

BOOK REVIEWS.

THE ENFORCEMENT OF THE STATUTES OF LABOURERS, DURING
THE FIRST DECADE AFTER THE BLACK DEATH 1349-1359.
By Bertha Haven Putnam, Ph. D. New York: Columbia
University, Longmans, Green & Co., Agents. 1908.

Mr. Maitland had the prophetic instinct, and when he foretold that it would very likely be through the work of German or American scholars that the unprinted records of the English law would be given to the world, he was probably not untrue to that instinct. We have in this work of Miss Putnam, an American woman, not only a monograph of some two hundred pages, but an appendix of over four hundred pages, in which appear the hitherto unprinted documents necessary to an exhaustive study of the subject. These documents have heretofore been accessible only to the students who could have access to the Record Office in London, and who had also the time, patience, mental equipment and learning, to enable them to disentangle the needed matter from the mass irrelevant to the purpose in hand.

In the monograph itself we have a very careful and detailed examination into the method by which the Statute of Labourers was enforced, and also into the question whether the authorities entrusted with that enforcement were successful in their task. Miss Putnam's own conclusion is that the Statute was fairly well enforced; that the penalties collected, which went to relieve the counties from the burden of taxation imposed upon them, were effectual in giving the relief desired. She also believes that this was done, on the whole without injustice to the labouring classes upon whom the great burden of the taxation fell. Miss Putnam holds no brief for either side of the social and economic question, apparently, so carefully and judicially does she give the facts and state her conclusions. This fact must add much to the value of her work, since the student can go to the monograph itself and to the sources collected in the appendix feeling sure of finding, not a partisan statement of facts and documents collected to sustain them, but an unbiased statement of the facts in the case, and a collection of documents made solely to show the truth as it appears in the records.

The collection of documents in the appendix shows an immense industry, a wonderful patience, an admirable devotion to the task undertaken. More than that, it shows that the author has the discoverer's instinct, as necessary to the explorer of documents as to the explorer of unknown lands. In her introductory note (p. 142 of the appendix) she says: "The commonly accepted opinion has been that, with the exception of one wages assessment for 1431, no quarter sessions records of earlier date than the 16th century are in existence; at any rate none have been discovered by the author of the latest treatise on the justice of the peace. * * * My suspicions were, however, aroused by Palgrave's statement, made as recently as 1836, that rolls of justices of the peace and of justices of labourers were included among the treasury records. With the thought of a possible mis-classification in my mind, I examined the list of Plea Rolls, under the heading 'Eyre Rolls, Assiza Rolls,' etc., and there found seven rolls for the decade 1349-1359 described as containing proceedings before justices of labourers. * * * This incident convinced me that there were more such rolls that had similarly escaped identification, and that an examination of the so-called 'Assize Rolls' for every county for the decade 1349-1359 would be well worth while. The result was the discovery of eight more sessional records, which, with the Rutland roll, and with the seven that had been correctly described, gave a total of sixteen." Work done with the aid of scientific imagination such as this, combined with a capacity for detailed and sustained labour such as is evidenced in this work of Miss Putnam's, is sure to be well done; it is the sort of work much needed now in the field of legal research. The author of this book became interested in the work because of her interest in the "law of parochial settlements and its effect on the mobility of the working man;" in effect, it was the social side, and not the legal side of the question which appealed to her. Many legal questions of to-day rest upon a mass of tradition which has grown into precedent; precedent which has grown into authority; authority which no longer knows its origin. For the investigation and research into such questions there is needed just such patient investigation into unprinted sources; just such ardent enthusiasm for the investigation, and just such learning and industry as Miss Putnam has put into this book of hers.

RATE REGULATION AS AFFECTED BY THE DISTRIBUTION OF GOVERNMENTAL POWERS IN THE CONSTITUTION. By Robert P. Reeder, of the Philadelphia Bar. 1908. T. & J. W. Johnson Company.

