

A COURSE OF LEGAL STUDY; respectfully addressed to the Students of Law in the United States. By DAVID HOFFMAN, Professor of Law in the University of Maryland. Baltimore: published by Coale and Maxwell. 1817. 8vo. p. p. 383.

It is an object of very general importance to society, that the attainment of science should be assisted by every facility. Learning becomes more valuable, as it is more widely diffused; and it is more likely to be enriched by further discovery, when that which is already known, is most easily communicated. He, therefore, who removes all obstructions from the channel of investigation, who but uses the light of others to irradiate the dark recesses of its course, who devotes his time to the useful disposition of those substances which, floating at hazard across the stream, would but impede the onward movement of the explorer, if he does not gain for himself the permanent renown of an able artificer, is certainly entitled to the approbation of all who profit by his labours. Preeminent genius may work its way without him, it is the pride and characteristick of its nature, to depend upon itself for the prosperity of its enterprises. But he who

by an extraordinary aptitude, who expects to obtain celebrity by the painful steadiness of unremitting exercise, will have cause to rejoice at every period of his progress in the benevolent consideration of the traveller who preceded him.

If this remark have any weight in reference to Science in general, its application to the science of Municipal **Law** is particularly appropriate. A science indebted for its origin, to the necessities of mankind, acquiring bulk and substance from the frequent accident of unforeseen emergencies, assuming a shape and proportion only under the discriminating care of its most distinguished luminaries; it must necessarily vary with the varying tempers of ages and nations, and present to the eye of the untaught observer, an intricate and impervious mass of unintelligible combinations. This chequered character is still further confirmed by the difficulty of establishing at once an immutable system entirely adequate to the purposes for which it was designed. The internal **law** of every country, gains solidity in the course of experiment. Its benefits are extracted from a personal conviction of the evils of a more defective system. The period of suffering is often protracted until the inveteracy of prejudice is subdued, before new alternations are tried to remove the inconveniences of the time. It is the offspring of the restless and ever changing political wants of society, determined by no unavoidable necessity to be what it is, but wholly so from the arbitrary choice of the legislator, directed by considerations of publick expedience, and governed in its creation by a few easily understood principles of reason, denominated the **Law** of Nature. From all which it would be impossible that it should not admit of great latitude of construction, and an almost endless perplexity of doubt.

The English Common **Law** more than that of any other nation is impressed with this character. While it manifests an attentive and liberal desire to profit by the improvements of the present day, it is singularly tenacious in its adherence to the maxims of its hardy childhood. There is a pride in its growth, in its trials and its triumphs, which an Englishman cherishes as he does a respect for his religion, and he would deem it as profane

of the other.

In a nation jealous of its freedom, refined, commercial, speculative and enterprising, it is easy to conceive how very various must be the predicament of its laws, and how inexplicably close woven the web of their infinite obligations. Such is England; and that its laws are such, we have convincing testimony in the heavy laden shelves of our legal libraries, as well as in the life of incessant labour, by which forensick distinction is acquired. The successive invasions of the rights of that nation in earlier times, the long struggles of her stubborn subjects, the frequent convulsions of her political frame, and the ceaseless watchfulness of her contending parties, have contributed at different times to multiply numberless distinctions of rights, and to surround their enjoyment with the investment of a ceremonial so formidable as not to be eluded. The risk in making any alteration in the essential formation of the system, as we have now received it, without impairing the beauty of the whole structure, has encumbered the science with a mass of appendages originally attendant upon provisions which have since become obsolete. They now remain, in a no small degree, to perplex and entangle the pace of the student. The close shaven, flowerless course too, of legal tradition, creeping through barbarous records, and black letter legends, is an object at which fancy shudders, and which enthusiasm itself can scarcely master: mature age is obliged to apply all its vigour of self denial to the pursuit, and the wild riot of youthful blood begs in earnest supplication for something to alleviate the toil.

