to the contract, and the absence of the usual stipulation against suicide might be some evidence of the existence of such an intention. By deciding that it is not, and that a provision against suicide will be implied, the court has determined the question in any case where the policy is silent upon the subject. But suppose that a provision were inserted in the policy that the risk was intended to extend to the event of self-destruction, then the question would assume a broader phase, and the courts would be called upon to decide whether the law would lend its sanction to the enforcement of such a contract, or whether it would not refuse to interfere on the ground that it is against public policy that any man should thus reap profit by his own wrong. It is submitted that the latter proposition might be made the basis of a decision against recovery in such a case, and that it would be equally applicable in the case under discussion. The English decisions seem to justify the adoption of such a rule.

In the case of *Amicable Society* v. *Ballard*, 25 Beav. 599, it was held that the assignees of one executed for forgery could not recover on a policy of insurance in his name, inasmuch as he had brought about the event insured against by his own felony; and it was there said that an express term in the contract insuring against death under such circumstances would have been unenforceable. In *Horn* v. *Anglo-Australian Ins. Co.*, 30 L. J. (N. S.) Ch. 510, Lord Hatherley cited this case and was of opinion, *obiter dictum*, that the same principles of public policy would apply to a case of felonious death by suicide. The opposition of public policy to the vesting of a right or conferring of a benefit by a felony has been carried beyond the party committing the felony in a late case in the Irish Court of Appeal, and it was held that a third person could not assert a right in law if its vesting was dependent upon the felony of another; *Agnew* v. *Belfast Banking Co.*, [1896] 2 I. R. It was there decided that a *donatio mortis causa* was not valid which was made in contemplation of death by suicide; that on principle a gift is void which is to take effect upon the commission of a felony by the giver. This rule seems to be sound, and if consistently applied would not only cover the cases of suicide already considered, where the estate of the insured attempts to recover on a policy, but would invalidate all recovery by others who were originally made the beneficiaries in the policy or acquired title to it by assignment from the insured. The felony of the latter would not be allowed to be the occasion of vesting any rights whatsoever, either by his own representatives or by third persons.

BOOK REVIEWS.

THE FRENCH LAW OF MARRIAGE, MARRIAGE CONTRACTS AND DIVORCE, AND THE CONFLICT OF LAW ARISING THEREFROM; BEING A SECOND EDITION OF "KELLY'S FRENCH LAW OF

MARRIAGE." Revised and Enlarged by OLIVER E. BODINGTON. London: Stevens & Sons, Limited. 1895.

There are two classes of readers to whom this little volume will naturally appeal: the one includes those who are in contemplation of marriage with a Frenchman, or, indeed, with a citizen of any continental country; and, on the other, every student of law who is interested in the comparative study of legal systems.

To the first class, the questions raised in this book are of first importance. Probably most people who take even a remote interest in international marriages are aware of the existence of certain impediments in the French law, but probably very few have any exact knowledge of the extent of the provisions of the French code. The important provisions are of a two-fold nature, viz., those relating to the performance of the marriage ceremony itself, and those relating to the property interests of the husband and wife after marriage. The usual evidence of a close logical analysis is found in the further subdivisions of the conditions of marriage, which are divided as follows: (1) Those that relate to the capacity of the parties, subdivided into (a) essential and (b) simply prohibitive; and, (2) those that relate to the formalities of the ceremony, which again are subdivided into (a) essential and (b) non-essential. The essential condition relating to the capacity of the parties, which deserves special mention, is that of consent of the parents or ascendants where the parties are under the age of twenty-five years; indeed, this may be regarded as the key-note of the entire French theory of marriage, for this paternal authority in a matter which, to one of Anglo-Saxon blood, seems most unnatural and excessive, is compensated by the indefeasible right of inheritance which the child possesses in his parents' estate, and the respective parties under this system of checks and balances occupy a relation not unlike that which is brought to our mind by the *patria potestas* of the Roman law. Still less in consonance with Anglo-Saxon notions is the idea that a man or woman of full age should be controlled in the choice of a spouse by the will of parents—and even of grand-parents; and the most striking illustration of the non-essential conditions, *i. e.*, the "respectful acts" which such person about to marry is obliged to serve upon his or her nearest ancestors, would probably be termed by most Americans "disrespectful acts," in view of the fact that the parties, after such service, are legally competent to proceed with the marriage in spite of any opposition on the part of the parties served.

