

of international conduct, they proceed upon a recognition of mutual comity; and every reason that justifies the adoption of such a policy in those cases is an argument in favor of raising the interchange of comity as respects the enforcement of foreign judgments to the same high plane. Inasmuch as such judgments can *ex proprio vigore* have no extra-territorial effect, but must depend upon the comity of the several nations for any obligation that may attach to them outside of the jurisdiction of the courts pronouncing them, it is in strict keeping with the nature of international relations that there should be attached to their enforcement a tacit agreement that the nation to whom this comity is extended shall reciprocate in kind. This makes the interchange of relations in the form of a compact, and preserves to each nation the dignity of its sovereignty. It is another step in the direction of systematic uniformity in the regulation of international relations, and is a partial fulfillment of the prediction of Judge Story in his *Conflict of Laws*, to the effect that the principle of reciprocity in the treatment of foreign judgments was a just one, that would probably work itself generally into international jurisprudence.

BOOK REVIEWS.

THE PRINCIPLES OF THE AMERICAN LAW OF BAILMENTS. By JOHN D. LAWSON, LL.D. St. Louis: The T. H. Thomas Law Book Co. 1895.

In this volume Professor Lawson has endeavored to give a complete view of the modern law of bailments, as found in American authorities, and, as usual, he has carried out his purpose admirably. For, not content with treating of merely the ordinary cases of bailment, he has included within the scope of his work the comparatively rare cases in which the principles of this branch of the law have been applied to telegraph and telephone companies, and other such agencies. The rules in relation to the responsibility of carriers of goods and passengers are, of course, fully discussed.

Bailments, according to the author, fall into two great divisions: the first, that which includes all the cases of ordinary bailment between private individuals, known to the Civil Law, and the second, that which includes all public agencies, such as innkeepers, common carriers, and the like, whose liability is governed by different rules from those which apply to cases falling within the first division. This latter division, especially that relating to common carriers, forms by far the major portion of the book; and it is treated in a masterly style, which calls for high commendation. There is no other text-book in existence in which the rules as to the duties and liabilities of common carriers, are so clearly and tersely defined, and so fully and yet briefly discussed, as in the part of this work

which treats of that subject. In this regard alone it will prove invaluable to the profession.

The newer species of common carriers, which the progress of civilization is ever and again producing, have not escaped the author's notice. He treats carefully the cases of passenger elevators, postmasters, and the like, and devotes considerable space to the discussion of the nondescript relation between a sleeping-car company and its patrons.

One of the most noteworthy sections in the work is that which treats of what will be considered as "baggage" in regard to the liability of a common carrier of passengers (§ 272). It is impossible to condense it; but it suffices to say, that no one can realize what an all-embracing and elastic term that word is, until he has read this section and noted the endless variety of articles, useful, ornamental, and otherwise, that have been held included within its meaning. Nothing else shows more clearly the industry and careful thoroughness of the author.

There are some minor points, however, which have not received the notice one would have desired. For instance, though the author cites the case in which the owner of a bath-house was held liable as a bailee for valuables given up to the wrong persons on presentation of the check therefor, (*Tombler v. Koelling*, 60 Ark. 62,) he does not state in so many words the fact that the owner of a bath-house is a public bailee, like an innkeeper. And, although he states that a restaurant-keeper is not an innkeeper, he does not state that he will be liable nevertheless as a bailee for the loss of a customer's overcoat or wraps left in his charge, or taken charge of by his employes: *Utzar v. Nicols*, [1894] 1 Q. B. 92; *Buttmann v. Dennett*, 30 N. Y. Suppl. 247. The amusing case, in which a barber was held liable for the loss of a customer's hat is unfortunately too recent to be noticed.

Aside from these matters, however, Mr. Lawson has, as was to have been expected of him, furnished the profession with a standard work on the subject, that will prove of more value than any other now in the field; and which fully upholds the high reputation its author has already won for himself.

Ardemus Stewart.

OUTLINES OF LEGAL HISTORY. By ARCHER M. WHITE, of the Middle Temple. London: Swan, Sonnenschein & Co., Lim.; New York: Macmillan & Co. 1895.

In his preface, Mr. White informs us that this little volume is designed primarily to meet the wants of students who are preparing for the legal examinations in the Inns of Court. "It has been a general complaint to me by pupils," he observes, "that historical works deal with periods and therein of every legal topic that calls for notice in that period, with the result that to get a coherent account of any one topic, reference must be made to many

different chapters in a book, and often to more than one book." This observation indicates the plan which the author has followed in the treatment of his subject.

Chapter I treats of the principal courts; Chapter II, of their history, and Chapter III, of minor and obsolete courts. The reader of these chapters will find in them a condensation of much useful information and he will be enabled by a study of them to form a general idea of the history and present status of the judicial department of the English Government. In Chapter IV the author treats of the "Saxon Legal System"—"the Cradle of English Law"—and in Chapter V, of the "Norman Legal System." The reviewer hazards the opinion that these five chapters are the most valuable portions of the work. Chapter VI, which is designed to set forth "a brief chronological summary of certain leading principles and matters in the law," aims to cover so broad a field, and dismisses each portion of it with so compendious a statement that it appeals rather to the memory of the student than to his understanding. The chapter is divided into three sections—"Constitutional and General Matters," "Common Law and Equity," "Criminal Law." In each of these sections, the several topics are dealt with in chronological order. For example, under section II, the first dozen topics in the list are "Alienation," "Assumpsit," "Bailment," "Bankruptcy," "Borough English," "Commons," "Consideration," "Conspiracy in Restraint of Trade," "Corporations," "Costs," "Debt," "Distress." There is much force in Mr. White's suggestion that existing historical works are defective in that the student cannot readily obtain a coherent account of any one topic without referring to those portions of the history of each period in which the topic in question is discussed. On the other hand, it is to be observed that, as a separate subject of study, the discussion of a single topic should be full enough and philosophical enough to enable the student to catch the spirit of the historical development which he is investigating. In this respect many of Mr. White's summary statements are defective. Thus the title "Corporations" is dismissed in less than a page, and in view of the investigations of Pollock and Maitland, it may be doubted whether, even within that brief compass, all of Mr. White's statements are entirely accurate. The treatment of the title "Bailment" is not wholly satisfactory. "The fact of the owner trusting the bailee," says Mr. White, "was sufficient consideration to render him liable to keep the goods at all risks." This is not an accurate statement of the Common Law. Some of the brief summaries are, however, excellent. "Ejectment" is a good specimen of Mr. White's powers of condensed statement. It is interesting to observe that the title "Assumpsit" is abbreviated from Professor Ames's history of assumpsit in 2 *Harvard Law Review*.

