

three were common law cases. The volumes of BLATCHFORD'S Circuit Court Reports for the second judicial circuit—Nos. 1 to 24, and the Reports of the Supreme Court of the United States from Vol. 105 U. S. to Vol. 148, contain the leading decisions written by this distinguished jurist, and are living monuments of his great industry and judicial ability. He ranked fully equal to the late Justice BRADLEY in his knowledge of patent law, and in the development of that science he was fearless in the enunciation of new or more extensively applied principles governing the scientific and complex questions in this branch of jurisprudence so well denominated by the late Justice NELSON as the "metaphysics of the law."

BOOK REVIEWS.

A TREATISE ON THE LAW OF PERSONAL PROPERTY. By HORACE E. SMITH, LL.D. Chicago: T. H. Flood & Co., Law Book Publishers, 1893.

If there was a law of personal property, one with the ability of Dr. SMITH would have added to legal literature by writing about it, but, as we pointed out in the review of "Darlington on Personal Property,"¹ there is no such thing as a law of personal property, unless, possibly, it be the law of bailments. We have the law of real property; that is to say, there is a distinct class of property known as real estate, an interest in which for years or for life clothes the owner with definite rights, duties and liabilities peculiar to that kind of property. In a few years the peculiar rights and liabilities may not exist; if so, we shall have no distinctive law of real property, as to-day we have no distinctive law of personal property. We have corporation law, the law of joint stock companies, insurance law, the law of wills and of gifts *inter vivos*. All these systems of law involve principles which determine the ownership of personal property; but the property itself, its peculiar nature and characteristics, have had nothing to do with the principles.

Dr. SMITH tells us in his preface that "The plan and aim of the work is to bring the leading and essential principles of the law of personal property within a narrow compass, and in such a manner as to serve the following purposes: First, to furnish the student with the means of acquiring an adequate and discriminating knowledge of the subject, with-

¹ Vol xxxi, p. 32.

out unnecessary and confusing discussion; secondly, the practitioner with a ready and reliable solution of questions arising in the exigencies of his professional business, when time is wanting for extended research; and, third, to meet the wants of those outside the legal profession who may desire to obtain a knowledge of the general principles of the subject as a qualification for business, or an essential to a liberal education, but are unable to devote much time to the study." A list of the things treated covers all our social life in relation to property. To mention some of the heads: Corporations, patents, copyrights, forfeiture, successions, insolvency, gifts *inter vivos*, gifts *causa mortis*, title by will or testament, sales, bailment, insurance, legacies, distributive shares, stock and stockholders and "miscellaneous subjects of personal property not hereinbefore specially treated." Such a list is a positive proof, if any were needed, that there is no law of personal property as such, and that when we speak of the law of personal property we mean the entire field of substantive law relative to property, with a possible exclusion of some special rules relative to real property and of personal torts. A treatise on the law of personal property is, therefore, practically a treatise on private law in general. There is undoubtedly a place for an elementary treatise dealing with this subject, but we doubt very much whether there is a place for a condensed elementary treatise such as is here attempted.

Again, the author's method for an elementary treatise is unfortunate. Take, for instance, his first section. After defining the term "property" as the exclusive right of possessing, enjoying and disposing of lands and chattels, he uses, without explanation, as qualifying his definition, the technical words, common and joint ownership, exclusive life interest, usufruct, laws of bailment and trusteeship. The explanations as to what a bailment or trusteeship is, what a chattel is, etc., are relegated to different parts of the work. It would seem to be the fundamental principle of an elementary book that it proceed from the simple to the more complex.

Condensation is to be commended, but in this instance the author has attempted too much in this respect. In the first chapter, which occupies not quite four pages, the author deals with the definition of the word "property," the distinction between real and personal and absolute qualified property, with the synopsis of the relations of the individual and his property toward the State and toward the government. The chapter is little more than a heading of topics. The reader here, as in many other parts of the book, will have an almost indefinite number of unanswered questions, in addition to doubts as to the correctness of the statements of the author. Not that these statements are incorrect, but that they are made without adequate explanation to satisfy a close student. It is true that one who is not a student, or who is unaccustomed to the critical reading of books and knows nothing about the subject, might lay this volume down with the impression that he knew something about personal property, and about law in general, and had rounded out a liberal education.

