

doctrine." He then proceeds to criticise the doctrine upon much the same lines as those suggested in Mr. MCMURTRIE'S article, and to demonstrate the futility of attempting to apply the doctrine in all its breadth, by bringing together the line of cases in which the courts have modified and limited and restricted it almost beyond recognition. The gist of his opinion, as of Mr. MCMURTRIE'S article, is the recognition of the principle that in forcing a stockholder to pay unpaid installments the Court is simply compelling him to make good his representations. It is an interesting matter for speculation whether or not counsel who argued the case of *Hospes v. Car Co.* had seen the article in question and had directed the mind of the Court into the channel indicated in the opinion—or whether the Court itself had seen the article and had been influenced by the force of the arguments—or whether, in fine, Judge MITCHELL and Mr. MCMURTRIE arrived at substantially the same result by independent reasoning.

In any event, the lawyer who gives his attention to the investigation of this doctrine will find it hard to withstand the logic of Mr. THACHER, of Mr. MCMURTRIE and of Judge MITCHELL, and will, we feel confident, be inclined to agree with us in thinking that the Supreme Court of the United States may, before long, be confronted with a case in which the facts will be such that an adherence to the principle of *Handley v. Stutz* would result in a palpable miscarriage of justice.

BOOK REVIEWS.

A MANUAL OF MEDICAL JURISPRUDENCE. By ALFRED SWAIN TAYLOR, M.D., F.R.S. Revised and edited by THOMAS STEVENSON, M.D., London. Eleventh American, edited with citations and additions from the twelfth English edition, by CLARK BELL, ESQ., President of the American International Medico-Legal Congress of 1893. 787 pages, 56 illustrations. Philadelphia: Lea Brothers & Co., 1892.

The fact that this work has gone through twelve English editions is, to say the least, *prima facie* evidence of its original worth. It is stated

in the preface to the latest English edition that the work "has undergone an entire revision and all references have, when possible, been verified; . . . that many parts have been amended, much new matter added and some parts entirely rewritten." The American editor repeats the above statements in substance, and states further that "in making additions upon legal questions and the present state of the law bearing upon medico-legal matters, the editor has carefully [*sic*] cited nearly 700 cases and authorities to aid counsel in preparing briefs, and to extend the means of information for medico-legal jurists." The editor acknowledges his obligations to the editors of previous American editions; but it does not appear that any one else is responsible for the present edition.

We have examined all the matter in the present edition, which is included within brackets, thus [], upon the assumption that such matter, as is customary, represents the additions made by the American editor; and while much has been added that is of value, candor compels us to state that the work does not fully and fairly represent the existing state of knowledge upon this important subject.

The work of the English editor, while good so far as it goes, is incomplete and insular, and some important topics which at present claim a large share of the attention of medico-legal jurists are not even referred to in the index and, therefore, presumably not in the text, by either editor. Such is the case with ptomaines, hypnotism and insanity manifesting itself in sexual perversion, as in the case of Alice Mitchell, tried not long since in Memphis, Tenn., which trial attracted great attention. The work does not show such careful and exhaustive examination of the field of periodical literature as the professions of law and medicine have a right to expect in a work of such pretensions.

Let us particularize a little further :

Under the head of "Compensation of Experts" no reference whatever is made to the case of *Wright v. The People*, 112 Ill., 540, decided in 1884, nor to contracts for compensation conditional upon the success of the suit.

Under the head of "Expert Evidence," on pages 60-61, on the other hand, a large number of cases are cited which have no possible reference to medical jurisprudence and might well have been omitted.

On page 46 the American editor states that "medical works are so contradictory and confusing that courts are disinclined to allow them to be read in evidence, as they tend to confuse and mislead juries." The reasons for their exclusion are quite different. The principal reason is that they are at best hearsay evidence of that which living witnesses, who can be subjected to cross-examination, can be produced to prove. See Rogers' "Expert Testimony," 2d ed., p. 405, where all the reasons are fully stated. Medicine as well as law is eminently a progressive science, and we venture the assertion that medical treatises are not more confusing and contradictory than, if so much, as are legal treatises. While we are well acquainted with the many *obiter dicta* to be found in the books concerning expert testimony, the statement of the American editor, on page 59, that "the trend of judicial thought in America and England is that the mere opinions of medical experts are of little or no

