

and cannot be paid for according to their value or importance. Indeed, it would be impossible to measure their value or importance. No standard of measurement could be established, and if a standard could, by some ingenuity, be erected, it would require so much time and trouble to apply this standard, that much of the benefit of the telegraph (which consists in the speed of its own agent—lightning) would be lost to the community. It is better, therefore, to relax the old law of common carriers in reference to telegraph companies. Or rather, it is better to mould a new law, suitable to their nature, and the exigencies of modern society. Perhaps they should be held responsible, in the absence of positive contract, only for the use of ordinary prudence and diligence.

Certainly, when they have a contract that they are not to be liable for mistakes, unless the communications through them are sent back, a court should not pronounce the contract void, and impose upon them all the strict rigor and extraordinary liability of the supposed ancient law of common carriers.

To impose upon the defendant in this case, in spite of the special condition inserted to avoid mistakes, all the extraordinary liability of common carriers, would be to make defendant an insurer, for the price of fifty cents, against all the undefined and undefinable consequences of a mistake likely to happen at any time to a word or a sentence; when, too, to avoid mistakes, it was *expressly* agreed that they were not to be liable for any such mistakes, unless the message was repeated by being sent back.

Petition dismissed, with costs.

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#### NOTICES OF NEW BOOKS.

A TREATISE ON THE LAW OF HIGHWAYS. By JOSEPH R. ANGELL and THOMAS DURFEE. Boston: Little, Brown & Company, 1857. pp. 452.

This is a work greatly needed. The editor's preface tells us how far the late Mr. Angell had proceeded in his labors when the hand of death staid them forever, and Mr. Durfee was called upon to complete the volume, in the entire preparation of which he had actively assisted Mr. Angell.

The distribution of the subject matter of the book is simple and natural. The topics discussed are sufficiently considered for the purposes of the work. The whole treatise is eminently practical, the authors having never at any time been tempted aside from the very matter in hand by any elaborate or lengthened discussion of even such interesting topics as eminent domain and easement. After some examination of the work, we feel warranted in saying that it meets a want in our libraries in an acceptable manner.

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COMMENTARIES ON THE CRIMINAL LAW. By JOEL PRENTISS BISHOP, author of "Commentaries on the Law of Marriage and Divorce." Vol. II. Boston: Little, Brown & Company, 1858. pp. 845.

We have heretofore spoken in terms of commendation of Mr. Bishop's former labors, *Am. Law Reg.* Vol. IV. p. 512. This volume is an addition to the first, and is intended more especially for the actual practitioner. For this purpose it is well adapted; the remarkable faculty of Mr. Bishop is, we think, his clear enunciation of the result of the authorities, not always, in criminal law especially, a very easy task. New works and new editions of recognized treatises on criminal jurisprudence are of great importance to the practitioner; he must know the very last adjudications and the latest views of scientific law writers; the practice in the Sessions is sometimes sharp and technical, and the well disciplined mind, which regards legal principles and points, rather than mere cases, is sure to stand upon some "vantage ground." We commend Mr. Bishop's book as one of great scientific and practical value and in every way useful to the profession, and the more easily accessible by means of a good analytical index of contents.

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PENNSYLVANIA STATE REPORTS, VOL. XXVIII. Comprising cases adjudged in the Supreme Court of Pennsylvania. By JOSEPH CASEY, State Reporter. Vol. IV. Containing cases decided in January and May Terms, 1857. Philadelphia: Kay & Brothers, Law Booksellers, Publishers and Importers, 19 South Sixth street, 1858. pp. 575.

We have Mr. Casey's fourth contribution to the Pennsylvania Reports, containing the cases decided in January and May Terms, 1857. As usual, we find a great variety of cases on the various branches of law which interest and agitate a large community. The reporter's duty seems to be well and

satisfactorily done. Among the cases of greatest interest we would name *The Com. vs. Commercial Bank*, p. 383; *Manderson vs. The Same*, p. 379; *Price vs. Maxwell*, p. 23; *Everhart vs. The West Chester Railroad*, p. 339; *Williams vs. Leech*, p. 89; *Christian vs. Dupps*, p. 271; *Whitchcote vs. Lyle's Executors*, p. 73; *Haldeman vs. The Bank of Lebanon*, p. 440; *West Chester Railroad vs. Hickman*, p. 318.

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THE LAW OF VENDORS AND PURCHASERS OF REAL PROPERTY. By FRANCIS HILLIARD, author of "The Law of Mortgages, etc." In two vols. Vols I. and II. Boston: Little, Brown & Company, 1858. pp. 379.

This book is upon too complicated and difficult a branch of law to enable us to give a satisfactory opinion upon its merits without a good deal of study. The profession have used Mr. Sugden's book so long, and have become so familiar with it, that any other, although perhaps a better one, seems to be an intruder. We have no right to speak of these volumes without careful study of at least a portion of their contents; but in running our eyes over the portion on title and title deeds, we did not observe any reference to Rawle on Covenants for Title, which by the common voice of the profession is the very best book in the law on that subject; it may be, that the author's plan, only contemplated the citation of cases and not of text books.

The author tells us in his preface, p. 6, that he has endeavored to present *the law as it is*, in the shape of the English and American authorities: this plan he has studiously carried out, and although it seems to give the book a disjointed and fragmentary appearance, is in truth practically very useful to the profession. The plan of the book is certainly simple, and not without its advantages, but whether it has great superiority over Sugden's, will perhaps be doubted by the older practitioners especially. From the brief examination we have made, we can say that the collection of authorities, both English and American, cannot fail to be useful and convenient, and considered as a digest of the law of vendors and purchasers, the work deserves commendation, and is well worth study.

SPEECH OF THOMAS G. C. DAVIS, of the St. Louis Bar, upon the plea of insanity in behalf of Robert C. Sloo, Esq., indicted for the murder of John E. Hall. Delivered at Shawneetown, Illinois, August 18, 1857. St. Louis: George Knapp & Co., Printers and Binders. 1858. pp. 53.

SPEECH OF M. RUSSELL THAYER, for the defence, in the case of the Commonwealth against Thomas Washington Smith, in the Court of Oyer and Terminer of Philadelphia county, January 16, 1858. Reported by Charles Collis and John P. Green. Philadelphia: Robb, Pile & McElroy, Printers. 1858. pp. 52.

The subject mainly discussed in these two able pamphlets is one of the utmost importance—the defence of insanity in cases of homicide. The arguments come to us from widely distant sections of the Union, one from St. Louis, and the other from our own Bar; but there is a unanimity in the arguments which is striking. Both the learned counsel stand upon the doctrine enunciated by Mr. Erskine in the great case of *Hadfield*, 27 St. Tr. 1307. It is matter of regret that we cannot present even a condensed statement of the arguments, but our space wholly forbids it; and our sole object at this time is to call the attention of our brethren to two excellent professional arguments, very recently made, in cases attracting much public attention, as embodying the latest legal and medical views of a defence in criminal jurisprudence frequently urged, and absolutely necessary to be understood by both the Bench and the Bar.