

Pleas was absorbed the other day in the High Court of Justice—at Westminster, and at Westminster only."

By the Assize of Clarendon in 1166, the mode of trial in the principal pleas of the crown was fixed as the ordeal of fire or water; compurgation, the older form of trial, was, by construction, abolished. Then in November, 1215, the fourth Lateran Council, in effect, abolished the trial by ordeal by forbidding any ecclesiastic, which was as much as to say any judge, to take part in allowing it; and this was accepted and recognized in England in the third year of Henry III. (1219), in royal writs addressed to the itinerant justices, which suggested no substitute for the ordeal, and commended all that was left unsettled to the sound judgment of the justices themselves. They seem thereafter, in the exercise of this discretion, by consent of the accused and otherwise, gradually to have introduced the trial by jury in the chief classes of criminal cases. This system of trial, in certain civil cases, had lately come in, and had worked well. In criminal cases, also, it had been sometimes resorted to, by the King's special license. And now it offered a way out of the singular difficulty which had just befallen the administration of the regular criminal justice of the country. It is here that we seem to find the origin of our wholly peculiar system of a double jury in criminal cases—the prototype of the grand jury being found in the accusing inquest which had been provided for in the Assize of Clarendon and was still continued.

The cases in this volume, as we have already said, illustrate the law of criminal trials during the very grave and important transition period when these great events were coming on and happening and passing by. We are sitting at the cradle of trial by jury in criminal cases, an institution which English-speaking people have always accounted sacred. Here also we find the ordeal in force; as in a case before John, at Wells. Early in his reign, "William Trenchebow was said to have handed to Inger of Faldingthorpe the knife wherewith Inger slew Wido Poliot. He is suspected [*malcreditus*] thereof by jurors. Let him purge himself by the water. . . . He has failed and is hanged." Mr. Maitland remarks that this is the only case of a failure at the ordeal that he has found. "Success seems common." Of the old criminal appeal and the award of trial by battle there are many instances. The cases are full of quaint and circumstantial narrative, opening a window into the every-day life of the times.

Indices of persons and places are given, which have a value of their own. Appended to the volume are several important circulars of the Selden Society describing the character of the work which it has undertaken; we commend these to the attention of our readers. It should be added that the volumes of the Society can be obtained of Quaritch, but only at a price considerably above the annual subscription of a guinea, which secures membership in the Society and a copy of its publications for the year.

*Tenting on the Plains.* By Mrs. E. B. Custer. Charles L. Webster & Co. 1888. 8vo, pp. 702, with illustrations.

MRS. CUSTER has broken open and lavishly exposed her memories of military life in Texas and Kansas during the two years immediately following Lee's surrender. Again, as in 'Boots and Saddles,' we are taken directly into her home, and share her daily hopes and fears, see the courage and adroitness with which she repressed all ills, great and small, that might in-

terfere with her presence near her husband, and witness, if not partake of, the felicity that crowned her life when he was by her side. The book is as open as the sky. The dark clouds and the bright stars are not plainer than her trials and her joys, while there is always the central figure whose presence makes day, and whose absence is night. So plenary a revelation would not be pleasant were it less ingenuous; but it is the spontaneous unfolding of a young wife's devotion, as unaffected and as natural as the development of a flower. The wonder is how, in all their fresh detail, the features of those long-past wandering years can be reproduced. She well may exclaim, "Blessed be our memory, which preserves to us the joys as well as the sadness of life!"

All the characters presented are real, but after the two central figures, decidedly the most attractive is Eliza, the General's colored cook, well known in the field in his cavalry division and beyond, and now introduced to a much wider circle, where there is no doubt she will be duly appreciated. Eliza's practical sense and strong individuality make her an important personage in the kitchen and in the book, and it is a pleasure to observe that prosperous, but still enthusiastic, in her maturer years she is a substantial co-laborer in the preparation of this volume. What Eliza said and did comes next to the doings of the heroine.

But the book is not meant to be a mere chronicle of the small beer of domestic pleasures and trouble and nothing more. It is a record of marches through Southern swamps and forests, of northerners on land and a hurricane at sea, of perils by Indian warfare, by cholera, by floods—all serious and sometimes disastrous. Its public value consists in its presentation of the constant trials and privations, as well as of more heroic adventures, that befell the troops when "there was no wild clamor of war to enable them to forget the absence of the commonest necessities of existence." It also commemorates the hardships, personally observed, of those pioneers who, pressing back the savage and redeeming the desert, have made Kansas within so short a period a land of wheat and corn. This unvarnished but very true account of daily life on a frontier that is now contracting, but has not disappeared, is instructive to those to whom "the army in peace" is a contradictory, if not a meaningless, phrase.

