tains no stipulation as to possession being taken by the purchaser before completion, and he takes possession with knowledge that there are defects in the title which the vendor cannot remove, the taking possession amounts to a waiver of the purchaser's right to require the removal of those defects, or to repudiate his contract. If, on the other hand, the defects are removable by the vendor, the taking of possession does not amount to such a waiver.

A.H.F.L.

FREDERICK HARRISON ON THE ENGLISH SCHOOL OF JURISPRUDENCE.

Austin's analysis of our primary ideas of law is vigorously attacked by Frederick Harrison in the *Fortnightly Review* of October and November 1878. With the keen pen of an accurate analyist, the writer attempts to show that the school of legal philosophers represented by Bentham and Hobbes in the earlier stages of its growth, by Austin in the more recent, is incorrect in the fundamental analysis it makes of the elements of which a law is composed. The school is ably represented in its comparatively early history by Bodin, whom Hallam terms not inaptly the Aristotle and Machiavelli of France. While the germs of the analysis that this school has continued to claim as all-comprehensive and, therefore, unimpeachable, are to be found in Bodin's definition of law, it remained for Hobbes and Bentham to develope the theory in concert, and for Austin, by force of his clear-cut style of analysis, to clarify what was previously but dimly scrutinised and to commend to the judicial judgment of all who examined it the definition and analysis of law that now bears the impress of his authority. Let us recall the main points of Austin's theory, and then note the objections urged against it by Harrison. A sovereign or supreme power is essential to law in order to give it nascent authority. It involves according to Austin a command, a sanction and a legal obligation or duty. The supreme authority may be of different degrees, as, for example, that of the Government of a province, limited, as it is, to its own local sphere. The Dominion Government is supreme as regards the exertion of its constitutionally given powers. The Imperial Government is supreme with regard to all powers not constitutionally granted to colonial governments. But as the essential principle of constitutional government is reasonable limitation, the supreme power, of whatever degree it may be, is subject to this check. Harrison appears to lose sight of this important fact, when he states that there are no limits to the absolute power of the sovereign within the range of *municipal law*, nor does he improve his position when he adds explanatorily "or, in other words, to the lawyers there are none." The sanction, it should be observed, is different according to the circumstances of the case. In civil codes, it is the absence of the benefit derivable from following the explicit directions of the code. In criminal codes, it is the punishment or penalty that follows the violation of the law. Now this leads to the chief objection to Austin's definition that some laws are merely directory or enabling and appear at first sight to involve no command. They do not order a thing to be done. They merely regulate the method of doing it. They are regulations rather than laws. And yet they are imperative in their own way, and partake of the nature of a command. To direct how a thing shall be done is virtually to order that it be not done in any different way. Harrison's objection may therefore be met by including in the definition the idea of prohibition as well as of a command. The sanction in such cases is the imperative effect of the act if done in a manner different from that which is laid down in the Statute. The duty or obligation, being the third element in the analysis, is found in the moral responsibility under which the public labour to do whatever the enabling