value," etc., is so palpably untrue and unjust that we cannot but wonder that its author, who revels in that field, should have been guilty of its perpetration. We do not wish to be unduly severe with the work of the American editor, but we cannot forget that in Vol. 2, p. 182, of the *Medico-Legal Journal*, of which he then was and still is the editor, he, a non-medical man, essayed to review an original article in the *Rivista Clinica*, of Turin, by Professor Ceccherelli on "Nephrectomy; or, Extirpation of the Floating Liver." [*sic*] Not only does he there describe this operation as "the extirpation of the floating liver," but in the course of his review he becomes more specific and describes the operation as the extirpation of the right liver," [*sic*] etc., from which we are to infer either that this was a case of duplication of viscera, or that there are actually two livers. This review was made the subject of so much merriment at the hands of the medical profession that we cannot feel astonished that some degree of rancor should yet remain in his bosom toward that profession. The truth is, that in the great development of modern scientific thought it is perilous to venture beyond the domain of one's immediate sphere of activity. We have noticed repeatedly how apt too many lawyers are to acquire the whole science of medicine in a week, when required by the exigencies of a particular case; and, on the other hand, how readily too many physicians assume to decide disputed questions of law which the courts not infrequently desire reargued by learned counsel before rendering a decision.

But returning to the subject-matter under consideration, the additions and amendments of our author, we find on page 277 this reference to the work of Dr. Richardson, of Philadelphia: In identifying blood, he is quoted as using *high powers* of the microscope up to 750 diameters, etc. This statement is incorrect, as 750 diameters is only a medium power. Dr. Richardson advocated the use of from 2500 to 5000 diameters. While upon this subject, the identification of blood, we cannot understand why this edition has not been enriched by the reproduction of some of the splendid photographic work of Dr. Woodward, Dr. Treadwell and others, and why no reference has been made to the celebrated controversy between Dr. Woodward and Dr. Richardson, and to the elaborate testimony of Dr. Woodward in the Hayden murder case in 1879, which are classics on this subject. No reference is made to the celebrated Dr. Cronin case, in which, also, the same questions arose, nor to the excellent article by Dr. M. C. White, in *Wood's Reference Hand-Book of the Medical Sciences*. These and other omissions detract greatly from the value of the discussion of this subject.

On pages 288-289 we find no reference to the articles of Dr. H. N. Moyer on shock, nor under the head of injuries to the spine do we find any reference to the work of Clevinger and others, which certainly deserve a place in the discussion.

On page 356 we find a reference to the case of *Holtzman v. Hoy* (not Hey), 19 Ill. App., 459, but no reference to the same case on error in the Supreme Court of the same State reported in 118 Ill., 534.

Under the title "Gun-shot Wounds," we find no reference whatever to the literature on the effect of the new small calibre projectiles now in use in continental Europe. Again, on page 366, we find the statement

that "a common bullet is formed entirely of lead," a statement now rarely true of modern projectiles.

Under the head of "Starvation," we find no reference to the case of Griscom, ably reported by Dr. Lester Curtis, of Chicago, which report is easily accessible in the *Proceedings of the American Society for the Advancement of Science*.

Under the head, "Evidence from Parental Likeness," we find no reference to *Hanawalt v. the State*, 64 Wis., 84, and other American cases on this subject.

The above and foregoing are only a few of the many sins of omission and commission to be found in the present volume. We think that from the above references, which can easily be verified, it is quite apparent that this edition has been very carelessly edited and that while valuable, (few books are wholly worthless) it is not nearly so valuable as it would have been if more ably and conscientiously edited.

The Kent Law School,

MARSHALL D. EWELL, M. D.

Chicago, January 11, 1893.

FOSTER'S FEDERAL PRACTICE IN CIVIL CAUSES, with special reference to Patent Cases and the Foreclosure of Railway Mortgages. Second Edition. By ROGER FOSTER. 2 vols. Boston: The Boston Book Company, 1892.

We are glad to see that the profession by its appreciation of usefulness of FOSTER'S "Federal Practice" has exhausted the first edition, and thereby given the author an opportunity to enlarge and improve his work. As he says in his preface to the present edition: "Many of the original sections have been rewritten and new sections have been added to the original chapters, including all material statutes and decisions passed or reported before October Term of 1891, and many decisions since that date which have been added while the book was in the press." Things look differently in print than in manuscript, and it goes without saying that this careful revision of the whole work from the first edition has greatly added to its value. In fact, such a revision was rendered imperatively necessary by the passage of the Act creating the new Circuit Court of Appeals and radically changing the jurisdiction and practice affecting appeals and writs of error.

