

## SCIENCE:

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## BOOK-REVIEWS.

*Justice and Jurisprudence: an Inquiry concerning the Constitutional Limitations of the Thirteenth, Fourteenth, and Fifteenth Amendments.* Philadelphia, Lippincott. 8°. \$3.

THIS book disarms criticism by its purpose. It is an appeal by "The Brotherhood of Liberty" in behalf of the lost civil rights of the colored people in the United States. Equal civil rights were supposed to have been legally conferred upon our colored citizens by the amendments to the Constitution after the war, especially the fourteenth, and by Senator Sumner's famous "civil rights bill," approved March 1, 1875. Shortly after the war there followed a general acquiescence, and many decisions by the minor courts, and many statutes in the several States, practically enforcing, as far as laws could do it, the equal civil rights of all citizens, without regard "to color or previous condition of servitude."

The way these rights were lost, as far as their legal guaranties are concerned, is soon told after they reached that "grave of liberty," the Supreme Court of the United States. The main points are these: The Constitution of Louisiana after the war provided that "all persons shall enjoy equal rights and privileges upon any conveyance of a public character." A law was passed by that State accordingly, similar to Senator Sumner's civil rights bill, making it a fineable offence to exclude a colored person, for that reason, from public accommodations. Mrs. De Cuir (colored) was thus excluded from the white ladies' cabin of a steamboat, and re-

covered a judgment for \$1,000, fine, therefor. The State courts affirmed that judgment. But when the case came before the Supreme Court of the United States it was reversed — and reversed on a ground that has never ceased to be a surprise; to wit, that the law was "a regulation of interstate commerce, and, therefore, to that extent, unconstitutional and void" (*Hall v. De Cuir*, 95 U. S. Repts., 485, 1877). For the United States only have jurisdiction over such commerce, and the States cannot regulate it.

The colored people and their friends were astounded at this decision. They insisted that the State Constitution and laws thus stricken down as void had nothing to do with commerce or property, but were confined to acts in regard to persons and their rights and protection. The two matters are disparate, like trying to measure legal rights by pounds or miles. Like, for instance, the demands upon Gov. Seward to return fugitive slaves because they had carried off the calico on their backs.

But there is no appeal — but to the people — from a decision of the Supreme Court, and so it was legally settled that a State could practically do nothing to enforce the equal rights and privileges of colored citizens, because commerce was king, and had to go on just as it used to do when the Dred Scott decision was in force.

Still it was hoped that the United States courts would sustain the United States civil rights law, and thus enable the general government to do what the States could not, — protect all citizens in their equal rights and privileges in public assemblies and conveyances. Five cases arising under this United States civil rights law came before the United States Supreme Court and were decided together in 1883. The court held that the Fourteenth Amendment "is prohibitory upon the States only," and does not authorize any direct legislation, "but only a correction" of State legislation; "such as may be necessary and proper for counteracting and redressing the effect of State laws or acts." Therefore the United States civil rights laws were declared unconstitutional and void. (*The civil rights cases*, U. S. R., 109, 3). The colored people and their friends have never been able to adequately express their indignation over this decision. They held many meetings for that purpose, and the book before us may be regarded as their protest in good, solid, bound form. The points they make were to a large extent presented most ably and indignantly in a dissenting opinion by Mr. Associate Justice Harlan, in which he lays aside ordinary judicial reserve, to tell the majority of the court that, "The opinion in these cases proceeds, it seems to me, upon grounds entirely too narrow and artificial. I cannot resist the conclusion that the substance and spirit of the recent amendments to the Constitution have been sacrificed by a subtle and ingenious verbal criticism. . . . Constitutional provisions, adopted in the interest of liberty, and for the purpose of securing, through national legislation if need be, rights inhering in a state of freedom, and belonging to American citizenship, have been so construed as to defeat the ends the people desired to accomplish, which they attempted to accomplish, and which they supposed they had accomplished, by changes in their fundamental law" (*same case*, p. 26).

