

It is for these reasons that we have resolved to decline the office of Commissioners under the act in question, and we have deemed it the most proper and respectful course to communicate to your Excellency the reasons of our decision.

GEO. SHARSWOOD,
J. I. CLARK HARE.

NOTICES OF NEW BOOKS.

A PRACTICAL TREATISE ON THE LAW OF EVIDENCE. By THOMAS STARKIE, Esq., of the Inner Temple, one of her Majesty's counsel. The eighth American, from the fourth London edition. By GEORGE MORELEY DOWDESWELL, and JOHN GEORGE MALCOM, Esquires, of the Inner Temple, barristers at law. With notes and references to American cases, by GEORGE SHARSWOOD. Together with the notes to former American editions, by THERON METCALF, EDWARD D. INGRAHAM, and BENJAMIN GERHARD, Esquires. Philadelphia: T. & J. W. Johnson & Co. 1860.

A notice of Starkie on Evidence, at this day is, perhaps, calculated to excite a smile in our readers. But in truth the moderate sized volume before us is so much improved and so much compressed that it deserves every commendation. The excellent notes of the American edition have long been familiar to the bar, and no more need be said of them. But the body of the work has been adapted to the present state of the law, and while we lose nothing of value, the rubbish is all swept away. No books in our libraries have a greater charm for us or a more direct value than treatises on evidence. And none have been written which at once are so strictly scientific, so logical and so practical as the acceptable books of the late professor Greenleaf and Mr. Pitt Taylor. Mr. Starkie's treatise has also its established place and will always maintain a first class rank.

REPORTS OF CASES ARGUED AND DETERMINED IN THE SUPREME COURT OF TENNESSEE, during the year 1858. By JOHN W. HEAD, State Reporter. Vol. 1. Nashville: J. O. Griffith & Co. 1860.

We have read this volume of Mr. Head's reports, with much pleasure. The profession in Tennessee should be rejoiced to have a reporter who so faithfully and so ably discharges his duty. We have marked several cases

to be transferred from his pages to our own, but thus far have not found room for them. This volume is a model in many respects; its mechanical details are excellent; and every labor saving convenience is to be found here in full use. We trust the learned reporter during his term will continue to perform his duties in the same satisfactory manner.

THE LAW OF CONTRACTS. By THEOPHILUS PARSONS, LL. D., Dane Professor of Law in Harvard University, at Cambridge. Fourth edition. In two volumes. pp. 722 and 911. Boston: Little, Brown & Company. 1860.

There is no branch of jurisprudence which more largely affects the business of life than does the law of contracts. Its importance is indisputable; for whatever conceivable case of legal inquiry we may put to our minds, if it falls not within the limits of criminal jurisdiction, almost ex necessitate, it resolves itself into a matter of contract; or, in other words, the law of contracts may be said to include, directly or indirectly, almost all the law administered in our courts, a comprehension which is rendered necessary by the very nature of things, and does not result from any arbitrary principle of arrangement.

Conscious of this importance, Professor Parsons has given to the profession a fourth edition of the above work. This last revision is better than any previous imprint, being thoroughly revised and improved by additions of the latest and best authorities. The principles are tersely expressed, and the same comprehensive exposition of the subject is preserved which characterizes his Maritime Law.

In preparing this fourth edition, the learned author has successfully endeavored to make his valuable work more worthy of the favor which has already exhausted three large editions. The third edition contained two new chapters. This has two more chapters, and many new sections, and new paragraphs in almost every chapter, and more than two thousand new cases are cited. Profiting by all friendly criticisms, and receiving none but such as were friendly, the author has attained a very high degree of excellence. The book is full, perspicuous, accurate and logical, and the principles stated are sustained by reference to the most recent adjudicated cases. The student, as well as the practising lawyer, has a very reliable book. Such an edition cannot fail to meet that signal success which it richly merits.

The indexes and list of cases have been enlarged and improved. The whole work, in fact, as the author tells us, has been re-written; no pains have been spared to insure a full and accurate presentment of the law as it is at this moment, in all things which relate to the foundation, the construction, or the execution of contracts of every kind. It is offered to the profession as, and is substantially, a new work.

The author's professorship in the Law Department of Harvard University, enabling him to command the aid of diligent students in the preparation of the notes and references, and have access to an excellent collection of law books, has given him an opportunity for investigation and exhaustive research very advantageous to his labors. This advantage has not been neglected. More than six thousand cases are referred to; and from the beginning to the end of the book, as we are told, no case is cited because cited elsewhere, none merely on the authority of an index or digest, or of a marginal or head note, none without actual investigation of the case in its whole extent, and none without a subsequent and independent verification of the citation. Such indefatigable adherence to a task can never fail to be productive of marked success; and it is only by the proper use of such a library, and his own erudition, that the very learned author has given to all the parts of the Law of Contracts this fullness of annotation and completeness of execution.

