

- DIGEST OF FIRE INSURANCE DECISIONS IN THE COURTS OF THE UNITED STATES, GREAT BRITAIN AND CANADA.** By GEORGE A. CLEMENT. New York: Baker, Voorhis & Co., 1893.
- THE GENERAL PRINCIPLES OF THE LAW OF EVIDENCE IN THEIR APPLICATION TO THE TRIAL OF CRIMINAL CASES AT COMMON LAW AND UNDER THE CRIMINAL CODES OF THE SEVERAL STATES.** By FRANK S. RICE. Rochester, N. Y.: The Lawyers' Co-operative Publishing Co., 1893.
- THE CIVIL DISABILITIES FOR PERSONAL INJURIES ARISING OUT OF NEGLIGENCE.** By HENRY F. BUSWELL. Boston: Little, Brown & Co., 1893.
- FORENSIC ORATORY: A MANUAL FOR ADVOCATES.** By WILLIAM C. ROBINSON, LL.D. Boston: Little, Brown & Co., 1893.
- THE MISCELLANEOUS REPORTS.** Cases decided in the Inferior Courts of Record of the State of New York. F. B. Delehanty, reporter. Vol. I. Albany: James B. Lyon, 1893.
- A TREATISE ON THE LAW OF MORTGAGES OF REAL PROPERTY.** By DARIUS H. PINGREY. In two volumes. Philadelphia: T. & J. W. Johnson & Co., 1893.
- A TREATISE ON THE LAW OF PERSONAL PROPERTY.** By HORACE E. SMITH, LL.D. Chicago: T. H. Flood & Co., Law Book Publishers, 1893.

BOOK REVIEWS.

THE LAW OF CERTIORARI—at Common Law and Under the Statutes.
By GEORGE E. HARRIS. Rochester: Lawyers' Co-operative Publishing Company. 1893.

Charitable solicitude for that much-to-be-pitied individual, the "working lawyer," is responsible for many of the "tools" by which compassionate literary workers have attempted to soften his burdens—attempts which have increased, in a geometrical progression, the accessions to our law libraries, as well as the capital of various publishing firms. We have before us another "working tool," from the pen of Mr. GEORGE E. HARRIS, one of the reporters of the Supreme Court of Mississippi, and, as appears from the title page, a writer of some experience.

"It may be regarded as a little singular," Mr. HARRIS observes in his preface, "that law writers have not deemed it proper to give us a separate treatise on the subject of certiorari . . . though it is an ancient remedy." The reason for the lack of legal literature upon this topic is readily explained. The writ of certiorari is a common-law writ, regulated by a few well-defined principles—principles concerning which it may be truly said that at the present time there is neither doubt, complexity, nor confusion. A practitioner seeking light upon the question of the applicability of the writ, turns to a local work on practice or to a digest—of which

there are many of real value—and generally finds all necessary information. It appears to us that urgent necessity for a work is the consideration which should appeal most strongly to one about entering the field of legal authorship, and that there is no such necessity for a work like the one before us.

The arrangement of the work is bad; bad because the writer commits the original sin of forgetting that in dealing with questions concerning the writ he is dealing with principles of remedial law. A discussion upon topics of substantive law is out of place, and confusing. Thus, in chapters IV and V we have a learned commentary on the law of Municipal Corporations; chapters VI and VII instruct the reader in a few odd principles of the law of Eminent Domain, with respect to highways and drains; while a little point or two on Road Laws, followed by a dash of legal principles relating to Ferries and Toll bridges, brings these interesting chapters to a close. So the work continues, chapter after chapter dealing with principles of Landlord and Tenant law, Local Option, Contempt of Court, etc., while this grand review of our substantive law is concluded by two chapters, covering seventy pages, on Criminal Law.

The work altogether lacks perspective. Every topic to which the writer desires to call the attention of the reader is forcibly presented to his eye by large black-letter captions, which, continuing all through the work, grow tiresome, and give to the page anything but a neat appearance. No discrimination is made in the text between a principle of law and concrete illustrations of a principle. For instance, in the same style of type we have, at page 348, the law of certiorari treated with respect to "Theft of a Cow and Calf;" at 347 we have "Larceny of Cattle;" page 346 varies the monotony by discussion of the law applicable to the case of the "Trial of a Slave;" and at 391 there is another remarkable sub-division showing the rule of law applicable to certain suits for the value of "Sheep killed on Railroad Tracks."

