

BOOK REVIEWS.

WIT AND HUMOR OF BENCH AND BAR. By MARSHALL BROWN.
Chicago: T. H. Flood & Co. 1899.

In spite of the powerful rule of Mr. Dryasdust in courts of law it sometimes happens that successful revolts are made against his tyrannical power. Native wit can never be wholly stifled even by the musty odor of ancient parchments, and it often breaks forth to relieve the tedium of trials at law. It has been Mr. Brown's happy function to collect many of the choicest specimens of forensic cleverness when severed from purely legal things. He has gathered together for our amusement and pleasure many delightful anecdotes and witty sayings of lawyers and judges. Those lawyers who desire a refreshing book after a hard day's work will hail with laughter this motley jester among the sad colored law books. To those not conversant with the law it would, perhaps, not prove so attractive, as it has been observed that *legal jokes*—for lack of a better term—do not appeal to the lay world. Altogether the book in question is worthy of a place in any library.

E. B. S., Jr.

RODGERS ON DOMESTIC RELATIONS. Chicago: T. H. Flood & Co. 1899.

This is one of the most complete text books on the subject which has ever been written. The author treats the general subject in an exhaustive but at the same time concise manner, subdividing the main topic into the relations that exist: (1) between Husband and Wife, and, beginning with the marriage, shows the right which each acquires in the other's property, and the duties imposed on them; (2) between Parent and Child, under which head he treats concerning the custody of children, infancy, and illegitimate children; (3) between Master and Servant, and (4) between Guardian and Ward. He has not only written in an easy consecutive style, but he furnishes us with a complete, accurate and extremely useful work on the subject. He supports his statements in each instance by a host of authorities which he brings down to date. He states not only the common-law rule but the ways and instances in which it has been affected or altered by statutory changes. The book will prove a practical, useful and reliable source of information to all busy practitioners who desire an answer to a problem and have little time to explore digests.

J. B. C., 3d.

CIVIL PROCEDURE AT COMMON LAW. By ALEXANDER MARTIN,
LL. D. Boston: Boston Book Co. 1899.

Although the majority of jurisdictions in the United States, as well as England, have abandoned the strict system of common law

procedure for either code procedure or a modification of that of the common law, the great majority of lawyers realize that a thorough general knowledge of the old common law system is essential for the thorough training of every practitioner. It is with this idea in mind that Dr. Martin has written this work.

There is a feature in this work that calls for the reader's praise. There are present everywhere in the book the plainest marks of long and careful preparation—something not as common as is desirable in these days of rapid work in every line. As Dean of the Law School of the University of Missouri and as lecturer in code, common law and equity procedure, the author has had a rare opportunity to prepare an admirably arranged and carefully considered work. While the work deals with all the stages of procedure from the issuing of the initial writ to the granting of execution, the major portion of the work is devoted to a description of the nature of the various causes of action and the general law of pleading. There are two especially interesting and exhaustive chapters—those upon the nature of the action of *assumpsit* and trespass on the case respectively.

As to the advantages and disadvantages of the various reforms in common law pleading, the author admits that the old system became impracticable as the business transactions of the community became more complex; but he still regards the present system as being a great distance from what is to be desired. But it is to be borne in mind that it is a question very difficult of solution how to have both the clear-cut issue of the common law pleadings and the admission of all the grounds of action and defence, which is called for by the progress of the courts of equity. *E. W. K.*

HANDBOOK ON THE LAW OF NEGLIGENCE. By MORTON BARROWS. St. Paul, Minn.: West Publishing Co. 1900.

The increase of civilization is marked as much by the increased production and use of labor-saving machinery as by anything else. This applies principally to manufactories and railroads, and it is with these that the great mass of the people are to-day chiefly concerned. Everything mechanical must be guided by some sentient, reasonable being, with a greater or less degree of care. It is because of lack of this care on the part of the operators of these machines, and also because of carelessness, bred by familiarity, on the part of those who come in contact in a non-professional way with things mechanical, that our courts to-day are flooded with cases of personal injuries resulting from negligence. It is a matter of pleasure to one interested in the progress of the law to see that this flood by no means threatens disaster, but will be productive of much good by running through well-defined legal channels. And this because the difficulty never was to be found in enunciating the principle, but in the application of that principle, however carefully laid down, to a more or less complicated state of facts.

