

NOTICES OF NEW BOOKS.

REPORTS OF CASES ARGUED AND DETERMINED IN THE HIGH COURT OF ERRORS AND APPEALS FOR THE STATE OF MISSISSIPPI. Vol. XXX. By JAS. Z. GEORGE, Reporter to the State.

Mr. George succeeded Mr. Cushman as reporter to the High Court in 1854, but, until the appearance of this work, we have had no evidence of his labors. Knowing Mr. George to be a sound and learned lawyer, his election afforded us gratification, and thus far, in his official career, he has more than justified our expectation of his fitness for the station.

Taking this volume as a test of his qualifications for the office, they are certainly of a high order, and that he has discharged his duties faithfully and with signal ability, no one can doubt.

The syllabuses of the cases decided, deserve much commendation. The reader, as in many modern reports, is not obliged to shift the bushel of chaff to reach the grain of wheat. They are clear, concise and accurate, setting out with precision the doctrine of the case, carefully excluding the *dicta* of the judges, and giving the whole decision, with no more and no less.

This part of a reporter's duty is difficult and important, and to accomplish it, requires learning and much discrimination. The highest powers of bench and bar are often exhibited by a critical analysis of adjudged cases, and so liable are reporters to err in this particular, that lawyers deem it unsafe to rely on the abstracts of the points decided, without a careful examination of the decision itself.

It is not uncommon in reading the opinion of a court to discover that material facts have been omitted in the statement of the case by the reporter. We have discovered nothing of this in the volume before us. The facts upon which the decision turns are stated briefly, though with accuracy and completeness.

The index of this volume is full and logically arranged, and although there is some repetition, yet it is desirable that such should be the case, for an index that is valuable should be a perfect abstract of the Report.

We are pleased to see that Mr. George devotes a larger space than is usual to the arguments of counsel. Their part, whether well or ill performed, is an essential feature in every judicial trial. No better mode has yet been discovered to establish judicially either law or fact, than by the

agency and discussion of opposing counsel, and a report which omits important arguments cannot be a full report of the case.

In cases of novelty and importance, the general outline and the heads of the argument should be given. A mere conglomeration of authorities gives about as good an idea of argument as the skeleton does of the body when clothed with flesh and breathing the breath of life, and if nothing more is to be done, might as well be omitted.

Again, in the examination of a decision, we wish to see what points were distinctly presented and what views were taken by respective counsel, without this it is impracticable to determine, whether or not the opinion of the court covers the whole case as prepared and presented for adjudication. The argument should be so far given as to show clearly the grounds on which the case was put.

Nor do we think it claiming too much credit for the bar, to say that sometimes, at least, their arguments are of value beyond the immediate bearing of the case in hand. It is no difficult task in a lawyers library to find arguments replete with interest and instruction, exhibiting great research, learning and eloquence.

Those of luminous and powerful intellects, who delight and astonish their cotemporaries, pass away and leave only the faint foot prints of their power upon the pages of the Reporter.

Who is there that has read the masterly arguments of a Parsons, a Pinkney, or a Prentiss, but regrets that so little remains of the labors of such great and gifted minds?

The judiciary of Mississippi has always enjoyed a reputation for ability and attainments, and we think the opinions reported in this volume will sustain that reputation. They are generally characterized by sound judgment and varied learning.

The several members of the court are able men, and well fitted by their distinct intellectual traits to act together with advantage.

We can only add, that, from our judgment of this volume, it would have been difficult for the legislature to have selected a Reporter, who will do the court more service than Mr. George, or one whose labors will be more creditable to himself and the profession.

W.

A PRACTICAL TREATISE ON THE LAW OF CARRIERS OF GOODS AND PASSENGERS by Land, Inland Navigation, and in Ships; With an Appendix of Statutes and Forms of Pleadings. By THOMPSON CHITTY, Esq., and LEOPRIG TEMPLE, Esq., Barristers at Law. With Notes and References to the American Decisions, by DAVID W. SELLERS. Philadelphia: T. & J. W. Johnson & Co., 535 Chestnut street. 1857. pp. 642.

