

nor, by reason of secret defect, unfit for the purpose for which it was leased: *Hanson v. Beckwith*, 37 Atl. 702 (June 29, 1897).

The cases have been uniform on this subject in holding the lessor not liable to third persons where the demised premises have been exclusively in the control of the lessee and the lessor is not expressly bound by the lease to repair: *Szathmary v. Adams*, 44 N. E. 124 (Mass. 1896); *Glass v. Colman*, 45 Pac. 310 (Wash. 1896); *Kirby v. Association*, 14 Gray (Mass.) 249, 1859; *Inhabitants of Milford v. Holbrook*, 9 Allen, (Mass.) 17; *Gordon v. Peltzer*, 56 Mo. App. 599 (1895); *Lee v. McLaughlin*, 30 Atl. 65 (Me. 1895). But where the lessor retains control, or maintains a portion of the premises for the use of several lessees, he is liable to strangers for injuries received on such portion: *Malloy v. New York Real Estate Association*, 34 N. Y. Supp. 679 (1895); *Davis v. Pacific Power Co.*, 40 Pac. 950 (Cal. 1895); *Markin v. Crumbie*, 35 N. Y. Supp. 1027 (1896). If the defect in the premises amounts to a nuisance and existed at the time the premises were let, the lessor can be held, although the tenant may also be liable to the person injured. This is on the ground that the lessor is taken to have contemplated the premises remaining in the condition in which he let them: *Clifford v. Atlantic Cotton Mills*, 15 N. E. 84 (Mass. 1888); *Dalay v. Savage*, 145 Mass. 38 (1887); *Tood v. Flight*, 9 C. B. (N. S.) 377 (1860); *Swords v. Edgar*, 59 N. Y. 28 (1874); *Joyce v. Martin*, 10 Atl. 620 (R. I. 1887). The lessor is also liable if the premises were not safe or fit for the purposes for which they were let: *Carson v. Godley*, 26 Pa. St. 111 (1856).

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## BOOK REVIEWS.

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GENERAL DIGEST AMERICAN AND ENGLISH QUARTERLY ADVANCE SHEETS. No. 3, to April, 1897. Rochester, N. Y.: Lawyers' Co-operative Publishing Co.

This instalment of the General Digest, like all those recently preceding it, displays painstaking accuracy and complete comprehensiveness. The Lawyers' Co-operative Co. seem to have mastered thoroughly the difficult art of digest-making.

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AMERICAN ELECTRICAL CASES. Edited by WILLIAM W. MORRILL.. Vol. VI. Albany: Matthew Bender. 1897.

The series to which this volume belongs represents a collection of judicial decisions (other than patent causes) dealing with problems arising from the practical use of electricity. This volume, like its predecessors, contains a number of cases reported in full and a series of notes or annotations in which other reported decisions are summarized. The volume is provided with an exhaustive index, printed in two sizes of type, and cannot fail to be useful to the practitioner in search of authorities for his brief. It

is, of course, inevitable that cases collected together upon the basis of a purely objective classification should cover a wide range of legal topics, many of which have no exclusive connection with the subject-matter of the collection. It would be idle to criticise the collection upon this ground, for such a criticism would strike at the very root of the work and, if valid, would amount to a sweeping condemnation of the publication. That such a collection of cases has a practical value is undoubted. It is conceived, however, that the editor should endeavor to exclude from his collection cases in which it is a mere accident that the question under discussion arose in connection with the use of electricity. This is especially true in regard to the numerous cases which deal with problems in the law of negligence where electric car companies are defendants. Take, for example, the decision in *Mullen v. Springfield Railroad Co.* (page 492; also summarized on page 610). This decision is authority for the proposition that the motorman on an electric car "is not bound to anticipate that boy will jump from rear end of wagon about to meet car and step on track in front of car." It is conceived that the same measure of foresight in respect of the movements of small boys would be applicable in the case of a gripman on a cable car or of a driver on a horse car. It may be well to venture the further suggestion that the usefulness of the volume would be increased if it were preceded by some form of analysis or table of contents which would exhibit to the eye of the reader the subjects discussed in the cases and the theory upon which the sequence of the cases and their arrangement in the volume are determined.

G. W. P.

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COMMENTARIES ON THE LAWS OF ENGLAND. By SIR WM. BLACKSTONE. Edited by WM. DRAPER LEWIS, Ph.D., Dean of Dept. of Law, University of Pennsylvania. Philadelphia: Rees Welsh & Co. 1897.

