

## BOOK REVIEWS.

AMERICAN GOVERNMENT AND MAJORITY RULE. By Edward Elliott. Pp. 175. Princeton: The Princeton University Press, 1916.

The steady trend of advanced political thought today is along two main lines of progress: first, better and more accurate representation of all classes of the people; second, the more effective execution of public policy. Both of these are admirably presented in the book before us. The major part of it is devoted to an historical summary of the reasons why so many obstacles have been carefully placed in the path of majority rule. Dr. Elliott shows that the men of the eighteenth century and of a greater part of the nineteenth, believed in the doctrine of natural rights, that there were certain "privileges and immunities" which every man had before society was organized, that he gave up only part of these rights to government and retained the others, and that he accordingly could not be deprived of them by any organized government since he had never authorized society to control them. Dr. Elliott points out that this theory, upon which even some of our early Supreme Court decisions were based, has almost disappeared. We are now trying to secure a control of government by the majority and are finding it such a hard task that we must remodel some of the most firmly established political principles. In order to do this we must dispense with some of the intricate and complex features of our system which block majority control.

The author represents the modern view of government and shows that in order to take political action more and more out of the control of small groups and cliques seeking to use it for selfish purposes, we must render it more responsive to popular wishes and must simplify it. He favors the initiative, referendum and recall only as reserve measures, so to speak, which shall be used to correct extraordinary evils. Because they complicate government and render it more involved, tending to overburden the voter, they are not to be made a part of the usual, ordinary government procedure. With his conclusion on this point a large and growing number of the voters will agree.

The author dwells with cordial approval upon the important efforts now being made to simplify government structure. Among these he mentions the commission form of government for cities, a greater concentration of both power and responsibility in the hands of the Governor and his cabinet, the possible abolition of one house of the state legislature, the closer relation between the Governor and the legislature, giving the executive and his cabinet the right to introduce and advocate bills, the abolition of the requirement that a member of the legislature must reside in the district in which he is chosen, and last and perhaps most important, the short ballot.

While the brief compass of the book precludes a detailed discussion of any of these changes, they are brought clearly into their proper relation and perspective. The book as a whole presents in a readable and interesting form the practical bearing and value of the newer ideas in government, and is to be commended to the general reader as well as the student of political thought.

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PROBLEMS IN THE LAW OF CONTRACTS. By Henry Winthrop Ballantine. Pp. L and 363. Rochester: The Lawyers Co-operative Publishing Co., 1915.

To the lecture, text book, quiz book and case book there is now added a problem book as an aid to the study of law. That the student must learn to deal with legal problems is the fundamental principle that inspires all methods of instruction however they may differ. Professor Ballantine's book offers to supplement both the case book and the text book by furnishing a number of problems based on the decisions and requiring the solutions to be found by the student's own thought and research. All teachers submit or ought to submit problems in class discussion. This book submits them in advance of the discussion and enables the student to use the library to find the answer, in accordance with the method of the lawyer in solving actual problems.

Professor Ballantine's experience as a teacher of law commands the respectful attention of his colleagues to his declaration of faith in the method proposed and used by him and now given body in his book. Students who use the book cannot fail to be benefited. It is stimulating and suggestive and it adds the spice of mystery to the sometimes uninspiring drudgery of the reading of the cases. The problems in this book stand unilluminated by a single suggestion, with only a few notes that are meaningless until the literature referred to in them has been examined and its bearing on the problem noted. Perhaps even then the solution will not be found and the student may enjoy the supreme pleasure of trying to find an answer to an undecided problem. The book enables the student to do at home or in the library what he is now obliged to do in class if he participates in the discussion of the problems submitted by the teacher and its use ought to better fit him for participation in such discussion. It is much the same work that he must do in the Practice Court.

Professor Ballantine's book is a first attempt to translate into practice a theory of instruction long and earnestly advocated by him. The case book is constructed on the theory that the student does not know the problem or its solution until he has read the cases; the problem book states the problem without offering any solution. Do the two books supplement each other, or does the one neutralize the value of the other?

Perhaps the next step in the method of teaching law will be the abandonment of all books and the instruction will consist of the submission of problems to be solved without the use of the authorities, which will be made known to the student afterwards. If it be true that *principium est potissima pars cujusque rei*, then this would be a sound method, theoretically at least. "Tell me not of the last cited case having overruled any great principle," said Mr. Justice Story, "give me the *principle* even if you find it laid down in the Institutes of Hindu law." The Hindu law is no better, though it may be a richer repository of principles than the unbiased mind of the thinking student, and any method which gives free play to his powers and sense of justice will produce good results.