Turning for a moment to the conditions relating to the ceremony itself, we note among the essential conditions, particularly, the celebration by the Mayor and the production to him of all the certificates of compliance with the requirements with reference to the capacity of the parties, and among the non-essential conditions, the publications required for a few weeks for the purpose of giving notice to any interested parties and the "oppositions"

which may be filed by such interested parties in case their rights have not been respected.

So far as their marriage laws affect their own citizens, Frenchmen may properly point to the long centuries of precedent for their own and analogous systems as a sufficient justification; but so far as they affect foreigners who are either temporary residents of France, or who, in their own countries, are marrying Frenchmen, the numerous hardships recorded in the French and English courts show clearly that the restrictions are too severe for ignorant persons brought unconsciously within the operation of the law, and we are not therefore surprised to find a further series of provisions in the code which, as interpreted by the courts, have given to those who in good faith contract marriages not in accordance with legal requirements, the advantages of a putative marriage. And yet while this remedy may seem entirely adequate to French notions, we imagine that many an English family has bitterly regarded the provisions by which a scheming French adventurer has been freed from his matrimonial bondage by the French courts, even upon entirely honorable terms, to his deserted English wife; and if this is true when the action to annul the marriage is brought by the husband himself, or by a public officer thereunto authorized, it is a thousand times more true when the action is brought by a presumptuous and mischief-making French parent, whose only objection to the marriage may be that he believes he has not received in the matter the respect due to his position.

It is characteristic, too, of French notions that there should be three or four distinct systems under which a husband and wife may hold property, so that the creditor of either is obliged to look to the records to determine what proportion of the joint assets is, in accordance with the ante-nuptial agreement, to be subject to the debts of either; any such inquiry, or, indeed, any such ante-nuptial agreement by which a sentimental idea of marriage is made entirely subordinate to the practical business considerations thereof, is entirely foreign to our ideas of propriety. We may make ante-nuptial agreements of this kind, though as matter of fact we do not often make them; but if we do, we see to it that they are not published abroad, and even under our present statutes, giving the widest property privileges to married women, we insist that the husband shall remain the head of the family and shall be primarily responsible for the family debts.

It is gratifying to observe in turning for a moment to the final chapter on Divorce that, however ineffectual in practice, the French law requires that the judge to whom the application is made shall devote his first efforts to reconciling the husband and wife. This provision is an indication of a real delicacy of feeling with respect to one of the most perplexing forms of litigation, as is also the further requirement, which we should do well to imitate, that all such proceedings shall be conducted privately and without any but the most formal newspaper reports.

The author closes his book proper with a short chapter entitled "A Critical Comparison of the French Law with Our Own." His rather unusual position as an American lawyer, practicing in Paris, has enabled him to take an impartial view of this question, and his comparison, if brief, at least seems to cover the most important points of difference quite suggestively. Probably, however, the American lawyer will not follow him in his preference of codification in general with which the chapter concludes; we are not certain that a volume which contains so many conflicting decisions of the French courts and which presents in a small space an unusually complicated set of cases in the domain of private international law, is the best basis upon which to found an argument in favor of a code.

The latter half of the book is devoted to a citation, verbatim, of the more important provisions of the French civil code in French and English in parallel columns, and the volume concludes with a few forms of certificates, which would doubtless prove useful to the practitioner under the French law.

Reynolds D. Brown.