In the preface to this the latest and undoubtedly the best of all the editions of the Commentaries we read that "it is the purpose of the editor to accomplish in the notes certain things not heretofore attempted." It requires only a cursory glance at the work to be assured that this purpose has been thoroughly and carefully accomplished, for it abounds in features as useful as they are novel. Four sources of materials have been used by the editor in its preparation. First, the published results of modern research into the history of our law, such as the works of Maine, of Pollock and Maitland, and Vinogradoff. Second, the statutes in England and America which modify the statements made in the text. Third, the works of predecessors. Fourth, the cases decided and the text-books published since Blackstone's day, which have referred to him as authority. It can readily be seen that a thorough investigation of all these materials involved an immense amount of work,

and that if carefully done, it could not fail to be of immense practical use to lawyer and student alike.

There is room, however, for considerable difference of opinion as to whether in a work on the elementary principles of English law a profusion of notes is any great advantage. They are many who think the best results are obtained by having the student read the text of a work like Blackstone exclusive of editor's notes. Dr. Lewis, however, has written his work with a definite purpose clearly in mind, and, however much critics may differ as to the merits of that purpose, all must be agreed that he has certainly succeeded in producing "a mine of references to which one can turn when in search of information on any given point of law."

In many of the previous editions of Blackstone, there is plainly discernible a tendency to digest modern law with Blackstone as a sort of basis, but Dr. Lewis uses the notes as they should be used, for the purpose of elucidating the text, which it is well to note is in its unabridged form. In addition to his own notes he has selected the best from the editions of Archbold, Kerr, Christian, Coleridge, Chitty, Stewart, Sharswood and others, and has also cited every text-book and every case in which Blackstone has been referred to. He has thus accomplished the double purpose of combining his own thoughts with those of his predecessors thereby throwing much light on the text, and of giving us a many sided view of the law in its successive stages of development since Blackstone's time, thereby making his work thoroughly practical and eminently a book of to-day.

Still another feature of Lewis' edition, which is sure to find favor with many, is the translation into English of all the foreign phrases which occur so frequently throughout the commentaries, and the placing of them at the foot of the corresponding page of the text. Everything in the way of indexes, tables of cases cited, of foreign words and phrases is in its appropriate place. Baron Field's analysis, so valuable as a reference to the commentaries, is given complete.

Nothing, perhaps, serves better to show the estimation in which Blackstone is held than the numerous editions of his works which from time to time have been given to the world by men prominent in the profession. It has been said that what the *Principia* of Sir Isaac Newton was to natural philosophy, that the Commentaries of Blackstone have been to English law. They are indeed immortal. Each new edition gives them a new garb, and Dr. Lewis' work certainly adapts them more completely to present use. It will deservedly attain a high popularity with student, judge and practitioner.

J. A. M.

THE LAW OF SALES OF PERSONAL PROPERTY. By FRANCIS M. BURDICK, Dwight Professor of Law in Columbia University School of Law. Boston: Little, Brown & Co. 1897.

This volume constitutes the latest contribution to the "Students'

Series" of Little, Brown & Co. It is particularly adapted to the needs of students, not only by reason of the design and scope of the series of which it forms a part, but also because of Professor Burdick's experience in teaching, and his attempt in the present volume to overcome the difficulties most frequently encountered by students in the class-room. From this it results that all matters which belong properly to the field of pure contract or of tort, such as consideration, capacity of parties, mutual assent, illegality and fraud, are excluded, the student being supposed to have mastered them.

The book may be said to be rather an outline than a full and exhaustive treatise on the law of sales in all its ramifications. Yet the book suffers none on this account. The different views taken in different jurisdictions are succinctly indicated and the theories which go to support them advanced and discussed. In fact, the most noteworthy and commendable feature of the work is this same scholarly attempt to reconcile the present state of the law with its development and with the principles and theory of the English law. Professor Burdick has not devoted two-thirds of every page to citations, but he has selected a limited number of the leading cases, representative and illustrative of principles. Thus, though the book is not a digest of all the decisions, it is far from useless to the active practitioner, for it clearly presents the theory of the law of sales, illustrated and reinforced by the best of the cases.

A novel feature is the treatment of the provisions of the Statute of Frauds, bearing upon the sale of goods, in connection with the common-law topics to which respectively they relate. It is believed that this method will conduce to simplicity and ease of apprehension on the part of the student. The appendixes contain a sketch of the Continental legislation on the subject of sales, a copy of the English Sale of Goods Act, an outline of the legislation of the various states of this country and a valuable essay on "Judicial Interpretation of Factors' Acts." The book is printed and bound in the best style of the printer's art and is of a very neat appearance and handy size.

*O. J. R.*