

## NOTICES OF NEW BOOKS.

The Law of Commandatory and Limited Partnership in the United States; by Francis J. Troubat, of the Philadelphia Bar. Philadelphia, Kay & Brother, 1853.

Limited partnership has no place in the English customary Law Merchant; and though it has been borrowed from the French commercial code by most of the American States, it has been incumbered with so many common law conceits as to deprive it of the greater part of its value, and make it neither fish nor flesh, but "a sort of not of the newest Poor John." Happy had it been if, instead of providing the machinery to give effect to the principle, the Legislature had hit on the plan suggested by Mr. Troubat, of declaring that the law of partnership, with a limited liability, as authorized in France by its commercial code, should be the law of this State. We should then have had to deal with a few elementary articles, with their interpretation unfettered by the iron rule of statutory details. But would not the adoption of a foreign law have been legislation in the dark? To be sure it would. No unprofessional member had ever heard of the Code Napoleon—or, as it is now called, the Five Codes—or that the Commercial Code was part of it; nor is it probable that any lawyer, in either house, had read it. They borrowed their statute from legislators in New York, who had themselves gone in blind. But what can a popular body do in the construction of a system, or any part of it? The first Napoleon, whose proud declaration it was, in regard to his greatest achievement, "I shall go down to posterity with the code in my hand," brought to the creation of it the learning and experience of the most skillful and eminent jurists in his empire. They proceeded slowly, deliberately, cautiously, efficiently, and safely; and what was the result? An outline of principles to be filled up by the courts charged with the execution of them. Here there was at hand all that was wanted; but the American legislators, depending on inspiration during the three readings, hashed it, seasoned it, and cooked it to please their own palates.

Of all legal mechanism, statutory mechanism is the most imperfect; and this is one of the strongest objections to American codification. It is always adapted to the circumstances of a single case in the mind's eye of the constructor; and when it is required to work on any other, it works badly or not at all. A legislator who has but one model, is like a shoemaker who has but one last. It is this propensity to generalize that leads to perpetual tinkering at the statutes, till they are, at last, a wretched

piece of unintelligible patch-work. This would be prevented by not attempting to do too much, and leaving the rest to the courts.

The writer of this article is not a champion of the civil law; nor does he profess to have more than a superficial knowledge of it. He was bred in the school of Littleton and Coke, and he would be sorry to see any but common law doctrines taught in it. Water and oil would as readily coalesce, as the technicalities of our law of real property and the simplicity of the Roman law. The principles of the latter required adaptation to the English law of contracts and personal property; but it cannot be denied that, when they were adapted to it, they enriched it. In France, Italy, Germany, Spain and Scotland, where the Roman law is the basis of the municipal law, it required adaptation to the habitudes of the people; but the English Law Merchant—an imperishable monument of Lord Mansfield's fame—shows what magnificent structures may be raised from it, where the ground is not pre-occupied.

The French law of limited partnership has been eminently beneficial wherever it has been established. When Napoleon was driven from the countries he had incorporated with France, the people clung to his code, in compensation of their sufferings in the wars of the revolution. The same law of limited partnership, pure and unadulterated, would be as beneficial here. The division of capital into shares, or even coupons of shares, of equal value, deliverable to bearer unlogged with legislative conditions and observances, would give activity to torpid wealth, facility to investment, and profitable employment to an increased circulation. Creditors would not be deceived by the limitation of responsibility; for, dealing exclusively with the general partners, they would contract, not on the personal credit of the limited partners, but on the availableness of their part of the capital. If it were not entirely paid in, a chancellor would compel the defaulters to pay their contingents into the hands of a receiver. Above all, such a form of partnership would dispense with every pretext for those pernicious incorporations for industrial purposes, which have proved so disastrous to those who had been so unfortunate as to deal with them. Mr. Troubat shows this satisfactorily; and it is with a view to a liberal interpretation of our own statutes, where there is room for it, that we commend his volume to the bench and the bar, as affording immediate access to the French commercial law. It indicates deep research, great perspicacity, and a familiar acquaintance with the commercial law of continental Europe. It will richly repay a perusal of it.

The Law of Contracts, a Course of Lectures by John William Smith, Esq., with notes and an appendix by Jelinger C. Symons, Esq. Third American Edition, with additional notes and references to both English and American decisions, by William Henry Rawle, author of "a Treatise on Covenants for Title." Philadelphia: T. & J. W. Johnson, 1853, 487 pp.

Our friends, the Messrs. Johnson, have done wisely in publishing in a beautiful type and with very copious notes, this popular elementary work of Mr. Smith. Few elementary law books in modern times have met such universal professional approbation both at home and abroad.

