundred in the book, each with its data and parallel references) facilitate the use of the book both for study and for quick information.

No book has covered this exact field of investigation in the same manner or so usefully; and though there are works of high reputation upon the numerous topics involved under the present subject, most of them have emphasized the value and possibilities of a corporation as an entity in itself, and not one of them has brought so cogently before the practitioner the real extent of relations possible between one corporation and another. The book is based upon no authorities but the original sources of the law in regard to corporations and their mutual dealings. The limitations of the work are none, except those which must naturally result where one is investigating a new realm of thought and study; every sentence is modern; every idea is rational and born of judicial reasoning. The author is to be congratulated upon having produced so far the most useful and successful book of its kind; and in every sense of the word, what he has done is wholly satisfactory.

E. H. B.

A TREATISE ON THE LAW OF THE MEASURE OF DAMAGES FOR PERSONAL INJURIES INCLUDING SUGGESTIONS ON PLEADING, EVIDENCE, AND PROVINCE OF COURT AND JURY, APPLICABLE TO THE TRIAL OF THIS CLASS OF CASES. By GEORGE P. VOORHEIS, A. B. Pp. lxxxvi+577. Norwalk, O.: The Laning Company. 1903.

Says the author in speaking of his work: "The theory upon which it is written is, conceding there is an injury for which the wrongdoer is liable, what is the measure of damages?" With this theory in view as a working basis, the author has contrib-

uted a valuable addition to the number of legal text-books which are of value to the profession. It is logically arranged, carefully indexed, and contains in text and notes not only references to a host of authorities by their citation, but also numerous quotations and condensed statements of the opinions of the courts in the more important cases.

Ten of the twenty-five chapters in the book are devoted to the subject of "Mental Suffering." In this connection the writer says: "With the present generation there has come a new question of law. It is the subject of mental suffering and the right to recover damages therefor. It is an innovation upon the common law, and may properly be called a child of this progressive age. There is no other recent question which has been so thoroughly examined and discussed by the courts. The authorities are diametrically opposed to each other and are nearly evenly divided upon it, with a growing tendency in its favor. It is impossible to reconcile them and no attempt has been made to do so. The leading authorities have been cited and quoted wherever this question has been carefully considered in all its phases. The reason for this was to furnish the arguments pro and con, and to give the views of the courts as expressed by them, leaving their application as might be deemed proper. At the same time the author has not failed to express his own conclusions upon the same questions."

An interesting and valuable feature of the book is the collection, as in sections 67-85, both inclusive, of verdicts giving the amount of the verdict, the circumstances briefly stated for which it was given, and the citation of cases illustrative of the text; *e. g.*, section 68, "Damages to Mental Faculties." . . . "\$11,400; healthy man twenty-seven years old; receives an injury making him a physical and mental wreck; compound fracture of skull affecting brain and nerve of one eye; *Cobb v. Railway Co.*, 149 Mo., 609, 50 S. W. Rep., 894."

At the close of the book are the following chapters dealing with the subjects indicated therein in their relation to the subject matter of the treatise, viz: Ch. XXII, "Pleading in Damage Cases"; Ch. XXIII and Ch. XXIV, "Evidence," and Ch. XXV, "Province of Court and Jury."

B. H. L.

THE LAW OF THE CLEARING HOUSE. By ARCHIBALD ROBINSON WATSON, of the New York Bar. Pp. xiii+107. New York: The Banks Law Publishing Company, 21 Murray Street. 1902.

Like so many of the modern business conveniences, the clearing house will never get the appreciation it deserves unless, for some reason, we should some day be compelled to do without it.

But, in fact, clearing house associations have ceased to be mere conveniences, for by steady development they have become the financial regulators of all business centres.

So marked has been the success of the principles of clearing houses that we now see them applied to many other spheres of business, wherever transactions involve mutual demands which may be set off against one another.

The above work, after giving a brief sketch of the origin, nature and object, creation and operation of the clearing house, proceeds to give in detail the rules which control its operations.