In criticising the treatment of the subjects included in Chapter VI, the reviewer does not overlook the fact that even as they stand

the brief historical summaries are doubtless of great use to students "cramming" for Bar examinations—especially if those examinations are not as thorough and searching as legal examinations should be. That the English Bar examinations are open to criticism in this respect may be inferred from the recent address on legal education delivered by Lord Chief Justice Russell.

It seems reasonable to expect that Mr. White's little book will make for itself a place in the library of all law students. American students in particular will find it useful for the sake of its interesting outline of the existing British judicial system.

G. W. P.

THE ELEMENTS OF TORTS. By THOMAS M. COOLEY, LL.D.
Chicago: Callaghan & Co. 1895.

This latest legal labor of Dr. Cooley is a revised and selected edition of his larger book on the same subject, designed as a succinct statement of the elements of the law of torts for the use of students-at-law and instructors in law schools. The revision and selection have not been made in a perfunctory and careless manner, but seems to have secured the author's intelligent and judicious consideration. Compared with the last edition of the previous treatise, this work is, therefore, to be commended.

Regarded as an independent production, the present volume seems, on the whole, to deserve approval. The author writes with ease and clearness, formulates his statements of the law carefully and accurately, and gives adequate treatment to the various topics considered. Chapters deserving particular mention are: "Wrongs Affecting Personal Security;" "Slander and Libel;" "Injuries to Family Rights," and "Wrongs Affecting Personal Property." The presentation of some subjects, however, can hardly be said to be satisfactory. Among these are: The doctrine of natural and probable consequences; the remedies for torts; the doctrine of *Rylands v. Fletcher*; the malicious procurement of breach of contract; "Redress for Negligence," and "Evil Motive."

One would sometimes wish, too, that the author's opinion were more freely expressed, especially on controverted questions. Thus, in the discussion of the burden of proof of contributory negligence, he is content with a statement of the two divergent rules on this subject, each entertained by courts of respectability, namely, (a) that the plaintiff must *prima facie* disprove personal negligence as a condition precedent to his maintenance of the action; and (b) that contributory negligence is purely a matter of defence, the burden of proving which is on the defendant. The importance of this topic would seem to call for some critical discussion.

But the chief defect in the present volume seems to consist in the lack of a scientific distribution of the subject-matter. This is particularly unfortunate in a work designed for those to whom thorough analysis is so essential. Dr. Cooley appears to regard the law of

torts as comprising a collection of wrongs, with little or no necessary connection with one another and referable to no common principles. Nor does he draw any broad line of demarcation between those doctrines applicable to all torts and those peculiar to the various wrongs. "The Relation of Master and Servant" is interjected between chapters on "Wrongs in Confidential Relations" and "Nuisances;" while the chapter on "Evil Motive" is made to bring the book to a close. But it is not necessary to illustrate; a glance at the table of contents exhibits the author's conception of his subject. The reviewer cannot but regard any mode of treatment not based upon the law of torts as a system as unscientific and antiquated. It may not be possible in the present state of the development of the law and the knowledge of legal history to construct any complete analysis of the law of torts; but that a partial presentation of the subject, at least, can be made, seems clearly demonstrated from the labors of Sir Frederick Pollock and Dr. Bishop.

A noteworthy feature of the author's work is the unusual discrimination exercised in the selection of the cases cited. The late cases, particularly, seem to have been carefully examined and the most valuable of them incorporated into the work. The practice, too, of inserting cross references to the Lawyers' Reports Annotated and the Bancroft-Witney Series, is to be greatly commended. In England, it is unusual in modern treatises not to find cumulative references to the Law Reports, Law Times Reports and Law Journal Reports. It seems inevitable that in the United States any volume that aspires to a national circulation must contain cross references to the two above publications and the National Reporter System. It is to be regretted that cross references to the last-mentioned publication have been omitted from the present work. It comprises a body of reports in very general circulation, and it must be admitted that the author's omission has impaired somewhat the general usefulness of his labors.

T. J. M.

A COLLECTION OF CASES ON THE MEASURE OF DAMAGES. By JOSEPH HENRY BEALE, Jr., Assistant Professor of Law in Harvard University. Boston: Little, Brown & Co. 1895.

This collection of cases is a companion book to Mr. Arthur G. Sedgwick's treatise on the law of damages, both being published in the Students' Series, and is primarily designed for the use of students. But, in the preface, the author indulges the hope that it may also be found useful by the lawyer in active practice; and judging from the number, nature and classification of the cases which it contains, it seems well fitted to accomplish this two-fold object. While the classification is not exhaustive of the whole subject, it includes the topics of widest application and most fundamental importance; and the cases gathered under them are, in the main, sufficiently illustrative of the principles underlying the differ-