

BOOK REVIEWS.

A TREATISE ON THE LAW OF MUNICIPAL CORPORATIONS. By HOWARD S. ABBOTT, of the Minneapolis Bar, Late Special Master in Chancery Union Pacific R. R. Receivership; Master in Chancery U. S. Circuit Court; Lecturer on Public and Private Corporations and Civil Law, University of Minnesota. In three volumes. St. Paul: Keefe-Davidson Company. 1905. Pp. Vol. I. xx, 965; Vol. II. xvi, 1013.

Two of the three volumes of this treatise on the Law of Municipal Corporations have reached us. The third, which will complete the work, is promised in the near future. While it will treat the very important subject, "Liability of Public Corporations for Negligence," and includes also the subjects "Some Public Duties" with special reference to those Educational, Charitable and Corrective, and "Actions by and against Public Corporations," the volumes which have already been published make possible a fair estimate of the work.

The first volume is divided into chapters on "Corporate Life and Existence," "Legislative Power over Corporations and its Limitations," "Corporate Elections," "The Powers of Public Corporations," and "Public Revenues, their Collection and Disbursement." The importance of these topics is apparent, particularly the subject of the powers of municipal corporations. The treatment throughout is full and satisfactory, but this chapter we believe deserving of special reference in view of its admirable discussion of this intricate and important part of the law. More than half of the first volume is devoted to an elaboration of the principles applicable, but the discussion is in no sense diffuse or unnecessary. It is a logical, clear survey of the subject.

The law as to the police power of municipal corporations will, of course, always present a certain uncertainty of definition, due to the uncertain outlines of this extensive power, but the general principles governing its exercise so far as that exercise is, or can be, confided to the municipal corporation forms the first part of the chapter. This is followed by a discussion of the power to incur indebtedness and the various forms in which it may be exercised, subjects to which a lawyer finds constant need to refer, and finally a consideration of the power to contract in other ways than the incurring of indebtedness.

The multitude of questions constantly arising in consequence of the relation of municipal corporations to the persons who compose them, or to others, are only feebly suggested by the general sub-headings which indicate the subject matter of this chapter. We have no hesitation, however, in saying that the author displays a full appreciation of modern municipal conditions and the need of a thorough understanding thereof in order to a solution of the numerous complex problems arising. It is in consequence of this fact, and the thorough-going discussion of the subject resulting from such an attitude, that we believe the book finds a special claim to attention.

The chapter on "The Powers of Municipal Corporations," requires for its adequate treatment profound scholarship. Such treatment it receives, but by this special reference to it we do not mean to intimate that the other chapters are not equally deserving of commendation. It is rather that here the ability of the author in his broad consideration of the interrelation of modern conditions with the rules of law finds special opportunity for its exercise.

In the second volume the chapter on "Public Revenues" is concluded and there are chapters on "Governing Bodies," "Public Office and Officers," and "Public Property." The notes are unusually full and contain apparently complete citation of authorities, including, of course, the recent decisions. The author's purpose has been to state the general principles applicable to a question in the text and then to give the authorities sustaining the statement in the notes adding in certain instances quotations where these are especially apposite.

LAW OF THE DOMESTIC RELATIONS, Embracing Husband and Wife, Parent and Child, Guardian and Ward, Infancy and Master and Servant. By JAMES SCHOULER, LL.D., Author of Treatises on "Bailments," "Personal Property," "Wills," "Executors," etc. Boston: Little, Brown & Co. 1905. Pp. xl., 421.

Lawyers familiar with Schouler's original book on the Domestic Relations—and there are many such—will not need to have a new volume on this subject by this author commended to their favorable consideration. His treatment of this branch of the law has proved so satisfactory to the profession, and his name is so well established as an authority, that it is unnecessary for us to do more than refer to the special characteristics of the present volume.

It follows closely the plan of the original work, treating the topics above indicated, but the subject matter has been materially condensed, and the notes now include the important recent decisions. In this day of new editions of standard works brought down to date by inexperienced editors, it is particularly gratifying to meet with a volume, such as this, where the author himself has revised his own work, and has himself changed and amplified the notes so as to present satisfactorily modern authority. To the practicing lawyer particularly, who frequently finds the value of a law treatise in its reference to cases, notes prepared by an author of established scholarship are especially welcome.

As a text-book for law students Schouler's work long ago won a place. The present volume, in view of its condensed treatment, is well adapted for this purpose. The author's experience as a teacher of law has no doubt made him unusually successful in preparing a book possessing this merit.

STUDIES IN AMERICAN ELEMENTARY LAW. By JOHN C. TOWNES, LL.D., Professor of Law, University of Texas; Author of "Townes on Texas Pleading." Austin, Texas: Published by the Author, 1903. Pp. 490.

In this book Professor Townes has applied the deductive method, and starting from certain principles has elaborated a very satisfactory treatise on the general rules of the law. We are accustomed to publications designed to instruct the layman in regard to legal principles as applied to the ordinary happenings of life. We have not been inclined to look upon publications of this sort with any special degree of favor. The present volume, however, is in no sense of this nature, but is designed to give to the student intending to enter the profession of law a broad survey of the subject which will enable him intelligently to pursue more thorough studies. To the man not intending to adopt the law as a calling, it will give an insight into its principles which will be valuable to him from the point of view of culture, but there is no pretense of assisting to solve his own legal difficulties.