Numerous cases are cited in the footnotes and its author claims that it covers "everything that the courts of this country and England have ever decided about the clearing house."

Heavy-faced type indicate in the headlines the contents of each paragraph. The book, as a whole, is well arranged and very convenient for quick reference.

The book is primarily intended for banks and bank-attorneys and it is to them that it must prove of most value.

THE BANKRUPTCY LAW ANNOTATED. Being the National Bankruptcy Act of 1898, as Amended February 5, 1903. The Orders in Bankruptcy, the Official Forms and the United States Equity Rules, with all the Decisions since 1898, Digested and Arranged under Appropriate Sections, with Full Cross-References, and all Former Bankruptcy Acts, Together with a List of Judges, Clerks and Referees with their Jurisdictions. By SIDNEY CORNING EASTMAN, Referee in Bankruptcy in Chicago. Pp. xxxix+597. Chicago: P. H. Flood & Co. 1903.

"The primary object of a bankruptcy law is to secure a just distribution of the bankrupt's property among his creditors; the secondary object is the release of the bankrupt from the obligation to pay his debts."

With the above quotation as an introduction, the author of the subject of our review has set out to give the legal profession a convenient aid for handling all cases in bankruptcy, and he has admirably succeeded.

The layman looks on bankruptcy as a mere loophole for those financially embarrassed, but of course the real purpose of the Bankruptcy Acts is to enforce a just distribution of the bankrupt's property among his creditors. It is this latter feature that has required the attention of our national legislators, and it is this same feature that ensures the continuation of the national bankruptcy law, however varied, as a permanent part of our national jurisprudence.

Being of continuing importance, the subject has received considerable attention from writers and publicists, but the work

in hand promises to rank among the foremost of them. The very completeness of the book is perhaps the strongest argument in its favor.

Among other things, it includes a brief notation of every decision printed since the enactment of the law of 1898, down to March 15, 1903. To this end, a careful search has been made with the result that over a hundred and fifty cases have been found and digested, not now found in any series of reports devoted to bankruptcy decisions.

In citing a case, references are always given to all the various reports in which each case is reported—a convenience which speaks for itself. Furthermore, the court, district and the date of the case have been given, so that the lawyer can see at a glance whether a case has been decided and is controlling in his district and circuit.

Another feature not found in any other work of the kind, is a list of the judicial officers of the courts of bankruptcy, a list that has been much in demand.

Many other new and commendable features might be mentioned, but suffice it to say that the work is a complete one in every respect, and while its very completeness causes many sections to cross and overlap one another, still it is so well paragraphed and thoroughly indexed that a reference to any topic is the matter of but a moment, and we predict for it an extensive sale.

PRESUMPTIONS OF LAW AND OF FACT AS AFFECTING THE BURDEN OF PROOF IN CIVIL AND CRIMINAL CASES, INCLUDING INNOCENCE, NEGLIGENCE, DOMICILE, COMITY, POSSESSION, PAYMENT, etc. By WILLIS REED BIERLY, Esq., Lycoming County Bar, Author of "Taxation and Liens," "Administrators and Guardians," "Executors, Wills and Trustees," etc. Pp. xxx+102. Erie, Pa.: Herald Printing and Publishing Company. 1902.

The above is the last addition to the author's well-known "Hand-Book Series." These handy reference books have met with a warm reception by the lawyers and judges of Pennsylvania, for their conciseness and accuracy. A feature is that the author keeps them up to date by *addenda* referring to page and paragraph without extra charge for this valuable addition of the latest decisions and Acts of Assembly.

The above volume on Presumptions is the first law book published in the United States treating specifically upon this important subject.

In it, the author has striven to collect the principles and decisions concerning the doctrine of presumptions, scattered

through the text-books on evidence and digests into a concisely classified form.

Presumptions figure so conspicuously in every trial, that this convenient book, with its very full table of cases cited as authority, should prove of inestimable value to the busy practitioner.

