

BOOK REVIEWS.

BARTOLUS ON THE CONFLICT OF LAWS. Translated into English by Joseph Henry Beale. Pp. 86. Cambridge, Mass.: The Harvard University Press, 1914.

Bartolus of Sassoferrato, teacher of law at the University of Perugia during the middle of the fourteenth century, was the first to state in definite form the doctrines of the Conflict of Laws. His statement, though prior to it there were some writings upon this subject, is the real starting point from which the principles, today so complicated and in many cases so different from what they originally were of this branch of the Law, have been evolved. Mr. Beale in this translation presents a clear statement of these principles as laid down by Bartolus and the modern lawyer should have no difficulty in understanding the true meaning. The style of the translation is particularly satisfactory in that much of the old quaintness of expression is retained. The binding and the tasteful appearance of the book make it a welcome addition to any library. The book should prove of practical assistance to those engaged in tracing the historical development of the law, and should be of interest, at least from an historical point of view, to every lawyer.

E. W. M.

AN ELEMENTARY TREATISE ON THE JURISDICTION AND PROCEDURE OF THE FEDERAL COURTS. By Hon. John C. Rose, United States District Judge for the District of Maryland. Pp. xxx and 406. Baltimore, Md.: King Brothers, 1915.

Many treatises have been written upon federal courts and procedure, in which the problems have been discussed from every point of view. The purpose of this new addition to the long list of works upon the subject is to furnish for those who know little or nothing of these topics a source of general fundamental information. Throughout this book, the author has kept this purpose in mind and does not confuse the reader with intricate detail.

In presenting the subject, the author first takes up matters introductory but essential to a complete understanding of the questions involved. He shows how our dual form of government necessitates a dual system of courts: he contrasts the power of the state courts with the limited jurisdiction of the federal courts; and he traces the historical development of the present organization of the federal judicial system. With this foundation, he is ready to take up the discussion of the main subject of the book,—the jurisdiction and procedure of the courts of the United States. First he discusses the original jurisdiction of these courts. Under this heading he in turn explains the criminal jurisdiction of the district courts, their civil jurisdiction, their ancillary jurisdiction, and their power to grant writs of *habeas corpus*. Under the civil jurisdiction, he shows when the District Court has exclusive jurisdiction and when jurisdiction concurrent with the state courts. He devotes chapters to the discussion of "The Amount in Controversy", "Cases Arising under the Constitution, Treaties or Laws of the United States", and "Diversity of Citizenship". He then discusses the venue of actions in the federal courts, how their jurisdiction is affected by assignments and transfers, and the right of removal to a federal court. Lastly he takes up the civil procedure in the district courts: what it is when they sit as courts of law, what when they sit as courts of equity, and what substantive law they apply. Under the appellate jurisdiction of the federal courts, he enumerates the cases where there may be a direct appeal from the District Court to the Supreme Court and where to the Circuit Court of Appeals, and

shows from what class of decisions appeals and writs of error may be taken. It is unfortunate that the Amendment to the Judiciary Act of December 23, 1914, was passed so soon before the publication of the book that this important change in the cases for which a writ of error will go to the state court could not be noted in the text of the book. Reference is, however, made to the act in "Additions and Corrections".

The book is clear, simple and concise. Detail is sacrificed for brevity, although the problems are discussed with much precision. The book originated in a course of lectures delivered at the University of Maryland and therefore, as the Maryland court is always referred to as the typical state court, the viewpoint of the book is at times not as broad as it might be. On the whole the book is to be recommended for the purpose for which it was written; it is too elementary for those who have difficult problems to solve, but for those who wish a broad and fundamental idea of the subject, it should prove satisfactory.

E. W. M.

A HISTORY OF FRENCH PUBLIC LAW. By Jean Brissaud. Translated by James W. Garner. Pp. lviii and 381. Boston: Little, Brown & Co., 1915.

The ninth volume of the Continental Legal History Series, published under the auspices of the Association of American Law Schools, contains that portion of the late Professor Brissaud's History of French Law which relates to the public law of France. The volume devoted to private law has already appeared. This volume treats of the state and its administration, local government, the church, finance and status of persons and of lands during the Roman, Barbarian, Feudal, Monarchical and Revolutionary periods respectively; in other words it is a constitutional and institutional history of France from the earliest times to the nineteenth century. Brissaud's work is one of the greatest contributions to legal history; to praise it at this day is a work of supererogation. We can merely congratulate ourselves that at last there is an adequate English translation of a work which no student of legal institutions can disregard. Though the book in form is a history of the law of one nation, the scholarship of the author was too profound to be confined within such limitations; using the comparative method he reaches results as to the fundamental principles of state growth common to all western communities and in his notes while discussing French law throws extraordinary side lights upon every nook and cranny of legal history. We see how societies are formed, developed and finally pass away.

Particularly interesting to the American and English lawyer or historical student should be his study of the feudal system. So far as land law and land titles are concerned English and American jurists have thoroughly mastered feudalism, but it may be doubted whether they have fully appreciated its influence on constitutional ideas and practice. Brissaud's history too, is carried down to the French Revolution, in contrast to the great English histories which do not penetrate beyond the feudal period, and leave practically untouched the modern changes in the land system and local government. And the Revolutionary period is an excellent stopping place, for there it was that administrative centralization in France took its present form.

The brilliant style of the author makes the reading of this work a real pleasure, while the extraordinary wealth of citations should prove of great use to the specialist. Now that we have it, it is difficult to see how either historian or jurist could do without it.

L. H.