New chapters have also been added on "Practice in Admiralty," by CHARLES C. BURLINGHAM; "Practice in the Court of Private Land Claims," by ex-Judge E. A. BOWERS, and "Practice in the Court of Claims." These additions make the work practically complete, and every lawyer having business in Federal courts will find this second edition an indispensable requisite for his library.

THE LAW OF COLLATERAL ATTACK ON JUDICIAL PROCEEDINGS. By JOHN M. VANFLEET, Judge of the Thirty-fourth Judicial District of Indiana. Chicago: Callaghan & Company, 1892.

This work is one of the most welcome which we have received. The subject of collateral attack on judicial proceedings has heretofore been

wrapped in the obscurity of confused judicial reasoning and conflicting cases. We may say in truth that of all branches of the law there is none in a more chaotic condition. Those who doubt this statement have only to look at the above work to perceive that there is scarcely a question on which conflicting decisions by equally eminent tribunals, and we might add by equally learned judges, cannot be found. Upon this mass of conflicting material Judge VANFLEET has brought to bear a trained and analytical mind. In his preface he says that the work cost him six years of unremitting labor. We can well believe this statement. The book gives evidence on every page of careful and patient investigation, and we feel instinctively, as we read, though we may not agree with all his conclusions, that the writer is a sincere seeker for correct legal principles, and not a mere bookmaker.

The general plan and scope of the work may be gathered from the following summary :

A judgment involves the assumption that there was a regularly constituted Court, which legally obtained jurisdiction over the subject-matter and the person, and that the decree in the case was one which the Court had power to make. The question asked and answered in all collateral attacks on judgments or other judicial proceedings is, "Are these proceedings regular, and if not, what effect has the irregularity on the collateral force of the proceedings?"

The author commences by distinguishing collateral attack from *res judicata*, showing that the question involved in the latter is not, "Were the proceedings regular?" but, "granted that the proceedings were regular, what is the extent of the effect of the proceedings?" He then discusses in turn defects in the *constitution* of the Court, defects in the *process* by which jurisdiction was supposed to be obtained, defects in the subsequent proceedings which cause a *loss of jurisdiction*, and defects in the decree pronounced arising from *want of power* in the Court to make such decrees—either in the particular case before them, or in any case. Next he discusses the question of the effect of statutes ascribing specific effects to judicial proceedings when those proceedings are attacked collaterally; then shows the distinction between judicial and ministerial cases and the difference in the collateral effect of each; and then the legal presumptions when evidence is admitted *aliunde* in collateral proceedings to bar the effect of the record. The concluding chapter of the work treats of estoppel against contesting void proceedings.

This being the general division and plan of the work, its subdivision is peculiar. The author first states, explains and illustrates general principles applicable to questions discussed in succeeding chapters. The subjects in the succeeding chapters are then treated in alphabetical order, and the confusion of the decisions pointed out. Thus, Chapters II and III deal with the effects, when-attacked collaterally, of the infirmities in the tribunal. Chapter II deals with the constitutional infirmities in the organization of the tribunal. This again is divided into two parts: Part One treating of the corporate organization of the tribunal, and Part Two dealing with the judge—his constitutional infirmities. Two subjects are treated under Part One—first, when the government is unconstitutional or revolutionary, and, second, when the tribunal has not been lawfully

organized under the State Constitution. These two subjects, since they do not logically necessarily come one before the other, are treated in alphabetical order. We may say that, in general, the alphabetical order is maintained wherever the logical arrangement of the book is not interfered with.

In order that our readers may perceive the general point of view from which Judge VANFLEET has discussed the numerous complicated and controverted questions which have arisen in the domain of Collateral Attack, we may take the "Infirmities in the Organization of the Court" as an example.

No one would contend for an instant that a Court which has no color of authority to exist, which was simply an arbitrary and self-willed creation of its judges, and which was never recognized as a Court, could institute proceedings which had any binding effect collaterally. On the other hand, courts which are not courts under the strict interpretation of the law, or which are courts of revolutionary governments, whose authority, while transitory, is for a while recognized, are courts at least with a colorable authority. Decided cases have attempted, in many instances, to draw the line where infirmities in the organization of the tribunal would or would not render their proceeding liable to collateral attack. Judge VANFLEET takes the ground that any color of authority, however slight or dubious, by which the court exists, shields its proceedings from collateral attack.

