

for some months previously thereto she had been intimate with other men, if competent, is insufficient to rebut this presumption: *Id.*

*Promissory Note—Indorsement without Recourse.*—An indorser of a promissory note may limit his liability by adding to his name the words "without recourse," at the time he indorses the note, and if he has done so, parol evidence of the fact is admissible, although the note was afterwards indorsed by another person, and the indorsee took it without knowing that the limitation was applicable to the first indorser: *Fitchburg Bank vs. Greenwood.*

*Trustee Process—Pleading.*—A plaintiff is not entitled, as of right, to litigate anew on a *scire facias* the sum for which one summoned as trustee, in a trustee process, shall be charged, if that question has been tried and determined in the original suit, and the amount paid for which the trustee was there held chargeable: *Brown vs. Tweed.*

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#### NOTICES OF NEW BOOKS.

A TREATISE ON THE AMERICAN LAW OF REAL PROPERTY. By EMORY WASHBURN, LL.D., University Professor of Law in Harvard University. In two volumes. Vol. II. Boston: LITTLE, BROWN & Co., 1862.

Professor Washburn's second volume upon the Law of Real Property is just issued by that extensive law-publishing house, Messrs. Little, Brown & Company, in their usual good style of law publications; and it will be sufficient recommendation of the book, that it comes fully up to its predecessor of the same work. For that volume, although not aspiring to any claim of originality, either in material or composition, has truly proved one of the most useful additions to law libraries throughout the country, which has been offered to the profession. Its arrangement was simple and natural, and at the same time sufficiently technical. Its style, plain and perspicuous, and its contents thorough and exhaustive of the topics discussed, so far as is practicable within reasonable limits. The same is equally true of the present volume.

We beg indulgence both of the author and the profession, to name one excellence of both these volumes, which, whether complimentary or not, certainly ought to be so considered, and is a great desideratum in any treatise upon the Common Law of Real Property. We mean the intelligible

and untechnical form in which the whole subject is presented. We notice the citation of the first volume by the most eminent jurists throughout the country, almost as a book of authority, which we attribute, in a great degree to the very clear and satisfactory manner in which the most abstruse questions are there handled. We have had occasion to compare the first volume, upon some questions of considerable difficulty, with the authorities early and late, as well those not cited by the learned author as those which were; and we have been surprised at the unusual distinctness with which, in all cases, we have found the true principles evolved in the work.

Those who comprehend the matter at all, will easily perceive that it is by no means certain that the book, which is the most easily understood and the freest from abstruseness and technical jargon, will, on that account, cost the author less labor. It generally happens that those chapters in a law book which cost the author, comparatively, the most labor, are precisely those which exhibit, to the careless observer, the least evidences of hard work and severe thought; so that we may safely calculate, as a general rule, that law books which save labor to the profession cost labor to the authors just about in the same proportion. And judged by this test, which we deem a fair one, both in a literary and practical point of view, the entire work of Professor Washburn on Real Property is justly entitled to high commendation.

I. F. R.

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REPORTS OF CASES DETERMINED IN THE SUPREME COURT OF THE STATE OF ILLINOIS, at April and November Terms, 1860, and January and April Terms, 1861. By E. PECK, Counsellor at Law. Vol. XXV. Chicago: E. B. MYERS, 1862.

We have here the twenty-fifth volume of the Illinois Reports, containing more than one hundred and fifty cases—many of them of considerable interest, and involving questions not before settled in that State. Mr. Peck has been the Reporter for many years, and his long experience, with his thorough knowledge of the profession before, and his extensive general culture, has made him one of the most accomplished Reporters in the United States. And this volume is all that it could be made, doubtless, under the circumstances. But there are, nevertheless, some defects, growing out of the unreasonable demands of the public or the profession, or both, which bid fair, at no distant day, unless reformed, to ruin the character of the American Reports.

One of these is the necessity of reporting every case determined, which involves the absurdity of treating an unimportant case, or one where no

new question of law is involved, or perhaps none at all, as equally interesting to the profession at large, with those leading cases where new questions are determined, or new applications of familiar principles illustrated. Whereas the fact is, that the former class of cases are of no interest to any except the parties, or their counsel, and ought not, therefore, to be allowed a place in the Reports of the State, whereby the number of volumes is more than doubled, and their quality proportionally deteriorated.

Another defect in the later American Reports is the entire disregard of all reference to authorities, whereby the decisions themselves become of no authority beyond the limits of the State where rendered. This is often owing to the arbitrary enactments of general statutes, requiring the opinions to be furnished the Reporter and the public, sometimes, in a few days or weeks, at most, after their delivery—thus affording no time for the judges to revise their hasty notes, made upon the circuit. These two sources of deterioration, with one or two others, which we shall not discuss here, will, in the end, we fear, render our American Reports as useless as they already have become numerous, conflicting, and confused in their contents.

But the reporter and judges seem to have done all that could have been expected, in the present volume, to maintain the highly creditable character which the Reports of that State had already acquired. If a large proportion of the cases could have been entirely omitted, and the important questions involved in the others more thoroughly discussed, it would have added greatly to the value of the volumes, and could not fail, in the end, to be more acceptable to the profession, both within and without the State. But we understand the volume is prepared in obedience to existing statutory requirements, which were devised by men, doubtless, wholly unacquainted with the actual defects or proper remedies in that department. And we have precious little expectation that anything which we could say will be likely to reform such abuses. The disease is too deep-seated and too much diffused for any hope from remedies of that character. It must have its run, and find its cure by exhaustion of the virus. It is of the character of many others which beset the body politic, of a very malignant type, and extremely contagious, but which is not generally liable to a second recurrence in the same patient. It seems to be, at present, in a very mild stage, especially in the State of Illinois; but it prevails extensively throughout the country, and in some localities is seriously fatal to all advancement in juridical knowledge or in rational reform.

I. F. R.