It is under the influence of a feeling such as this, that Mr. Hoffman now presents his claim upon the attention of the publick, and especially of that part of the publick who have devoted, or intend to devote themselves to the profession of the **law**. Such we heartily congratulate on the acquisition of a companion capable of softening the asperities of their course. The work before us displays a diligence and patience of investigation highly creditable to the author, and from the earnestness of his undertaking, we are assured of his sincere desire to render profitable service to the profession of which he is a member. The simplicity and methodical arrangement of his book, we hope will recommend it

it. The plan, to which we beg leave to call the attention of our readers as remarkable for its lucid arrangement, involves a course of about six years study; it is, however, so disposed as to suffer the retrenchment of two years without material prejudice. It includes nearly every work, or portions of every work of much credit or authority in the law, except the law of equity, which we think has been very judiciously abridged to the few standard treatises on that branch. These are classed under thirteen distinct titles, to which are appended four others, on auxiliary subjects.

We subjoin an outline of the plan as laid down by the author himself, in his General Syllabus. The subject is treated in the following order:

I. Moral and Political Philosophy.

II. The Elementary and Constitutional Principles of the Municipal Law of England, and herein

1st. Of the Feudal Law.

2d. The Institutes of the Municipal Law generally.

3d. Of the Origin and progress of the Common Law.

III. The Law of Real rights and Real remedies.

IV. The Law of Personal rights and Personal remedies.

V. The Law of Equity.

VI. The *Lex Mercatoria*.

VII. The Law of Crimes and Punishments.

VIII. The Law of Nations.

IX. The Maritime and Admiralty Law.

X. The Civil or Roman Law.

XI. The Constitution and Laws of the United States of America.

XII. The Constitution and Laws of the several States of the Union.

XIII. Political Economy.

Auxiliary Subjects.

1st. The Geography, Natural, Civil, and Political History of the United States.

2d. Forensic Eloquence.

3d. Legal Biography and Bibliography.

4th. Professional Department."—p. 32.

Under each of these titles the author has arranged, with a very careful selection, such works of a proved celebrity as are best calculated to open the subject to the student. Thus under the first title of the General Syllabus, and the first in order, we

of Cicero, Seneca, Aristotle, Beattie, Paley, Locke, Smith, Reid, Burlamaqui, Rutherford, Montesquieu, Cataneo, Bentham, Grotius, and Puffendorf. The author, aware of the long lapse of time necessary to complete the ethical course constituted by the whole of these writers, has only noted such portions of the greater number of them, as taken together may form an entire, correct, though abridged system; so that instead of overwhelming the student in the tedious prolixity of Puffendorf, for example, he separates for his exclusive reading, such as the chapters, "on the Certainty of Moral Actions," "of **Law** in General," "of the Qualities of Moral Actions," &c. In the same manner has he directed us through Lock, Reid, Paley, and Grotius. To each title, having in the above described manner designated the several books to be read, is affixed a series of notes, in which is remarked under its special reference, the character of every book in the Particular Syllabus. Thus we are presented with a long note upon the Bible, in which the author has taken occasion to introduce Burgh's comparison of Homer's description of the deity, in the eighth book of the Iliad, with some of the sublime conceptions of David upon the same subject, and among others we have a note of six pages, containing what we consider a rather feeble analysis of Aristotle's politicks.

As it may be a matter of question, how far the Bible may be incorporated into a Course of Legal Study, and as we confess, we do not altogether approve of the unqualified admission, which the learned professor has given it, to the office of the student, we do him but justice, in transcribing his own explanation:

"The Bible," says he, in the commencement of his first note, "forms a very natural introduction to this course, as recording a form of government and **law**, originating in the great legislator of the universe; whose pleasure it was to enjoin by a direct communication of his will, those duties, and declare those obligations, which, when by reasoning on the nature and relations of man, we have concluded to be such, we consider as the dictates of the **law** of nature. Those ordinances also, which were not designed to be of universal authority, but only to regulate the polity of the particular people, to whom they were delivered, should, however, be minutely known; as they are in many instances the foundation of law, and the clue to the controversies of the canonists. The Bible is valuable also in two other points of light; it affords the only authentick history of the origin

which society was generated, and communities were formed, offers the best theory of the social compact; a point on which there has been no small misconception. Its historical parts will tend to show with great probability, that those general principles of morals, prevalent among the rudest and most unlettered nations, and which have, perhaps, been too hastily attributed to the efforts of natural reason, are more rationally to be ascribed to divine revelation, and will appear with all the errors which time, situation, and the proclivity to corruption, may have produced, to have been the broken glimpses of a fuller and clearer light, originally radiated from heaven. These remarks, apply of course, chiefly to those portions of the Bible, connected with the origin and polity of the Jews.