With her extreme frankness, the author exposes some of the social infelicities of her earlier garrison life, due to the heterogeneous material of which the new regular regiments were organized in 1866. When bravery under fire and political influence were the chief determinants in securing commissions, it is obvious that other sterling qualities, to say nothing of the graces of life, were to be found chiefly by good luck. But we believe we are justified in saying that the crooked sticks and odd fish that appeared in those earlier scenes have been fairly eliminated long since, with a corresponding elevation of the social tone following.

The book is an odd mixture of grave adventure and minute family detail, and its occasional lapses in style, in English, and in syntax, with its sprightly unconventionality, only emphasize the real vigor of much of the original matter. Among the various incidents selected for quotation, space barely allows reference to one: the flood by night on Big Creek, when their own lives and many others were in danger, when seven men were drowned, and when Mrs. Custer, Eliza, and a clothesline rescued one nearly perished wretch. Mrs. Custer paints the setting, but Eliza tells this tale most dramatically. Although somewhat overgrown,

this volume may fairly take its place by its chronological successor, but actual precursor, 'Boots and Saddles.' It is published in a style similar to Grant's memoirs, from the same press.

*Ethics of Boxing and Manly Sport.* By John Boyle O'Reilly. Boston: Ticknor & Co.

ONE-THIRD of this book is devoted to boxing and collateral questions of diet and training; and if Mr. O'Reilly had omitted twenty-five pages of padding, about Olympic games and Roman gladiators, in regard to which the classical dictionaries contain ample information, this part of the book, in spite of some faults, would have been quite satisfactory. The illustrations are very clever, the scientific exposition of the mysteries of the manly art is sufficiently clear to satisfy the most exacting critic and the chapters on "Diet" and "Exercise for City Dwellers" are of real value, both to young men and maidens. Mr. O'Reilly is an enthusiast on the subject of boxing, although he condemns the brutality of fighting with bare fists, and he claims for his favorite sport that it is the most perfect of all exercises, and that "the knowing how to fight makes common men self-reliant and independent." These virtues have often before been claimed for boxing, and it is worth while to consider the justice of the claim. It is undoubtedly true that in boxing a man brings into play almost every muscle of his body; but those who are opposed to boxing, on the ground that its tendency is almost inevitably to brutalize, may fairly claim that rowing, wrestling, base-ball, foot-ball, and swimming are very nearly, if not quite, as good exercises, while, from the ethical point of view, they are distinctly superior. The second virtue claimed for boxing is open to grave doubt; for the fighting that is done on modern battle-fields is of a kind that has little in common with boxing, while, on the other hand, there is always a risk that the youth who becomes a clever boxer may become a quarrelsome bully. In this connection, it is worth while to note that whereas boxing was very popular among the athletic clubs of New York ten years ago, it is now entirely neglected, so much so that it is only practised by amateurs of doubtful standing, and by semi-professionals. But whatever may be the conclusion in regard to the general merits of boxing, Mr. O'Reilly has certainly said all that can be said in its favor.

The remaining two-thirds of his book have nothing to do with boxing; nor does the second section, which consists of a long and very uninteresting account of the ancient weapons of Ireland, wielded by Cuchullin and other unpronounceable heroes, bear any sort of relation to the rest of the book. This mythical discourse has, to all appearance, been thrown in as an afterthought, either to round out the book, or from an economical desire on the part of the author to turn to some account materials collected for other purposes.

In the last hundred pages Mr. O'Reilly returns to the present day, and gives an admirable account of several canoeing trips on American rivers. His descriptions of scenery and of the charms of camping out betray the poet, and to most readers these last chapters will appear decidedly the best in the volume. They are more carefully written than the pugilistic part of the book, which shows signs of having been put together in haste—possibly to take advantage of the recent revival of Sullivanism. In one of the early chapters, for instance, Mr. O'Reilly writes: "The games were opened to all Greeks. There was no exemption—except for women"—a sentence which does not seem

to convey any clear meaning; while a little further on may be found the remarkable statement that "in 1877 a Turkish iron-clad moved at the terrible speed of thirty miles an hour." This is haste indeed!

If Mr. O'Reilly had cut out about 125 of his 350 pages, and had taken a little more pains with the remainder, the result would have been a very enjoyable book instead of an uneven and, on the whole, a disappointing one.

*Our Republic: A Text-Book upon the Civil Government of the United States, with a Historic Introduction.* By Prof. M. B. C. True and Hon. John W. Dickinson. Leach, Shewell & Sanborn. 1888. Pp. vii, 264.

