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Short Notes of New Books.

A Selection of Legal Maxims, classified and illustrated, by Herbert Broom, Esq., of the Inner Temple, Barrister at Law Second Edition. Maxwell. London 1848.

THIS is not merely a new edition, but rather a new work built on the groundwork of the last. It is a real work. A goodly fruit of rich soil and careful culture. It is a compendium of law, combining the very marrow of its principles and precepts, from which all extraneous and barren offshoots are cut off, comprising all the cases, old and new, that can illustrate, and none that can encumber principles. It is among the few law books that we bind and place permanently for constant use on the handiest shelf of our bookcase.

The Means of facilitating the Transfer of Land. In Three Lectures. By James Stewart, of Lincoln's Inn, Barrister. Longman. London 1848.

A VERY important scheme for effecting a very necessary reform. After setting forth plainly and powerfully the difficulties and dangers which at present attend the transfer of land, Mr. Stewart proceeds to show that they arise chiefly from the custom of investigating the title at each sale. He shows how unnecessary this is from the analogous case of granting long leases, in which no such investigation takes place, though it might legally be required. He proposes, as a substitute, that there be a registry of titles once for all, his plan, however, can only be fully understood by reading his own statement of it. It is the most sensible, comprehensive and practical plan we have seen proposed in the shape of a law reform for many years.

A Treatise on the Law of Evidence as administered in England and Ireland, with Illustrations from the American and other Foreign Laws. By John Pitt Taylor, Esq., of the Middle Temple, Barrister at Law In Two Volumes. Maxwell & Son, London, and Hodges & Smith, Dublin. 1848.

It is now five years since the publication of the last edition of either of the well-known treatises by Mr. Starkie or Mr. Phillips, and

great have been the changes which modern legislation have in the interval effected on the law of evidence. The removal of the objections on the score of crime or interest which existed to the competency of a witness prior to the 6 & 7 Vict. c. 85, and the operation of the Attorney and Solicitors' Act, 6 & 7 Vict. c. 73, and of the Documentary Evidence Act, 8 & 9 Vict. c. 113, are sufficient by themselves to call for a revised treatise on this department of the law. The time chosen for bringing out the work now before us was therefore opportune, and, without disparaging any merit that may be due to the elaborate work of Starkie, or the more succinct treatise of Phillips, a good work on Evidence, adapted to the present state of the law, was a book much desired by the profession. Mr. Taylor has however not produced, what perhaps his title-page might have led the reader to suppose, a work entirely his own, but he has moulded and founded his book, as he ingenuously tells us in his preface, on Dr. Greenleaf's American Treatise. The work on Evidence by that celebrated jurist is well known among English as well as American lawyers, and is justly appreciated by all for its admirable arrangement, logical order and lucid manner in which the principles of the law affecting Evidence are expounded. It bears the impress of the characteristic mark which so eminently distinguishes the great American jurists of the present century, namely, the extraction of principles from authorities carefully read and examined, instead of a string of cases thrown together crude and undigested.

Mr. Taylor we think has acted wisely in taking for his foundation the scientific work of Professor Greenleaf. To borrow, as he has done, largely from its pages, can never detract from but on the contrary is likely to enhance the value of the present work, and we agree with Mr. Taylor, that, so long as "really useful and accurate information" is afforded to the profession, it is immaterial in whose language it is conveyed, and certainly a more lucid style and logical arrangement than that of the American jurist could not have been chosen. The method adopted by Professor Greenleaf has accordingly been followed by Mr. Taylor. The work is divided into three parts, the first part treating on the Nature and Principles of Evidence, the second on the Rules which govern the production of Testimony, and the third on the Instruments of Evidence. Under these heads nearly the whole law relating to evidence is comprised. Mr. Taylor has exhibited great assiduity and research in collecting all the statutes and authorities on the subject, and is entitled to much praise for the judicious manner in which he has disposed of his materials. The work contains that clear exposition of principles for which the American treatise by Dr. Greenleaf is so justly celebrated, whilst it carefully notices all the recent decisions and important changes which have lately taken place in this country. Mr. Taylor has we think executed his task in a very creditable manner, and produced a work which will be found to be a useful and valuable contribution to a most important branch of our law. The following

extract, selected at random, will be some specimen of the manner in which the book is written