That Professor Ballantine's book has great merit is as obvious as that his theory of legal pedagogics is sound. It remains to be seen how his

book will work in actual use; the final test of its value can only be furnished by experience. Professor Ballantine deserves the thanks of his professional brethren for presenting his suggested modification of current pedagogical method. It is under the stimulus given by efforts such as his that the teachers and the bar will tread the path of improvement.

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**PATHOLOGICAL LYING, ACCUSATION AND SWINDLING.** By William Healy and Mary Tenney Healy. Pp. x and 286. Boston: Little, Brown & Company, 1915.

This book is number one of a series of monograph supplements to the *Journal of Criminal Law and Criminology*, the publication of the series having been authorized by the American Institute of Criminal Law and Criminology. The volume is practically a case book, giving complete clinical pictures of twenty-seven cases of various degrees of delinquency in which marked departure from truth telling, as measured by the present standards of society, is a conspicuous, and in a few instances, the sole symptom. The term "pathological" is employed to differentiate "falsification entirely disproportionate to any discernible end in view, engaged in by a person, who at the time of observation cannot definitely be declared insane, feeble-minded or epileptic," from the lie direct, inspired by a desire to accomplish some very specific end.

Pathological lying rarely, if ever, centers about a single event; it usually manifests itself over a period of years or even a lifetime. It represents a trait rather than an episode, and may lead to the symptoms—mythomania, pseudologia, phantastica. The quotation given above is the authors' definition of pathological lying and its formulation constitutes a helpful step in advance of earlier work in the same field. An equally satisfactory definition of pathological accusation follows the same lines: "It is false accusation indulged in apart from any obvious purpose." The most striking form of this type of conduct, of course, is self-accusation. Swindling is looked upon by the authors as a natural evolution from pathological lying.

It is obvious that grave and sensational social issues arise out of pathological lying, accusation and swindling. The legal issues presented by this type of conduct are exceedingly difficult to handle and many times costly to the state. It is, therefore, important that the well-equipped lawyer, as well as the student of abnormal psychology, be familiar with this type of departure from normal conduct.

Of the twenty-seven cases cited it is of interest to note that nineteen were diagnosed as mentally normal. The differential diagnosis must therefore be made upon data quite apart from that usually confirming the conclusion of feeble-mindedness, and both prognosis and treatment will be essentially different.

Dr. Healy's long experience with juvenile delinquency, particularly as it comes under the jurisdiction of the courts, has admirably equipped him for

the close observation and keen psychological insight necessary for the presentation of case histories in a serviceable form. This volume will be of considerable interest to practitioners in criminal law and to those interested in social work with delinquents.

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REMINISCENCES OF JOHN ADYE CURRAN, K. C. Pp. xi and 300. New York: Longmans, Green & Co.; London: Edward Arnold, 1915.

It must always be a source of much pleasure and profit to read the story of the experiences of one who has attained marked success in his professional life, especially where the story is well told. Such is the relation of his reminiscences by Judge Curran, County Court Judge in Ireland from 1883 until his retirement in 1914.

Judge Curran has no apology to make for giving to the world these recollections. He feels that it had been given to him to play a part in incidents which made history, and to enjoy the acquaintance of the distinguished men of the day; and it is his purpose to give a true account of those events, and "to save and recover from the deluge of time some stories and recollections of those men and of the little customs and institutions which with them have faded."

The author devotes the first hundred pages to his boyhood and college days; his early days at the bar (with many valuable hints to young lawyers); the description of the Old Home Circuit, the members thereof, and circuit memories; several of his most interesting cases which he had as a practicing barrister; inter-circuit courtesies, and the reciprocity and good-fellowship of the bar at home and abroad; with many amusing stories of his brother barristers and of the police as witnesses. In the next hundred pages we have the story of the dire distress of Ireland and the troublous times of Irish history. The rest of the book tells of his appointment to the county judgeship and his judicial work in Kerry and the Midland counties, concluding with random memories and a touching farewell.

For the layman the book contains an excellent review of the struggle of strife-riven Ireland, as narrated by one who speaks of his own personal knowledge and who played a large part in the effort to remedy the situation; it further gives a close insight into the character of the leaders of English and Irish politics in Judge Curran's time. For the lawyer it is of additional interest in its description of the inferior courts of Ireland, the practice and procedure therein, and the relation between the bench and bar, not to mention the many valuable suggestions to lawyers and the most interesting anecdotes contained therein.

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