If all the law relative to property could be condensed in a volume of three hundred and some odd pages, such a condensation would be of great use; just as if one could condense into five lines the entire history

of the human race it would be well that it should be done. But some subjects are so vast that great condensation serves not to give the reader a clear idea, but only to confuse him. Thus it is with each of the chapters of Dr. SMITH'S work. We should say that, better almost to have no idea about the law of corporations or the law of insurance or the law of wills, than to have the confused idea which would result from the reading of this work. We were never before so impressed with the truth of the saying, that "a little knowledge is a dangerous thing," and we may add that a little knowledge can be conveyed in no more dangerous shape than an attempt to stuff a great deal of matter into too small a compass. The immortal BLACKSTONE gave us in elementary form what in fact, if not in theory, was primarily a treatise on real property. He condensed it as much as any other man possibly could. A relatively equal condensation of the various laws which govern the ownership of personal property, and the rights springing therefrom, would make a book many times the size of the two volumes of BLACKSTONE. Of course one in a small compass could explain some of the leading principles of law and illustrate some of their applications, but to go over the whole field of the law of property and give a condensed statement of the varying application of every principle, may result in the production of a useful digest, but cannot produce a useful elementary work.

A work of three hundred pages attempting to give as much as this work gives, printed in large type, may be of use to the author in a future compilation of a work on personal property or law in general, but it is of no possible use to any one else.

Perhaps we have spoken harshly. If the work did not show signs of having been written by an able and learned lawyer we would have dismissed it with a word. But it is a shame that one with the author's ability has not used the vast amount of material gathered to give to the profession something which the profession has been wanting for years, namely, an elementary work on the subject of the development of the law of property.

W. D. L.

FORENSIC ORATORY: A MANUAL FOR ADVOCATES. By WILLIAM C. ROBINSON, LL.D. Boston: Little, Brown & Co., 1893.

This is a most excellent work, written by one who thoroughly believes in his science and its practical usefulness. It is, as the author says, "an attempt to place within the reach of youthful advocates a knowledge of the science and art of oratory, with especial reference to its forensic uses. The first part of the work is devoted to a statement of the general methods of the art of oratory, with the reasons upon which they rest and the effects which they are calculated to produce, together with such other topics as are introductory to the detailed study of the art." The second part treats of "the various processes which constitute the art of forensic oratory; these are described, explained and formulated into practical rules." The book is well worth careful perusal by any one who looks forward to becoming a "court lawyer." It will properly imbue him with the importance of that rule of oratory which requires that one should present in support of his contention a few indisputable arguments that are at once

intelligent and acceptable to his hearers, and reject every thought which is obscure or superfluous.

The usual criticism which one listening to young advocates in court is most apt to make is, that they bring into their arguments many points which are practically useless and only serve to obscure the really strong point or points of their case. The art of oratory, whether as typified by our best lawyers, or our great preachers, as the late Bishop BROOKS, is to present one idea to the minds of the hearers in so many different ways and from so many different sides that its truth and importance sinks deep into the mind of the listener.

Dr. ROBINSON has given the profession a very useful book, most complete in every way. There is only one unfavorable criticism, and that is rather of form than of substance. There is a certain heaviness of style—endless minutiae or over-refinement in the presentation of an idea. To give an example of what we mean, from Section 54, Dr. ROBINSON says: "The act whose performance an advocate endeavors to secure is the favorable decision of his cause. To render this decision it is necessary that his auditors should fully comprehend the questions which the cause presents, that they should perceive the desired decision to be demanded by the rules of law, and that their natural disposition to comply with this demand should conquer opposing influences, and control their will," etc. This is perfectly true. It is written in irreproachable English, and yet we are forced to say that these evident propositions, which no reader will dispute, could be put in a more concise, even lighter vein. Such criticism, however, on such an excellent work, lays itself open to the charge of being captious. We recommend all our readers to examine Dr. ROBINSON'S "Forensic Oratory" for themselves.

W. D. L.

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.

This volume presents a good appearance, and contains evidence that care was exercised in its preparation. Probably, however, it did not involve a great amount of work to the reporter, as it has been necessary to supplement the opinions of the courts by a statement of facts in only a few instances. The preparation of the syllabuses has been done with intelligent discrimination. The typography of the book is excellent, and its general appearance pleasing.

Among the cases reported we notice one—*Loucks v. Gallogly*, p. 22—which raises a question of considerable interest. The plaintiff found a sum of money in a public desk in a bank, and handed the money to the defendant to keep for the owner. The defendant was the teller of the bank, according to the syllabus and opinion; the cashier, according to the statement of facts. After the lapse of about two years, the owner not having appeared, the plaintiff demanded the money. The defendant refused to redeliver it, and the plaintiff brought suit to recover. The Court held that as it appeared the money had merely been mislaid and