Towns—Gift to Public Use—Condition.—A town may erect a town-house of sufficient capacity for all the business which it may have occasion to do in such a building, and may, in its erection, make suitable provision for its prospective wants; and if the building contains room not wanted for the time being for municipal business, the town may let them temporarily, or allow them to be used gratuitously. And the condition of a deed of land to the inhabitants of a town, which provides that the same shall "not be used for any other purpose than as a place for a town-house for said inhabitants," is not broken by the erection thereon of a town-house with a hall in the second story, which has been used for miscellaneous purposes, and rooms upon the sides of the entrance, which have been let and used for shops and other purposes not connected with municipal business, and the construction and use for several years of a lock-up under the building: *French* vs. *Quincy*.

NOTICES OF NEW BOOKS.

SUBSTITUTED LIABILITIES: Being a comparative view of the Civil Law and the Common Law on the doctrines of Subrogation, Novation, and Delegation. Part I. on Subrogation. Cambridge: Printed by Allen & Farnham, 1861; Philadelphia. CHILDS & PETERSON.

The illustration of treatises on Common Law subjects, by reference to the writings of continental jurists, has no doubt been somewhat overdone of late years. Since Judge Story set the fashion, it has become a constant practice to lard law books over with quotations from the Pandects, and from all the classical and mediæval jurisconsults, which, if not of much intrinsic value, give, it is supposed, a certain flavor and finish to the work. So fixed is this habit, that on certain topics there are now stock citations, which are handed down from one author to another, like heir looms, and to omit them in their customary places would be considered as a sure proof of a plebeian taste, or of an affectation of originality. Yet very often, the only end they serve is to let us know that the Civil Law either agrees or disagrees with our own, on points which are perfectly well settled, and which need neither illumination nor development from any other source. The information thus given may be interesting to the student of comparative jurisprudence, as it would equally be if it related to the state of the Chinese or Hindoo law on the subject; but there is no reason why it should be conveyed in long Latin paragraphs, dug out of Cujacius or the Digest, when a simple statement of the fact would answer every purpose.

There are, however, branches of jurisprudence in which a careful study of the Roman law, and particularly of its modern exponents, is really of the greatest importance. Such, especially, are certain leading doctrines of equity, which, having been grafted upon our law from the continental systems, do not exhibit the same spontaneous active growth which characterizes the native plant. To drop metaphor, as the principles on which these doctrines are founded are foreign to the Common Law, it is necessary, for their proper development, to recur constantly to the source from which they were at first taken. No better illustration of this can be found than the doctrine of Subrogation, which is the subject of the very valuable and learned treatise, the title of which we give above. The fundamental notion of Subrogation involves that of the assignability of debts and other rights of action, which does not exist at Common Law. It further excludes, to a great degree at least, the artificial rules and distinctions as to the effect of payment upon obligations, of which our old books are full. This being so, it is plain, that on the occurrence of novel points we are deprived of the wider analogies of our own law, and indeed are often embarrassed by the habit of thought which it imposes on us. The practical extension of this doctrine, for instance, has long been impeded, by an obstinate adherence of English judges to the old rule, that payment by one of two joint debtors extinguished the whole obligation, so that his only remedy against the other was in a distinct suit for contribution. On the other hand, where a course of decisions has become established which differs from the Roman law, we need to be warned of the fact, lest we should draw too hastily on the doctrines of the latter.

The treatise before us coincides very much with the idea suggested in these observations. The author has undertaken a comparison of the principles of the Roman Jurisprudence and those which obtain in England and this country on the subject of Subrogation, in order to exhibit their fundamental points of difference as well as of resemblance, so as to supply the student at once with a most valuable store of new material, and with the means to use it intelligently and safely. The task is accomplished with much ability; the writer possesses a thorough grasp of his subject, and, while he has avoided any parade of learning, has embodied in his pages the results of an extensive reading. The style is very simple and clear, and the logical continuity of thought more carefully kept up than usual. The book is one which we can heartily recommend to our readers.

H. W.