He thus condemns, and we think rightly, those decisions which draw a distinction between constitutional infirmities in the organization of the tribunal, and mere statutory infirmities. There is no reason why the proceedings of a tribunal which exists contrary to the Constitution of the State should be any the less valid and secured against collateral attack than the proceedings of a tribunal which is illegal according to the laws of the State enacted by its legislature. Following out the same idea, he considers that mere constitutional or with legal infirmities in the judge who presided over the tribunal should not render the proceedings before him void collaterally, and he does not hesitate to condemn all those cases which hold otherwise. In discussing the numerous cases which arise out of the question whether jurisdiction has been properly obtained or exercised, we find our author exhibiting the same desire to invariably support the validity of judicial proceedings. A court, we are told, is the sole and only judge of its own jurisdiction. Before any action can be taken in the case, there is first the implied assumption that there is jurisdiction to do the act. The jurisdiction may be attacked directly on appeal by parties involved, but in collateral proceedings the decision as to jurisdiction is conclusive.

This principle leads the author to condemn a vast number of cases, both in this country and in England, which have attempted to draw the distinction between jurisdictional facts found, and non-jurisdictional facts; that is to say, the opinion that a judgment can be attacked collaterally, if the fact found to enable the court to take jurisdiction was not necessarily involved in deciding the case, a distinction which we think Judge VANFLEET rightly considers as a mere invention of the imagination. In accordance with his general views, on page 103, he criticises the

decision of the Supreme Court in the now great case of *Ex parte Siebold*.¹ This case, and numerous others which recognize the same principle, established the rule that where a conviction has been had under an unconstitutional statute (no complaint as to the constitutionality of the statute having been made at the time of the trial), a habeas corpus can, after sentence, be taken to an appellate tribunal, and the prisoner discharged. This case is criticised on the ground that a prisoner, like the defendant in a civil action, had the right, during the time of the proceedings against him, to set up any valid ground of defense, and that his failure to do so should forever conclude him from attacking the proceedings collaterally, because of the principle that, after verdict, it is to be supposed that the defendant has set up all possible grounds for defense, and that these have been passed upon; and, moreover, that there has been an opportunity for an appeal which he has not availed himself of. It seems to us that this opinion illustrates what is the principal flaw in Judge VANFLEET'S method of attacking legal questions, which is first to lay down a broad and general principle, and then to apply it to every case which arises. It may be, as we undoubtedly think it is, that to allow a defendant in a civil suit to attack collaterally proceedings after he has had his day in Court, is to cast a doubt on all judicial acts. But it seems to us to be a very different thing to assert that a person who has been tried, perhaps for his life, and who has failed to point out to the Court the irregularity of the proceedings against him, shall be hung or allowed to languish in prison because a superior tribunal ought not to entertain a habeas corpus, even though it would be impossible for the prisoner to attack the proceedings directly.

Another class of cases, in which we think that the author has, perhaps, pushed a general principle to extremes, is to be found on page 368, where he discusses those cases in which boards of assessment are required to give specific notice in a definite way to individuals that an assessment of property is to be made, and afterward a suit is brought to enforce the assessment. The opinion of our author is that the defendant cannot show that he had no notice of the proceedings in assessment, because no publication of the intended proceedings against him had been made as required. Judge VANFLEET says, in speaking of a particular case: "The law, which Mr. Kuntz was bound to know, fixed the time and place to have certain rights between him and the State adjudicated, and it seems to me that nothing more was necessary." But the law not only fixed the time at which the board should meet, but also fixed a certain specific method by which the defendant was to have notice that on a particular day the rights between him and the State would be adjudicated. He was entitled by law to that notice. If he did not have the notice, how could he appear, and if he did not appear, how could he make any direct attack on the proceedings against him? The first notice which he might have had of the fact that certain rights between him and the State had been adjudicated by the suit for the assessment which he was not called upon to defend, might be the demand for the tax. At this stage of the proceedings it may be a serious question, the determination of which must depend upon the particular laws of the State, whether he then had the right to attack the proceedings directly; and, if he had no such right, it

¹ 100 U. S., 371.

would be but scant justice to hold that one who had no notice of the proceedings against him until after the expiration of the time for the direct attack on those proceedings, was without the right to attack them collaterally. It seems to us, therefore, where there has been such a defect in service of the writ or notice of proceedings that the defendant has no notice of these proceedings until the time for direct attack has passed, that then he should be permitted to attack the proceedings collaterally. Whether this would be the opinion of the author as to this particular case we are unable to say with confidence, because the discussion of principles is almost exclusively confined to the opening chapters of the work, and the subsequent chapters are simply used as digests to show the cases which have followed the principle and those which have not. In those which do not, apparently, follow the main principle laid down, the reader is sometimes at a loss to know whether the author approves of the exception made by the case, or whether he simply gives the case as an illustration of an erroneous conclusion. In fact, the method of confining the discussion of principles to one place and giving the decided cases in another, seems to us to be adapted only to those subjects where the author is prepared to admit no exception or modification to the universal application of the principle.

