

it is one of the essential requisites, when a default of this character is sought to be set aside, that the motion shall not only be founded on an affidavit, but a full and perfect account shall accompany it. We have looked into this answer and find it obnoxious to several of the exceptions taken to the first answer. It does not show an account of their dealings with the vessel from the time she came into their hands, nor of the sale to Boyce and Fisk or of the five thousand dollars they paid for her, nor do they show what her earnings were after Boyce had sold her. On a rule for a further answer the party files a defective or insufficient answer at his peril. The decree of the Court below is affirmed.

NOTICES OF NEW BOOKS.

PRINCIPLES OF THE LAWS OF SCOTLAND. By GEORGE JOSEPH BELL, Professor of the Law of Scotland, in the University of Edinburgh. The fifth edition by Patrick Shaw, Advocate. Edinburgh: T. & T. Clark, Law Booksellers, 38 George street; London: Stevens & Norton, and Simpken & Co.; Glasgow: J. Smith & Son. 1860. Pp. 896.

This valuable work on Commercial Law has always maintained the first rank with the profession. The late Mr. Bell, a most indefatigable student and teacher of youth, carried through the press, prior to his death, four editions of this book. This edition has been edited by Mr. Shaw, who is a brother-in-law of the author, and contains all the manuscript annotations that the author had added, and much additional matter, drawn from the recent sixth edition of Bell's Commentaries.

It is nominally called Principles of the Law of Scotland, but it is really a treatise on Commercial Law, in its largest sense. Much of the Law of Scotland is drawn from the Roman Civil Law. And all modern Commercial Law is largely indebted to the same source, although the Common Law lawyers have somewhat sparingly admitted it. Much of the boasted wisdom of the Common Law found its well-spring in the pages of the Digest or the Code. The real value, the downright practical, every-day use of the principles and maxims of the Civil Law are now just beginning, mainly through the diligence of German and French scholars, to find a home and a congenial cultivation with the disciples of Coke and Blackstone. The accomplished historian of jurisprudence tells us:

“The Civil Law is one of the greatest triumphs of the human intellect. The rich treasures of its ancient wisdom must be left unused by us no longer. There are numerous and important reasons for its cultivation. To classical students who purpose to pursue the legal profession, no part of their labors will be so useful as the study of the laws and constitution of Ancient Rome. To those who have the taste and leisure for the most extended classical studies, a knowledge of the elements of the Civil Law is essential for the proper application of Cicero and many other Roman authors. Again, the study of the Civil Law ought to be cultivated, because it is the origin of most of the systems now prevalent in European countries, and in order that the laws which regulated and are the types of the ancient civilization may be compared with the laws governing the present complicated combinations of society. In the admirable forms of some portions of the Civil Law are suggestions which might be useful to modern legal reformers. By studies such as these, the student will readily obtain a quick perception of legal fitness and analogy; in no other way will he so speedily form a legal mind.

“At the same time, unqualified praise must not be given to the Civil Law. The value of the Civil Law is not to be found in questions that relate to the connection between the government and the people, or in provision for personal security, and a fair trial in criminal cases. In all that concerns civil and political liberty, it is not to be compared with the free spirit of the English Common Law. But, to use the words of Sir William Jones, in questions of Natural Law, no cause can be assigned why we should not shorten our own labors by resorting, occasionally, to the wisdom of ancient jurists, many of whom were the most ingenious and sagacious of men. What is good sense in one age must be good sense in another, all circumstances remaining the same; and pure, unsophisticated reason is the same in Italy and England, in the mind of a Papinian and a Blackstone. Upon all subjects relating to private rights, personal contracts, and the duties flowing from them, there is no system of law in which principles are investigated with more good sense, or declared or enforced with more impartial justice.”—*Heron's Hist. Jur.*, p. 210.

Such is the system of jurisprudence on which Bell's Principles of Commercial Law is founded. And the student in his profession who will expend some portions of his toil in the study of the work of this distinguished Scotch jurist, will find himself amply repaid. Mr. Bell does not content himself with simply citations from the great civilians, as the Conti-

mental jurists do, but he adds the English and, in many cases, the American authorities also. The student may, therefore, here see a principle of Commercial Law started from its source in the days of Papinian, and traced down to its illustration in the pages of Burrows, or in the judgments of Marshall, or Kent, or Story.

According to the convenient Continental practice, this volume is divided into numbered sections; and an elaborately prepared table of contents affords a ready means of fathoming every section. It has also a copious index, which is in the usual alphabetical style, and adds to ease of consultation. Few books have withstood the sharp test of actual use better than Mr. Bell's, and few deserve a better place in our libraries.

PENNSYLVANIA STATE REPORTS, Vol. 36. Comprising Cases adjudged in the Supreme Court of Pennsylvania. By JOSEPH CASEY, State Reporter. Vol. 12; containing Cases decided in part of October Term, 1859; part of January Term, 1860; and in May Term, 1860. Philadelphia: Kay & Brother, Law Booksellers, Publishers, and Importers, 19 South Sixth street, east side. 1861.

We are supplied with the twelfth volume of Mr. Casey's labors. We have already so frequently remarked upon our current series of reports, that perhaps no special note is now necessary. The vast improvement effected in the manner of reporting, the superior excellence and accuracy of the head notes of the cases reported, and the intelligible statement of the case and argument of counsel, together with the crowning comfort of a good law book—an index which really and truly points out the contents of the volume—are all, as usual with this reporter, to be found in this, the concluding volume of his series. We think we express the general sense of the profession when we say, that the office of reporter, during Mr. Casey's term, has been worthily filled, and quite to the satisfaction of his brethren of the bar, and we trust the next reporter may be as accurate and faithful.

