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REVIEWS

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take to prevent his goods being confounded with those of this other person. This also seems to be the view taken by American courts. In *Russia Cement Co. v. Le Page*, 147 Mass. 206, and *Le Page Cement Co. v. Russia Cement Co.*, 51 Fed. Rep. 941., Le Page, who sold his right to manufacture and sell "Le Page's Liquid Glue," and then commenced a new business and manufactured "Le Page's Improved Liquid Glue" was restrained. Similar cases are *Frazer v. Frazer Lubricator Co.*, 121 Ill. 147; *Skinner v. Oakes*, 10 Mo. App. 451; *Hoxie v. Cheney*, 143 Mass. 592; *Symonds v. Jones*, 82 Me. 302-313, and *Pepper v. Labrot*, 8 Fed. Rep. 29. In all these cases, however, the use of the particular name was restrained because proper care had not been exercised to avoid deception of the public, and to prevent injury to those who had acquired the right to the use of the name and its reputation. None of them went so far as to say that a man could be restrained altogether from carrying on a particular business in his own name.

USURY—BUILDING LOANS—WHAT LAW GOVERNS—NATIONAL MUT. BUILDING & LOAN ASS'N v. BRAHAN, 31 So. 480 (Miss.).—A New York building and loan association, having only special agents in Mississippi, loaned a sum of money to a party there at a rate usurious under the laws of that state, but stipulated that payment of the debt should be made in New York. Held, that the contract, notwithstanding the recital as to the place of payment, was a Mississippi contract, and hence usurious..

The general rule has always been that a contract is controlled by the usury laws of the state where the debt is made payable; and "the fact that a contract, to be performed in one state, is secured by a mortgage upon land in another does not affect the rule that the *lex loci contractus* governs." 27 *Am. & Eng. Enc. Law*, p. 974; *Association v. Bedford*, 88 Fed. 7; *Kurtz v. Sponable*, 6 Kan. 397. However, the present tendency seems to be to look beyond the plain facts to the intention of the parties, and state courts are inclined to consider as domestic, contracts of indebtedness secured by mortgage in that state, even though payment is stipulated to be made in another state, especially where the intent is to evade the usury laws. *Ass'n v. Stanley*, 38 Or. 340; *Ass'n v. Kidder*, 9 Kan. App. 390; *Martin v. Johnson*, 84 Ga. 481; *Meroney v. Ass'n*, 116 N. C. 883.

REVIEWS.

Reports on the Law of Civil Government in Territory Subject to Military Occupation by the Military Forces of the United States. Submitted to Hon. Elihu Root, Secretary of War. By Charles E. Magoon, Law Officer, Bureau of Insular Affairs, War Department. 2d Ed. Washington Government Printing Office. 1902.

This work presents a striking instance of the new political machinery which it has been found necessary to provide for the proper conduct of affairs of the United States since the Spanish war. That threw into our hands a title to great territorial possessions on opposite sides of the globe as against the rest of the world, outside of them, at least. They had been united by little except—to a certain extent—by a common language and law. It was a strange language and a stranger law to us.

Their civil government necessarily fell, for the time, into the control of the military power of the United States. That had conquered the territory. That must now govern it, until Congress otherwise provided.

The military power of the United States is exercised through the Secretary of War. The treaty with Spain made him a viceroy over millions of men. Some of them were civilized, and some savages. Some of them submitted to our authority, and some defied it.

A special bureau of the War Department was soon fully organized to deal with the questions daily arising from this state of things. It has a chief, who is an army officer, and a special legal adviser. Judge Magoon, who fills the latter place, was at once called upon by the Secretary for opinions in regard to points of difficulty, as to which Mr. Root himself had no time to make original investigations. This volume contains those thus prepared down to the early part of the present year.

They cover a great variety of subjects. Two or three instances may serve to show the broad range of inquiry necessary for reaching sound conclusions.

1. In 1728, the Spanish Crown sold at auction a title in perpetuity to the office of "Alguacil Mayor" of Havana (p. 194). He was practically the city sheriff and also the inspector of markets. In 1899 the office had become the joint property of a countess and a doctor, and its profits were \$100 a day. They claimed that it was strictly private property and protected by the treaty as well as by the principles of international law. Our army officers in command at Havana refused to recognize their title, and they appealed to the Secretary of War. Mr. Magoon advised him that the administrative officers of the displaced government were displaced with it. The government of the United States assumed the administration of civil affairs, and appointed its own officers. It might have employed the claimants. It preferred to employ others. They had no right to complain of the fate of war upon a political office.

2. An English limited company had built a railway from Manila to Dagupan, under a contract with Spain by which Spain guaranteed it eight per cent. dividends on the cost of the road. This cost was some \$5,000,000. Spain punctually paid the stipulated sums, as long as she remained in control; raising the money from the revenue of the island. The United States refused to continue the subsidy. The opinion of Mr. Magoon was that they were under no obligation to continue it. It remained a contract duty of Spain. Nor was there any lien or charge on the island revenues in favor of the company. The guaranty was an independent undertaking, not conditioned on the amount of such revenues. If the company had any claim, it was an equitable one, to be presented to Congress (p. 177).

