

## REVIEWS

*Das Luftschiff im internen Recht und Volkerrecht*, von Dr. F. Meili. Zurich, Art. Institut Orell Fussli. 1908. pp. 61.

In this monograph, Professor Meili discusses some of the legal questions likely to become subjects of controversy in respect to air-ships, which, he thinks, will soon become a regular medium of commercial intercourse, Count Zeppelin having fully proved their dirigibility (p. 12). Their use will be especially common in countries having no good roads, and in case of the interruption of the use of other vehicles of trade, as by accident or blockade (p. 13).

The work already done by the Institute of International Law towards framing legal rules to apply to aerial navigation is briefly described in the text (pp. 14, 48), and the project elaborated in 1902 by M. Fauchille is given in full in an appendix (p. 55).

What, he first asks (p. 20), are the proper relations of the air-ship to the State? Shall it be left to private regulation, by business interests, or shall it be controlled from the outset by the strong hand of government? Germany has contracted with Count Zeppelin to buy his rights, as an inventor, at a price of over \$600,000, provided he builds a ship fulfilling certain conditions (p. 21). There is good reason for this. Not simply in war, but, among other things, for evading payment of taxes on imported goods, the possibilities attaching to such a ship, which touch public interests, are immeasurable. Certainly governments must exercise a control over ships of the air similar to that over ships of the sea. If they fly far, they must bear their nation's flag (p. 24). They must be guided by those whom the public approves as competent. They must be directed under a law of the road, which decides which way they shall turn to avoid collisions. Only some system of international regulation can be adequate for these things (pp. 25, 48). The universe is their field (p. 54).

Is there, he then inquires, a right to navigate the air, or must it be acquired? The German Imperial Code of 1900 (Art. 905) declares that a landowner cannot forbid the doing of acts at a place so high above or so deep below the surface of his land, that he has no substantial interest in preventing it. Switzerland has a similar provision. Do not they exclude any claim of right to

debar an air-ship from sailing over a man's land so high that he cannot be affected by it? (p. 27).

And as to crimes committed on the ship: Shall they be justiciable only before the courts of the nation to which it belongs, as Fauchille and Grumwald contend (p. 37), or is there a *lex loci* that should govern? And shall crimes against the ship or those upon it be the subject of special provision? The project of a Swiss criminal code, published in 1903, declares that whoever intentionally so endangers the prosecution of a voyage or of an air-ship voyage (*Luftschiffahrt*) that thereby human life is put in peril, shall be imprisoned. Should not (pp. 40, 41, note) offenses injuring the goods on board or the ship itself be also punished?

These are only a few of the questions discussed. The author writes with force and spirit, and by the use of full-faced type makes it plain what points he deems of capital importance.

S. E. B.

*Negotiable Instruments Law.* By John J. Crawford, New York. Baker, Voorhis Co. 1908. pp. 212.

This is the third edition of the book, the second edition having been published in 1902. It follows the style and arrangement of the previous editions by giving each section of the Negotiable Instruments Law with copious notes. As Mr. Crawford was the draftsman of the original New York act, we can find none better to edit such a work. The author has preserved all of his original annotations as in the previous editions. These are not merely a digest and compilation of cases, but indicate the decisions and other sources from which the various provisions of the statute are drawn. The author has compiled a table of the corresponding sections of the statute in the different states, which is helpful for references. Mr. Crawford has carefully pointed out the changes which have been made in the law since it was first enacted, so as to bring it up to date. He has cited upwards of two hundred new cases in which the statute has been construed and applied. It is needless to say that this edition will be welcomed by the members of the New York Bar as well as the profession in those states where the Negotiable Instruments Law has been enacted, because the act being substantially the same in the majority of the states, the decisions in another state are of great weight.

The book will serve as a valuable compendium of the law to date.  
H. J. C.

*The Treaty Power Under the Constitution of the United States.*  
By Robert T. Devlin. San Francisco. Bancroft-Whitney Co.  
1908. pp. LXX, 864.

