

## BOOK REVIEWS.

PREPARATION OF INTERNATIONAL CLAIMS. By George Cyrus Thorpe, A. M., LL. B. West Publishing Co., St. Paul, 1924, pp. x, 280.

This volume, viewed as a manual of International practice, is inadequate. It bears evidence of the generous use of desk scissors and is a compendium of rules adopted by our own State Department or recent Claims Commissions, rather than a study of a new form of practice which has developed rapidly since the close of the great war. It is interesting to the reviewer, not because of the material it furnishes, but rather because of the new and enlarging field of practice which it suggests. In this field it is the pioneer and reminds one of those early books on legal practice which appeared in the early days of the Nineteenth Century and which mark the beginning of that vast structure of adjective law which has been reared on this continent. The history of the development of fields of legal practice, their cultivation and then abandonment as they are taken over into normal business life, followed by the opening of new fields, is a fascinating study both to the practitioner and to the student who is entering upon his professional life. The story of the English Bar reflects accurately the changing political and economic conditions of the English people. The gossip of the Inns of Court suggests the large returns which came to the medieval lawyers from the management of the great landed estates then developing in English life. This period was followed by the conflicts of the Reformation and the establishment of the commonwealth which destroyed forever the rich sources of medieval practice. With the Restoration the legal profession took on new life, and great were the financial returns to the English conveyancers, special pleaders and equity draftsmen during the reigns of Charles II and James II. The subserviency of lawyers in the closing days of James II brought the Bar into temporary disfavor. But new fields of constructive legal work opened during the period of Queen Anne, and once more the lawyers flourished in their old time glory. The closing days of the Eighteenth Century mark the end of this prosperous era, and discouragement reigned among the barristers of the Inns of Court. It was a period, however, when the commercial customs of London were being established by Lord Mansfield in the Courts of Westminster, and the meteoric career of Erskine heartened greatly the younger generation. Henry Crabb Robinson, that delightful barrister, so perfectly described by Wordsworth as "A Man . . . of cheerful yesterdays and confident tomorrows," has preserved in the first volume of his *Reminiscences* the after dinner gossip of the Bury Assizes in 1818. He writes:

"In the winter of this year I heard from Gurney some interesting facts about fees, which within about eleven or twelve years had risen much above what was formerly known. Kaye, the solicitor, told Gurney once that he had that day carried the Attorney-General (Gibbs) 100 general retainers, that is 500 guineas. These were on the Baltic captures and insurance cases. Gibbs did not think that Erskine ever made more than 7,000 guineas and Mangay confessed that he only once made 5,000

guineas. He observed that the great fortunes made in ancient times by lawyers must have been indirectly as the stewards of great men. Otherwise they were unaccountable.

"I must here add that all this is little compared with the enormous gains of my old fellow-circuiter, Charles Austin, who is said to have made 40,000 guineas by pleading before Parliament in one session."

One notes in this suggestive reminiscence the growing importance of the early insurance cases with Attorney General Gibbs' one hundred general retainers; also the disappearance of the great fortunes made by the ancient lawyers as the stewards of great men and, finally, the beginning of a new practice which came with the introduction of the railroad when Charles Austin made forty thousand guineas by pleading before Parliament in one session. Henry Crabb Robinson was writing in 1851 and was contrasting his memories of 1818. Even Austin's professional rewards, amazing as they seemed to Robinson, were small compared to the returns prevalent in the late sixties when Hope-Scott achieved his great successes as leader of the Parliamentary Bar. Hope-Scott is an interesting character in the history of the English Bar. An ecclesiastic by temperament, convert to the Roman Catholic faith, the devoted friend of Cardinal Newman, he had a rare faculty of combining his theological and social interests with an exacting professional life. His somber biographer, Professor Ornsby, of the Catholic University of Ireland, suggests rather than states the great professional rewards which Hope-Scott received from his practice in the new field of railroad construction and industrial development during the middle years of the Nineteenth Century. We read of ten thousand Pounds for one argument before a Parliament Committee, and the receipt in one session of Parliament of one hundred general retainers. And yet this brilliant theologian and successful lawyer had the audacity (as we would say in this commercial age) to write to Mr. Gladstone: "My reason for staying in town is to read ecclesiastical history and to prepare if so be for election committees. The former branch I reckon my flower garden—the latter my cabbage field." Indeed, a productive cabbage field! The history of American practice is not unlike that of its English cousin. Within the last half century we have seen the passing of the prosperous conveyancers as their work was absorbed by salaried clerks in commercial title companies; the disappearance of the family lawyer who brought to the management of estates a personal interest in the tragedy or romance of his client and his ward; the construction of great Gothic cathedrals and renaissance palaces housing the typewriters and adding machines of some modern trust company, advertising that it will make your will, administer your estate, guard your minor children and take care of your burial lot. Even in our own day the lucrative field of accident practice is giving way to more or less automatic systems of compensation, and liability insurance settlements are taking the place of the trials—full of humor and pathos—that once held sway in our State Courts. But as in the past, so now we observe new fields