R. B. W.

LYONS' COMMERCIAL LAW. A Text-book for Schools and Colleges and a Book of Reference. By J. A. LYONS, formerly a Member of the Chicago Bar. Pp. 252. Chicago and New York: Powers & Lyons. 1902.

This work is a brief exposition of the subject it purports to set forth. There is an introduction containing divers legal definitions, a chapter of three pages which tells all about property, both real and personal and how it may be held, in severalty, joint-tenancy and tenancy in common; then follow nine chapters dealing with the subject of contracts. We next have discussed: Negotiable Instruments, Guaranty and Suretyship, Sale of Personal Property, Bailment, Agency, Partnership, Corporations, Insurance and Real Estate.

These voluminous subjects of law are treated in two hundred and twenty-eight pages. The definitions, explanations and maxims are accurate as far as they go. They are as clear as could be expected with such meagre treatment.

It is very doubtful whether such a book will be of service to the law or help those who are to use it with no further insight into the subject. A good lawyer, or even student of law, who enters into the pursuit thereof seriously, knows that law is no subject which can be studied in such an incomplete manner, viz: glibly memorizing some definitions, unintelligible to a youth in his teens, and only reading enough of the subject to get a smattering and as a consequence an entirely incorrect conception of it.

This book is to be used in teaching commercial branches and is to be placed in the hands of children twelve years of age and upwards, the teacher in many instances having no more knowledge of the subject than what he has derived from perusing similar works. "A little knowledge is a dangerous thing" and the effect of such a book in the hands of those who will use it, will be to puff them up with the idea that they are lawyers of eminent legal ability. It generally proves to be the case that in proportion as one is ignorant of a subject, the more he thinks he knows, and the more one knows the more he is impressed with the incompleteness of his knowledge. It therefore seems that a book of this sort will do great harm, coming as it will into the hands of those immature and incapable of understanding what they read. They will undertake to give counsel to

others and to act themselves on what they conceive to be the law, to the injury of all parties concerned. Such books should prove a good thing in making business for the legal profession. Parties will, to their sorrow, undertake to be their own lawyers and ultimately be obliged to turn to a lawyer to extricate them from the difficulties into which they have fallen. There is a popular idea nowadays that it is a waste of time to spend so many years in school and college. Some are attempting to shorten courses and cheapen degrees. The contagion extends also to preparatory and high schools. An education cannot be ready-made in a year or two. It would be far better for a boy not to be in school at all than be vainly attempting to secure in two years what can be only acquired in thrice that period. His two years' work will give him the notion that he "knows it all," and acting on the presumption, he will, to his subsequent damage, learn otherwise and be worse off than if he had never learned anything.

The statements in this book are culled from Blackstone and other writers and are, of course, not incorrect, but set forth as they are in a disjointed, abbreviated form and being the only knowledge the pupil will have, we think, for reasons above given, that the result will be disastrous to the party who uses the book and to those who are led to act on his advice.

W. H. M.

NOTES ON RECENT LEADING ARTICLES IN LEGAL PUBLICATIONS.

YALE LAW JOURNAL.—June.

The Negro Question. John R. Dos Passos. The wise words of Andrew Johnson in vetoing the District of Columbia Suffrage Bill of January 5, 1867, which was to confer the suffrage on the negroes of the district, begin this article. The condition which Johnson prophesied has arrived, and it is now possible to see that it was "nothing less than a radical infraction of the true principles of suffrage by one stroke of the legislative wand, as it were, to suddenly endow those poor ignorant blacks with the power to vote." The author, who, we may believe with sincerity, claims to be a friend of the negro, states at large the argument against negro suffrage. He proposes that the question be left to the states, and the fifteenth amendment be repealed with section two of the fourteenth amendment.

The New Code of International Family Law. Simeon E. Baldwin. The provisions of the international conventions of 1902, in regard to marriage, divorce, and the guardianship of minors, are given as forming a new code of international family law. They are not, however, considered to be suited as a whole to the conditions which exist in this country.