In this commercial country, abounding in railroads and canals, professional men are constantly consulted by carriers and by shippers and consignees, and perhaps no branch of law has received a larger share of legal attention in modern times than the law of carriers. The vast number of decisions, both in England and in this country, attest the truth of the remark. Hence the publishers did wisely in submitting an English treatise to the profession, with American notes and references. We have examined these latter with much interest and pleasure. We think they are conceived and executed in the true manner and spirit of annotation—not so elaborate as to amount to treatises in themselves, and not so barren as to be merely a finger guide to a case, but reasonably brief and carefully sifted and judiciously placed. We think the Messrs. Johnson did wisely in entrusting this duty to Mr. Sellers, who well deserves the thanks of the profession for his satisfactory labors. As usual with all the books now printed by this excellent law-publishing house, the mechanical execution of the work is admirable—type and paper models, the former large and leaded, and the latter white and clear. The whole book may be taken as an excellent specimen of American law publishing.

ENGLISH REPORTS IN LAW AND EQUITY: Containing Reports of Cases in the House of Lords, Privy Council, Courts of Equity, and Common Law, and in the Admiralty and Ecclesiastical Courts; Including also Cases in Bankruptcy and Crown Cases Reserved. Edited by CHAUNCEY SMITH, Counsellor at Law. Volume XXXVII. Containing Cases in the Courts of Queen Bench, Common Pleas, and Exchequer, and Crown Cases reserved, during the year 1856. Boston: Little, Brown & Co. 1857. pp. 672.

This useful series continues with its usual interest and value. We do not think it necessary to say anything more than occasionally announce a new volume. The series is very generally to be found in the practicing lawyer's library.

REPORTS OF CASES ARGUED AND DETERMINED IN THE ENGLISH COURTS OF COMMON LAW; With Tables of the Cases and the Principal Matters. Edited by Hon. GEO. SHEARSWOOD. Volume LXVII. Containing Cases in the Common Pleas in Hilary term, and Vacation and Easter and Trinity Terms, 1856. Philadelphia: T. & J. W. Johnson & Co., Law booksellers, No. 535 Chestnut street. 1857. pp. 849.

COMMON BENCH REPORTS, CASES ARGUED AND DETERMINED IN THE COURT OF COMMON PLEAS. By JAMES MANNING, Sergeant at Law, and JOHN SCOTT, of the Inner Temple, Esq., Barrister at Law. Volume IX. Philadelphia: T. & J. W. Johnson & Co., Law booksellers, No. 535 Chestnut street. 1857.

We are glad to announce, after a great lapse of time, the completion of the *ninth* volume of Common Bench Reports. This volume embraces Hilary Term, and Vacation and Easter and Trinity Terms, 1856, and is now just published in England. The American publishers have at once given it to the profession here, the entire delay having occurred in England. We announce its publication so that our professional brethren may procure it and complete the series of Common Law Reports.

A PRACTICAL TREATISE ON THE LAW RELATING TO TRUSTEES, THEIR POWERS, DUTIES PRIVILEGES, AND LIABILITIES. By JAS. HILL, Esq., of the Inner Temple, Barrister at Law, and fellow of New College, Oxford. Third American edition, containing the Notes to the first edition, by FRANCIS J. TROUBAT; With full Notes and References to Recent English and American Decisions, by HENRY WHARTON. Philadelphia: T. & J. W. Johnson & Co., Law Booksellers, Publishers, and Importers, 535 Chestnut street. 1857. pp. 911.

This book has now assumed a permanent place in our libraries, and new editions are regularly issued. The annotations are by Mr. Wharton, one of the editors of this journal, and well known to the profession by his various editorial labors. Perhaps no further comment would be proper than to announce that a former large edition has been exhausted in about two years, which may serve to mark the professional estimate placed upon the work. No other modern practical book on the law of trustees can compare with this extremely well digested and arranged treatise of Mr. Hill, who is a distinguished barrister of the Inner Temple, London.