That Judge VANFLEET considers that there are no exceptions to the principle which he has laid down in Sections 60 and 67 concerning what it is that confers jurisdiction and the power to adjudicate in respect to it, and in Section 329, in regard to the sufficiency of process and service to shield the proceedings, is evident, not only from his preface, but from the arrangement of the work. For our own part, while not attempting to criticize any except the two cases above mentioned, we cannot but wish that Judge VANFLEET, by discussing critically the possible exceptions as illustrated by the decisions in his text, had answered a number of those doubts which naturally arise in the mind of the reader as he reads the particular facts of those cases which the author has given, without a note, as illustrating the wrong application of a general principle.

But even if these criticisms on the arrangement of the work are valid, the reader will find that the matters objected to will detract but little from the real merits of the work. Every one who reads it will find in it a key to much in the law of collateral attack on judicial proceedings which has hitherto been confused and confusing; and those who have a fondness for clear thinking (and of such let us hope there are many at the American bar), will welcome this book, evincing, as it does, patient investigation and ripe scholarship, as a most valuable addition to American legal literature.

W. D. L.

A TREATISE ON THE LAW OF STREET RAILWAYS. By HENRY J. BOOTH. Philadelphia: T. & J. W. Johnson & Co, 1892.

Mr. BOOTH in this volume has given the profession a very useful book. It is a matter of note that no one has heretofore thought of treating street railways in a separate work. Surely these companies have, on account of the peculiar nature of their franchises, such unique relations to the State, to the public and to the persons whose property they affect, as abutting owners, that there is ample room for a separate

treatise. Mr. BOOTH has done his work well. Each paragraph commences with a plain statement of the principle of law involved, while the notes contain copious references and abstracts from the cases. The arrangement of the work is, on the whole, logical. The book may be roughly divided into two parts. The first part treats of the formation of companies; the second of their operation. The first three chapters treat of the relation of the State to street railway companies—of the right to construct and operate street railways, of the amendment of charter or franchise, and the regulation by the State of the construction of route, etc. Chapter IV deals with the rights and liabilities of street railway proprietors to the owners and occupants of abutting property; while Chapter V treats of the relations between different railway companies as to the joint use of streets, tracks, etc. At this point the author has interpolated two chapters, one on "Electric Street Railways" and the other on "Elevated Railroads." The separate treatment of these two subjects at this time is, on the whole, unfortunate. There is no reason why such a subject as erecting poles in the roadway, or regulations requiring wires to be placed under ground, should not have been treated under Chapter III on the "Regulations of the Construction and Equipment of Street Railways," or why the question of interference with telephones should not be treated under Chapter IV, which deals with all other relations between the constructors of a railway and the persons whose property is affected. The same criticisms would apply to the chapter on "Elevated Railroads." The carefulness, however, with which the cases in these two chapters have been examined, lay a basis for a future work on Electric Street Railways or on Elevated Railroads. Our criticism is that in a work applying to street railways it is not a logical legal division of the subject to divide it into chapters classified according to the motive power employed.

The second part of the work, on the operation of railways, has the same general division as the first part. The relations of the State or municipality to the railroad, of the railroad to abutting property owners or others who have rights in the street, of the railroad to its passengers, and of the railroad to the traveling public and to its own employees, are each treated under separate chapters.

Such a work cannot supply the place of works on negligence, works on corporations, or on constitutional law, but it is nevertheless a necessity to the profession, because the application of the principles of the law of negligence, of corporations, and of constitutional law, as applied to street railways, is peculiar. Mr. BOOTH'S work, therefore, supplies a distinct want to all lawyers representing railway companies, and to those who have any of that growing class of business—actions against street railway companies for negligence. On perusal, they will find that he has filled this want very creditably.

W. D. L.

AN INTRODUCTION TO THE HISTORY OF THE CONSTITUTION. BY MORRIS M. COHN. Baltimore: Johns Hopkins Press, 1892.