The writer of this treatise has industriously collected between four and five hundred cases bearing on the subject of railroad rate regulation, as affected by American constitutional limitations and the distribution of the powers of government. His thesis, concisely stated in his own words, is that "within their respective jurisdictions and within constitutional bounds, congress and the state legislatures may limit the charges for railroad transportation, either specifically or by definite general rules; and that if the legislative department of government establishes such rules it may empower a commission to name specific rates in accordance therewith; but that, on the other hand, such rules may be established only by the legislative department, and until they are so established no commission may constitutionally ordain specific rates."

To attain the brevity necessary to cover such an enormous field in a brochure of some forty odd pages the author has confined his text to a statement of encyclopedic principles supported by notes containing the appropriate authorities, with suggestions of argument worthy of greater elaboration, for the restraint of the writer indicates a command of the material that calls for a further expression of his views. The main discussion is upon the constitutionality of rate regulation as a delegation of the legislative power, and, the author would have it, that "rules of constitutional law which are involved have been frequently misunderstood even by the courts which have endeavored to apply them," and this, assuming the validity of the rule that the power of the legislature in deciding questions of public policy may not be delegated. Such an assumption is necessary if the subject is to be discussed according to the accepted theories of American legists. But when this tangled mass of rate decisions is examined and when the retreat of the courts from their first decisions on the submission of acts to a popular vote is remembered and when the success that in England has attended the practice of parliament in leaving the details of legislation to administrative bodies is considered, we are driven to wonder whether the rhetoric of the fathers of the republic has not created in this doctrine of delegation of legislative power a most undesirable Frankenstein.

Mr. Reeder has admirably stated the law "in a nutshell," but to put so much law in one nutshell means a hard kernel. This, however, only the specialist on this branch of constitutional law will comprehend, the casual reader will find a difficult subject clearly stated and the brief maker abundant material in the notes.

THE GOVERNMENT OF ENGLAND. By A. Lawrence Lowell.
New York: Macmillan Company., 2 vols. Pp. 1110. Price,
\$4.50 net.

The book is not simply a statement of what the government of England is to-day; it is an historical outline of the growth of that government, traced in large part through the vicissitudes of the years which have elapsed since the Reform Bill. There are two most striking features—the historical treatment and the wealth of detail. The historical treatment not only saves the book from dryness, but is especially indispensable in dealing with a government which is based so largely upon gradual growth and tradition. Where no written Constitution forms the backbone of political legislation, it is inevitable that an adequate view of that legislation can only be obtained by a chronological presentation of the various statutes and customs from which it has been evolved. This historical feature is especially marked in the chapters on the party system and in those on education. The great amount of detailed statements with which most of the book is so abundantly provided are, perhaps, not so fortunate from the ordinary reader's point of view. The student of comparative governments is interested in these matters, but the lay reader prefers a more condensed and generalized presentation of the case. In the chapters on the ministry and in those on procedure in the House of Commons, for instance, there is a vast amount of relatively minute information which will probably not prove of especial interest to the average reader. It must be remembered, however, that Professor Lowell has evidently aimed at a pretty comprehensive treatise, and if he has attained his object by the introduction of minor matters, he has none the less put before the public a book which is in every sense what its title claims for it. To an American, probably the most interesting chapters are those devoted to a description of the party system. Party ties appear to be fully as strong in England as they are in the United States, and this is true both of popular elections and of parliament. But the attitude of a voter toward his party is a less selfish one in England, because a member of Parlia-

ment has no patronage which he can distribute among his constituents. From an interesting table of statistics the author arrives at the conclusion that party voting in Parliament is more steady and more on the increase than in Congress. To the lawyer, the four chapters on the courts will prove an attraction. In these, Professor Lowell traces the history of the courts, their existing state since the Judicature Act, and the English conception of law as opposed to the Continental. These subjects naturally find a relatively small space in so comprehensive a work, but are ably treated, despite the necessary compression.

S. L.