AN ANALYTICAL INDEX OF PARALLEL REFERENCES TO THE CASES ADJUDGED IN THE SEVERAL COURTS OF PENNSYLVANIA; With an Appendix containing a Collection of Cases Overruled, Denied, Doubted, or Limited in their Application. By SAMUEL LINN. Philadelphia: Kay & Brother, 19 South Sixth street, Law book-sellers, Publishers and Importers. 1857. pp. 768.

The object of this book can be best stated in the words of the author. "Its intention," says he, in his preface, "is to enable the student to refer from any given case or any given subject to all the subsequent cases wherein the principal case has been cited or commented upon by court or counsel, thus bringing into view at a glance most, if not all, of the later authorities on the same point. Every lawyer knows with what facility a principle may be traced backwards, through the books, by means of the references contained in the later cases to earlier authorities, how it can be thus followed up to its very source. But a principle cannot by the same process be traced forward, from its rise to its later development, for the very obvious reason that no case can refer to future cases which then have no existence. But by means of this simple arrangement a principle may be readily pursued through the books from its origin to its latest growth—from its infancy until it arrives at full stature.

Another advantage intended to be derived therefrom is the means which it will afford to test the value of any case, as authority for the principle which it purports to decide, by the references to all the subsequent cases wherein it is mentioned or commented upon in the opinion of the court.

The practical advantage and utility of the work cannot be better explained than by the following extract from a letter addressed to the author by the Hon. Geo. Sharswood :

"To be able to ascertain at a glance, whenever a case is cited, the extent of its authority, will make it an essential *vade mecum* of the practitioner; while to the student, the counsel, and the judge, to be thus assisted by references to all future cases in which the principal case has been cited, and relied on as authority, commented on, explained, qualified, doubted, shaken, or overruled, will so materially assist legal investigation that its importance can hardly be over estimated."

That such a book must be the result of much "patient labor" cannot be doubted, and nothing can be more true than Mr. Linn's observation that

“books of reports have become so voluminous, and adjudicated cases have multiplied so rapidly, as to render the labor incident to the investigation of questions, daily occurring in practice, exceedingly irksome, and the difficulty is in no small measure enhanced by the irreconcilable and contradictory cases which are to be found scattered through the books. To this state of things the experience and observation of every judge and practicing lawyer will bear ample testimony.”

Now, the only question is, does this book accomplish its design. If it does, no active practitioner in this State, or perhaps any other State, can afford to be without it. If it does not, it is worthless, and will serve only to mislead and embarrass. Let us, then, test it practically. Take any well known case—say *Steele vs. the Phoenix Insurance Company*, 3 Binn. 306. We turn to the case, and under it we find no less than *thirty* references. Here, at view, we see every case cited in which the principal case is discussed. Instead of slowly and painfully passing, as an unaided reader would be obliged to do, from book to book tracing his authorities, it is here done to his hand, and many weary hours economized. Take another case, equally well known—*Calder vs. Bull*, 3, Dall. 386. Here we have *twenty-five* references; another case, much more modern, *Bradde vs. Brownfield*, 2 W. & S. 271, here we have *sixteen* references; another, *Adlum vs. Yard*, 1 Rawle, 163: here we have *forty-six* references. Page twelve contains ninety-eight references; page one hundred and twelve, seventy-seven references; page two hundred and sixteen, eighty references; page four hundred and seven, one hundred and twenty-three references. The Index of Parallel References contains six hundred and sixty-eight pages, each page containing at least *seventy* references, or not far in the aggregate from *fifty thousand* references. When it is remembered that each reference has been carefully consulted, and most of them necessarily studied, the amount of “patient labor” is truly wonderful. We have taken the pains to study up one or two of the cases to see whether we could discover any omission, but our researches have not enabled us to find that any reference has escaped the diligence of Mr. Linn. It is not often that a professional book falls under our editorial attention that has challenged so much investigation at our hands, and has left so little to complain of. The design of Mr. Linn is fully and adequately accomplished, and the student hereafter will have nothing to do but to note on the margin of his copy any additional references, and he will always have an index of real practical value to aid him in his researches.

