

of a chattel real is the result of a similar error (2 Pollock & M. History of English Law, p. 114. One who is curious to see instances of citation of Roman texts may find them collected by James Williams, Roman Law in English Decisions, 23 Law Magazine & Review, 139). Often the alien influence has operated in even a more indirect way, as the study of the history of our law of contracts would show.

It is apparent that the weight and importance of foreign influences cannot be summed up by a collection of citations of the works of Roman and foreign jurists. The fact, for example, that the reporter of the *Cases tempore Finch*, in the seventeenth century, notes the differences between the rule laid down by the Judge and the civil law rule merely means that the reporter had some sort of interest in Roman law (Wallace, The Reporters, p. 489). Indeed, it was quite the fashion, especially among the eighteenth century Judges, to garnish their opinions with scraps of learning. Sometimes the quotations were misunderstood; witness Sir Richard Pepper Arden's reference to the Digest and his mistranslation of *doli exceptio* as "exception of fraud practised" (*Kennell v. Abbott*, 4 Ves. Sr. 802, 4 Revised Rep. 351, 25 Eng. Rul. Cas. 480). But, whether the passages quoted were understood or not, the evidence of frequent citation bears but little upon the question as to the extent of foreign influence.

It may be of interest, however, to call attention to a few modern cases in which the influence of jurists, who base their conclusions in large part upon comparative jurisprudence, may be distinctly traced. In *Hindson v. Ashby* ([1896] 2 Ch. 1, 65 L.J. Ch. N.S. 515, 74 L.T.N.S. 327, 45 Week. Rep. 252, 60 J.P. 484) and in *Foster v. Wright* (L.R. 4 C.P. Div. 438, 49 L.J.C.P.N. S. 97, 44 J.P. 7), involving questions of alluvion, counsel and the Court not only cited Bracton and the Institutes, but counsel in the former case also cited Maitland's Bracton and Azo. In *Bridges v. Hawkesworth* (15 Jur. 1079, 21 L.J.Q.B.N.S. 75), a leading case on the subject of finding, Savigny on Possession was referred to both in the argument and by the Court, and on the same subject Chief Justice Russell, in *South Staffordshire Water Co. v. Sharman* ([1896] 2 Q.B. 44, 65 L.J.Q.B.N.S. 460, 74 L.T.N.S.