

## REVIEWS—RULE OF COURT—FLOTSAM AND JETSAM.

good library would be complete without it, and we commend it to all who can afford it.

BLACKWOOD, for December. The Leonard Scott Publishing Co., 41 Barclay Street, New York.

This is the last number of a year during which period the Magazine seems to have recovered the energy and vivacity of its early days. The following are the contents of this number :

1. The Tender Recollections of Irene Macgillicuddy, Part I ; 2. Pelasgic Mykenæ ; 3. Mine is thine, Part VI. ; 4. The Opium Eater ; 5. The Widow's Cloak ; 6. The Parliamentary Recess ; 7. Poems. By J. R. S. ; 8. The Storm in the East. No. VII.

The periodicals reprinted by "The Leonard Scott Publishing Co." (41 Barclay Street, N.Y.) are as follows: *The London Quarterly*, *Edinburgh*, *Westminster*, and *British Quarterly Reviews*, and *Blackwood's Magazine*. Price, \$4 a year for any one, or only \$15 for all, and the postage is prepaid by the Publishers.

We strongly advise our readers to send in their subscriptions at once. They will get more valuable information and instructive reading matter for the money expended, from these publications than in any other way.

The following Rule of the Court of Queen's Bench and Common Pleas of Easter Term last does not seem to have been heretofore published :—

"Leave shall not be given to demur and traverse the same pleading unless an affidavit distinctly denying some one or more material statement or statements in such and unless in exceptional cases, in the discretion of the Court or Judge, affidavits merely as to the belief of the existence of just grounds of traverse shall not be sufficient."

## FLOTSAM AND JETSAM.

The manner in which a great proportion of our laws came into being is well illustrated in an essay read by Prof. Barbeck, of Cambridge, England, before the Antwerp congress. He said, "An attention to the history of law will, I think, further show that laws were established before penalties were invented for enforcing them, and that a penalty was exacted, because a law had been broken, as a consequence of a breach of the law ; not, originally at least, as a part of the law itself. Take, for example, the rule of the road, I believe no trace of the existence of such a rule a hundred years ago can be found. It originated in no command of a political superior, nor in any command at all. About fifty years ago, if I remember rightly, the existence of the rule was denied by Lord Abinger, when Chief Baron of the Exchequer. It gathered strength because convenience demanded that there should be such a rule when thoroughfares became crowded. The rule required two carriages meeting each other to keep their left side of the road. And the rule became at length so well known in England, and so generally observed, that when an accident occurred in consequence of a carriage taking the right hand instead of the left, the owner of that carriage was held liable to make good any damage done to the other. The judge who first gave this decision did not make the law. He gave the decision because he found the law already made—made by general, though tacit, consent. The judge merely recognised and declared the law. If he had not found it existing, he would have refused to act upon such a rule, as was the case with Lord Abinger. There are, moreover, many legal maxims, the observance of which depends on no penalty which can properly be said to be attached to the breach of them, but on the voluntary observance of them by those intrusted with the administration of the law. As for example, that an assignee generally takes no better title than his assignor : that a married woman cannot contract so as to render her-