“The purity and sublimity of the morals of the Bible, have at no time, and in no country, been questioned; it is the foundation of the common law of every Christian nation. The Christian Religion is a part of the law of the land, and as such, should receive no inconsiderable portion of the lawyer’s attention. In vain do we look among the writings of the ancient philosophers, for a system of law, comparable with that of the Bible. How meagre and lifeless are the “ethicks” of Aristotle, the “morals” of Seneca, the “Memorabilia” of Xenophon, or the “Offices of Cicero,” compared with it.” p. 38—9

Now all this is very true as an argument in favour of studying the Bible, and we sincerely recommend it to every student of whatever denomination. But that it is so necessary to the formation of a lawyer, as to demand an exclusive appropriation of his time, until he has given it an entire perusal, is a position to which we cannot assent. The Book of Genesis, as recording the history of the elements of Society, and those other portions of the Pentateuch containing the Levitical Law, from whence many features of the common Law of England are curiously deduced, we think may very properly be presented to the Student, as he steps upon the threshold of his profession. We purposely forbear to mention the New Testament, under the presumption that every scholar, that every gentleman, that every member of the Christian Church is well acquainted with it, and willing properly to estimate its worth. But of what immediate utility an intimate knowledge of the Chronological histories of the Bible, the Prophecies, the Psalms, or the Proverbs may be to the Tyro in Law, we find it difficult to conceive. We hope that all Students will make these the frequent subjects of occasional attention, and more particularly, consider them as the suitable exercises of every Sabbath. A great variety of useful knowledge is

purest fountains of thought and language. We would not, however, as the constant companion of the student of oratory, assured that he would there find the most sublime morals of eloquence, that man ever conceived or uttered. That the Christian Religion is a part of the **law** of the land, if it prove any thing to the present purpose, proves more than the author probably intended. He should in conformity to this idea, have sketched out for the student a theological course, by which he would have been put in perfect possession of the Christian system. We are persuaded that the author will agree with us in the opinion, that this should be considered as a collateral duty, and will engross distinct portions of every students time.

We approve very much of the judicious selection made in the third and fourth titles, from the reports of my Lord Coke. We are convinced the profession will be under great obligations for it. There is such a want of connexion, in the greater part of the writings of this profound lawyer, such a pedantick display of every thing that can be thought and said upon his subject, so much vagrancy of opinion, that, without a guide, the reader finds himself too frequently engaged in the discussion of principles, void of interest or importance. We should have been better pleased, if the professor had directed the commentary upon Littleton, to be read by the index, by which the student would have had some chance of meeting this shapeless mass, in the most comprehensible guise. So incongruous, and heterogeneous as it is, not only uncommon labour, but a mind fortified with an edge of adamant, are scarcely sufficient to the task of dissecting it. Our progress through it is gloomy and pleasureless, nor are we sufficiently enthusiastick to believe, although the learned professor has more than once asserted it, that its charm is in any degree heightened by the very quaintness that so strongly distinguishes it from the productions of more recent times."

We have, towards the conclusion of the volume, a very satisfactory essay upon Note Books, a few remarks upon Debating Societies, and a short, and rather nerveless recommendation of logick. In the first, the author has given us some useful hints upon several kinds of Common Place Books, of which, we think, the student, and even the practitioner, may avail themselves to great advantage.

work, which we have no doubt, will soon be in the hands of every student. The author has modestly suggested, that he looks upon it, as "yet susceptible of *considerable* improvement, although, it has certainly received no *inconsiderable* portion of his attention."* We think so too. It bears abundant evidence of his zeal and assiduity, and we can readily imagine that the author himself is practically convinced of the efficacy of his course. The notes which comprise the great body of the work, are written in a style of diffuseness, entirely too excursive, in our estimation, to consist with the purpose for which they were designed. The writer has too frequently lavished the force of his ideas, upon topics already familiar, and even trite to the reflections of his readers. He has sometimes entered upon the exposition of subjects, much better explained in the books he has recommended, as in the case of Aristotle's politics, before alluded to, and subsequently in defining the Law of Nations in a note (page 238.) And he has once been guilty of the error of ascribing to Cicero's Moral System the doctrines of the Stoics.† These defects however, are of such a nature that they cannot impair the utility of the work, and may in a future edition be readily amended.

