SURVEY OF PERIODICALS

THE COMPENSATED SURETY. By Earl S. Arnold. Columbia Law Review, Vol. XXVI, No. 2.

Mr. Arnold first points out the late development of the corporate surety in England and America and the oddity of such late development in view of the greater efficiency of corporate suretyship. He next deals with the difference in interpretation of the contract of an ordinary gratuitous surety and that of a compensated corporate surety. The corporate surety is in reality an insurer and many principles of insurance law are consequently applied in establishing the extent of the compensated surety's liability. Mr. Arnold finally shows that the law of compensated suretyship is rapidly changing and developing through judicial decisions and through legislation on the subject.

ZONING LEGISLATION. By Newman F. Baker. The Cornell Law Quarterly, Vol. XI, No. 2.

This article is an excellent counterpart to the article by Judge McQuillin which appeared in the last number of the ST. LOUIS LAW REVIEW. Judge McQuillin took up the constitutional validity of these ordinances; the article under consideration deals primarily with the development of large cities since the Industrial Revolution and the consequent economic need for zoning ordinances. Mr. Baker also points out the most effective ordinances which will, at the same time, accomplish the desired ends and conform to constitutional requirements. Mr. Baker next considers the enabling acts, with special emphasis placed upon the Standard Enabling Act, and concludes with a plea that all recognize now the extreme necessity for zoning legislation as a protection to the cities of the future.

THE TASK OF THE AMERICAN LAWYER. By Dean Roscoe Pound, Vol. XX., 20 Illinois Review 439.

This address of the eminent dean of the Harvard Law School, given before the Chicago Bar Association, goes directly to the heart of one of our greatest modern problems—the effective administration of

justice—and presents it with his usual happy and effective language. He points out that the effective solution of this problem depends on the "uncommon expert sense of the trained lawyer" rather than "sheer American common sense" displayed by a lay body "affected by the cult of incompetency which is an unhappy by-product of democracy." To do this however he must know all the elements of the problem, the legal precepts, technique, and philosophy involved. To make himself familiar with these elements and lend his aid in the solution of the problem rather than obstruct efforts at reform, is the present day task of the American lawyer.

CREATION OF EASEMENTS BY EXCEPTION. By Joseph Warren Madden. West Virginia Law Quarterly. Volume XXXII, No. 1.

In this article the author, Dean of the College of Law at the University of West Virginia, discusses whether it is legally permissible for a grantor to create an easement in the land conveyed by way of exception. The discussion is based on Massachusetts cases which are in confusion on this point. The author shows that if the courts had decided that such an easement could have been created depending upon a pre-existing right rather than a pre-existing user, the cases would have been decided in accordance with the intent of the parties.

CHURCH AND STATE IN NORTH AMERICA. By Herbert A. Smith. Vol. XXXV, Yale Law Review 461.

The inspiration of this article is undoubtedly the recent so-called "Tennessee evolution case" although it is referred to only indirectly. The author's thesis is that although Church and State have been formally separated on this continent, yet there has been and is an attempt by various branches of the Church to control legislation in behalf of their peculiar ideals of doctrine and behavior as evidenced by recent efforts to pass and enforce such legislation. He illustrates this by the extraordinary situation in the Canadian Province of Quebec where the Roman Catholic Church attempted to and almost succeeded in establishing the right of that Church to make laws binding on its members and those entering into marriage relations with them and having them enforced by the Courts. This was only ended by the case of Despatie v. Tremblay (L. R. 1 A. C. 702) in 1921, and to the author's mind the struggle is not yet over.

THE COMPLAINT IN CODE PLEADING. By Charles E. Clark, Professor Yale University School of Law. Yale Law Journal, Volume XXXV., No. 3.

Professor Clark, in this thorough and most instructive article, undertakes to show wherein the code provisions have failed to realize all that was hoped of them by way of simplifying pleading and obviating the old technicality and rigidity of the Common Law Forms of Pleading. He accomplishes his object by showing the great diversity of holdings in the courts of different jurisdictions when construing similar code requirements, such as those relating to the sufficiency of facts, the manner in which facts are to be stated, the prayer for judgment, and pleading according to the legal effect. He contrasts the requirements of some of the courts with the requirements of the old Common Law Courts as sifted down and formulated into the Common Forms of Pleading, bringing out the fact that some states have already formulated pleadings to enable the members of the bar to meet the code requirements as interpreted by the courts.

TREATY RELATIONS WITH TURKEY. By Edgar Turlington. Yale Law Journal, January, 1926. Volume XXXV., No. 3.

Turlington possesses a peculiar knowledge of the situation now existing between this country and the Ottoman Empire, by virtue of his connection with the Department of State, Division of Near Eastern Affairs, and as legal advisor of the American delegation at Lausanne in 1923. In his article he defines the rights of Americans in Turkey, in view of the Turkish abrogation of the regime of the Capitulations (special privileges held by all foreigners prior to 1914) and the failure of the United States to adopt a new treaty at the Lausanne Conference. Turkey advocates the doctrine that treaties and agreements such as Capitulations are revoked by the mere severance of relations, ipso facto; and the United States, while admitting that treaties are subject to revocation when the conditions under which they were concluded are changed in the essential aspects, contends that there has been no material change in the situation such as to warrant the abrogation of the treaties. The situation today is handled by American ambassadors who are not recognized by the Turkish government and American rights are apt to be endangered unless the treaty now pending is concluded by this country.

ROMAN LAW IN ENGLISH LITERATURE. By William H. Lloyd. University of Pennsylvania Law Review, Vol. LXXIV., No. 4.

In this article, the author, a professor of law at the University of Pennsylvania Law School, and editor of several books and articles, shows that he is not only learned in the law, but also learned in literature. He reviews some of the so-called law and especially the Roman Law which has appeared in literature. The article is written in a most interesting and entertaining style, and must be read to be appreciated. Special attention is given to The Old Yellow Book by John Marshall Gest (1925), in which Judge Gest explains Robert Browning's poem, The Ring and the Book.

DUE PROCESS OF LAW UNDER THE UNITED STATES CONSTITUTION. By Hugh Evander Willis of the University of Indiana Law School. University of Pennsylvania Law Review, Vol. LXXIV., No. 4.

The effect of the Due Process Clause in the Fifth and Fourteenth Amendments is discussed by Professor Willis, while tracing the development of the phrase from the time of King John. The United States Supreme Court now decides whether or not legislation as well as executive and judicial acts are due process of law, both as to substantive law and as to legal procedure, and for corporations as well as natural persons. The author is of the opinion that the United States Supreme Court was wrong in extending the doctrine to substantive law, but concedes that the changes have come to stay, and that our dual form of government will more and more cease to be. He recommends that our state and federal courts be amalgamated into one great judicial system and thus "rid ourselves of the embarrassments and entanglements—domestic and foreign—which are the concomitants of sovereignties within a sovereignty."