Of Mr. HARRIS' work it may be said that it shows industry, completeness, and something more: he has stated at length every case in which the question of whether a writ of certiorari would lie has been at all discussed. We doubt, however, in view of the arrangement and his mode of treatment, whether the work will ever become a valuable "working tool."

JOHN A. MCCARTHY.

CODE PRACTICE IN PERSONAL ACTIONS. An Elementary Treatise upon the Practice in a Civil Action as Governed by the Provisions of the New York Code of Civil Procedure. By JAMES L. BISHOP. New York: Baker, Voorhis & Co., 1893.

This work is in the nature of an annotation upon the New York Code of Civil Procedure. Beginning with a brief historical sketch of New York's judicial system, the author explains so much of the early procedure as will help the student to understand the existing practice in that State. In the course of this brief introduction we observe that four pages are devoted to an exemplification of personal actions, and of pleadings at the common law. Such an outline summary is doubtless inserted in order to insure completeness in the work, but is in reality altogether useless. If

the reader has familiarized himself with common-law procedure the summary is surplusage; and if he has not done so it is altogether too meagre to enlighten him upon the subject.

The work in general follows the code in order and arrangement. Mr. BISHOP has collected the decided cases with care, and he discusses them in a satisfactory manner in connection with the portion of the code to which they relate. Of the code itself (the code of '48) he has a high opinion. On page 28 he says of it, that "it introduced a quarter of a century in advance of England a logical and systematic body of rules governing the procedure in a civil action, and wiped out of existence at a breath a mass of technicalities and burdensome hindrances to the administration of justice." Such a form of commendation, while general and sweeping, is at the same time to a certain extent guarded and careful; for it is not inconsistent with the averments of those who are convinced of the superiority of the old system to the effect that by the new system difficulties and absurdities have been introduced to take the place of those which have been done away.

Criticism of a work like this is a delicate matter. Its design is stated to be "to present a full outline of the steps in an ordinary civil action following the provisions of the code." The author recognizes that the subject has been exhaustively treated in standard works in which numerous authorities have been digested and arranged. "This book," he says, "makes no pretence to such elaboration of cases. Its mission is to introduce this subject with simplicity of expression and illustration to those who are entering upon their professional studies and work, and to state general features and elementary principles in a manner helpful to the more detailed investigation which the needs of actual practice may require." As the book is the outcome of lectures delivered at the Columbia Law School, it is only fair to recognize that the substance of it was addressed primarily to those who had pursued or who were pursuing a systematic course of study of practice and pleading at common law. To such students the work is doubtless of value, because it puts into their hands in convenient form the means of carrying forward the study of the development of procedure beyond the point at which the common-law system is supposed to have ended. Such students, unless misled by constant and unintelligent general commendations of the code system, will probably decide upon the basis of this book that many of the really useful features of the code system are as old as the common law itself, and that such features of it as are new have drawn their inspiration largely from the parent system. But to "law students" in the narrow, popular sense—promoted office boys who are ambitious to become members of the bar, and whose ambition looks no higher—such a book as this has an entirely different and a less honorable value. We can readily understand that it might be used to good advantage in "cramming" for a bar examination, for it is just such a book as a student would be tempted to memorize in parrot-like fashion without any clear understanding of the relation which the code bears to the system which it is intended to supersede.

On the whole, it may be said that the author has well done that which he set out to do, and this is a commendation which rises or falls in value in accordance with one's estimate of the code system.

G. W. P.

FORMS IN CONVEYANCING AND GENERAL LEGAL FORMS, COMPRISING PRECEDENTS FOR ORDINARY USE AND CLAUSES ADAPTED TO SPECIAL AND UNUSUAL CASES. With Practical Notes. By LEONARD A. JONES. Third Edition. Boston and New York: Houghton, Mifflin & Co., 1892.