Our principal objection to this volume is a want of compactness. The author might have saved himself much labour and anxiety by condensing his materials into a smaller compass. We consider the chief beauty of a work like this, to lye in the conciseness with which the subject is presented to our view; and the author amply discharges his duty, when instead of offering us his own comments upon productions of merit, which from the nature of his plan, must at best be very unsatisfactory, he simply refers us to those sources from whence the most correct information is to be derived. From a disregard to this consideration, the author has thrown into a bulk of nearly four hundred pages, what might have very easily been compressed into one hundred, and has been, we presume, involuntarily, led into the exhibition of an apparently ostentatious array of extracts from well known writers, and a rather barren display of classical knowledge in quotations which are seen every day.

* Introduction p. xxvii.

man's book, and after all we consider the matter of speculation, whether the student is to be rewarded with success proportionate to his labours. We have been always disposed to think, in regard to science, that those who ramble over the greatest surfaces are least conversant in the depth. He who can concentrate his powers most effectually upon one subject, acquires a promptitude, an energy of application, exceedingly efficacious in the analysis of others. We are therefore obliged to acknowledge that we consider the plan of the work before us radically defective from the extensive scope that it embraces. We make this acknowledgement with diffidence, since we are conscious that we oppose the current opinions of the day, in conformity to which it was written. The mind has a contracting and dilating faculty. The narrower the sphere of its action, the more intense its discrimination; the more diffuse, the more uncertain. Whether then it derive greater advantage from the pursuit of a subject expanded through many volumes or limited to a few, is a query to which we give a ready answer. Education is altogether a discipline of the mind. It is of very little importance to a young man what may be his actual acquirement, provided his capacity for acquirement be strengthened. We are inclined to set much more value upon an original capability of reflection, than upon the faculty of retaining the reflections of others; it therefore should be the aim of all intellectual exercise, to promote an independence of thought upon every subject. The errors and extravagancies of a mind blooming in its own freedom, may be subsequently corrected by a resort to the opinions of others. In the structure of a course of study, we should have chosen such works only as would have put us in possession of the elements of the science in the most concise and intelligible form. We should have sedulously avoided every thing like a repetition of the same subject, inculcating strongly upon the student, the necessity of contemplating every topick under all its possible modifications: and having in this manner conducted him through the labyrinth of the **law**, we would then have furnished him with the means of examining the opinions and sentiments of the most respectable writers. This system might be pursued to great effect through most of the **law** relating to personal rights. The **law** of con-

any other branch. It is a tedious compilation of real justice, partaking deeply of the character of equitable **law**. In attending the student through this department, we should be careful to inculcate its fundamental principles from the most unsophisticated authority. We should explain how they have been modified by custom or limited by positive ordinances. We should then lay before him a variety of cases arising from these principles, and not until he had arrived at his own conclusions by the intrinsic operations of his own mind, would we put into his hands the decisions of Mansfield or Ellenborough upon the same points. If he should then discover that they had formed a different conclusion from himself, had pursued a different scheme of reasoning, and had called into their aid circumstances, which had entirely escaped his observation, he would be enabled to correct his error, and what is of very great importance, to perceive the cause and the degree of his deviation. From this mode of exercise the student derives the same capacious ideas of the symmetry of the **law** as the mechanick does of the machine he has fabricated. In the division of Real Law the pupil would unavoidably be withheld from the extensive use of the system we propose. So much of that **law** is mere matter of invention, and so little of logical conclusion, that in it our plan would find but scanty room to operate. We should be obliged to march slowly and cautiously over the rugged road which others had taken, and in patient resignation to bear this Winter of our study in sullen expectation of a more cheerful Spring. And now, at last, with all his various attainment, his round of midnight study and daily care, his painful restlessness of preparation, how stands the student's reckoning? "The fine statue still lying in the marble block, and nothing done but his tools sharpened to hew it out."

We regret that our limits will not allow us to pursue more at large, a subject so well calculated to afford the highest interest. We were in some measure unconsciously forced into these reflections by the evident direction of Mr. Hoffman's work. A work which we should be very sorry to disparage by any animadversions that could have a tendency to discredit its real merits, in the opinion of his own profession. In objecting to it, we object only to the fashion of the day, and when we recom-

Wanted, if possible, to see the student's labours, and assign the

rigours of his course. k.