THE publishers' circular accompanying this book announces that it is "ample in its treatment, . . . scientific in its methods, . . . accurate in statement." The best commentary on their opinion may be found in a few extracts. A book on Civil Government can hardly be called "ample" which gives but two pages to a description of local and municipal government (pp. 43-45); and four more to the State governments (pp. 39-42). For grammar-school instruction, it is not "scientific" to introduce, without definition, such legal terms as "committee-delegates" (p. 20), "common law" (p. 33), "presentment" (p. 53), "sold upon execution" (p. 64), "conveyances" (p. 69), "Act of God" (p. 74). The degree of accuracy may be judged from the following statements: "Pennsylvania. This State was granted to William Penn in 1681" (p. 13); "The adoption of the Constitution [1787-88] changed the colonies into States" (p. 22); "The Convention adopted the Constitution, September 17, 1787, and its members from all the colonies, except those from Rhode Island, signed it" (p. 25); "The district attorney is the prosecuting officer of the county" (p. 43); "To have the privilege of suffrage, a person must be a citizen of the United States" (p. 45); "The district attorneys and other marshals" (p. 128); "There is little reason for any regulation of commerce between the States" (p. 105); "Inside its own territory the State authority is supreme" (p. 128). The book is full of similar inexcusable and misleading errors.

*Society in Rome under the Cæsars.* By William Ralph Inge, M.A., Fellow of King's College, Cambridge, and Assistant Master at Eton. Charles Scribner's Sons. 1888. 12mo, pp. 276.

MR. INGE'S essay obtained the Hare prize at Cambridge in 1886. It consists of ten chapters,

headed "Religion," "Philosophy," "Morality," etc., and may be recommended as containing an accurate, well-digested account of the subject under consideration. All sources of information appear to have been diligently used, and the view of society is fair and truthful, equally removed from the indiscriminating denunciation indulged in by too many moderns, and the opposite fault, of extenuating the evils and immoralities of the times. It is rather a description than a picture—certainly a safer undertaking, and perhaps more generally useful; but we should say that the best treatment of such a subject, if it were a possible one, would be a graphic presentation, with abundance of illustrative incident, such as should give the treatise something of the characteristic of a good novel. Mr. Inge has had a different aim, and has succeeded where, if he had tried the other method, he might have failed.

A real defect is the failure to look below the surface. Society as it was in the first centuries is very truthfully delineated, so far as was possible with the materials at hand; the author laments that the accessible materials make it necessary to confine his view for the most part to the upper classes of society. But there is one kind of evidence of which he has not made the most—the drift and tendencies of society, which were, of course, concealed from contemporaries, but which we, looking back from a distance, can discern clearly. The second century shows vast changes in society, on the whole for the better; Mr. Pater has thoroughly entered into the spirit of this in his 'Marius the Epicurean.' Now, the fault we find with Mr. Inge is that he does not make us feel that society was in *movement*—it is described too much as a fixed condition of things to be analyzed and catalogued, and not enough as a current of human passions and forces, leading to a well-known and, on the whole, improved state of society.

#### BOOKS OF THE WEEK.

- Bell, A. M. *World-English: the Universal Language.* N. D. C. Hodges. 25 cents.  
 Benedict, Anne K. *My Wonder Story.* Boston: D. Lothrop Co.  
 Benedix, R. *Doctor Wespe.* Macmillan & Co. 75 cents.  
 Besant—Rice. *By Celia's Arbour: A Tale of Portsmouth Town.* Library ed. Dodd, Mead & Co.  
 Besant—Rice. *The Monks of Thelema: A Novel.* Library ed. Dodd, Mead & Co.  
 Besant—Rice. *This Son of Vulcan.* Library ed. Dodd, Mead & Co.  
 Besant—Rice. *With Harp and Crown: A Novel.* Library ed. Dodd, Mead & Co.  
 Bishop, J. P. *Common Law and Codification; or, the Common Law as a System of Reasoning.* Chicago: T. H. Flood & Co. 50 cents.  
 Buchanan, Rachel. *A D  butante in New York Society: Her Illusions and What Became of Them.* D. Appleton & Co.  
 Carr, L. *Missouri: a Bone of Contention.* [Commonwealth Series.] Boston: Houghton, Mifflin & Co. \$1.25.