Mr. COHN tells us in his preface that the scope of his work "embraces the presentation of what may tend to produce a better understanding of all that is implied in the existence of the Government of the United States of North America." How this is to be accomplished is somewhat obscure from the rest of the preface. This obscurity follows us through the work. Mr. COHN has given us many facts which undoubtedly tend to make one who knows them understand what is meant by the Government of the United States, but he has failed to set them forth in any logical sequence or definite arrangement. Perhaps it is not fair to the author to mention the principal defect of the work before setting forth its arrangement in detail, but the lack of clearness impresses one from the first, and spoils much which, with a little more care in working out ideas, would have been of absorbing interest and of great value.

In spite of this fault the book, for its suggestiveness, is well worth careful reading. The opening chapter deals with the question of law and sovereignty. It is, perhaps, the best in the book. The author takes the position that what the people obey as law is the law, and that they obey or do what the past history of their race and present environment lead them to do; that laws are a growth and a development springing from the life of the people as it is, and that to rightly understand the factors which have produced the customs, feelings and institutions which make law, we must have a knowledge of history.

We are in sympathy with this conception of law, if we have interpreted that conception aright, and with the method of studying the legal principles indicated.

In pursuance of his scheme the author first deals with "The Physical and Social Factors of Law;" then of "Evidence of Physical and Social Factors;" then of "Evidence of Physical and Social Factors in Constitutional Law;" and finally of "Physical and Social Growth in the United States Constitution." There is much that is excellent in this arrangement, though we fail to understand why, in an introduction to "Constitutional Law," the author should have seen fit to give us a *resumé* of the growth of all law, instead of confining himself to the growth of the feeling of responsibility of the government to the governed, which is the germ out of which constitutional law springs. However, the reader will not quarrel with the author if he has done more than his title promises. He cannot help feeling disappointed, however, when he finds that Mr. COHN has not given him in the subsequent chapters any exhaustive history of the growth of the feeling that "government was not a personal matter," which culminated in our Constitution, but has rather given a review of instances which illustrate the effect of physical and social factors on all law. Now, we doubt very much whether the time has come for such a review. Outline reviews can reach a high standard of excellence only after we have a thorough, minute knowledge of the facts whose history is sketched. We have always doubted, and the reading of Mr. COHN'S work has but served to strengthen that doubt, whether we know the history of development of institutions as they affect the

development of law well enough to enable one man, or set of men, to grasp in outline the history of law. The valuable books of the present day must, we believe, be those which confine themselves to some one legal institution, or one branch of the law, and show after exhaustive original research its development. Mr. COHN, it seems to us, has demonstrated that what he has attempted to do cannot be satisfactorily accomplished in the present state of our knowledge, and certainly not within the compass of a volume of 250 pages, because an outlined sketch of legal development at the present day would necessitate much original work. Mr. COHN has evidently read with great care, as his citations show, all books published bearing on the subject. But while many of his suggestions are to us interesting he has evidently not carried on any original research. This fact, however, does not prevent him from expressing what may prove to be correct opinions on many subjects. In one instance, where he maintains that consideration was as essential to a contract under the Roman law as under the common law, he differs with one of the greatest authorities in legal history, Judge HARE. The value of Mr. COHN'S opinion we are left to surmise, as no authority is cited for its correctness, and there is no criticism of the numerous authorities which Judge HARE has marshaled in support of his own opinion.

The book must be relegated to that class of works which are interesting, suggestive and stimulating to farther research, but do not themselves add greatly to human knowledge. However, the very novelty of the undertaking, and the great field for future scholars, which the historical method of studying jurisprudence opens before us, commands the attention. Even if we consider that he has mistaken the scope of the work on legal development, we cannot but feel gratified that an American lawyer has so far been willing to cease worshipping the god of the "practical" as to look at the study of the law as the study of the development of man and his institutions. In closing this notice, we cannot refrain from expressing the hope that the profession in the United States will demand more and more works of this character, which deal or attempt to deal with principles and their development irrespective of whether they may or may not be useful as a convenient digest of cases.

W. D. L.

BENJAMIN'S TREATISE ON THE LAW OF SALES OF PERSONAL PROPERTY, with reference to the American Decisions and to the French Code and Civil Law. Sixth American edition, from the latest English edition. With American notes by EDMUND H. and SAMUEL C. BENNETT. Houghton, Mifflin & Company, The Riverside Press, Cambridge, 1892.

There is no text-book in the English language better known to the student and practicing lawyer than the great work of Mr. BENJAMIN. The rapidity with which each new edition is exhausted shows that the work is as necessary to-day as it was when it left the author's hands. The American editors, in the edition before us, seem to have done their work well. There is a full, though not complete, citation of cases. Yet