

Under existing circumstances, the rules of equity may, on motion, permit his name to be stricken out of the bill, and the majority of the receivers to proceed. See R. S., ch. 1, sec. 4, clause 3. But, at present, for that cause the bill is defective and the demurrer sustained.

Hathaway and *Rowe*, for complainants.

Peters, for respondents.

NOTICES OF NEW BOOKS.

A TREATISE ON THE CRIMINAL LAW OF THE UNITED STATES, comprising a General View of the Criminal Jurisprudence of the Common and Civil Law, and a Digest of the Penal Statutes of the General Government, and of Massachusetts, New York, Pennsylvania, Virginia, and Ohio; with the Decisions on Cases arising upon those Statutes. By FRANCIS WHARTON, author of "Precedents of Indictments and Pleas," "Medical Jurisprudence," "American Law of Homicide," etc. Fifth and revised edition. In two volumes. Philadelphia: KAY & BROTHER, 19 South Sixth street, Law Booksellers, Publishers, and Importers. 1861.

We are called again to notice a new and much-expanded edition of the principal and certainly the best American text-book on criminal law. Everywhere throughout our extended country the criminal law is a continual and most important part of the administration of justice. In all communities the penal code demands and receives a prominent place. And few books have met or deserved more favor from the bar than Mr. Wharton's accurate and copious treatise. Wherever criminal jurisprudence is to be administered, (and where is it not a necessity of social life?) these volumes must find readers.

The learning contained in this work can be gathered only from an immense number of text-books, and from cases scattered throughout the Federal reports, and the numerous and increasing volumes of the State reports, and from the English reports and Crown cases. Few libraries contain them all, few digests contain even a reference whereby they may be found, and fewer professional men could devote the time, the learning, and the toil requisite to gather them together, in order to apply them to the cases as they start forth in daily life. "It is to meet this want," says the learned author, in his preface to the first edition in 1846, "that the following work is designed. To give in every instance a complete and

circumstantial report of the English cases, it does not pretend. In the treatises of Mr. Chitty, of Mr. Archbold, and, more particularly, in the late comprehensive commentary of Sir William Russell, the cases are presented with much minuteness and at great length; and it would be trespassing too much on the time and patience of the profession to do more than to give full abstracts of such as bear upon our system, citing in notes those which are more collateral and less important. While preparing this portion of the work, I did not hesitate to avail myself of the English text books, containing, as they do, the settled views of the English profession; and I take this opportunity of mentioning my acknowledgments more particularly to Mr. Archbold's Treatise on Pleading and Evidence, the plan of which I have to a certain extent followed; and to the late elaborate edition of Burn's Justice, published by Mr. T. Chitty and Mr. Commissioner Bere, from which, as the most thorough digest of Criminal Law in use, I have repeatedly drawn cases which the reports either do not give at all, or give but imperfectly. In collecting the American authorities, I have carefully searched the reports of each State down to the present time, considering and citing each case under two separate heads: first, in reference to indictments, evidence, and practice, generally; and, secondly, in reference to the particular offence with which it is connected. In the consideration of the latter branch of the subject, I have assigned a chapter to each offence, giving, in the first place, in full the statutes of Massachusetts, New York, Pennsylvania, and Virginia, and of the United States, relating to it; secondly, the interpretation attached to those statutes by the Courts by whom they are carried into effect; and, thirdly, the common law authorities, both English and American, by which it is governed."

The plan of this work is this: Book I. treats of the indictment generally, and under this book will be found clearly set forth, by chapter and numbered sections, what persons may be indicted, principal and accessory; in what courts indictments are cognizable; the form of indictments; the finding of indictments by grand juries; nolle prosequi; motion to quash, demurrer, and pleas. Book II. discusses the evidence on the trial; what must be proved; method of proof and witnesses. Book III. treats of the preparation of this evidence in the various classes of offences. Book IV. is devoted to a very ample discussion of the offences against the person. This book is, perhaps, the most interesting part of the work; the chapter on homicide is very full and comprehensive, containing all the cases carefully stated, and the points and principles given. These four books constitute the first volume.

The second volume, commencing with Book V., treats of offences against property, as forgery, burglary, arson, robbery, larceny, receiving stolen goods, embezzlement, malicious mischief, forcible entry and detainer, cheats, and fraudulent insolvency. Book VI. embraces offences against society, and is subdivided into sixteen chapters. Book VII. is devoted to crimes against the Government, and has an elaborate chapter on treason. Book VIII. treats of offences on the high seas. Book IX., and last, discusses the highly-important subject of the trial and its incidents.