As a preliminary study for the prospective lawyer, the book is particularly well adapted. The style is clear and lucid, and covers the ground with remarkable completeness, considering the comparative brevity of the book. The subject matter has been greatly condensed; so much so, that to the beginner there will probably be needed the guiding hand of a teacher. But, both in the classroom, at the proper stage of preparation, and in the office, where the law student

may be deprived of the advantage of the training of the professional school, the book will find a valuable use. It is laudably free from unnecessary incursions into matters of legal history, which, while necessary at the proper time, have no place in a book of this sort.

After an introduction in which certain general principles are laid down dogmatically, the author divides his subject into four parts, considering, first, political power and the organization of government; second, the Federal and State governments and their relations to each other; third, rules regulating the conduct of individuals; and fourth, procedure. The third part naturally constitutes the bulk of the volume. The various sub-divisions are logical and satisfactory and evince the result of practical experience.

For the purposes which the author has in mind the book is admirably adapted and will, no doubt, not only lighten the labors of law students, but enable them to pursue their studies with more thorough understanding and more fruitful results.

INTERNATIONAL LAW WITH ILLUSTRATIVE CASES. By EDWIN MAXEY, M.Dip., D.C.L., L.L.D., Professor of Constitutional and International Law, Law Department, West Virginia University. St. Louis: The F. H. Thomas Law Book Co. 1906. Pp. xxii., 797.

The study of international law is not only a study of extreme interest but is also one which is of great value both to the lawyer and to the student at law, and, by reason of its subject matter, to those as well who are not members of the legal profession. Many excellent treatises have been written on the subject of international law, and to this number Mr. Maxey's "International Law" makes a valuable addition.

The purpose of the author, as he has stated in his preface, has been to produce a book which conforms to the needs of the class-room, and in this he has admirably succeeded; but he has at the same time given to the public a work the value of which can well be appreciated by the practitioner and the general reader.

In treating his subject Mr. Maxey has realized the importance of ready access to leading cases as essential to every successful course of legal study, and he has combined with his text a number of important American and English decisions, placing them directly following the statements of law which they are intended to illustrate.

The subject matter of the book the author has divided into six parts, the first one of which deals with the historical

development of international law. Beginning with a definition and analysis of the term "international law," and a comparison of it with municipal law, he traces its gradual growth from the time of the Greek city-state on down to the Hague Conference of the present day, showing to what extent it was influenced by the Roman law-makers and affected by the growth and expansion of commerce, and referring to the advent of the United States as an independent power as marking a new epoch in its development. Mention is also made of the different writers of international law and their writings, and the "De Jure Belli ac Pacis" of Grotius is pointed out as having done "more than any other treatise toward awakening the public interest in and giving systematic form to the body of rules which constitute international law." Part II deals with the sources of international law and their relative values, a comparison being made between treaties, decisions of courts, and international congresses and conferences, while some space is also devoted to a consideration of writers and other miscellaneous sources. Part III concerns "Peace, or the Normal Relation of States," and upon this section the writer has thrown especial emphasis, "because," as he says, "of the conviction that the real interests of nations are in peace rather than in war, and that time can be more profitably spent in a study of the means of avoiding strife than in elaborating rules for regulating it." The birth of a state, its national character and independence, intercourse between states, property, contracts, with special reference to treaties and treaty-making power, jurisdiction, intervention, and the settlement of disputes are successively taken up. The next sub-division deals with a discussion of international law as relating to the status of war, and is extremely interesting since it involves a consideration of belligerents and their rights over the person and property of the enemy, together with a discussion of the commencement, prosecution, and termination of war. Part V considers international law as concerning neutrals, their rights and duties, contraband of war, the right to visit and search ships sailing under neutral flags, and the blockade of coasts and harbors.

The writer closes with an appeal for an international conference of nations in order to obtain a more perfect understanding as to doubtful questions of international law, showing especially the increasing need of definiteness as disclosed by the recent Russo-Japanese war. Suggestions are offered as to the establishment of an international court for hearing and deciding upon questions of prize, a revision of the list

of contraband goods, and rules to meet certain new and difficult problems presented by the use of submarine mines and the wireless telegraph, thus including the results of many new developments and changes. This, together with the clear and direct style of the author and his forceful manner of expression, makes Mr. Maxey's "International Law" of much interest and value.

J. K. F.

THE LAW OF CARRIERS. By DEWITT C. MOORE, of the Johnstown (New York) Bar. Albany, N. Y: Matthew Binder & Co. 1906. Pp. cxxvii, 1044.

It requires but a cursory glance at the reports to be impressed with the rapidly-increasing number of decisions in the law of carriers. Modern civilization in so many of its phases is dependent on the various forms of transportation in operation, that it is but natural that the growing importance of the contract of the carrier should be reflected in litigation. There is consequently special opportunity in this field for the labors of the student, and a treatise on the subject, if well done, must find favor with the profession.

