

agreement" of the parties, he was not to be liable by virtue of his endorsement. In other words, a holder has been permitted to recover from an endorser into whose hand he had paid the consideration, and from whom he might have recovered, as well on the common counts filed in each case as on the special contract of endorsement. *Plinley vs. Westley*, 2 Bing. N. C., 249. The present is a different case. The plaintiff seeks to charge an endorser of paper not negotiable, whom he never saw, and with whom he never could have made any contract, for the drawing of a new obligation. Several endorsers intervene between the parties to the action. From an ordinary negotiable instrument, the holder could have stricken them out or passed them by, and this is what Judge Kennedy meant in *Leidy vs. Tammany*, though his aptness in illustration carried him further. Not so here. In drawing the new bill, the endorser becomes the drawer; the maker, the acceptor; and the endorsee the payee. To strike out the payee, is to destroy the instrument. To write, as in this case, other words over the names of certain subsequent parties, is a futile work. It can make no new contract for the man who has already executed his own bargain. His contract contains both the hue and the substance which he originally gave it, and none other. To it the plaintiffs were not parties, and on it they cannot recover.

Judgments reversed, and judgments of nonsuit on the reserved points.

NOTICES OF NEW BOOKS.

REPORTS OF CASES ARGUED AND DETERMINED IN THE SUPREME COURT, AND THE COURT OF ERRORS AND APPEALS OF THE STATE OF NEW JERSEY. ANDREW DUTCHER, Reporter. Vol. II. Trenton: Published by the Reporter. 1858. pp. 670.

The improvement in the New Jersey law reports, since the State has ceased to manage the editor and the printer, is surprising. Heretofore, with able men as judges and good lawyers as reporters, the books came to us most shabbily executed; the paper presenting a variegated appearance, as if all the paper mills in the State had each contributed its fragmentary sheet,

the color of no two sheets being the same; the printing, also, not being executed by one printer, presented a most unsatisfactory appearance. This evil, of late years, became so intolerable, that the Supreme Court and the bar caused the matter to be corrected, and the sensible plan of the court's appointing their own reporter, and the reporter employing but one printer, has now been adopted.

This volume of reports is very good. The duty of the reporter, who is evidently a man with legal knowledge and conscientious industry, has been well executed; his head notes indicate the contents of the opinions which they profess to analyze, and his arguments of counsel are brief and in point. The reader may consult with profit the cases named below, as specimens of the mode in which the reporter has discharged his irksome labors, and as an exhibition of the manner in which the learned and able courts in that State decide difficult and complicated questions of law; *Owen vs. Arns*, p. 22, has elaborate and reliable opinions on fraud in law, by the Chief Justice and Judge Potts; *Watkins vs. Kirkpatrick*, p. 84, on the subject of special endorsements—opinion by Judge Ryerson; *Tinsman vs. The Belvidere Railroad*, p. 148, decides the important point, that a corporation authorized to construct a public improvement for private emolument, and for this purpose to take private property, is not exempted from liability for injuries which result from their act; this case was argued with great learning, and the arguments of counsel and the elaborate opinion of the Chief Justice will repay a careful study; *Bergen County Ass. Co. vs. Cole*, p. 362, considers the competency of officers and members of corporations to be witnesses; *Garretson vs. Brown*, p. 425, the law of assignments for benefit of creditors; *Donnelly vs. The State*, pp. 463, 601, is a highly interesting capital case, very much discussed by counsel, and very full opinions given by the judges; *The Sussex Ins. Co. vs. Woodruff*, p. 551, is an excellent case on the law of representations in insurance.

We have given the reader some notion of the variety and character of the contents of the volume, by thus pointing out the more important, interesting, or elaborate cases, and no further notice is required to send our professional brethren to this second volume of Mr. Dutcher's Reports.

THE PRACTICE IN COURTS OF JUSTICE IN ENGLAND AND THE UNITED STATES. By CONWAY ROBINSON, of Richmond, Va. Vol. 3. Treating of Personal Actions with Respect to the Parties who may Sue and be Sued; the Form of Action, and the Frame of the Pleadings.. Richmond, A. Morris, G. M. West; Washington City, F. Taylor; Baltimore, Cushings and Bailey; Philadelphia, H. P. & R. T. Small, No. 21 south Sixth street. 1858. pp. 685.

The author of this book, Mr. Robinson, is one of the leaders of the Virginia bar, and is purely a lawyer, and a very eminent one. Politics have never drawn him for a moment aside from his profession, and no other form of occupation has ever engaged his attention. He has been content to recognize and act upon the truth, that a lawyer who devotes himself to his professional duties, making them include not only his duty to his clients, but also the duty which every man who can be a scholar owes to his profession, may be as useful to society as any man in it. Such men are not common in our country. Lawyers who are eminent as practitioners, and whose lives are exclusively devoted to the labors of the bar, are not rare; but lawyers who are distinguished, both as practitioners and as jurists, are not numerous in this or in any other country.

The learned author tells us, in his preface to this volume, that "those who have examined the two former volumes know that this work is not restricted to practice in the narrow sense in which the subject is treated by Impey, Seldon, Tidd or Archbold; it is not, like their treatises, confined to technical remedies practiced in some particular court, but it discusses principles which every member of the bench or bar has occasion to know in connection with the remedies which constitute practice in his State or country. No matter what may be the particular form of those remedies, they may be illustrated by a work which treats of the principles and pleadings, as well as the practice, in courts of justice in England and the United States."

From the limited study we have been able to give this volume, we think it quite equal to its predecessors, and that its utility cannot be well over estimated. The active practitioner requires in his library nothing more than convenient books of reference, with the principles of legal practice accurately and succinctly set forth, so that, while his client is asking the question he seeks to have solved, the solution is at hand.

This book has a most complete table of contents, by which the subject matter of any page in it can be ascertained at a single glance. First, the general principle is given, and then its application, and then the exceptions, if any, and the statute modifications. The author has continually had in view the practical side of his profession, and adapted his book for use; in this he was wise. We unhesitatingly commend his labors as excellent, and toil-saving in a high degree.