

in their pages. It was not that no such reports existed, although it has more than once been gravely stated by writers whose knowledge of continental law was derived entirely from such works as we have mentioned, that this was the case, and that "Reports" were unknown outside of English law. Collections of such cases have been made for centuries in France and Germany, and some of them have obtained very great reputation. But it was not the fashion to quote them as authority for doctrine. False theories of law, and a misapprehension of an often-quoted passage of the digest—*legibus, non exemplis, est judicandum*—stood in the way. But of late these difficulties seem to have been removed. The student of Windscheid's *Pandecten* will find, on almost every page, references to some of the thirty volumes of the *Archiv* mentioned above. And this substitution of a case in which the doctrine has been subjected to the test of actual life, and proved by its adaptation to life's wants, instead of resting merely upon speculative opinions, cannot fail to prepare the way for a sounder and more trustworthy theory of legal rights and obligations. It is remarkable, too, that the civilians are beginning to make scientific use of reported cases just at the same time that our common lawyers are learning that case law must borrow some aid from scientific jurisprudence, to save it from breaking down under the weight of its own accumulations. In the growing use by each school of the other's methods we see, not only a proof of that increasing uniformity of substantive law among civilized nations which has often been remarked, but also the most hopeful promise of better methods of legal reasoning in future, alike upon the Continent, in England, and upon this side of the Atlantic.

None of the German collections of reports are better adapted to interest and profit the American lawyer than the *Archiv*. It contains within the compass of a single yearly volume (published in four numbers) a selection of decisions from all the German courts. The opinions are carefully abridged, usually in the language of the judges, and the only criticism that occurs to an American reader is that the cases are not always stated with sufficient fullness to make them useful as precedents. But for use in this country this will hardly be a defect. Regarded only as a collection of *dicta* upon interesting

points of law by the ablest judges of Germany, it is well worth the study of our lawyers, who will be surprised to see how large a proportion of the questions most litigated among ourselves at present are passed upon by the German courts, in a form scarcely disguised by the practice and terminology of another system. Thus, we find in the present number, in quick succession—although we open the book almost at random—a case upon the ownership of double-windows, considered as fixtures or appurtenances to a house; upon the liability of a carrier for the negligence of his driver when a passenger has thereby been permanently disabled; upon the liability of an employer for the damage done to a neighbor by the person whom he has engaged to erect a house; upon the liability of owners in common to each other for the expense of rebuilding; upon the effect of a covenant not to convey, made by a person otherwise the full owner; upon the existence of a right of way where a third parcel of land partially separates the dominant from the servient estate; upon the measure of damages where growing crops were destroyed by sparks from a locomotive (holding that the railroad company must pay the full value of the ripened crop); upon the liability of the owner of runaway horses for the harm done by the people whom they frighten; and upon the liability of a railroad company for the permanent harm done to a passenger's health by the fright he experienced at the time of a severe accident.

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The second number of the current volume contains an article on "Crimes and Offences against Morality," by Dr. Pillnow, of Bromberg (pp. 106-159). The subject is divided with reference to the provisions of the German Criminal Code, but its interest for an American reader is certainly not diminished by a close adherence to the text of positive law. The grounds of morality are duly aided, with quotations from Sophocles and Aristotle in the original Greek, and Augustine in Latin. But these unaccustomed ornaments should not prevent the common lawyer from recognizing in the article an acute and valuable discussion of the essential elements which constitute a class of offence very imperfectly discussed by our