The present publication of Mr. Moore's presents an exhaustive collection and summary of the authorities. The subject is divided in the established way into the topics, Carriers of Goods and Carriers of Passengers, with a consideration under each head of the liability, its inception, termination and limitation by contract, together with various related topics, such as Damages, Presumptions, Connecting Carriers, Duties and Liabilities, etc. There is a brief review of the Interstate Commerce Act and the leading decisions thereunder, and the text of the Railroad Rate Law of 1906 is given.

The principles are stated in the text, and the decisions in support thereof are fully cited in the notes, with, in frequent instances, summaries of the facts of important decisions. It is worthy of note in passing that headings to the notes in heavy-faced type render them more convenient of consultation.

The purpose of the book is apparently practical rather than theoretical, and to the practitioner it will furnish a valuable discussion of the cases, well collected, summarized and classified. As a working book for the lawyer in search of a decision in point it is admirable. On the theoretical side, however, we feel that it is open to criticism. In a work of its scope we believe, a more nearly adequate discussion of underlying principles and their development might have been expected; and the problems involved in such question

as the respective liability of connecting carriers, the carrier's right to limit liability by an agreed valuation, the termination of his liability, and so on—questions on which the courts have not always reached harmonious results—we should have expected to have received more consideration than is given them, and the difficulties involved therein to have been analyzed with greater thoroughness. The practical character of the book might have been preserved and at the same time a treatment of the subject given that would have proved a decided addition to the development of the fundamental principles of the law of carriers.

As it is, the book must be described as a careful and exhaustive summary and classification of the cases to date rather than as a logical treatise of the underlying principles in this field of law. Its value therefore, is rather to the practicing lawyer than to the student. Consequently it is a book that is not likely to prove a permanent contribution to the development of the law, but rather a source from which decisions may be obtained. As a serviceable statement of authorities it is worthy of special praise.

This is professedly the author's aim, as he states his purpose in treating the subject to be "to furnish suitors with a practical guide in this class of litigation," and we have no hesitation in saying that in seeking to accomplish this result he has met with no indifferent degree of success.

ARCHITECT, OWNER, AND BUILDER BEFORE THE LAW. By T. M. CLARK, Fellow of the American Institute of Architects. New York: The Macmillan Company. 1905. Pp. xxxi, 387.

The title to this book well expresses the nature and scope of its contents. The author has realized the numerous difficulties which usually arise in building controversies, both for counsel, because of the technicalities involved, and for the parties to the controversies, owing to their own ignorance and neglect of the legal principles relating to their business; and instead of adding another volume to an already large collection of works on business or commercial law in general, he has devoted his attention to a discussion of the legal status, duties, and liabilities of architects, owners, and builders, and a "summary of American and English decisions on the principal questions relating to building and the employment of architects."

The subject matter of the book has been divided into three sections, the first one of which deals with "The Architect and the owner," the second with "The Architect and the

Builder," while the last part treats of "The Builder and the Owner." Reference is made to about eight hundred cases of this and other jurisdictions, which in addition to being arranged alphabetically are also indexed according to the jurisdiction in which they were decided. Suggestions as to the drawing up of building contracts and various contract forms are also included.

Notwithstanding the fact that the author is a layman and not a lawyer, the treatment of the subject matter is legal as well as intelligible to the non-professional man, and the book will be of interest not only to contractors and owners and architects, but also to the practicing lawyer.

J. K. F.

CONDITIONAL SALES IN BANKRUPTCY. By MAX ISAAC, United States Referee in Bankruptcy. Atlanta, Ga.: Foote & Davies Co., 1905. Pp. xix, 108.

This little book presents a concise and well-considered review of the subjects of conditional sales in bankruptcy, consignments in bankruptcy, sales induced by fraud, practice and procedure in reference to these matters, and appeals. It is a helpful hand book on a perplexing topic, and is certain to prove valuable to lawyers practicing in the bankruptcy court. In view of the special remedies frequently available in favor of the conditional vendor of chattels, provided they are properly utilized, familiarity with these topics is a valuable asset to the practitioner.

About one third of the book is devoted to setting forth forms of use in the various situations discussed.

FOIBLES OF THE BENCH. By HENRY S. WILCOX, of the Chicago Bar. Chicago: Chicago Legal Literature Company. 1906. Pp. 144.

This little book contains a series of pen pictures of imaginary judges possessed of various judicial failings. Fortunately it has not been our lot to appear before judges embodying these trying characteristics to the extent depicted in Mr. Wilcox's sketches, but the essential peculiarities, to put it mildly, of Judge Knowall, Judge Fearful and the others are not unfamiliar. The author's descriptions of certain representatives of the judiciary may possibly be in some measure justified, but the reader will be inclined to think, we believe, that the book is rather satire than dispassionate criticism.

It is promised that there will be further volumes presenting "The Foibles of the Bar," "The Frailties of the Jury," "The Fallacies of the Law," etc.