

theless like some outside advice. It is possible that a study of its pages would be profitable to some seniors also. Simplicity is its aim, and it excels without being trite. The appendix, for instance, contains a form of application for further time in which to answer interrogatories—a form of little use to an experienced clerk who could run such an application off in a minute, but one which might save half-an-hour's head-scratching in a one-roomed office where precedents do not (yet) abound.

G.H.L.

BILLS OF SALE, LIENS, ETC.

The Law Relating to Bills of Sale, Liens on Crops, Liens on Wool, Stock Mortgages, and the Assignment or Transfer of Book Debts. By E. G. COPPEL, LL.M. The Law Book Company of Australia Ltd. Price, 35/-.

There is an air of perilous uncertainty surrounding a Bill of Sale. By comparison a mortgage of lands may be undertaken with a light heart; but a Bill of Sale—surely no legal document is drawn with more fearful accuracy, or treated with such high respect.

The stringency of the technical requirements as to form and registration, the terrible doom ready at the merest slip to render one's efforts "null and void to all intents and purposes whatsoever," is no doubt partly responsible. But in the main the fear arises from a sort of conscious ignorance—and the fault lies in the Act itself.

Take the initial and probably the most difficult problem of all—what is a Bill of Sale? The Act defines a Bill of Sale not as being such and such, but only as including such and such—and what wolves dressed in sheep's clothing may there be not mentioned "among those present." But even as to those expressly included there remains a general vagueness. "Bill of Sale," according to Section 27 of the Instruments Act 1928, "includes bills of sale, assignments, transfers, declarations of trust without transfer, and other assurances of personal chattels and also powers of attorney authorities or licences to take possession of personal chattels as security for any debt"—and to these Sections 41 and 51 add respectively bills of sale "subject to any defeasance or condition or declaration of trust," and sales followed by contracts of letting and hiring. But what is an assurance of personal chattels, or a defeasance or condition? Probably not more than two or three of the terms quoted convey a precise meaning to the average student or practitioner. Nor do the difficulties inherent in the Act cease here. The ambiguity arising from the retention in the present legislation of two distinct and independent operative Sections (namely Sections 28 and 30), the extent to which the Act applies to bills of sale granted by companies, the effect of giving possession of the chattels to the grantee, and above all the pitfalls awaiting those who attempt to reconcile the two established principles—

- (a) That the Act is concerned only with documents, and not with transactions, and

(b) That the Court can look at the real transaction between the parties, and is not bound by the mere form—,

these are only some of the factors which contribute to "the mass of obscurity and difficulty which is connected with these Acts."¹

It is in this unhappy state of affairs that a book which is not only modern, but comprehensive and accurate, is a godsend to student and practitioner alike. Mr. Coppel's book has these qualities. The decided cases are adequately dealt with, and some much-needed light is thrown on the problems indicated above. In particular, Mr. Coppel's historical review of the mischief to be remedied and the various legislative attempts from time to time to find an effective remedy is especially illuminating, and clears away a good deal of fog as to the type of transaction which the Act strikes at.

On the important question: Does the Act apply to bills of sale granted by companies? Mr. Coppel concludes that with regard to conditional bills of sale given by companies it seems clear that these are to be regulated by Section 101 of the Companies Act, and not by the Instruments Act; and that with regard to absolute bills of sale, although these are not similarly covered by the Companies Act, the number of transactions which must have taken place on the assumption that the Instruments Act does not apply must weigh very strongly when the question comes to be decided in an appellate Court.

It may be worth while drawing attention here to a statement of Mr. Coppel's which appears to the present writer to be misleading. In dealing with Licences to take Possession the author quotes, as a well-known instance of one which is not affected by the Bills of Sale legislation, that commonly contained in hire purchase agreements. He then continues as follows (page 18). "But if there is no option to terminate the hiring by returning the goods, the document is an agreement to sell which will pass the property and so be an assurance of personal chattels." It is submitted that this does not necessarily follow. So long as the parties make it clear that the property in the goods is not to pass until the whole of the purchase money has been paid the property will not pass till then, whether there is an option to terminate or not; and the agreement will not become, by reason of the absence of such option only, an instrument requiring registration as a Bill of Sale. This is clearly recognised by the House of Lords in *McEntire v. Crossley Bros.*² In other words, the customary provision in Hire-Purchase Agreements of an option to terminate the hiring is inserted with an eye not so much to the Bills of Sale legislation as to the Factor Acts (Goods Act 1928, Section 30) with the object of preventing the hirer from being able to pass a good title to the chattels until all the instalments have been paid.

Mr. Coppel deals with the legislation relating to Liens on Wool and Crops, Stock Mortgages, and Book Debts in a practical and exhaustive fashion. The summaries of propositions of law which he con-

1. Per Bowen L.J. 35 Ch.D. at 207.

2. [1895] A.C. 457.

cludes are to be drawn from the decided cases are bound to be of the greatest assistance to practitioners; and not the least valuable part of his book is likely to be the concrete problems, for example, those of conflicting priorities arising under the Act, which he sets out with his opinion of their correct solution. Again here his historical notes are most interesting.

The book is written with an admirable clarity of style and arrangement, and there can be little doubt that it will take its place at once as the standard Victorian text-book on the extremely important parts of the Instruments Act with which it deals.

J.B.H.

BANKRUPTCY LAW.

Australian Bankruptcy Law. By A. N. LEWIS, LL.D. The Law Book Company of Australia Ltd. Price, 25/-.

By virtue of Section 51 (xvii) of the Commonwealth Constitution the Federal Parliament has power to make laws with respect to bankruptcy. Not until 1924, however, was this power exercised by the enactment of the Commonwealth Bankruptcy Act, and even then the coming into operation of the Act was suspended until 1928. The Act, of course, is now paramount to all State insolvency legislation. "In it, and the cases decided on similar sections of the English and older colonial and State Acts," says Dr. Lewis, "is to be found the whole authority for bankruptcy law." The Act has undergone many amendments since 1924. Dr. Lewis's book is concerned primarily with the practical application of the difficult principles contained in this branch of the law and for this reason the book is of special value to the practitioner. Every section of the Act is thoroughly analysed, and, wherever possible, illustrated by the relevant cases. The book is well written, and has been selected as a prescribed textbook by the Faculty of Commerce at the University of Melbourne.

J.S.

AUDITING AND ITS LEGAL ASPECTS.

Practical Auditing. By ROUAL A. IRISH. The Law Book Co. of Australasia Ltd. Price, 10/-.

We quite agree with Mr. Marley, who states in his foreword that this book is an important and original contribution to accountancy literature. It is indeed one of the best Australian textbooks which have been written on the subject. A knowledge of accountancy and auditing is an invaluable aid to the practitioner, and especially to those whose work brings them into contact with Company and Bankruptcy Law. *Practical Auditing* is an extremely useful book for this purpose. The chapter on duties and liabilities of auditors is of interest equally to lawyers as to accountants. The author discusses a number of legal decisions which form the basis of this branch of the law. It is the duty of the company auditor to make himself