SELECTIONS.

MODERN TEXT-BOOKS.

We have more than once had occasion to deplore the increase amongst us of what are called "Text-Books of the Law" upon particular subjects. They are for the most part the productions of young men, neither professedly versed in the law, nor seasoned by practice Indeed, it is because they are in quest of practice, and in the hope of obtaining it, that most of them, ill-advised there can be no doubt, go on rushing into print, until they are satisfied, by the result, of the folly of the experiment. With this large and, unhappily, increasing number of pretenders we have done for the time. We propose, however, to say a few words upon modern text-books of a higher order, the true use to be made of them, and the abuse of them which is made.

A text-book upon any branch of law is but a methodised digest of the law applicable thereto; a sort of *catalogue raisonnée* of cases, dicta, decisions, and enactments; concisely arranged, so as to instruct the learned reader who desires to go to the fountain-head, where the sources lie; and, withal, full and clear enough to be understood by the merest practitioner, and, in that regard, to merit at least the qualified commendation which Mr Carlyle once bestowed upon M. Thiers' "History of the Revolution," "That if you know nothing about it, it can tell you a good deal. We think that no text-book now in use amongst us, not even the very best of them, ought to be used for higher purposes than those very useful purposes to which we have enumerated. At all events we are quite sure that to treat them as having of themselves any authority, to consider them as the representatives of their originals, or to hold that the study of the old learning is in any way superseded by, or may in any degree be dispensed with in favour of the new compendium is a most pernicious mistake, and the more deplorable because of its growing prevalence. In that growth we cannot help seeing one of the actual symptoms of the decline of legal science.

It is no unfamiliar thing to hear a counsel, now-a-days, reciting to the court whole passages from the treatise of living writers, and these, it may be, writers highly respectable in their way, but certainly not arrived at the heights of the science, nor yet enjoying the prestige of the ermine. The laxity with which this lazy habit of the Bar is indulged by the Bench, is more noticeable in Courts of Equity than in those of Common Law; and we have heard it suggested that the reason is to be found in the hurry and fatigue, which the struggle to keep down the threatening mass of business under the Winding-up Acts has introduced into the bosom of those sometime slumbering establishments. This excuse, so far as it relates to the putting of "Lindley on Partnerships," for instance, upon the same footing with the cases which he cites in his foot notes, is unsatisfactory enough. Yet let the Bar of the Superior Courts have the benefit of it, so far as it goes. The mischief, however, is far more widely spread. There are now local courts and local bars in all the counties and great towns of England and Wales, not to speak of our transmarine empire. There are County Courts, Recorders' and Quarter Sessions' Courts, Magistrates' Courts, and Revision Courts;—(for as yet we have had no experience of the new Courts for Trial of Election Petitions), and, last but not least, there are the Parliamentary Committees, *quasi* courts of much influence and having their own bars. In each and all of them the bad habits which we reprehend is more or less prevalent. In each and all of them the fatal reaction of that habit upon itself is making itself felt. In each and all of them there is a want of tone in the system. The ring of the metal is getting less and less clear. If the habit lasts much longer, we shall hear of its being drawn into a precedent:—and when once that is so, the day of learned lawyers will be nearly done.

There remains an objection, still more serious, to be stated to this abuse—it is full of danger to the interests of the suitor. There is no safety in an indolent reliance of that kind. There is not one text-book known to lawyers which is beyond or above criticism, in respect of the accuracy of its analysis, or the completeness of its synthesis. The works neither of Lord St. Leonards, Lord Tenterden, nor Mr. Justice Williams, in this century, neither of Chief Baron Gilbert, nor Sir William Blackstone in the eighteenth century, nor yet of Lord Hale himself in the seventeenth, much less those of his learned but too fervid predecessor in the same century, Sir Edward Coke, can be pronounced to be entirely without errors, whether of omission or of commission; and on the contrary, those of Coke and Blackstone are particularly obnoxious to criticism on either ground. Yet amongst them all there is not one name to which the imputation of *cacoethes scribendi* is attached, or with which the fame of learning or exemplary labour is not associated to a degree which, in a mere book-making time like the year 1868, must seem prodigious. But if such as these must still be held unequal to the character of oracular infallibility, how can it be said that the men of the second rank are fitted to assume it? If we are to receive nothing upon trust, though it be from the noble and learned commentator of the Laws of Vendors and Purchasers, it surely must be very unsafe as well as unreasonable for any man, student, counsel, or attorney, to pin his simple faith to any work on the law of contracts, although it be that "standard work," as the provincial or practical mind esteems it, the treatise of Mr. Addison himself.

That it is not only unsafe, but dangerous in the highest degree, we think needs no proof.