Mr. JONES has given many valuable works to the profession, and by no means the least useful of these is his "Forms in Conveyancing." The first edition of this work made its appearance about six years ago, and the demand for it was so great that the author was compelled to respond with a second edition. This has now been followed by a third, which, we are told in the prefatory note, contains more than 1400 forms, of which a little less than one-half are full precedents, and the remainder are general clauses not contained in the precedents. Over 200 forms have been added in this edition.

Mr. JONES is to be congratulated upon the success which has attended his effort "to adapt the book for general use by giving the local common forms of every State, and by gathering the general forms from a wide range." He is right in thinking that the book is national in its character and use. However desirable it may be in the opinion of "law reformers" to cut loose from precedents and forms in the domain of pleading, and thus to sacrifice uniformity to the taste (or lack of taste) of individual pleaders, the American Bar seems to be alive to the importance of adhering to approved forms of expression in conveyancing and in the drawing of contracts, and to the wisdom of making use of language the legal meaning of which has been made the subject of repeated judicial decisions. This is an encouraging sign. Perhaps the day is not far off when all that was really good in the pleading precedents will be collected by some such skillful hand as that of Mr. JONES, so that once more it will become reasonably certain that a declaration in assumpsit for labor done will be substantially the same in form in Maine as in Florida.

The precedents in the work before us are not cumbered with mere technicalities, and they are not complicated by matter which is nothing more than surplusage. It may be said of them all that they are couched in language which is scientifically exact and accurate, and that in almost every instance they have been made as simple and as brief as possible. Of course, Mr. JONES cannot find as much scope for vigorous language in the drawing of a conveyancing precedent as is found in the editorial columns of his periodical, our esteemed contemporary, the *American Law Review*, when that publication thinks proper to attack the AMERICAN LAW REGISTER AND REVIEW for an alleged appropriation of its name. It is interesting to note, however, that the versatility of the man enables him to do equal justice to two such dissimilar pieces of work.

We heartily commend this book to our readers as an invaluable addition to the office library.

G. W. P.

HONEYMAN'S PRACTICE AND PRECEDENTS IN THE COURTS FOR THE TRIAL OF SMALL CAUSES IN NEW JERSEY; ALSO IN THE DISTRICT AND POLICE COURTS. Second edition, with additions. By A. V. D. HONEYMAN. Newark, N. J.: New Jersey Law Journal Publishing Company, 1892.

So far as we are able to judge, this is a most valuable work for the purposes indicated in its title. The work is divided into three parts, viz., civil jurisdiction and proceedings, criminal jurisdiction and proceedings, and district courts and police courts. The whole is prefaced by a very creditable historical review of the office of justice of the peace, where the author, in opposition to PENNINGTON, takes the ground that the office originated in the reign of Edward the Third. The work is a complete treatise on justices of the peace, their office, their qualification and election, their civil jurisdiction, the civil actions which can be brought before them, the conduct of these actions, and from the first issue of the summons to the execution. Besides civil actions, properly so called, the work tells of the jurisdiction of justices over marriages, paupers, etc.: Part 2, dealing with criminal jurisdiction and proceedings, is even more full. It not only deals with the conduct of criminal trials before justices, but also with the offenses themselves which can be tried by a Justice. Therefore, in this respect, the work may be said to be a work on petty criminal law. Mr. James T. Ringgold¹ will take issue with Mr. HONEYMAN's vigorous defense of Sunday Laws on page 600-1. The third part of the book is devoted to district and police courts. There is also an appendix, containing miscellaneous forms, besides a glossary of technical terms used in the work. The book is of great use to the New Jersey lawyer, besides containing much that is interesting to lawyers everywhere, even in the shape in which it appeared in the first edition. We should judge that the changes made in this, the second edition, are great improvements. The forms have been put at the end of each chapter instead of at the end of the work. The chapter on "Information and Penalties" has been transferred to Part 1, which treats of the civil jurisdiction of justices of the peace. The chapters on the district courts and the one on police courts, written by C. C. ROBBINS, Esq., of Trenton, N. J., are also additions.

W. D. L.

¹ See "Sunday Laws in the United States," 31 AMERICAN LAW REGISTER AND REVIEW, page 728.