AMERICAN RAILROAD RATES. By WALTER CHADWICK NOYES, A Judge of the Court of Common Pleas in Connecticut, President of New London Northern Railway Company. Author of "The Law of Intercorporate Relations." Pp. 277. Boston: Little, Brown & Co. 1905.

In a comparatively small space Mr. Noyes presents the subject of American freight rates under the following heads: Underlying Principles, Limitation of Rates, Making Rates, Classification and Tariffs, Discrimination, Competition and Combination, Movement and Comparison of Rates, State and Federal Regulation.

As pointed out in the preface, the discussion has been limited to the freight traffic, in order to avoid confusion, the freight traffic far exceeding the passenger traffic "in volume, complexity—and importance. The fundamental principles, however, governing rates and fares being the same."

The last chapter of the volume, dealing with federal regulation is peculiarly interesting at the present time. The author points out the defects of the present system, shows wherein the Esch-Townsend bill would be unconstitutional, and develops his own plan of federal regulation, in which the courts would take the initial step in declaring a charge unreasonable, their action to be supplemented by that of the Interstate Commerce Commission, fixing a new rate. By this plan the author seeks to avoid the difficulty of allowing the same tribunal to exercise both the judicial and legislative function, which seems to be one of the principal objections to the constitutionality of the Esch-Townsend bill.

The volume can hardly be described as being of a highly technical nature but presents the subject in a manner suitable to the requirements of the general reader who wishes to obtain accurate and condensed information upon this important and pressing problem. E. P. S.

NOTES ON RECENT LEADING ARTICLES IN LEGAL PERIODICALS.

AMERICAN LAW REVIEW.—November-December.

Development of International Law. Edwin Maxcy. This second paper of the series gives us the development of the law from Grotius to American Independence. The work of Grotius receives a short analysis, as does that of Puffendorf, Zouch, Jenkins, Bynkershoek, Leibnitz, and Wolf.

Preparation for the Bar. Lawrence Maxwell. This is an address which was given by Mr. Maxwell at Narragansett Pier, to the section of legal education of the American Bar Association, last summer. The recommendations are: "First, education; second, education; and

third, education; education of the mind to the point of power and maturity necessary to enable it to grapple with the complicated questions of the law; education in the doctrines of the law itself, which cannot be dreamed or imagined, but must be learned; and education of the soul to an appreciation of the divine principles of justice which underlie all law."

The Corporation Problem and the Lawyer's Part in its Solution. Peter S. Grosscup. Mr. Grosscup first gave this paper as an extemporaneous address, and it seems to have been spoken from the heart of the man who gave it. He recognizes the magnitude of the problem, and he states it vigorously. His remedy for the evils which he recognizes in the present situation is the ownership of the corporations by the people; this ownership to be attained through the medium of a national corporation law.

The Recognition of Panama. Alfred Spring. Mr. Spring gives us a résumé of the events which led up to the recognition of Panama by our government. These events are now well known, despite the tendency to obscure them by the personal views of those who write about them. There is no attempt in this paper to give an impartial view of the occurrences; it is frankly written from one point of view, and with a purpose to present that side. Under present conditions it is cheering to know that the writer thinks that "the fruition of this energetic policy on the part of the President will be the construction of a canal across the Isthmus."

CENTRAL LAW JOURNAL.—January.

Contracts for Display Advertisements on Buildings and Other Structures. D. W. Crockett. The law on this point seems not to be so well known as it would naturally be assumed it would be, from the vast amount of such advertising spread before the eyes of the public on every suitable and unsuitable spot that can be pressed into the service of the advertiser. Mr. Crockett found it necessary to investigate the subject and to his surprise he found that these contracts were not leases, as he had considered them, but that the right acquired by such a contract is a mere license. This is the case in Massachusetts and in New York. In some cases the right to use the wall or other surface is treated as an easement; others call it a simple contract or bargain, and not a lease. As to remedies for violation of these contracts, it has been held that a suit may be brought to restrain violation of the contract, or for specific performance of it, and it is also intimated that an action for damages will lie for a breach of the conditions. It is noted that the form of such contracts is generally that of the lease, and that trial courts have proceeded on this theory, but the weight of authority as we have it from the higher courts is that they are mere licenses.

Can Congress Regulate the Business of Insurance? I. M. Earle. This short article on a subject now exacting so much attention is devoted to giving the evidence, as collected from the cases, that "the Supreme Court of the United States seems irrevocably committed to the position that the business of insurance is not interstate commerce although the contracts are made between residents of different states." The author says decidedly that "so long as the power of Congress to regulate is constitutionally limited to 'commerce' between the states, and the Supreme Court so construes the term as to exclude insurance, federal regulation is impossible and its wisdom need not be discussed."

LAW STUDENT'S HELPER.—January.