The Appendix of cases overruled, doubted, denied, commented on, and qualified, we have not yet had time to examine with any degree of care; but we cannot doubt, from the admirable manner in which the former portion of this work is executed, that the remaining part is equally commendable.

PENNSYLVANIA STATE REPORTS, VOL. 27: Comprising Cases Adjudged in the Supreme Court of Pennsylvania. By JOSEPH CASEY, State Reporter. Volume III. Containing Cases decided in part of January and May terms, 1856; and in October term, 1856. Philadelphia: Kay & Brother, Law Booksellers, Publishers and Importers, 19 south Sixth street, east side. 1857. pp. 576.

Mr. Casey now gives us his third volume, which has much the same merit as the second one, and is certainly superior to the first. The Pennsylvania decisions have not in late years been remarkable for the manner in which they have been sent into the world by the official reporters to take their place in the lists of American jurisprudence. It is, therefore, with some satisfaction that we find a new reporter, perfectly competent, certainly, really endeavoring to make a series of creditable reports of one of the very first judicial tribunals in the country. The task of State Reporter is no sinecure, and no one is competent to pass judgment upon his editorial brother until he has himself attempted to report; and when he sees the crude material, in the shape of hastily prepared paper books, and brief arguments hinted at and suggested, rather than stated, out of which he is expected to fashion a clear statement of facts, a methodical arrangement of arguments, and a well corrected opinion, he will not be disposed to find fault if sometimes a reporter fails in making his cases intelligible and exact.

A reporter cannot, with any amount of diligence, repair the mischances that occur to a case from the negligence or haste of counsel, the over-burdened judge taking for granted much that is plain to him and the counsel concerned, but not so obvious to a stranger to the case; and he cannot be expected to master every thing that he is obliged to print. But Mr. Casey requires less allowance than usual, his labors being remarkably well executed.

REPORTS OF CASES ARGUED AND DETERMINED IN THE SUPREME COURT OF ALABAMA DURING JUNE TERM, 1856, AND A PART OF JANUARY TERM, 1857. By JOHN W. SHEPHERD, State Reporter. Volume XXIX. Montgomery: Barrett & Wimbish, Printers. 1857. pp. 806.

We endeavor to keep our readers advised of the publication of the State reports, and the more important treatises and law publications. We have now upon our table Alabama Reports, volume twenty-nine, new series. The very limited time allowed us for an examination does not enable us to present our readers with as satisfactory an opinion on this book as we sometimes can. But the well-known character of Mr. Shepherd, the reporter in his own State, and the reputation of the court, give us a guaranty that the volume is of the usual excellence. We have marked, and shall extract a case or two for our next number.

PRECEDENTS OF INDICTMENTS AND PLEAS, adapted to the use both of the Courts of the United States and those of all the several States; together with Notes on Criminal Pleading and Practice, embracing the English and American Authorities generally. By FRANCIS WHARTON, author of "A Treatise on American Criminal Law;" "A Treatise on the Law of Homicide in the United States;" "A Treatise on Medical Jurisprudence," etc. etc. Second and revised edition, Philadelphia: Kay & Brother, 19 south Sixth street, Law Booksellers, Publishers and Importers. 1857. pp. 823.

This is by far the best work of precedents in criminal law that has yet appeared among our books. The favor with which the first edition was received marked the professional estimate placed upon it; and in this edition a thorough and careful revision of all the forms and the appended notes has taken place, and a remodeling and classification of the text, and interchange of reference between this work and the American Criminal Law is a most manifest improvement. It would seem to be difficult to add anything material in the plan and execution of this book of precedents. All that can be done in future editions must consist of the citation of additional cases, and the addition of new references. We are satisfied that Mr. Wharton has laid the profession under great obligation by his valuable labors.