A TREATISE ON THE LAW OF DIVORCE AND ANNULMENT OF MARRIAGE, INCLUDING THE ADJUSTMENT OF PROPERTY RIGHTS UPON DIVORCE, THE PROCEDURE IN SUITS FOR DIVORCE, AND THE VALIDITY AND EXTRA-TERRITORIAL EFFECT OF DECREES OF DIVORCE. By WILLIAM T. NELSON, of the Omaha Bar. Two Volumes. Chicago: Callaghan & Co. 1895.

The rapid increase in the number of applications for divorce, and the dangerous facility with which the dissolution of the marriage tie can be effected in many jurisdictions, renders this subject one of great and evergrowing interest from every point of view. In its legal aspect alone, the fact of divorce gives rise to a number of collateral questions, which frequently involve property rights of great value; and as the decisions of the different courts on these questions are by no means uniform or consistent, (rather, are often irreconciliable on any known principle,) there is an imperative demand for a clear and concise statement of the law governing them, as deduced from fixed principles, and of the errors into which judges have at times fallen, by disregarding the principles which should have been applied. This has been frequently attempted by authors whose works on this subject have been long and favorably known; but there are many matters still in doubt, to the final determination of which the author of this work has addressed himself with a degree of success which, though perhaps not quite equal to his desire, has at least given a lasting value to the fruit of his labor.

At the beginning of his work Mr. Nelson casts off the moorings with which others have vainly endeavored to bind the modern law of divorce *a vinculo* to the old ecclesiastical doctrines of divorce by

separation of the persons, and points out clearly the essential difference between the two; and thereafter confines himself to the dissolution of the marriage bond, and its resultant effects on the parties and their property. This rids us of a vast deal of obsolete learning, which, in earlier treatises, only served to confuse, and creates a stronger confidence in the legal acumen of the author.

The jurisdiction of the courts in suits for divorce as based on the domicile of the parties is very satisfactorily treated, as is also the subject of causes for divorce, particularly that of desertion. The discussion of the various acts which will constitute desertion calls for special commendation; for in no other work is it so logical, clear and complete as in this. The same may with equal truth be said of the chapters which treat of the question of cruelty. Another admirable feature of the work is the treatment of the subject of practice in divorce cases, one which, owing to its many peculiarities, needs much fuller discussion than is accorded it by others. In fact, there is but little improvement to suggest except that in another edition more space should be given to the chapter which deals with decrees in divorce. The present chapter on that subject might be expanded with advantage.

There is one other feature deserving of notice, and that is, that the author is not hampered by self-constituted authority. If his judgment does not approve of that which has been decided by the courts, or been expressed by other authors, he does not hesitate to say so; and gives the reasons for his own opinion, in language that is in many cases convincing.

There is one blemish, however, that Mr. Nelson might have avoided. He accepts the definition of the courts that marriage is a status; and then proceeds on that basis to prove that a suit against a non-resident defendant is a proceeding *in rem*. This he does by deduction from the nature of the proceedings, which are based upon the very doctrine he is attempting to demonstrate. It would be hard to find a prettier example of reasoning in a circle.

Ardemus Stewart.

THE PRINCIPLES OF THE ENGLISH LAW OF CONTRACT AND OF AGENCY IN ITS RELATION TO CONTRACT. By SIR WILLIAM R. ANSON, Bart, D. C. L. Eighth Edition. First American Copyright Edition, with Notes. By ERNEST W. HUFFCUT, Professor in Cornell University Law School. New York and London: Macmillan & Co. 1896.

It is with no small degree of pleasure that the writer avails himself of the opportunity afforded, of expressing with no uncertain sound the highest commendation of this invaluable work of Mr. Anson. It is to-day universally recognized as a model text-book and stands high in the esteem of the many students who have derived from it the foundation of their knowledge of the law of contracts. To have so successfully compressed in the small com-

pass of less than five hundred pages a complete exposition of the principles which govern the contractual obligation from its beginning to its end, to have shown how a contract is made, what is necessary to make it binding, whom it may affect, how it may be interpreted, and how it may be discharged, was to accomplish a task, which, we venture to assert, has not been equally well done in any other branch of the law.

