

BOOK REVIEWS.

A PHILADELPHIA LAWYER IN THE LONDON COURTS. By Thomas Leaming, Henry Holt & Co., 1911.

The American lawyer however well read in the Common Law, however familiar with English statutes and decisions, knows, as a rule, little of the life in the modern English courts, of the judges, barristers and solicitors who make up a professional world of strange contradictions, where rigid etiquette and strict adherence to social traditions go hand in hand with methods of practice remarkable for their flexibility and common sense. The tourist may carry away a casual impression of wigs and gowns, while the foreign correspondent may fume at a bill of costs unpalatable even in its careful itemization. It is improbable that either will get to the heart of a legal system that has advanced in many directions where our own has stood still.

In a delightfully informal manner Mr. Leaming has given us his impressions of the London courts. The high standing of the author both as a *nisi prius* lawyer and in the appellate courts would of itself cause his brethren at the bar to give respectful attention to anything he might have to say upon professional topics. The charming literary qualities of the work and the clever original sketches with which it is illustrated reveal an unexpected versatility. Indeed the narrative is so completely divested of technicalities, dealing not so much with the law as with the education, social surroundings and discipline of the bar and the methods and atmosphere of the courts, that it ought to prove of as much interest to the student of social history as to the lawyer.

We are told of the making of the lawyer, the Inns of Court; the difference between the education of the barrister and the solicitor; of the distinctions in rank at the bar, the King's Counsel, the junior, and the "devil," doing the junior's work while waiting for briefs of his own. We are taken to the principal courts and shown their methods of trying cases, their peculiar costumes and etiquette, the bearing of witnesses and parties. "The Englishman in his court," says the author, "is evidently in his native element and appears at his best."

Those whose knowledge of the English courts is derived from Dickens and other satirists will be surprised to read of the hearty good humor, alacrity and crispness of the proceedings, of the complete triumph of common sense, and will want to know more of the great reforms of the nineteenth century, particularly of the Judicature Act of 1873, and the rules of court by which procedure has been simplified and trials expedited. In the closing chapter the author is inclined to take a gloomy view of the socialism now rampant in Great Britain, and wonders whether England has seen its best days. Certainly at this moment the United States is "infinitely more conservative." But however it may be with the startling changes introduced by the present government, there is no doubt that the reforms in legal procedure in which members of both parties had a hand, are, in the main, admirable and many of them capable of adaptation to American conditions.

The chapters on the administration of criminal law are most interesting and instructive, bearing in mind the disgraceful conditions that prevail in many parts of the United States.

A skeptical reader, in whom patriotism is not unmingled with provincialism, might be inclined to doubt whether the very favorable impression of the London courts formed by the author was not at least in part the result of social predilection and associations formed within the magic circle. The influences of a charming hospitality are undoubtedly potent. Nevertheless

most of the author's views will be corroborated by candid observers. There can be no question that the Englishman, at this writing, manages his courts with less delay and quibbling than the American, with less declamation than the Frenchman and with more flexibility than the German.

This was not always true and may not be lasting. The danger of the English bar lies in its isolation. The rigid etiquette which keeps the client at a distance, the cloistered life and caste attitude will be difficult to reconcile with the growing socialism of Great Britain. The local solicitor in his closer relations with the proletariat is in a position to take advantage of every opportunity to encroach upon the privileges of the bar. In spite of our common traditions, conditions in America are too different to afford a reasonable basis for contrast with the English system. The tendency of Constitution Law to crowd private law into the background, the narrowness of the half educated early nineteenth century lawyer, the lack for many years of a National Bar Association and the weakness of local societies have all contribute to prevent the expression of bar sentiment and to delay the enactment of scientific legislation. These things are on the mend, and we may have as good reason to be pleased with our progress in the twentieth century as England has to be proud of the improvement of her jurisprudence in the nineteenth.

W. H. L.

THE ADMINISTRATION OF JUSTICE IN CRIMINAL MATTERS. By G. Glover Alexander. Cambridge University Press, 1911.

The author has attempted the difficult task of condensing into 140 small pages a readable summary of criminal procedure in England and Wales. The booklet forms one of the series of Cambridge Manuals of Science and Literature; and should meet the intention of its publishers to supply to the average Englishman untrained in the law, an explanation of the rudiments of the criminal procedure of his country. The American reader, whose eyes are commencing to be opened to the unsatisfactory state of our own procedure, will be enlightened as to some of our existing differences.

The average reader should acquire an intelligent impression of the fundamental machinery of English criminal law. Unfortunately there are a few dark spots which must be lightened by the readers own knowledge of English institutions. The necessity of brevity is no doubt the cause of these lapses, which occur, for the most part, in the portion devoted to the Justices of the Peace. It must be admitted that to explain this functionary, the product of piece-meal legislation extending over more than five centuries, is no easy task.

More than one-half of the booklet is devoted to magistrates and magistrates' courts. This seems justifiable in a popular treatise, when the importance of this office is considered, as an initiator of criminal procedure and the "judge" most closely in contact with the people.