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 Cawein, M. J. *The Triumph of Music, and Other Lyrics.* Louisville: John P. Morton & Co.  
 Christianity in the Daily Conduct of Life: Studies of Texts Relating to Principles of the Christian Character. Thomas Whitaker. \$1.50.  
 Connolly, Emma M. *Tilting at Windmills: A Story of the Blue Grass Country.* Boston: D. Lothrop Co. \$1.50.  
 Dowling, R. *Ignorant Essays.* D. Appleton & Co.  
 Fawcett, E. *Olivia Delaplaine: A Novel.* Boston: Ticknor & Co. \$1.50.  
 Fish, G. T. *A Guide to the Conduct of Meetings: Being Models of Parliamentary Practice for Young and Old.* Harper & Bros.  
 Frank, F  lix, and Chenevi  re, Adolphe. *Lexique de la langue de Bonaventure des P  riers.* Paris: L. Cerf; Boston: Schoenhof.  
 Hall, J. G. *Shakespeare versus Ingersoll.* Cleveland: The Burrows Brothers Co. 25 cents.  
 Hardy, T. *Wessex Tales.* Strange, Lively and Commonplace. Harper & Bros. 30 cents.  
 Henderson, G. J. *Lingua: An International Language for Purposes of Commerce and Science.* London: Tr  bner & Co. 25 cents.  
 Hillingdon Hall; or, the Cockney Squire. *A Tale of Country Life.* Illustrated. Scribner & Welford.  
 His Way and Her Will: A Novel. Belford, Clarke & Co.  
 James, H. *Partial Portraits.* Macmillan & Co. \$1.75.  
 Jewett, Sarah Orne. *The King of Folly Island, and Other People.* Boston: Houghton, Mifflin & Co. \$1.25.  
 Journal des Goncourt. *M  moires de la vie litt  raire.* T. III. (1866-1870). Paris: Charpentier; Boston: Schoenhof.  
 Kluge, F. *Von Luther bis Lessing.* 2d ed. Strassburg: K. J. Tr  bner.  
 Kosiy  k, H., and Ader, A. *Deutschland und die Deutschen.* Modern Language Pub. Co.  
 Mackay, Dr. C. *A Dictionary of Lowland Scotch.* With an Introductory Chapter on the Poetry, Humor, and Literary History of the Scotch Language. Boston: Ticknor & Co. \$3.  
 Miller, Olive Thorne. *In Nesting Time.* Boston: Houghton, Mifflin & Co. \$1.25.  
 Morris, C. *The Aryan Race: Its Origin and Its Achievements.* Chicago: S. C. Griggs & Co. \$1.50.  
 Nixon, R. C. J. *Geometry in Space, containing Parts of Euclid's Eleventh and Twelfth Books.* Macmillan & Co. 40 cents.  
 Patterson, C. S. *The United States and the States under the Constitution.* Philadelphia: T. & J. W. Johnson & Co.  
 Pearson, K. *The Ethic of Free Thought: A Selection of Essays and Lectures.* Scribner & Welford.  
 Pessard, Hector. *Mes P  tits Papiers.* 2e s  rie (1871-1873). Paris: Quantin; Boston: Schoenhof.  
 Pidgin, C. F. *Practical Statistics: A Handbook for the Use of the Statistician at Work.* Boston: The William E. Smythe Co.  
 Pool, Maria Louise. *Tenting at Stony Beach.* Boston: Houghton, Mifflin & Co. \$1.25.  
 Pratt's Manual of Banking Law: A Treatise on the Law Applicable to the Every-Day Business of Banks. Washington: A. S. Pratt & Sons.  
 Roe, E. R. *May and June: A Romance of the Revolution.* Chicago: Laird & Lee.  
 Rorer, Mrs. S. T. *Hot-Weather Dishes.* Philadelphia: Arnold & Co.  
 Salon de 1888. *Catalogue Illustr  : Peinture et Sculpture.* J. W. Bouton.  
 S  daine, M. J. *Le Philosophe sans le savoir.* Macmillan & Co. 50 cents.  
 Seely, H. *A Nymph of the West: A Novel.* D. Appleton & Co.  
 Shields, Prof. C. F. *Philosophia Ultima; or, Science of the Sciences.* Vol. I. 3d ed., abridged and revised. Chas. Scribner's Sons. \$3.  
 Sime, J. *Briefe von Felix Mendelssohn Bartholdy.* Selected and edited with Introduction and Notes. Macmillan & Co. 75 cents.  
 Stimson, F. J. *The Residuary Legatee; or, the Posthumous Jest of the Late John Austin.* Chas. Scribner's Sons. \$1.  
 Spencer, E. A. *Hints from a Lawyer; or, Legal Advice to Men and Women: A Law-Book for Everybody.* G. P. Putnam's Sons. \$1.25.  
 Stephens, W. R. W. *Hildebrand and his Times.* A. D. F. Randolph & Co. 80 cents.  
 Strachan-Davidson, J. L. *Selections from Polybius.* With Maps. Oxford: Clarendon Press.  
 Sylvester, H. M. *Homestead Highways.* Boston: Ticknor & Co. \$1.50.  
 Ten Br  nk, B. *Beowulf: Untersuchungen.* Strassburg: K. J. Tr  bner.  
 Tenney, H. M. *Christian Science: Its Truths and Errors.* Cleveland: The Burrows Brothers Co. 25 cents.  
 The Correct Thing in Good Society. Boston: Estes & Lauriat.  
 Tolstol, Count Lyof N. *Life.* Thomas Y. Crowell & Co. \$1.25.

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