

tion of merchants returning to China, or the proofs required are impossible and absurd. We incline very strongly to the first alternative, adding this proviso: That the Collector of the Port, as an executive officer, has a right to demand of returning merchants a reasonable proof that they are merchants resident in the United States. For this there can be no more satisfactory method than the one required by Congress in the case of returning laborers, and this Lau Ow Bew is in a position to furnish.

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## BOOK REVIEWS.

By G. W. P.

A TREATISE ON THE LAW OF PERSONAL PROPERTY. By JOSEPH J. DARLINGTON, LL.D., of Georgetown University of Law. Founded on the Treatise of Joshua Williams, Esq. Philadelphia: T. & J. W. Johnson & Co., 1891.

The reader of this valuable work will find it a task of no little difficulty to give honor where honor is due, for it represents in text and in notes the learning and literary skill of both Mr. Williams and Mr. Darlington, while it contains a considerable number of the notes to the fourth edition of Williams on Personal Property by the American editors of that edition, Messrs. Gerhard and Wetherill. The chapter on "Ships" is by Martin F. Morris, LL.D., while Robert G. Dyrenforth, LL.D., contributes the chapter on "Patents, Trade-marks and Copyrights." It is, in fact, as Mr. Darlington states in his preface, Williams on Personal Property *minus* so much of the original text as is inapplicable in the United States, *plus* a further presentation, upon the latest English and American authorities, of topics treated in the retained text, together with sundry subjects of importance not therein discussed. The formula for determining the authorship of any given passage is thus stated in the preface: "Every paragraph of the following

<sup>1</sup>40 Fed. Rep., 433.

pages, with inconsiderable exceptions, the references in which are exclusively to English authorities, is the unchanged text of Mr. Williams. All paragraphs containing both English and American citations, or the latter only, are wholly new."

The book itself is an admirable summary of the principles of mercantile law and the common law as affecting personal property. There is, from the nature of the subject, but little logical order in the sequence of topics, but the internal structure of each chapter is all that could be desired. In the chapter entitled "Of Chattels which Descend to the Heir," the summary of the law of fixtures is admirable. So is the exposition of the doctrine of suretyship, on page 150, while the statement on page 153 of the difference between a surety and a guarantor could not be improved upon. The learning on the subject of voluntary declarations in trust, and the modern development of that doctrine, are succinctly set forth on page 66. Pennsylvania lawyers who hesitate to accept the dictum of Judge Woodward in *Wallace v. Harmstead* will dissent from Darlington's statement, on page 34, that in all our States "every real vestige of tenure is," in practical effect, "annihilated." We notice the old classification of personal actions as *ex contractu* and *ex delicto* on page 107—an unhistorical classification, as Mr. F. W. Maitland demonstrates, but one which it seems hard to break loose from. The chapter on "Patents and Copyrights," contributed by R. G. Dyrenforth, is of unusual excellence, and Professor Morris's chapter on "Ships" is accurate and comprehensive.

We note singularly few errors either in typography or in substance. In Gerhard and Wetherill's note to page 39, in the synopsis of the case of *Griffith v. Ingledeu* (6 S. & R., 429), there is a statement that the goods shipped were, according to the bill of lading, to be "delivered to D. or his assigns." A reference to the original report shows that "D." should be "B." This case, by the way, is well known to Pennsylvania lawyers on account of the able opinion of Chief Justice Tilghman, as well as for the vigorous dissent of Mr. Justice Gibson. The latter main-

tained in opposition to the decision of that of the majority, that where goods were consigned by A. in Liverpool to B. in Philadelphia (the shipper not acting as agent of the consignee) the transfer of the property vested an interest in the contract so as to entitle the consignee to bring suit in his own name against the carrier for negligence. It is interesting to read in this connection the note by Mr. Justice Gibson, which is printed on page 439 of the report, in which he cites the case of *Sergeant v. Kovus* (3 B. & Ald., 377) as sustaining his position, that decision not having reached this country at the time his opinion was rendered.

Mr. Darlington's literary style harmonizes well with that of Mr. Williams, and when this is said no higher praise can be given it. There are no unpleasant transitions such as one might expect in a book of composite authorship, and it possesses that which a legal work of reference may lack, but which a summary must possess—the quality of readableness. For we take it that the real value of a summary lies in the fact that the reader may obtain from it, not the materials for a brief in a particular case, but a comprehensive view of that portion of the field of law which it comprises and may see the subject under discussion in its correlation with other subjects. To this end the interest must be sustained throughout, for it may be said that such a book will be read for the sake of reading, and not merely as a necessary though unpleasant mode of accomplishing a particular purpose. But while this feature of the book is an element of strength, it is also a source of weakness. It may be doubted whether Mr. Darlington is right in ascribing the failure of Williams on Personal Property to attain in this country equal eminence with the author's work on Real Property solely to the amount of space devoted in the former to the discussion of English statutes: we venture to think that in the case of personal property students of law in the United States and the profession generally demand special works on each of those subjects to which Mr. Williams and Mr. Darlington can devote but a chapter. For a summary they are still satisfied with Blackstone and Kent, and when they desire

to investigate the law of contracts, of insurance, or of stocks and shares, they ask for a more detailed exposition than is possible within the respective limits of twenty-six, four and twelve pages octavo. In the case of the law of personal property the student who has made himself master of the learning contained in a modern edition of Blackstone is prepared without an intermediate halting-place to begin the devious journey through an exhaustive treatise on a given subject. In the law of real property, however, this is not the case. The student who has read the second book of Blackstone needs a stepping-stone—a Williams on Real Property—before he can make good use of Fearne on Remainders or of Gray on the Rule Against Perpetuities. And the reason is obvious. The common law has a system of real property law which comprises an elaborate and complicated theory of tenure, and an all-pervading doctrine of seisin. This system was developed and refined and overrefined during a period when real property was everything, and personal property was, relatively, nothing. It took such a firm hold on the courts that they even forced things personal into the mould which had been made for things real. Thus the vesting of future interests under limitations of personal property is said by the author last mentioned to be governed by the canons which apply to corresponding interests in reality. This great system must be mastered as a system before particular branches of it can be approached, and the birds-eye view of Blackstone is not, as we have already said, sufficient for this purpose. But the common law has no system of personal property. There really is no “law of personal property” to write a book about. There are all those individual subjects which give titles to Mr. Williams’ chapters, but their only connection is that they are *not* governed by real property law. Little or no preliminary study is therefore required, and any one subject may be attacked forthwith. And when the plunge is made the student finds that modern law has lent itself to the development of these particular subjects as being themselves independent and autonomous divisions of jurisprudence, and not mere departments of a so-called