The labors of Mr. Wharton in criminal jurisprudence have been of the most extended character. In addition to the work now under review, he has also prepared the best volume of Precedents of Indictments and Pleas, adapted to the use of the courts of the United States, and of the several States; and, in conjunction with Dr. Stille, he has also given to the profession the most valuable and the most elaborate treatise on Medical Jurisprudence to be found in our language, enriched by all the learning of the most recent Continental jurists, especially those of France and Germany. In 1855, he also published a Treatise on Homicide, which has met with professional favor. Thus, the illustrations of criminal jurisprudence have been the labors of Mr. Wharton for many years, and the fruits of those continued and most assiduous toils are now before the profession. They have received the warmest commendations from judges on the bench, from the prosecutors of the pleas at the bar, from counsel at the trial of criminal issues, from English and Continental jurists and scholars, and from every class of students whose studies have led them to consider the important subject of crime in its varied relations to human society.

REPORTS OF CASES IN LAW AND EQUITY, determined in the Supreme Court of the State of Iowa. By THOMAS F. WITHROW, Reporter. Volume second, being volume tenth of the series. Des Moines: Publishing House of MILLS BROTHERS. 1861.

The State of Iowa cannot complain of any want of diligence on the part of her present efficient and able reporter. In the March number of this Journal we noticed the first volume of his labors, and we are now called upon to notice this second volume. The reporter's preface explains the reason of this diligence. He tells us: "When the present reporter entered upon the discharge of his duties, in July, 1860, the material for twelve hundred printed pages (including a portion of the opinions filed

at the June term, 1859, and all of those filed at the December term, 1859, and June term, 1860,) had accumulated on the files of the court. The early publication of these unreported opinions was deemed of the first importance by the profession. It could be accomplished, however, within the restriction provided by law, as to the number of volumes to be published annually, only by the exercise of a rigid economy as to space. It has, therefore, been the object of the reporter to make the head notes as brief as was compatible with clear statements of the propositions decided in the opinions of the Court. In the preparation of the reports of arguments of counsel in cases in which but a single question is presented and determined in the opinion filed, statements of the authorities have been deemed sufficient. In cases submitted on oral argument or on written arguments, in which no authorities are cited, the names of counsel only are stated. It is hoped that in future volumes more space may be consistently given to the arguments of counsel. It will ever be the purpose, however, to make statements of propositions suggested and authorities cited as brief as practicable. This extraordinary accumulation of unreported cases has induced the reporter to present in the form of abstracts in the appendix at the end of the volume many cases which are merely cumulative in their character, or in which oral or informal opinions only were delivered by the Court. In almost every case the statement of the propositions decided is given in the language of the Court. A table, alphabetically arranged, of all cases heretofore determined in the Supreme Court of this State, which are cited, explained, or followed in the opinions reported in this volume, may be found in the index. Also, a table of the statutes of this State cited, referred to, or construed, in which the sections of the code of 1851, and of the revision of 1860, are numerically arranged."

The commendations bestowed on Mr. Withrow's first volume may, with equal truth, be given to this. Indeed, there is an improvement in the exactitude and succinctness with which he states his points and the arguments of counsel.

The table of cases already determined in Iowa, which the Court cite, explain, or follow, must be very useful to the bar. Mr. Linn has accomplished for us in Pennsylvania much the same kind of labor, and all who have used his book has felt its value. In this second volume of Mr. Withrow, the table embraces one hundred and twenty-five references. A knowledge of how far the judicial determinations already made have been followed or departed from, is of the first importance to the practitioner. It is

a kind of knowledge which he must have to be either a competent or safe adviser. And this table furnishes to the Iowa bar this very information.

We have marked one or two cases reported in this volume for our own pages, as possessing a general and permanent interest, and which we can present to our readers somewhat earlier than they would otherwise receive them in the regular course of the distribution of the volume.

THE EQUITY DRAFTSMAN; being a selection of forms of pleadings in suits in equity.

Originally compiled by F. M. VAN HEYTHUYSEN, Esq., Barrister-at-Law. Revised and enlarged, with numerous additional forms and practical notes, by EDWARD HUGHES, Esq., of Lincoln's Inn, Barrister-at-Law. Fourth American from the last London edition. With copious notes, and references to American cases, by a Member of the Philadelphia Bar. Philadelphia: H. P. & R. H. Small, Law Booksellers and Publishers, No. 21 South Sixth street. 1861.

This Equity Draftsman hardly seems to require anything more than a mere notice of its publication. It has been many years in the hands of the practitioners, both here and in England, and the forms are all well approved. It contains nearly all the varieties in use for all the ordinary purposes of the draftsman.

The notes are of a character which will aid the pleader, by giving him the very latest decisions in the various States, and point out to him the differences, where any exist, between the English and our own practice. In Pennsylvania, this volume will be especially useful, as our equity jurisdiction is of recent adoption, and we have our equity forms to mould and adapt to our wants. We commend the Equity Draftsman to all equity pleaders, as a safe and valuable guide.