REPORTS OF CASES ARGUED AND ADJUDGED IN THE SUPREME COURT OF PENNSYLVANIA. By BENJAMIN GRANT. Vol. 2. Published for the Reporter. Philadelphia: For Sale by H. P. & R. H. Small, Law Booksellers and Publishers, No. 21 South Sixth street. 1861.

Mr. Grant presents the profession with his second volume of reports. It is not to be denied but that the first volume was most excellently reported, and has been useful to the bar. It is, perhaps, undesirable to have any but regular State reports, but the peculiar difficulties under

which our regular reporter labors, of being compelled to restrain his publication within a limited number of volumes, compels the resort to additional volumes, in order to present some really important cases that the Court has decided.

We can speak of this volume of Mr. Grant's with the same praise as the former one. As a reporter, he has few superiors in clearness and accuracy. He reports a case succinctly and intelligibly, without unnecessary words, and confines his head notes to the very matter decided; and we take pleasure in commending his volume to the reader.

MINING RIGHTS IN PENNSYLVANIA. A Lecture delivered before the Law Academy of Philadelphia. By P. PEMBERTON MORRIS, Esq.

In this Lecture, Mr. Morris has sketched the outlines of a subject which possesses great and increasing practical importance to the practitioner in Pennsylvania. Reference is first made to the ancient law of England; the provisions of the royal charter to Penn, and the concessions agreed upon by himself and the purchasers, are then stated; and this is followed by a notice of the principal decisions contained in our own as well as in other reports, which immediately relate to the topics under investigation. The whole essay forms a very interesting as well as valuable summary of leading doctrines and distinctions, and merits a more extended circulation among the members of the profession than can be attained by the limited number of copies which the Academy has printed.

REPORTS OF CASES IN LAW AND EQUITY, Determined in the Supreme Court of the State of Iowa. By THOS. T. WITHROW, Reporter. Vol. I., being volume 9th of the Series. Des Moines: Publishing House of Wills Brothers, 1860.

The learned reporter for the State of Iowa has very peculiar difficulties that assail him in the discharge of his duties. A late law requires the reporter to incorporate in the report of each case a statement of "the legal propositions made by counsel in the arguments, with the authorities relied on for their support." By section 115, of the same chapter, it is provided "that not more than two volumes annually shall be published." "It is deemed," says the reporter, "desirable that the reports shall, at the earliest day possible, present to the profession all opinions of the Court now on file. When the present reporter entered upon the discharge of his duties, all opinions filed between June 13th, 1859, and July 1st, 1860, were unreported.

The desire to present these to the bar of the State, at the earliest day practicable, together with the prohibition above mentioned, has rendered it necessary to abridge the reports of briefs in cases in which the propositions made by counsel are distinctly stated in the opinions of the Court, to a mere statement of authorities cited. In cases submitted on oral arguments, or on written arguments, in which no authorities were cited, the names of counsel only appear. The reporter is advised that in a number of cases in which no arguments appear on the files, arguments were actually submitted but have been mislaid. In such cases, it has not been possible to present more than the names of the counsel as they appear on the records and in the memoranda usually appended by the judges to the opinions filed. A number of cases merely cumulative in their character, in which no questions not hitherto determined are presented and considered, are reported only in the notes under the cases which they follow, or in the general notes. This method has been adopted because those brief reports are sufficient to advise the profession that the holdings of the Court in cases reported in former volumes have been followed, and for the still more urgent reason that the space limited by law will, for the present year, be occupied by matter of a more important character."

This volume bears every mark of fidelity and attention. It is no easy task to disentangle the points and authorities in the briefs of counsel, and present them in an orderly and intelligible manner in connection with the opinion delivered, and thus make a clear and well-reported case. Yet Mr. Withrow has done this in a large number of cases in this his first volume of reports. His manner of reporting is wholly different from that to which we are accustomed, and it requires some little study and reading in the volume to become master of the method, and to adapt the reader to the author's plan of execution.

The reporter in making his head notes puts a brief abstract at the beginning of each point, a most convenient practice, as it enables the reader at a single glance to become acquainted with the subject-matter decided. The index is exhaustive, and by frequent references from one topic to another is rendered a very easy means of becoming acquainted with the entire contents of the book.

The ability of the Iowa bench continues to appear in these volumes as it has in those heretofore presented. It is much to the credit of the new States of the Union that nearly all of them have, at the public expense, collected law libraries of good character, in convenient localities to their

seats of justice, thus affording the judges access to cases and authorities which go far to aid and sustain sound professional learning. As a whole, Mr. Withrow's book will be satisfactory to any careful reader, and cannot fail to prove useful and acceptable to his fellow-practitioners in Iowa.

REPORTS OF CASES ARGUED AND DETERMINED IN THE SUPREME COURT OF TENNESSEE DURING THE YEARS 1858-9. By JOHN W. HEAD, State Reporter. Volume 2d. Nashville: J. O. Griffith & Co., Printers, Union and American Office. 1860.

This second volume of Mr. Head is in every point of view worthy of high commendation. Its typographical beauty and mechanical execution will arrest the attention of every reader. But this is the point in which praise is perhaps least important to a reporter. This volume is valuable for its practical uses, not its mechanical perfection. On this point, also, we cannot withhold due praise from Mr. Head. His experience and his learning fully appear in every part of his volume. The points decided are carefully noted and clearly expressed in the abstracts at the head of the cases, and every facility is given to the reader for ease of consultation and readiness of reference by an elaborate and ample index. Mr. Head's volume is invaluable in his own State, and well deserves study wherever the English common law and equity is administered.