Honorary Degrees. Henry H. Ingersoll. The sale of such degrees by a "College of Law" for ten dollars each, is the text of this paper. It is claimed that the grant of corporate powers almost for the asking, and for almost every imaginable purpose, is responsible for the existence of such frauds upon the public.

CANADIAN LAW TIMES.—July.

Is Action by Holder Against Drawer or Indorser of a Bill of Exchange on the Last Day of Grace Premature? Silas Alward. In jurisdictions where days of grace still cause confusion, this question is liable to be, as the author of this article states that it is in Canada, in a very unsatisfactory state. It apparently does not occur to him to suggest the modern remedy of abolishing the custom.

The Evolution of Local Taxation in Ontario. Concluded. Thomas Langston. The historical interest of the first part of this article, published in the June number, is continued. The change of Canada from a wholly agricultural to a manufacturing or mercantile people is shown, and, on this score, a claim is made for a change in the basis of assessment for the purpose of taxation.

CENTRAL LAW JOURNAL.—July 3.

A New Problem in Railway Law. The Inter-urban Electric Road on Public Highways. Henry M. Dowling. This article discusses the rights of such roads in streets and public highways, including the question whether the street railway imposes an additional servitude on the streets of a city. The result of the clear summary of the subject given here appears to be that, if a traction business conducts a through business exclusively, it gives no advantage to intermediate points and therefore imposes an additional servitude on the highway, while if it accommodates local traffic at frequent points it bestows a benefit of the kind intended by the dedication of the highway to the public use, and therefore no additional servitude is imposed.

CENTRAL LAW JOURNAL.—July 10.

Is a Newspaper Entitled to Copyright? This is a short but interesting discussion of "this perplexing question." In England the matter has been settled in favor of the newspaper's right to protection. Here the matter still remains unsettled. The writer of the article pleads for the protection of the newspapers.

Power of the State to Operate Coal Mines and Conscript Men for that Purpose when Necessary to Avert a Public Calamity. Hon. T. A. Sherwood. The author of this article claims only to have given expression to his views in a tentative way in order to bring out a fuller discussion upon the point. The article, however, is evidently well considered. The point of view is shown by the following extract: "Under the assertion and exertion of such a power by the state, the arrogant extortions of vast aggregations of capital, as well as the unreasonable demands of leagued labor, would indubitably be repressed. And it has seemed to me, while thinking on this subject, that if the state cannot pursue some such course as that heretofore outlined, then it has no inherent power to prevent its own destruction whenever an emergency which threatens that result shall arise."

An Action for Mental Suffering Alone, Unaccompanied by Physical Injury, Will Lie Against a Telegraph Company when the Mental Suffering is Made the Foundation of the Action, and the Damages Treated as Actual or Compensatory. W. H. Clifton. The title of this article is a digest of the contents. The argument is strongly made and well supported. The cases, as a whole, do not justify the assumption of the title, but show that many jurisdictions are in accord with the theory of the author.

CENTRAL LAW JOURNAL.—July 21.

Application of the Doctrine Res Ipsa Loquitur and the Effect Thereon of the Contractual Relation of the Parties. Cyrus J. Wood. A very

liberally annotated article, showing clearly the author's contention that "it is not the statement of the doctrine but its application that presents difficulty." The cases are examined with care, and many present fine points for decision.

CHICAGO LEGAL NEWS.—July 25.

Ethics of the Profession. Edwin M. Ashcraft. Address before the Illinois State Bar Association. The duty of the lawyer to secure the best possible material for the bench, to scrupulously observe the decorum of the courtroom, and, in general, to live upon a plane commensurate with his high calling, is strongly set forth in this paper. The danger of "the decline of the profession from an honorable office to a money-making trade" is touched upon, and, on the other hand, the statement is made that the compensation of the legal profession is not great, and that no great fortune has been accumulated by the legitimate practice of the law.