of practice opening to the coming generation of lawyers. Herein lies the significance of the volume under review, from which we have wandered far. The centralization of our government, the creation of Federal Commissions led by the Interstate Commerce Commission and followed by the Federal Trade Commission and others, and now since the war the creation of various Claims Commissions are opening to the lawyer of the future, rich possibilities of original work and large reward. Already rules have been established by the several Commissions and by the Government Departments requiring the registration of counsel before they can appear in contested matters. It is hoped that for the organized lobby of the past may soon be substituted a congressional Bar where counsel can present adequately and openly the vital interests of our modern industrial life as they may be affected by proposed legislation. Perhaps, therefore, one is not too bold in predicting that, in the next generation, we will see developed a vast new field where the legal profession can once more contribute constructively to the development of national life and community welfare. It is with this background and in the light of this possible future that one looks with interest upon any volume, however, modest in design, which is the pioneer of a new form of legal practice.

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CRIMINOLOGY. By Edwin H. Sutherland, Ph. D. Edited by E. C. Hayes. J. B. Lippincott Co., Philadelphia and London, 1924, pp. 643.

In some respects this book might have been labelled "Mulum in Parvo." In bulk it looks much like, picked up at random, "Tatterdemalion" and "How to Know the Wild Flowers," but it covers as many pages as those two books together. But though the paper is thin, it is not too thin, the print is clear, and mechanically as well as otherwise it is a good book. The range of its contents is as broad as its pages are numerous, as is indicated by its chapter headings, which are: Criminology; Law and Crime; Statistics of Crime; the Victims of Crime; Causes of Crime (5 chapters); The Police System; Detention Before Trial; "Popular Justice"; The Court; The Juvenile Court; Origin and Evolution of Punishment; Ethics and Economics of Punishment; Miscellaneous Methods of Punishment; Prisons—History, Organization and Control; Prisons—Function and Failure; Prisons—Convict Labor; Prisons—Education; Release from Prison; Parole; Probation; Methods of Reformation; Prevention of Crime. There is also a seemingly very complete index of ten pages. The chapter headings epitomise the contents of the book as well as the reviewer could briefly do it, and speak for themselves.

It seems rather unfair for a lawyer to review a textbook on criminology, especially as the author himself says, and quite truly, "Little attention has been paid by law schools, lawyers, or judges to the improvement of the criminal law. No law school employs a professor who gives full time to the study of the criminal law. . . . Most competent and honest lawyers avoid the

criminal law." The law teacher is sure to be violently prejudiced in respect to certain phases and theories of the law and perhaps to tend toward satisfaction with that which, in a way, is his own. On the other hand, he is unfamiliar with the teaching methods in the field of criminology and hence unappreciative of the requirements of a good textbook. In this instance, however, the reviewer finds nothing but good to say of the book.

The opening chapter is, to be sure, irritating to a teacher of criminal law. To put the "Nature of Crime, from the Legal Point of View" into two pages, and do it other than sketchily and insufficiently, is an impossibility. The author defines crime as "a violation of law. If there were no laws there would be no crime." This is true enough; but, in a sense, especially to a layman, torts and breaches of contract are also violations of law and were there no laws there would be no torts in a legal sense. The author's failure to point out clearly any distinction between crimes and other wrongs of which the courts will take cognizance makes his subsequent brief discussion of the "Origin of Crime" extremely difficult for the uninitiated to comprehend. Certainly the reviewer was left in some confusion as to whether the author was discussing the origin, in their relationships, of the acts which are crimes, or the origin of the laws which make them crimes, or the origin of the attitude of sovereignty which distinguishes crime from other legal and moral wrongs. This indefiniteness of expression is not peculiar to Mr. Sutherland. Even the much longer and learnedly illuminating article by Mr. F. H. Severin, 3 *Can. Bar Rev.* 121, is intelligible only if one has already apprehended the distinction between the fact that political government imposes certain consequences on some acts such as do not follow other acts, and the moral justification for that fact. If the difference is already comprehended, the discussion of justification in the article is clear and forceful, but it would be abstruse and confusing to readers unacquainted with the history of the criminal law. Mr. Sutherland's page and a half discussion of "The Nature of the Criminal" is also obviously superficial compared with his own five chapters on the causation of crime, and seems unnecessary.