But of necessity, since it is an English work the American student naturally desires annotations of the cases of his own country, and it is matter of congratulation to us that in this present edition we have them from a man of no less reputation and experience than Professor Huffcut. He has recognized the fact that the original text was not intended to be a digest of cases but a concise exposition of legal principles, and has therefore cited but few, and yet the most important cases.

The book has already made for itself a reputation and with this present American edition it cannot but continue to grow in favor with law students of this country. *B. F. P.*

A TREATISE ON EXTRAORDINARY LEGAL REMEDIES, EMBRACING MANDAMUS, QUO WARRANTO AND PROHIBITION. By JAMES L. HIGH. Third Edition. Chicago: Callahan & Co. 1896.

The first edition of this work was published in 1874, the second in 1884, and now, twelve years later, we have the third edition. In this interval there have appeared, Mr. High states in the preface, nearly twelve hundred decisions upon the topics of which he treats, thus necessitating "a thorough revision of the entire work."

The plan upon which Mr. High proceeds in this work is to state the principles which he has gathered from the decisions, at the beginning of each chapter and subdivision, and then to illustrate and support such principles by statements of actual decisions digested from the cases. This, for example, the headings for the first division of the second chapter will illustrate. Almost every separate section exhibits the same method: they begin with a statement of a principle, they end with an abstract of the cases illustrating it.

The labor expended has evidently been painstaking, thorough and able. There has been no attempt to collect and state a vast number of cases, with a superficial and indefinite statement of the conclusions to be drawn therefrom. On the contrary, it is evident that Mr. High has first mastered the principles upon the subjects of which he treats, and then has stated those principles clearly and exactly. We have, therefore, his conclusions and cases illustrative of their meaning; we are not shown the processes of reasoning by which he arrived at them.

With these facts concerning the work in one's mind, it is interesting to note just what have been the changes made in the second and third editions. Two thousand decisions have, as Mr. High states, been rendered since the first edition. This number is

greater than the total number of decisions considered in that first edition; yet the changes in the statement of the principles are almost none. Large additions have been made to the portions containing abstract of cases, made to serve as illustrations, and it is in this respect only (excepting an improvement in the already full and well-arranged index) that the second and third editions differ from the first.

The explanation of this fact is, either that Mr. High did his work so well that his conclusions have stood without modification or need of re-statement the test of over twenty years' development of the law, or that his method, and consequently the present work in its third edition, lack in flexibility. One may venture to think that these two explanations are each partially applicable, although it is true that in the law on procedure one may expect to meet with less material changes (apart from statutory enactments) than in the substantive law.

Charles H. Burr, Jr.

A Treatise on Disputed Handwriting and the Determination of Genuine From Forged Signatures. By William E. Hagan, Expert in Handwriting. New York and Albany: Banks & Bros. 1894.

The purpose of this treatise is to prepare the practicing lawyer to try any case in which questions arise as to the genuineness of handwriting, age of documents, etc. It is a volume of about three hundred pages, divided into an introduction and nine chapters. The writer undertakes to demonstrate that to detect really clever forgery microscopic tests are needed, and that, owing to the muscular co-ordination peculiar to each individual, such tests infallibly reveal the true writer. He has shown how these personal characteristics are disclosed and the method of analysis used to detect and prove them. The seventh chapter deals with lead pencil writing and the succeeding one with the various kinds of ink that have been and are in use, showing how they are affected by time, moisture, etc., and the manner of testing them. Sixty-eight pages are devoted to *causes célèbres* in which the principles and experiments discussed by the author were applied. The book contains much valuable information and seems well adapted to its purpose. The style, however, is diffuse and often inaccurate, and it is to be regretted that the writer has indulged in so much repetition.

A. G. D.

A Digest of Insurance Cases. Vol. VIII. By John A. Finch, of the Indianapolis Bar. Indianapolis and Kansas City: The Bowen-Merrill Co. 1896.

This volume contains the epitome of some 702 cases affecting insurance companies and their contracts, decided during the year ending October 31, 1895. The cases have been separated by the