The Lawyer's Relation to Social Development. Robert W. Hilscher. Address before the Illinois State Bar Association. The "commercialization" of the law, of which so much is now being said, is again discussed, but with the belief that the true lawyer is still in the majority, and that he has as great and as useful a part to play in the affairs of the country as he has ever had at any time.

LAW NOTES.—July.

Law School Instruction in How to Find the Law. Charles C. Moore. A very good statement of the fact that students are not instructed in the art of finding the law, but utterly without practical suggestion as to the method for such instruction.

The Law's Delay. E. Howard McCabe. This is part of an address delivered before the Louisiana Bar Association. In the part given here, the law's delay, especially in Louisiana, is admitted and deplored. One of the remedies suggested is the creation of a "Court of Errors of Louisiana." Another, more applicable to a wider field, is the writing of shorter opinions.

LAW QUARTERLY REVIEW.—July.

The Organization of Justice in France. F. P. Walton. It is here shown how France is divided into judicial districts, the numbers of judges required under their system and the comparatively low salaries which they receive as compared with the rate of judicial compensation in England. The three most important points in which the French system differs from the English are given, namely: the presence in civil cases of a legal official representing the government—*le ministère public*; the peculiar functions of the Court of Cassation, and the existence of separate courts for the trial of administrative cases. The "Justice of Peace Court" is then taken up and examined with some particularity, then the other courts, the *Conseils de Prud'hommes*—arbitration boards—the Commercial Courts, the Courts of First Instance, the Courts of Appeal, the Court of Cassation, and the *Remet (Renvoi)*. All this is done with great clearness and skill.

Implied Indemnities. Walter Hussey Griffiths. The case of the Lord Mayor and Corporation of *Sheffield v. Barclay* and others (1901, 1 K. B. 1) is the text for this article. In that case it was held that an innocent purchaser of stock in a company or corporation who sends in his transfer to be registered impliedly agrees to indemnify the company or corporation for any loss they may suffer as the direct result of registering the purchaser as a stockholder. The line of cases leading up to this decision is set forth and each case separately considered, with the ultimate con-

clusion, which seems to be borne out by the cases cited, that the decision in the Sheffield Corporation case is hardly sound.

A Defect in Our Law of International Bankruptcy. Alfred F. Topham. The defect is declared to be that the English courts have not the necessary jurisdiction over foreign firms carrying on a branch jurisdiction in England. A remedy is suggested in the allowance of a secondary declaration of bankruptcy, as suggested by Jitta in his book on International Bankruptcy.

The New "Investigation" for Patents. J. Dundas White. The English Patents Act of 1902 has made some important changes in the English patent system; among them making new provisions for investigation into prior specifications before new patents are granted. The new system is here described, and in a measure approved, with a regret that certain excluded classes were not included in the legislation, including all foreign specifications. Section 4900 of the Revised Statutes of the United States is suggested as a good model to follow in England, in order to protect the public from unconsciously infringing upon a patent.

The Government of the Foreigners in China. A. M. Latter. The working of the system of extra-territoriality in China and its effect upon the British residents there are described by a barrister-at-law of Shanghai. This system allows the European to live under his own laws in a foreign country, and places the foreigner in a very independent position as regards the country within whose territory he has taken up his abode. The writer shows, however, that under this system the administration of justice is often a failure, especially when the laws of two foreign countries come into conflict, as they naturally do in a town like Shanghai. The underlying regret of the writer seems to be that "it is now too late for Great Britain to annex Shanghai or any other treaty port," and that, therefore, the evils are likely to continue.

Bonus Jurista Malus Christa. Courtney Kenny. An entertaining study of the whys and wherefores of the popular prejudice against the legal profession. Ecclesiastical jealousy, the preponderance of the legal element in political life, and the power gained thereby, and the feeling that to assert one's right to one's own against the right of a fellow-man is unchristian, are given as reasons for the growth of the feeling.