The narrow, ingenious, and subtle criticism by which the Fourteenth Amendment was defeated by this decision, is in limiting the "provisions" of the amendment, all of which Congress is authorized to enforce, to the single negative and corrective provision over the States, whereas the plain purpose and intention of the whole of the provisions were to directly secure all citizens in equal rights; and to that end, and as a necessary incident only, the States are also restricted from violating them by their own laws. The very first one of the provisions places the whole subject within the jurisdiction of the United States, and then next follows the restraint upon States from conflicting action. But the court does not even quote in its opinion the first and main sentence and provision of the amendment, and so leaves the power of Congress to be limited and applied only to the correction of the States. "Never was a conclusion more lame, impotent, and absurd!" was the outcry of the friends of liberty everywhere. Had Senator Sumner been alive, this complete overthrow of the great object of his later life would have broken his heart. Under that decision, of course, the States will not do any thing, and the United States cannot. The colored people are thus left with the empty name of

"citizen," but neither State nor nation can legally do any thing to give effective support to that proud title.

Such is the state of the law, the details of which are presented and condemned, with great variety of illustration, in the present volume. But the remedy does not seem to be presented with equal clearness. The future of the colored race in America is indeed a dark cloud. To us the only solution is the scientific one, and that is only another name for the highest morality, justice, and humanity. We have said the only appeal from the Supreme Court is to the people. To encourage such an appeal seems to be the main object and effect of this book. It is sustained by the extraordinary fact that every successful political party has had for its main purpose the reversal of the decisions of that court. The old Republican party of Jefferson came into power to reverse the decisions of the United States courts sustaining the "Alien and Sedition laws." The Democracy of Jackson came to, and did, reverse the Supreme Court decisions in favor of the United States Bank. The Republican party of Lincoln came to reverse, and did reverse, the Dred Scott and Fugitive Slave law decisions; and the Republicans with Grant, in imitation of Cromwell, actually took judges off and put others on the supreme bench, until the court reversed its own "legal tender" decisions. These are surprising instances, and they may well encourage the colored people, by such appeals as the present, to remind the people that the objects they sought to attain by the war amendments to the Constitution, as Judge Harlan declared, have been defeated by two unfortunate accidents in the Supreme Court, which it is their bounden duty to remedy. It may just now seem impossible to get a sufficient number of States to amend the amendments. But it will soon become clear that there must be some law on these subjects. The late slave States will do nothing in their present mood. Both races are thus more and more appealing to violence. The result will be that the law-abiding elements, which placed those amendments in the Constitution, must take up the work again and make them effective. Anarchy and violence cannot be tolerated in any part of our country, and the legal remedy can come only from the general government.

Then, again, we are often reminded that the problem of the happy and beneficent adjustment and co-operation of the two races cannot be solved by statutes only. Most true, but without some solid law to fall back upon, the weaker race are practically remanded to slavery, and such is their present condition. The appeal for justice should be heard, but to insure a favorable hearing, the wise, prudent, virtuous, and industrious conduct of the colored people themselves is also practically a necessary concomitant. Without that, they will not find their old friends at the North again, and of those friends they were never in greater need than now. They are certainly right in their prayer for legal protection, for some law, so plain that the Supreme Court cannot set it aside. Unless this prayer is granted, the next appeals will be more and more to violence; and with a result that recalls perhaps the darkest blot in Grecian history, which is told as follows: When the Spartans were hard pushed in war, they called out the best of their Helots to help them. The Helots responded, and were promised their liberty for their services, which, it seems, turned defeat to victory. They were ordered to repair to the temples [of justice?] to receive their emancipation. They went, with banners and garlands, but they never returned, "and," says the careful historian, "no one ever knew by what means they were severally dispatched" (*Thucydides* 4, 80). The thought that some such passage may be written about the loyal people of America, and that it may be substantially true, is not a pleasant, but a probable outlook from our present situation.