At such a time the appearance of such a work as Mr. Barrows'

will be welcomed alike by bench and bar. It possesses the merit, in common with the rest of the valuable Horn-Book series, of originality of arrangement and clearness of expression. Anything that has any possible bearing on the law of negligence has been brought in by the indefatigable author. Carriers of goods and the liability of a master are given not undue space, and we are glad to see that a chapter has been devoted to the negligence of municipal corporations, although more space might be given to quasi-municipal corporations.

If we must criticise, we think a separate chapter might be given to the duty to insure safety. Moreover, the defence of contributory negligence has more to do with the decision of these cases than any other claim or defence, and additional space devoted to it would not be amiss. We also notice that no distinction is made between 81 Pa. and 81* Pa.; this is to be regretted, as the former has all the weight of the duly authorized reports of our State, while the latter has been justly termed a somewhat apocryphal volume. When this and other minor errors are corrected, we feel sure that every lawyer in active practice would be well repaid in having this work on his desk.

J. M. D.

THE LAW OF ANIMALS. By J. H. INGHAM, of the Philadelphia Bar. T. & J. W. Johnson & Co., Philadelphia. 1900.

A very interesting and, we believe, a unique volume has just been published in Mr. Ingham's *Law of Animals*. What the author says in his preface is so true and so well expressed that we quote it at length: "There is, in the author's opinion, natural cause for wonder why, at a time when of making many law-books there is no end, the large and important subject exploited in the present volume has been almost wholly disregarded. For just as the law of real property differs from that of personal property as dealing with what is immovable and indestructible, so the law of animate differs from that of inanimate property as dealing with powers of consciousness, volition and reproduction and liability to suffering and death—a distinction far more significant in science and philosophy, however it may be in jurisprudence, than that existing in the former case. As a matter of fact, these powers and liabilities in animal life form the basis of an elaborate system of rights and responsibilities which may be termed with perfect propriety the *Law of Animals*. The elements of this law have, hitherto, lain more or less concealed in numberless statutes, reports, digest and text-books. Hardly an index of any scope can be found in which the title '*Animals*' does not occur, accompanied by various cross references. And yet, so far as the present writer has been able to ascertain, no effort has ever been made to work these scattered elements into an organic structure. It is hoped, therefore, that this treatise may serve to the accomplishment of such an end. It must be premised that, animals being personal property, the whole law governing such property is applicable of course to them, but it is only such particular portions of that law

as relate distinctly to their peculiar qualities that can be called, with any technical accuracy, the Law of Animals. Matters unconnected with their natures, dispositions and habits, their liability to injure and be injured—which concern them and all other subjects of property alike—are not discussed here. With regard to the method of treatment adopted, it has been the object of the author to let the cases speak as much as possible for themselves—in other words to give, as far as is consistent with reasonable brevity, the facts and grounds of decision in all the more important cases rather than to furnish long lists of cases to support general legal propositions.”

The writer has been most happy in the general arrangement of his subject matter as well as in his style, which is clear and pleasing. It is refreshing to find a law-book of really literary merit. Not since the publication of Pollock's treatise on the law of Torts have we found one more easy to read. The reason is that text-book writers are lawyers first and rhetoricians afterwards. The same thing might be said of judges whose opinions are so frequently overburdened with learning and “latent ambiguities,” that what they really mean to say is largely a matter of speculation. Just as the Commentaries of Sir William Blackstone were the first coherent elucidation of the law of England, so is Mr. Ingham's book the first systematic treatment of the law of animals. To be sure one treats of many subjects and the other of but a single subject. However, both are pioneers in what was hitherto a more or less unknown country. The maps that have been prepared for us will vastly facilitate our journeys over both fields.

In short, Mr. Ingham's book is likely to become a standard work. He starts under favorable auspices—even the proof-readers seem to have been unusually industrious, as there is a notable absence of the typographical errors which so greatly mar legal compositions. We hope the book will meet with the success it deserves.

E. B. S., Jr.