

## REVIEWS.

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**HARRISON'S COMMON LAW PROCEDURE ACT,**  
2nd Ed. Copp, Clark & Co., Toronto.

Part IV. has been issued, containing sections 205 to 280, inclusive, of the Common Law Procedure Act. This brings the author into the heaviest part of his work, but does not we imagine, give us as yet half of the entire work. We anxiously look for its early completion, which will give us the index, that most necessary key to every book, and especially to a work of Practice as compendious and complete as this. We doubt not that the energy and experience of the learned gentleman who has so successfully brought us so far, will as efficiently conclude his most admirable work. Few who have not had experience, can know the delays and difficulties in passing a work of this kind through the press, and the time necessarily taken up is vastly increased by the number of cases referred to, as these have to be carefully verified.

It is wonderful to notice the careless way in which counsel cite cases, giving the person whose duty it is to verify the cases endless annoyance, at a great waste of time to him and delay in publication. In the work before us we can vouch that this verification is being done with the greatest exactitude, regardless of time and trouble.

**THE AMERICAN LAW REVIEW.** January, 1870.  
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The second number of Vol. iv. of this well-conducted quarterly is before us. The articles are, I. Proximate and Remote Cause—rather metaphysical than practical: II. Warranty of Seaworthiness in Time Policies: III. The Law of Insanity: IV. Lord Campbell's Lives of Lyndhurst and Brougham.

The article on the Law of Insanity, which, were it not for our limited space, we should like to reproduce for our readers, is thus introduced:—

“When Lord Hale laid down his famous rule of law that some kinds of insanity furnish no excuse for crime, he unquestionably reflected the most advanced opinions on the subject, both of lawyers and physicians. For more than one hundred years its correctness passed unchallenged; and no person on trial for a criminal act was acquitted on the ground of insanity, whose disease had

not entirely deprived him of reason and reduced him to the condition of an idiot or a wild beast. Science could enter no protest against the rule, for the materials necessary to give such a protest any support were not in existence. Medical men may sometimes have had a vague apprehension that all was not right, when a convict proclaimed the grossest delusions from the gibbet; but they were never properly shocked by the barbarity of such scenes. Coincident with the signal reforms in the treatment of the insane and the increased attention to the study of insanity, which marked the close of the last century, the suspicion began to be entertained by lawyers that the rule excluded from its protection many classes of the insane that were justly entitled to it. But they never, to this day, have decided that insanity, in whatever shape it may appear, is necessarily an excuse for crime. The advanced step which they took was to regard certain forms of what is now called partial insanity, as having this legal effect; but precisely which they were, was a point not so easily settled. The exact question was, what mark, quality, or attribute of insanity should make it an adequate excuse for crime, and this led to definition of insanity and tests of responsibility. At one time, the question seemed to be satisfactorily answered by saying that it was a delusion, without which the patient could not be considered so insane as to be irresponsible for any criminal act. It was not too long, however, before it began to be suspected that this was giving too large a sweep to the excuse, and then its application was restricted by various limitations. From time to time other tests were offered which, though intended to meet a present exigency, were fondly believed to cover every possible requirement. One was that if the patient retained his knowledge of right and wrong, he continued to be accountable for his acts. Another was that if he knew the act to be contrary to the laws of God and man, he could not avail himself of the plea of insanity. Again, it was said that if he showed contrivance and forethought in regard to the criminal act, he was sufficiently sane to be accountable therefor. It would be a waste of time to mention all the rules of law on this subject, which the ingenuity of courts has devised, and which, one after another have been found too narrow for general application. But they will continue to be offered, and new ones no better to be made, so long as false theories of insanity prevail in the community, and the indubitable facts of science are treated as matters of speculation and fancy; and no improvement will be made, so long as it is believed in the high places of justice that the effect of