Lawyers and Their Duty. This article, copied by the *Law Student's Helper* from the *Boston Herald,* is noted here as being of a good deal of interest to lawyers at this time when all classes of citizens are being called upon to show their civic spirit and their interest in the better government of the great cities of the country. The paper speaks of the "part which lawyers have taken in preventing reform," and remarks that when Philadelphia's citizens were aroused; when her newspapers were all "save one" on the side of the people; when clergymen were outspoken for righteousness, "the principal lawyers, when called to rescue their city, begged to be excused." Who these principal lawyers are is not disclosed, but it seems to be quite certain that the many men of eminence in that profession who have come forward to rescue their city; who have led the fight for civic decency in every division, ward and district of Philadelphia, will in the future be her principal lawyers. The writer shows as he proceeds that the man who sells himself to a corporation or any set of unscrupulous men soon ceases to be of any account in the community in which he lives and that it is soon forgotten that he ever existed, while the names of those who fought the fight against him remain in the list of the honored and the unforgotten. The charge is made that the lawyer who "hires himself to a corporation" often appears to think that he has sold himself to the corporation, and in civic matters dares not act independently. There seems to be some confusion in the idea that a man can hire himself to a corporation which would require him to refrain from acting independently and not sell himself. Either the individual or the aggregation of individuals to whom he is bound is honorable, or it is not; if the former, he will never be required to act dishonorably; if the latter, the dishonor comes with the first knowledge of the fact, if the relation is not severed at the same time. At the end of the article Solicitor-General Hoyt is quoted as saying: "The patriotic citizen and lawyer will contribute his voice and legal wit to inform the people and warn their opponents; to expose and oppose the motives and machinations of corrupt government. He will give his time and labor; he will not stint effort; he will not let hesitation and misgiving dim a generous and ready courage. He will go on the platform and enter campaigns. * * * If the lawyers of the country in some such ways come forward to do their duty as citizens and sustain the courts as the ultimate guardians of our liberties, then the moral awakening which we need will begin to stir, and, I verily believe, the tide of evils, of degeneration and possible decay, will be checked and finally stemmed."

GREEN BAG.—December.

Dissenting Opinions. William A. Bowen. Many arguments have been made for and against the custom of giving dissenting opinions. The criticism in this instance seems to have been caused by the opinions in the Northern Securities case, where the dissent was so vigorous. The argument that the certainty of the law is its safety is at least as old as Coke's aphorism, but in arguing that it is better that the law be sure than that it should be just, Mr. Bowen appears to forget that to be sure it must first be just. He may believe that there is such a thing as bad law, and the statute books will justify his belief, but in referring to the decisions of the courts as law, we can hardly refer to them as bad law. Either the court is right in principle and the law is good, or it is wrong in principle, and its statements have only a temporary force which will be taken from them when those

statements reach a competent tribunal, although that may not be for a long time. In the meantime the "bad law" of the case is the most unsure of all things, for it is liable to reach the authority which will unsettle it, at any moment. There is much in Mr. Bowen's argument against the dissenting opinion which seems reasonable, and with which it is easy to sympathize. It is true, as he says, that the dissenting opinion began with the beginning of the Supreme Court of the United States, and that it has continued as a custom of the court up to the present time. The judges who have given these opinions have been among the deepest thinkers, the most expert jurists, the possessors of the highest type of mental and moral character. They were independent thinkers, and they have said that they gave their dissenting opinions because they have found them the only means of preserving their independence of thought and perfect honesty of character. May it not be, therefore, that the dissenting opinion has survived because it was the fittest method of keeping the law alive and abreast of the mental and moral development of the people?

LAW MAGAZINE AND REVIEW.—November.

The Province of the Judge and of the Jury. G. Clover Alexander, LL.M. In this first instalment of his article Mr. Alexander has given us the beginning of a discussion which promises to be of very great interest. Incidentally we have a vivid character-sketch of the Colonel Lilburn, of Cromwell's time, whose trial was one of the first to be reported in shorthand; that report being printed in a little volume of a good deal of interest to the bibliographer, to which fact Mr. Alexander does not fail to refer. The trials of Lilburn and of Lord Dacres are taken by Mr. Alexander as the two cases for examination; being those which "proved to be the turning point of our jury system."

The Dead Hand. J. M. Lely. The "death-bed wills" which have come before the English courts in such numbers as to cause judicial comment, have incited the author of this article to inquire whether the suggestion of the court that such documents should be executed in the presence of a notary, should be carried out, and also to ask what other remedies for the present state of affairs may be feasible. The very just suggestion is made that the law of England be changed so that a man may not deprive his wife and children of all his personal property. Other suggestions are: That the duties on intestacy and on legacies to charities be increased; that the power of disposition commence at the age of twenty-five and cease at the age of seventy-five and that in Ireland bequests for masses for the repose of the testators' soul be made invalid.

Reform of the Patent Law. J. W. Gordon. Mr. Gordon gives a vigorous and well sustained argument for the reform of the patent law of England, which it seems does not protect the British patentee as it should. The issue of injunctions in cases where there is an adequate remedy at the common law is the special evil of which Mr. Gordon complains and which he would have remedied.

Neutral Trade in Contraband of War. Douglas Owen. This paper presents the subject in a far more just and judicial manner than has been usual since the events of the Boer and Russo-Japanese wars have given rise to so much controversy on these matters. The contention is, and it seems to be supported by good evidence, that the neutrals have very largely brought their sufferings upon themselves. Suggestions in regard to more stringent laws in respect to the manner in which this neutral trade shall be carried on in the future, are made by the author, whose paper is one of a very great value and interest.