We have always somewhat doubted about Professor Parsons' plan of writing his treatises; but the manner in which he has executed his task in this instance and in the Maritime Law, goes far to reconcile us to a plan, which, in the hands of the ignorant or incompetent, would be most disastrous. It is certainly very agreeable to have a legal principle clearly stated, accurately limited, neatly qualified, and fully sustained by authority; and all this the learned author certainly does most admirably. The notes in this work are unqualifiedly excellent. We have taken the pains to look into some of them very critically, and every case bearing on the matter in hand is to be found in its appropriate place, either cited, commented on, discussed or denied. The learned author considers his science in its true light, as a science founded on principle, and which must be subjected to the stern criticism of principle, and must withstand that criticism; and he unflinchingly gainsays and oppugns every case which will not stand under a close legal logic. The copious citations in the notes, of the very language of the opinion itself, is useful, inasmuch as the reader has before him just that which he wishes, and in many cases must have, either from

his own or from some bar library, before he is able to reach a judgment which he can communicate with safety to his clients.

It is with extreme pleasure that we commend this fourth, as we have the other editions, of the Law of Contracts. We can safely say, as to Prof. Parsons' part, that it is most excellent; and as to typography, we have but to state that the book was issued from the press of Little, Brown & Company. This of itself is sufficient.

A TREATISE ON THE MEDICAL JURISPRUDENCE OF INSANITY. By J. RAY, M. D.
Fourth edition, with Additions. Boston: Little, Brown & Co., 1860.

Works on Medical Jurisprudence have occupied much professional attention in the few years last past. This work of Dr. Ray's has now been in the hands of the profession long enough to have a deliberate judgment passed upon it. The very great importance in a judicial point of view, of a correct and exact knowledge of the laws that scientific investigation has eliminated on the subject of mental disorders, is not to be questioned. And this knowledge can come only from experience and attentive observation. The preface to this fourth edition gives us a very good idea of the value of this edition itself. "Since the first edition of this work," says the learned author, "was published, no part of Medical jurisprudence has received so much attention, in one way or another, as that which relates to insanity. During that period, have appeared several works especially devoted to it, among which that of our own countrymen, Wharton and Stillé, possesses superior merits, while the cases in which it has been discussed in English and American courts, greatly outnumber the whole amount of those which had been previously recorded. In preparing the present edition of this work, however, it has formed no part of my purpose to notice all, or a considerable number of such cases, but I have rather sought, by means of some additions prudently made, to indicate the progress of the science, to supply important omissions, and to place some views in a stronger light. I take the opportunity to state, that an increased practical acquaintance with the subject, while it has occasionally led me to more precision and accuracy of statement, has not weakened my belief in those doctrines which have been regarded as pecu-

liar to this work. On the contrary, every year's experience has only strengthened the conviction, that much of the common law relative to insanity, whatever other support it may have, has no foundation in the facts of science."

The last chapter in the work is probably the one which will attract the most attention, from both the medical and legal professions—"the duties of medical witnesses." We protest against some intimations about our own profession, founded upon popular notions, rather than the experience of modern practitioners. We are sure Dr. Ray's own experience would not justify him in some of his intimations as to the method of counsel in examining medical experts. Medical men seem to forget that lawyers are not commonly skilled in medical science, and almost universally apply their knowledge, both general and professional, to the very matter of fact in hand, indulging in no fine theories, but bringing every thing before them to the severe test of the practical and the actual. The trial of causes is for the purpose of reaching results, not ventilating scientific fancies; and it may doubtless happen that thorough medical discrimination may frequently be wanting in the forum of justice.

We are glad to see that Dr. Ray is firmly persuaded that the well known case of *Com. vs Rogers*, 7 Metc. 500, enunciates the sounder rule in the examination of experts, and that the true rule is to put the question hypothetically thus: "If the symptoms and indications testified to by other witnesses are proved, and if the jury are satisfied of the truth of them, whether, in their opinion, the party was insane." This rule was first departed from in this county, in the *United States vs. McGlue*, 1 Curtis, 1, which follows a recent result of English cases, certainly bolstered up by a formidable array of judicial names, commencing with Baron Henley, and culminating in Lord Brougham. Dr. Ray shows conclusively that the later doctrine, which departs from the older and well considered one, so well stated in Rogers' case, is either impossible in its strict application in practice, or becomes so qualified and modified, that it substantially and truly is the old doctrine after all, put in a more roundabout and less exact form. This chapter of Dr. Ray's book deserves perusal by both professions.