

quired for his personal accommodation upon his journey, but does not include merchandise: *Smith and Wife vs. The Boston and Maine Railroad*.

Therefore, a common carrier of passengers is not an insurer of such merchandise when taken along by the passenger, unless a reward be given for its transportation, or it be of a character which by usage or contract is to be regarded as part of the baggage: *Id.*

The fact that other passengers, on other occasions, had taken along with them, in the passenger cars, similar bundles of merchandise, without objection, has no legal tendency to prove that the bundle in question was transported at the risk of the carrier, unless it were shown that such bundles were knowingly carried as part of the baggage, and paid for by the passenger ticket. Although the carrier in such case is not liable as insurer, he is liable as a bailee, without reward for loss or injury caused by his gross negligence; but such negligence must be proved, and is not to be presumed from the mere fact of the loss: *Id.*

In a suit by husband and wife, for the loss of merchandise of the wife before marriage, she is not a competent witness for the plaintiffs; nor is her competency affected by the statute which removes the objection of interest: *Id.*

*Gaming—Money had and received.*—Money won at play cannot be recovered back by the loser, because the parties are *in pari delicto*: *Welsh vs. Cutler*.

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#### NOTICES OF NEW BOOKS.

A TREATISE ON THE CONSTRUCTION OF THE STATUTE OF FRAUDS, as in force in England and the United States, with an Appendix, containing the existing English and American Statutes. Second edition, carefully revised, with extensive additions. By CAUSTEN BROWNE, Esq., Counsellor at Law. Boston: Little, Brown & Co. 1868.

This valuable treatise upon an important branch of the law has just passed through its second edition. It is a book which was originally prepared with great labor and care, is symmetrically arranged, and written in a clear and perspicuous style, and now brings down the law to the present time. The profession cannot afford to be without so valuable an aid to the proper understanding of the law upon a subject which proverbially produces its full share of litigation. Indeed, the best of judges have often regretted the passage of any such statute, since it has probably produced more litigation than it has prevented. But this is only the old argument

in a specific form, against all legislation. Men will go to law, and the wiseacres in legislative halls will attempt to throw lines of restraint about all litigation, but commonly with precious little success. It is necessary to take things as they are. The statute against frauds and perjuries exists and always will. We feel, therefore, under obligation to any member of the profession who gives us a good book upon so difficult a subject. A good text book, carefully prepared and lucidly arranged, as this is, always proves an immense saving of labor to others, just in proportion as it causes labor to the author. The mechanical part of the book is excellent.

This book would form a valuable text-book in our law colleges. We trust it will be extensively sought after for that purpose. I. F. R.

GENERAL LAW CATALOGUE OF ROBERT CLARKE & Co. Cincinnati, O. : August, 1863, pp. 117.

Under the unassuming title of a law catalogue this work contains general information in regard to law books, fully sufficient to entitle it to be considered as a bibliographical manual of works in present use among the profession. In this respect it compares not unfavorably with the catalogues of private and public law libraries of the first rank in the country, with the great advantage of being a priced list, by which the lawyer ordering a new work may know exactly what it is to cost him, and some other incidental advantages in the alphabetical list of American Reports, and the most approved and popular American and foreign text-books. In addition to these features the catalogue contains a chronological list of British Reports, including English, Scotch, Irish, and Canadian, and a very full and useful table of the abbreviations used in references to English law books.

With the exception of a few trifling errors, such as the insertion on p. 28 of Beasley among the New Jersey *law* reports, instead of Chancery, where it belongs, the use of *placita* in the singular number on p. 77, and some probably unavoidable errors in the spelling and initials of proper names, the work, so far as we have examined it, is done with fullness and accuracy.

It is creditable not only to the taste and enterprise of Messrs. Clarke & Co., but to the profession in the West, which demands and supports so extensive a law-book house. The prices named, judging by those with which we are familiar, are reasonable, and we advise every Western lawyer to have a copy, if he desires to keep his library up to the time.

J. T. M.