That this publication should appear anonymously is a matter to be regretted. The plain avowal of a public purpose by every American citizen is his prerogative and duty. If he is a member of the bar, it is still more a duty to relieve the country from an error of the courts affecting grave public interests, by honestly and frankly explaining the error, and indicating the remedy, as has been attempted in this article. We have entirely too much unhealthy private grumbling, and too many secret societies seeking to do covertly what no American need to be ashamed of. We believe that the colored people back of this movement would do better to give their names, and apply to Congress, by proper petition, to

have the needful amendment to the Constitution submitted to the States. That would clear the atmosphere, and bring the issue to the front.

As to style and execution of this rather pretentious work, the florid and eloquent language, with pages of interesting but remotely relevant quotations, are indications of the African exuberance of rhetoric, about which, as a matter of taste, there is no disputing. That should not conceal from any one the intense earnestness, and the real ability, it often almost hides with the flowers which were meant to adorn and attract. In the next edition we suggest that the amendments, and the two decisions mainly involved, be printed *verbatim*, so that the reader can see the issues without reference to other books, which few but lawyers have at hand.

T. B. WAKEMAN.

*Thermodynamics, Heat-Motors, and Refrigerating Machines.*

By DE VOLSON WOOD. New York, Wiley. 8°. \$4.

THE fact that a third edition of this work has been called for within a year of its first publication proves that Professor Wood possesses the two essential qualifications of a successful text-book maker, namely, a thorough knowledge of his subject, and the happy faculty of imparting that knowledge to others without causing a waste of energy on their part in acquiring it. As Professor Wood aptly remarks in the preface to the first edition of this work, the "giant-like processes" of Rankine and the other founders of the science "are not adapted to the wants of the average student." Of course there is no royal road to learning for the student of any branch of science, but many unnecessary obstructions have been removed from the path of learners, in recent years, by the application of scientific principles to the art of teaching; and the application of those principles to that art are well exemplified in the work under consideration. It does not attempt to bring the subject down to the comprehension of the average reader, but we think the author has met with a fair share of success in endeavoring to lead the student up, "by a more easy and uniformly graded path," to a thorough comprehension of the subject, while at the same time familiarizing him with the way by a free use of illustrations, exercises, historic references, and numerical examples.

In this revised and enlarged edition the treatment of the theoretical part of thermodynamics, including its application to the steam engine, is mainly the same as in previous ones. Additions have been made, since the first edition, on the following subjects: the vapor engine, Sterling's engine, Ericsson's hot-air engine; gas, naphtha, and ammonia engines; the steam injector and pulsometer, compressed air engines, the compressor, the steam turbine, refrigerating machines, and the combustion of fuel. There has also been added some miscellaneous matter in an addendum, besides steam, ammonia, and other tables. The ammonia tables are new, having been computed from formulas of the author.

*Fuel and its Applications.* E. J. MILLS and F. J. ROWAN (Vol. I of Chemical Technology, ed. by C. E. Groves and W. Thorp). Philadelphia, Blakiston. 8°. \$7.50.

THE fact that any great work must usually be the product of a growth, rather than a single effort of however great a mind, is well illustrated by the process of evolution which has produced this cyclopedia of chemical technology. Those who remember the earlier editions of "Knapp's Technology," and who can compare its bulk and its extent, to say nothing of the perfection and accuracy of the editor's work, with its latest representative, just coming out under the editorship of Messrs. Groves and Thorp, will be amazed at the enormous extent to which the development of the chemical and related industries here treated of have expanded during the generation just past. The edition of Richardson and Ronalds illustrated the progress of a few years; that of Richardson and Watts presented another step in the path of improvement and growth, and we now have a substantially new work in which the editors have endeavored to give a fair synopsis of the facts and principles of science, as applied in the chemical industries, that shall satisfy, at least to a reasonable extent, the needs of the working chemist and of the chemical engineer,—a new but most important functionary in all great works,—and to give them a reference cyclopedia of their respective arts.