3. The famous sedition law of the Philippines is made the subject of a study in comparative jurisprudence, to ascertain what American precedents there were for it. It is the Act of Nov. 4, 1901 (p. 655). The style of the Act, like that of all those enacted by the Commission, is worth notice. It is this: "By authority of the President of the United States, be it enacted by the United States Philippine Commission." One

of its provisions (Sec. 9) is that "all persons who shall * * * after the passage of this Act continue membership in a society already formed having for its object in whole or part * * * the promulgation of any political opinion or policy, shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or both." For these provisions no analogue was found in any law of Congress or of any State; but most of the sections, and much of the residue of this section, are shown to be substantial re-enactments of what had long been features of American legislation.

Mr. Magoon's opinions show extensive reading and good logical power. They are clear, also, and well expressed. As a contribution to the study of international law, they possess the peculiar value belonging to a series of practical illustrations, showing both conduct and justification always claimed to be based on principles rather than policy. Naturally he inclines to reject claims against the United States, rather than to uphold them; but he is careful to state at the outset of the book that his decisions do not profess to be of a judicial character.

S. E. B.

Morphinism and Narcomanias from other Drugs, their Etiology, Treatment, and Medico Legal Relations. By T. D. Crothers, M.D., Superintendent of Walnut Lodge Hospital, Hartford, Ct.; Editor of the Journal of Inebriety; Professor of Mental and Nervous Diseases in New York School of Clinical Medicine, Etc. W. B. Saunders & Co., Philadelphia and London. 1902. Pages 350.

The subject matter, although arranged along technical medical lines, is so handled and the illustrative cases are so typical as to make the perusal easy, interesting, and profitable to the lawyer as well as to the physician. Throughout, one is impressed by the value and necessity of the warning, now so persistently given to most medical students, of the danger arising from the continued administration of analgesics and narcotics.

The use of Morphine or Opium from prehistoric time renders our knowledge of its actions and results more extensive than of the newer narcotics and naturally the discussion of this drug comprises about two-thirds of the text and is quite exhaustive. The dangers from its use are, to some extent, appreciated by the laity but the fact that cocaine, chloral, acetanilid and many other hypnotics and headache powders, and even tea and coffee when used excessively or by nervously constituted individuals will produce a habit and often a mania, is recognized by few and feared by still fewer. Whatever detail may be lacking in the discussion of the symptoms, habits and manias produced by these newer drugs is due to the limited knowledge on the subject; a misfortune which should be dispelled in a few years by scientific observation. As the author states in his preface, "The special object of this work is to group the general facts and outline some of the causes and symptoms common to most cases, to suggest general methods of treatment and prevention, and in this way to bring the subject out of its present empirical stage to a more scientific level and to encourage further and more exhaustive studies."

The author's long experience in dealing with narcomaniacs renders his observations on, and discussion of, their lack of veracity of importance to every member of the legal profession.

G. H. E.

The Employer's Liability Acts and the Assumption of Risks. By Frank F. Dresser, A.B., A.M., of the Massachusetts Bar. Keefe-Davidson Company, St. Paul, Minn. Sheep. 881 pages.

While the increasing disturbances between employer and employees are more broadly those between labor and capital a well considered treatise on any phase of master and servant is certain at this time to receive consideration. This, Mr. Dresser's book deserves for its timeliness and the logical and able presentation of the subject. The book is necessarily limited to a consideration of the effects growing out of the application of the Employer's Liability Acts to the common law principles governing the relations of master and servant with reference to injuries.

These results arise from over 15 years' experience with the Act and while in force in only five jurisdictions and in the federal courts, the principles have become fixed in those jurisdictions and substantial justice done to the parties. Exception however is made with regard to the more recent doctrines of the assumption of risk (in which perhaps the courts have gone too far in passing upon the facts) and which the legislatures will doubtless be called upon to modify in the interests of the servant. Two chapters are devoted to this speculative subject.

F. W. T.

A Laboratory for the Study of the Criminal, Pauper and Defective Classes. By Arthur MacDonal. Government Printing Office, Washington, 1902.

The desirability both of accurate statistics and expert investigation of the criminal and defective classes is becoming steadily more apparent. Attention has heretofore been almost exclusively directed toward the criminal himself and little investigation has been given to the causes which made him one. The failure of such methods to even in any degree decrease crime has been signal. While the United States is said to expend annually fifty-nine millions in its enforcement of criminal law, yet it has the highest murder rate of any civilized country in the world and the number of habitual criminals is increasing. It is now proposed that the government establish a laboratory for the study of the criminal, pauper and defective classes and a bill has already been introduced in Congress for that purpose. In a hearing on that bill before the judiciary committee last April, Mr. Arthur MacDonal, a specialist in the Bureau of Education, brought forward some very interesting and curious information in illustration of what such a laboratory might be expected to establish. This material with a remarkably complete bibliography upon the abnormal classes is now published in pamphlet form and well deserves a careful perusal by all interested in this subject. The plan proposed is sensible and cannot but be productive of valuable results.

G. H. B.