“ Although the presumption of life will continue for a period exceeding sixty years, if no inquiry has been made for the party whose death is relied upon, this presumption will be bounded within far shorter limits, if proof be given of his continued unexplained absence from home, and of the nonreceipt of intelligence concerning him. In such case, after the lapse of *seven years*, the presumption of life ceases, and the burden of proof is devolved upon the other party. This period was inserted upon great deliberation in the statutes respecting bigamy and the statute concerning leases for lives, and has since been adopted from analogy in other cases. But although a person who has not been heard of for seven years is presumed *to be dead*, the law raises no presumption as to the *time* of his death; if therefore it be important to any one to establish the precise period during those seven years at which such person died, he must do so by evidence of some sort, and can neither rely, on the one hand, upon the presumption of death, nor on the other upon the presumption of the continuance of life. In a late case, in which it appeared that a brig had sailed from Demerara for England in December, 1828, had touched at Dominica on the 24th of that month, and had never afterwards been heard of, Vice-Chancellor Knight Bruce, after a lapse of seven years, presumed that the vessel and her crew were lost before the 29th of January, 1829, evidence being given that the average length of a voyage from Dominica to England was under two months, and that the West Indian latitudes were subject to hurricanes, which were so much more prevalent between the 1st of August and the 1st of January that premiums for insurance during that time were double what they were at other periods of the year. So, upon an issue of the life or death of a party the jury may find the fact of death from the lapse of a shorter period than seven years if other circumstances concur; as if the party when last heard of was aged or infirm or ill, or had since been exposed to extraordinary peril, such as a storm and probable shipwreck. But the presumption of the common law, independently of the finding of a jury, does not attach to the mere lapse of time short of seven years.”

Events of the Quarter.

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A movement has been made in Parliament to establish a court of appeal in criminal cases, but it seems not likely that more than an appeal on questions of law will be granted this session, for although the bill brought into the House of Commons comprehends appeal on questions of fact as well as of law, yet its promoter, Mr. Ewart, has been obliged to consent to its postponement in consequence of Lord Campbell having introduced into the House of Lords a bill for amending the criminal law, the object of which is to establish a court of appeal in criminal cases, but on questions of law only. The objection which his lordship has to the extension of the right of appeal to that on the merits is, that it might unnecessarily delay the course of justice. Notwithstanding all that may be urged in favour of speedy punishment, surely the majesty of the law will not suffer any injury if the execution of its sentence is stayed for such time as may be requisite to review it, whenever there may be reasonable ground for investigating its correctness. It is of the last importance for the administration of justice that the judgments of the criminal law courts should be as near the truth as it is possible to arrive at in human institutions. Erroneous verdicts are as likely to occur in criminal as in civil proceedings, and unless liberty and reputation, and life itself, are of less importance than property, it is difficult to understand with what show of justice the means of obtaining a review and new trial should be afforded in the latter case and denied in the former. A circumstance that has lately occurred, relative to a trial at the last Liverpool Assizes, will strongly exemplify our remarks. Two men, O'Brien and Conolly, were indicted for highway robbery, the case turned upon that most difficult of all questions, identity, the witnesses for the prosecution swore to the persons of the prisoners, and although some evidence was given to prove an alibi, the jury paid little heed to it, and found the prisoners guilty. It has since been discovered that, in all moral probability, both the prisoners were innocent, and that two other persons who have been apprehended for another robbery, and one of whom, Bates, was executed at Chester on the 22nd ult., were the real perpetrators of the crime for which O'Brien and Conolly were so erroneously found guilty. Indeed, Bates made a full confession of the fact, with such circumstantial details as must establish its truth. Are no means to be open to persons, thus unfortunately situated, of obtaining justice? Are they for ever to be left to the sole redress of an application to the Secretary of State, and to become recipients of a pardon for the committal of a crime of which they have never been guilty?

Mr. Packe's bill for altering the Epiphany Quarter Sessions has very properly been withdrawn.

The distinguished American lawyer, ex-chancellor Kent, has departed this life at the advanced age of 85, leaving a name which, in conjunction with his contemporaries, the late Mr. Justice Story and Professor Greenleaf, has shed a brilliant lustre on America, and made it conspicuous in English courts for legal learning and judicial authority

In 1797 Mr. Kent was appointed a master in chancery, and in the following year we find him raised to the bench of the supreme court. In 1804 he became chief justice, and in 1814 chancellor.

After having in a most distinguished manner presided over the court of chancery for nine years, Chancellor Kent retired from the court, and, in the more secluded labours of professor of law in Columbia College, he prepared the work by which he will hereafter be always known. The celebrated Commentaries on American Law are no unworthy rivals to the Commentaries by Sir William Blackstone, and will preserve the name of James Kent to future ages, and in all places where American or English laws are acknowledged and studied.

The Attorney-General has brought in four bills for consolidating and amending the law relating to the jurisdiction and powers of magistrates. The collecting and embodying in one act the scattered law on this subject, and the providing proper places for the holding of the sessions, and for framing a uniform scale of fees, are praiseworthy efforts, and as the consideration of the bills by the House is to be postponed until next session, ample time will be afforded to examine them.

Sir David Dundas has resigned the Solicitor-Generalship, and the same has been given to Mr. John Romilly of the chancery bar.

Mr. Richard Kindersley, the Queen's Counsel, has been made a Master in Chancery in the room of Sir Giffin Wilson.
