

BOOK REVIEWS

THE ESSENTIALS OF INTERNATIONAL LAW. By Amos S. Hershey, Ph.D. New York: Macmillan Company, 1912.

The author of this book has attempted the impossible task of incorporating into the same volume a text book for the student of international law and a scientific treatise for the specialist, and he has succeeded better than one would have thought possible. The text of the book is well written, presenting the principles of international law in a manner instructive and attractive to the student who makes his first acquaintance with the subject through the pages of the book, and to the member of the general public, who seeks authoritative information sufficient for an intelligent understanding of the problems of international relationship which are attracting increasing attention in the public press.

The history of international law is well worked out, and the sources thereof carefully explained. Copious references are made to the works of jurists of both the historical and the analytical schools, their views are intelligently contrasted and proper credit is given to each school for its influence upon the development of international law. That part of the book which deals with subjects that have not been codified by conventions is more interesting than the latter part; for the author, when dealing with subjects for which rules have been expressed in statutes, treaties and conventions, has adopted the course of copying the pertinent sections of the treaties and conventions verbatim. Legal phraseology never holds the attention of the reader as does language in ordinary use and the interest is bound to lag in the twelve chapters of the book which repeat verbatim the conventions of the Hague and London Conferences. It is, however, too much to expect a legal text book to be as interesting as a best seller.

The very complete bibliography which the book contains and which, we take it, constitutes the claim of the volume to be a treatise useful to the specialist, should prove very helpful to the teacher as a guide to the sources from which to select collateral reading for the students. It would, however, seem that the bibliography might be condensed with advantage since it is so voluminous as to require an extensive reading on the part of the teacher to determine the best authorities for his purpose.

The thoroughly pro-American attitude of the author is worthy of note. On all occasions and in all cases the United States was actuated by the very best of ideals and motives. Hall, in his book "International Law," remarked that "The United States has had the misfortune to supply almost all the modern instances in which a government has found itself unable to continue relations with a minister accredited to it." Hershey devotes nearly three full pages of closely printed notes to demonstrating by a discussion of the instances given that this "sneering reproach" is unwarranted. One wonders if it is an "essential of international law" that the United States should always be right.

It is not to be gathered from these adverse criticisms that the work is without great merit. In fact, its general excellence is such that the reviewer is driven to noticing these minor and perhaps immaterial flaws, if he is to say anything else than that the book is most eminently suited for the use of classes in International Law in our universities. It is not a great study of the subject, but it is an excellent text-book.

L. P. S.

THE LAW OF INTERSTATE COMMERCE. Franklin A. Judson, of the St. Louis Bar. Second Edition. Chicago: Flood & Co., 1912.

In this second edition of one of the two or three text books devoted exclusively to the subject of interstate commerce, Mr. Judson, himself a prominent attorney and practitioner before the Interstate Commerce Commission, has presented an enlarged treatment of his subject and incorporated into his original

work the latter-day amendments to the modern charter of commerce. The growing strength of the conviction that a commission form of regulation is beneficent, and consistent at the same time with justice to capital and enterprise, as well as to the public, has permitted the adoption of several important and far reaching amendments since the first edition of this work appeared. The Carmack Amendment, the sections passing under the title of the Hepburn Law, the Elkins Act, the Safety-Appliance Act and even the legislation under the homely and unpretending title of the Ash-pan Act, have given rise to new questions before the Federal Commission. The comparatively few cases involving this legislation which have actually been decided prevents an unqualified statement or conclusion as to its effect. For this very reason revamped editions of the older works are the more necessary. At the time when the problems are coming into litigation, counsel grasp eagerly for a collection of authorities which will light them upon a difficult path.

The present work retains the former chapters upon the general subject of interstate commerce before 1887, the date of the Interstate Commerce Act. The few pages which can be devoted to this broad question and the many important cases upon it, perhaps justify the suggestion that but little profit can result from so scanty a treatment of the general subject. The broad statement of the principles of such cases as *Gibbons v. Ogden*, *Paul v. Virginia*, and the other well known cases which form the older dispensation, is of very little real value to the profession, and at the same time would seem to be uncertain grazing for students in widely spreading meadows of learning. The same suggestion might possibly be made anent the Sherman Anti-Trust Act. Interesting and far reaching as are the doctrines of the Knight case, the Northern Securities decision and the more recent Tobacco and Oil cases, an adequate treatment of them can in no wise be given in a few pages or in a small section of a volume of but eight hundred pages. The practical value of making the attempt is open to question.

But with respect to the Commerce Act, the work of Mr. Judson is of high merit. The sections are treated *serialim*, and form the basis of the author's classification of his subject. The matter seems well handled; the style clear and direct. The uncertain questions are frankly pointed out, but there is little discussion of the probable course of decision. Criticism may perhaps be leveled at this failure. We are inclined to think the modern text book has not enough to distinguish it from an encyclopedia. It becomes more and more a bare statement of deductions from decided cases and contains little or no discussion of principles; no guiding of future courses. This is unfortunate; particularly is it so in new fields.

Recent experience in wide use of this work for reference has led to the opinion that care has not been used in, nor adequate attention paid to, the matter of physical make-up. The index is faulty and wholly insufficient; topics are omitted or left entirely without cross-reference; and the sub-divisions do not divide. The same charge of inadequacy must be brought against the table of cases. Cases are referred to in the text which do not appear in the table at all; and worse than that, the citations are entirely omitted from the text leaving one to wonder what court decided them and when and where they may be found. The book would also be improved, it is thought, by further annotation and the adoption of page notes.

R. J. B.

STATUTE LAW MAKING IN THE UNITED STATES. By Chester Lloyd Jones. Boston: Boston Book Company, 1912.

It is one of the paradoxes of public life that law making should be so generally regarded as a suitable occupation for the amateur. In England, before the close of the Mediæval Period, the drafting of statutes was wrested by parliament from the judges and the king's council, establishing a tradition, long maintained in that country and still adhered to in most of the American states, that the form as well as the contents of a bill was a matter with which the legislature was not only competent to deal, but alone competent. The failure of William Penn's plan for the preparation of acts by the council for submission to the assembly is a familiar example of this legislative jealousy. As a consequence, it

is assumed that any estimable gentleman, whom nobody would regard as competent to draw a deed for a wood-lot, is capable of expressing in apt language the public will. In England, parliament has long since delegated to expert counsel, permanently employed, the drafting of legislation, but in this country the idea grows but slowly.

If then, as seems probable for some time to come, the form of legislation, in most of the states, is to be left to chance, the best that can be done is to interest the legislator himself in the art of statute making; and for this purpose the work that is the subject of this review should prove useful. The most experienced parliamentarian will find much to interest him in its pages, and for the unexperienced, for those intending to enter public life, it should prove a boon indeed. There are, of course, many works upon the interpretation of statutes, but these deal primarily with the decisions of the courts, and are more useful to the judge or lawyer attempting to construe a badly written act than to the publicist endeavoring to draw a good one. Without entering into technical discussions, the author briefly reviews the scope of American legislation and the constitutional limitations that hedge it in on every side. He describes the formal parts of a statute, such as the title, enacting clause, etc., the conventional use of terms, and gives some very useful rules for the proper arrangement of the subject matter of an act with a view to clearness, coherence and forceful expression. Repealing and amending acts, as well as resolutions, are also treated. While brevity is always desirable, there are some topics that might have received more extended treatment, and there are chapters that belong to political science in general rather than to statute making proper. The chapter on judicial oaths is hardly germane to the discussion. But these are minor matters that do not detract from the general merit of the work.

L. W. H.