This edition is greatly superior to any ever yet offered, both in its mechanical execution and in its editorial detail. We think Mr. Rawle has happily adapted his notes to the text and to the general spirit of the body of the book. The law of Contracts is confessedly one of the most difficult to deal with in the profession, especially for students and young practitioners; and they will be glad to see Mr. Rawle's clear, exact and copious annotations, and they will find them of the first practical value.

Chitty's Law of Contracts, however useful to the lawyer who is seeking cases to elucidate a point, is clumsy and inelegant, and full of the mere detail of cases. Mr. Addison's Law of Contracts is comprehensive and philosophical, and is an admirable book in many points of view, but until Mr. Smith's Lectures were printed, a student's text book on this branch of law was a desideratum. Mr. Smith, Mr. Symons, and Mr. Rawle, have fully and satisfactorily supplied this want, and within the small compass of this volume, all the principles and most of the cases, English and American, will be found.

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Reports of Cases argued and determined in the High Court of Errors and Appeals for the State of Mississippi, volume 23, by John F. Cushman, Reporter to the State, and Counsellor at Law. Volume 1, containing Jannary Term and November Term, 1851, and January Term, 1852. Boston: Little, Brown & Co., 1853.

This volume contains an unusual number of good cases. The Reporter's duty has been well and carefully executed; the points made by counsel and the authorities to sustain them, as well as the syllabuses of the cases (at all times a difficult task for one who is not fully conversant with a case,) have been generally stated with care, judgment and accuracy, which is all that can be expected from a reporter. The indexes are so arranged that not only the subject matter decided is indicated, but the very point itself is condensed and digested under an appropriate head easy of reference. Perhaps a professional man cannot judge very well of the Reports

of any State but his own from his want of local knowledge, but this volume contrasts most favorably with some specimens of book making endorsed "Reports," which are annually inflicted on the profession, sometimes "in single spies," but now and then "in battalions."

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The Jurisdiction and Powers of the United States Courts and the Rules of Practice in the same, with notes and references by Stephen D. Law, Counsellor of the Supreme Court of the United States. Little & Company, Albany, 1852, pp. 845.

This book is well arranged and well executed, and must needs prove a useful one to the profession, and relieve the many difficulties experienced in arriving at a knowledge of the practice in the Courts of the United States. It is evident that labor and care have been bestowed in its preparation, and that the compilation has been a work of time and study. It may not be improper to add, that it has received the sanction of most of the Judges of the Supreme Court of the United States, and many of the District Court Judges.

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Commentaries on the Laws of England, in four books, with an analysis of the work, by Sir William Blackstone, Knt., one of the Justices of the Court of Common Pleas, with the last corrections of the author, and Notes from the twenty-first London edition, with copious Notes explaining the changes in the law effected by decision, or statute down to 1844. Vol. 1 by J. F. Hargrave, of Lincoln's Inn; Vol. 2, by G. Sweet, of the Inner Temple; Vol. 3, by R. Couch, of the Middle Temple; Vol. 4, by W. N. Welsby, Recorder of Chester, together with Notes adapting the work to the American student, by John L. Wendell, late State Reporter of New York. New York: Harper & Brothers, Publishers. 1852.

This is, without question, now the most complete edition of Blackstone ever offered to the profession. In 1793, Mr. Christian edited and published the twelfth edition, and this, and the succeeding three editions by him, are among the best. In 1823, Mr. Justice Coleridge edited our author, and his edition is much commended by the profession. But, for fullness of annotation and citation of authority, the edition now before us is certainly superior to all its predecessors. It may be a question how far it is desirable to stuff an elementary book with numerous notes, but it is certain that the professional taste, or the devices of the booksellers, have settled the matter, and he, who would now venture to publish a legal classic in its original simplicity, would be a bold man.

The particular duties of Mr. Wendell seem to be performed in a satis-

factory manner; but we would venture to suggest to the publishers, that a due regard to the optic nerves of students and lawyers, would seem to demand a heavier and better paper than has been used in printing the the copy on our table.

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The Works of John C. Calhoun, Vol. 1. A Disquisition on Government, and a Discourse on the Constitution and Government of the United States, by John C. Calhoun. Edited by Richard K. Cralle. Published under the direction of the General Assembly of the State of South Carolina. Columbia, S. C. Printed by A. S. Johnson. New York: D. Appleton & Co. 1853. pp. 406.

It is creditable to the State of South Carolina, that her General Assembly should cause to be presented to the world the works of her most distinguished son, and one of the first statesmen that our country has yet produced. Both the essays here given to the reader bear the marks of thought, and abound in expressions which indicate the peculiar habits and studies of a profound and original mind. The student of Political Philosophy and History will not fail to read and reflect upon the views here presented, and recur to both these disquisitions for instruction upon political topics, which have, in all ages, engaged the best attention, and commanded the first talents that have arisen under popular forms of government.