The author of this volume informs us in his preface that it was his original intention "to consider only the questions arising under . . . the treaty clauses of the Constitution," but that he finally concluded to treat "of many questions of a cognate nature to which these clauses give rise." These quotations will serve to indicate a looseness of expression and awkwardness of both diction and style which characterize the book. How do questions arising under the clauses named differ from those of a cognate nature to which the clauses give rise? To cite but one more instance of these defects, he observes (Sec. 241, note) that "State laws in conflict with a treaty are not so much void as they are suspended and controlled during the life of the treaty." Are they then void or in suspense? And why is "they are" inserted where it does not seem to feel at home?

The book will serve as a convenient digest of the American judicial decisions upon the subject up to the date of publication. It contains little in the nature of original work. Frequent quotations are made by the writer from the treatises of his recent predecessors in the same field, Butler and Crandall, which are justly treated as authorities for the positions which they take.

It is evident that this volume was prepared in great haste. It contains repetitions which are quite inexcusable. Thus, in a note to Sec. 63, the author quotes at length from a letter written by Henry Clay, as Secretary of State, in 1825; and in Sec. 64 he inserts the identical quotation again, which fills more than a solid page of text. So nearly half of page 65 is occupied by a quotation from Crandall's "Treaties, Their Making and Enforcement," which had been fully given on page 60.

The author states it as the present English rule (Sec. 444) that foreign judgments are conclusive where the record shows due service of process on the defendant and that he had the opportunity of appearing and contesting the plaintiff's claims. This is far from true; but the error is of the less consequence as it is found pitched into the middle of a chapter treating mainly of consuls, and relates to a subject the connection of which with any

treaties which the United States have ever negotiated is rather tenuous. In a preceding section (435) we find an equally unguarded assertion that "a decree by which a marriage is dissolved or confirmed" is universally treated as valid. It is hardly necessary to say that *Haddock v. Haddock*, 201 U. S. 562, is not cited as an authority on this point, nor indeed is it mentioned in the volume at all.

The book is sadly lacking in proportion. To the single incident of the exclusion of Japanese children from the ordinary public schools in San Francisco, forty-eight pages are devoted; some twenty of them being given to a *verbatim* report of a speech by one of the California senators in the Senate of the United States.

The most valuable chapter, and that on which the most pains seems to have been expended, is that (Chap. XV) as to the responsibility of government for mob violence. While its bearing on the treaty-making power is rather remote, this subject is of pressing and practical concern to the whole country, and in its historical aspect is treated with fullness and care, except that no reference is made to the action of the American Bar Association in regard to the proper Federal legislation. S. E. B.

*Joyce on Indictments.* By Howard C. Joyce. New York, Matthew Bender & Co. 1908. pp. 1008.

The publication of this new treatise covering the law relating to the finding, requisities and sufficiency of indictments has put into the hands of that branch of the profession practicing criminal law a most valuable and practical work, treating, so it seems, of all the common, constitutional and statutory law in any way pertaining to the subject. Surely the author was justified in saying in his preface: "The accomplishment of this purpose has required a vast amount of labor," for it shows tremendous research both in subject matter and citations.

The arrangement of citations according to states is by far the best yet devised in order to make the volume useful in any and every state in the Union and the use of heavy print for the name of the state will no doubt be appreciated by the busy practitioner.

The volume concludes with a most exhaustive and complete set of forms and as stated in the preface, they are with few exceptions "those which have either received judicial approval in cases in which the question of their sufficiency has been before the court

for determination or has not arisen, thus leaving the pleader in no uncertainty as to the safety of following a given form."

Mr. Joyce graduated from Yale Law School in 1892.

*E. R. Mc.*

*Probate Reports Annotated*. Vol. 12. By William Lawrence Clark.

New York. Baker, Voorhis Co. 1908. pp. 807.

This is the twelfth volume of this series of reports which are compiled by the author from contemporaneous or recent cases of the highest courts of the different States of the Union, and of United States Courts upon all matters cognizable in Probate and Surrogate Courts, or involving questions of probate law and practice. It is the author's intention to issue a volume each year, bringing the law up to date.

The book contains about one hundred cases with very good notes so as to enable one to easily trace the authorities. Each new volume will contain notes referring to the other cases on the same subject so that one volume is all it will be necessary to refer to. Another feature of the book is a digest of late cases of general application on questions of probate law and practice, other than those reported in full.

This book should be favorably received by those actively engaged in probate practice.

*H. J. C.*