At a time when the administration of justice by magistrates in this country is under a particularly warm fire of adverse criticism by students of sociology, a simple explanation of the English system of summary jurisdiction is welcome. This jurisdiction, the creation of statutes dating from 1848 and exercised by the Justices of the Peace in what is called the Petty Sessional Court, extends to a large number of small indictable offences enumerated in the appendix. The jurisdiction depends upon the consent of the accused or if under fourteen, of the accused's parent. Worthy of notice, also, is the Justices' clerk who makes this police court, a court of record and applies to difficult questions presented to the lay Justices the legally trained mind of a barrister or solicitor of standing.

The remainder of the text is devoted to the shortest possible outline of the jurisdiction and procedure obtaining in the major criminal courts, in the order of their authority: Assizes, High Court of the King's Bench Division,

the Court of Criminal Appeal, created in 1908, and the House of Lords, the first two, however, of co-ordinate jurisdiction.

At the end of the book are several appendices, the space occupied by which might have been more profitably given to a fuller treatment of the difficult subject of the Justices of the Peace. There is both a topical index and an analysis of contents which helps to classify and correlate the subject matter in the reader's mind.

L. R.

A CONCISE LAW DICTIONARY OF WORDS, PHRASES AND MAXIMS. By Frederick Jesup Stimson, Professor of Comparative Legislation in Harvard University. Revised Edition by Harvey Cortlandt Voorhees, of the Boston Bar. Boston: Little, Brown & Company, 1911. Pages, 344 and Appendix.

In the prefatory note, the editor of the revision of the work of Professor Stimson states that his labor has been to supplement rather than to revise. This supplementary work, he states, has consisted principally in the addition of important words, and the insertion of many citations and references "designed to lead the researcher to a fuller understanding of the meaning and practical use of the words defined and explained." It has been stated also that in giving these references, the needs of law students have been held paramount, and the books and reports cited have been those most accessible to students.

The size of the book also seems to have been determined with a view to suiting the needs of the student. The volume is one easily carried from place to place, so that it may be used both in and out of the law school without any inconvenience incident to transporting it.

Although the size and scope of the volume make impossible that completeness of vocabulary and fulness of definition found in the larger law dictionaries, the conciseness of the work does not detract from its merit. The vocabulary is by no means small, and the definitions, although brief, are sufficient to enlighten the student. Those desirous of acquiring further information than there given may avail themselves of the references given to other works.

The result of the methods employed by both the author and the revising editor is a volume, compact in size and concise in subject-matter, very well adapted for the use of those whose needs it is designed to meet.

J. T. C.

GILMORE ON PARTNERSHIP, (Hornbook Series). By Eugene Allen Gilmore. West Publishing Company, St. Paul, Minn. 1911, pp. XII, 721.

The author of the present volume, hemmed about and restricted as he was by the system of the publication, is to be congratulated upon the good points of the book rather than to be condemned for the defects thereof. In so far as the author makes concrete statements of the law, he is generally correct; but where the statement is a broad general one, it is at times misleading or incorrect. The defects here noted are particularly prevalent in the forepart of the treatise, though not confined to that portion. Thus it is submitted that objections may well be raised as to many of the black-letter parts of the first chapter. The author, himself, in chapter three, appears to dissent from the definition of partnership adopted in chapter one. The discussion of partnership property is an advance upon what has heretofore been presented and is believed to be correct. One must, however, clearly perceive the meaning of "intention." It is believed that the right of dower is susceptible of a clearer declaration than is here given. The declaration that the transfer of partnership property to pay an individual indebtedness of a partner is a voluntary one is, at least, not accurate, for generally the individual partner gives up some of his rights against the firm, namely the

right to receive on dissolution all that would otherwise be due him. That such a transfer is fraudulent, as to firm creditors, does not necessarily follow, unless "insolvent" is used in the sense that the firm and all the partners are insolvent, for the firm creditors may be able to obtain full satisfaction from one or more of the partners and so not be hindered, delayed or defrauded. The discussion of the liability of partners also deserves approval, though it must be noted, as has been pointed out by Prof. Burdick in 11 *Columbia Law Review*, 101, that in many states by statute all liability is practically joint and several, though not, perhaps, to the extent this article appears to represent.

As an illustration of the objections to the system of the publication may be cited section 83 where the black letters appear to declare the law without restriction or limitation. On page 268, however, the author is compelled to note the defects of his former declaration.

While these criticisms, and others which might be made if space allowed, are believed to be valid and proper, it is not intended to condemn the work of the author or the book as a whole, for many of the defects are due to the uncertainties of the present law, the difficulties of the subject and the requirements of the series. The author, like many of the rest of us, is, perhaps, to be condemned for submitting to the system and for undertaking too great a task in too short a time; but he is to be commended for many, in fact most, of the sections of the book which are, at least in the discussions, clear declarations of the existing law and valuable contributions on the subject.

Aside, from the fact, that to derive full benefit from the book, one must have access to both the "Cent. Dig." and the "Dec. Dig." the work will be found of considerable value to those interested, by way of theory or practice, in the subject, especially if they have not access to the treatise on the subject in the Cyc.

J. B. L.