However, starting with this perhaps biased disapproval of the opening chapter, the reviewer promptly changed to whole-hearted enthusiasm for the mass of fact presented throughout the rest of the book, the apparent unpartisanship with which it is analyzed and stated and the lucidity of the author's explanations.

Henry Drummond says, in "The Ascent of Man," "the philosopher requires fact, phenomenon, natural law at every turn to keep him right; and without at least some glimpse of these, he may travel far afield. So long as Schopenhauer sees one thing in the course of Nature and Rousseau another, it will always be well to have Nature herself to act as referee." One not uncommon criticism of the teaching of sociology has been that it is necessarily a speculative philosophy of ideal relations, too removed from the practicalities of life. Mr. Sutherland's purpose seems to be that of supplying an insight of the fundamental actualities of crime and our methods of dealing with it as a predicate for the searching out of further facts intelligently.

Unlike so many dealers in figures, he points out the inherent deceitfulness of statistics and offers what there are only for what they may be worth. When one remembers the statements that used to be made in prohibition and anti-prohibition propaganda based on the number of arrests in wet or dry states, the population of various infirmaries and institutions, etc., it is delightful to read that "even if the statistics could be made accurate, they would not justify conclusions regarding anti-social tendencies," and that "the statistics of crime are known as the most unreliable and the most difficult of all statistics."

We may know, for instance, that in one state there is a markedly larger proportion of convictions to indictments, or to arrests, than in another. But no definite deduction therefrom is possible. It may be that one state permits the use of evidence illegally secured, while the other does not. If this be true the figures are less significant than otherwise. Or it may be that the drastic penalties of one state tend toward acquittals, or that juries are less wisely and honestly chosen in one than in the other, or that judicial caliber has differed, or that any one or more of a dozen various factors produce the differing results. "In the first half of the year 1922 only one-half as many persons were arrested for gambling in Chicago as in the first half of the year before; no one would suspect from this that gambling had decreased." But what was the cause of the decreased arrests does not appear from the figures. A Detroit judge recently dismissed well over 500 cases in a single day. They were on complaints for violation of the parking ordinance and were all dismissed as a rebuke to the police, for some reason. Although that particular judge is not notorious for unwillingness to punish generally, those particular dismissals may make startling figures in a mere table of comparisons.

Mr. Sutherland could not go into discussion of all the possible affecting factors of all statistics. But he does so well stress the fact of unreliability at the outset that any reader should be prone to examine all conclusions in the light of his correlated knowledge—and if the book induces in its students that tendency only, it will justify its publication. He discusses the deterrent effect of the death penalty at page 367 ff. There are comparative statistics given. As an example of his trenchant comment is this: "In 1917 the legislature of Illinois passed a bill to abolish the death penalty, but the governor vetoed the bill and it did not become a law. Murders increased very greatly in that state after 1917; if the bill had become a law doubtless many persons and newspapers would have presented the figures as absolute proof that the abolition of the death penalty increased murders." But there is little specific statement of the variant factors such as negro immigration or Tong activity which may affect the figures. However, in another part of the book, under the title "Statistics of Crime" is a general discussion specifically applicable. Were the book made up of such particularly detailed considerations of each topic as Mr. Sutherland's own excellent essay on the death penalty in the February issue of the *Journal of Criminal Law*, it would necessarily extend into volumes.

Recognizing this limitation, the author seems to say all that could be said and to say it well. His style is lucid, his presentation clear and his attitude calm. On so contentious a matter as the death penalty, for instance, he says simply, "The only conclusion furnished by the statistics is that the evidence regarding the deterrent value of the death penalty is decidedly inconclusive; whatever evidence there is tends to show a relatively unimportant relation between the death penalty and murder rates. The argument of the advocates of the death penalty that it is valuable as a means of deterrence is not substantiated." As to the police, he recognizes that "Far too much criticism has been hurled at the police, and far too little understanding of the difficulties of the police work prevails." But he points out thereafter undeniable faults in police activity and defects in the system.

He cannot discuss convict labor as does Tannenbaum, nor jail conditions as does Fishman in his "Crucibles of Crime," but he does refer students to the ampler comments of such writers. Not the least valuable part of the book is the complete and inclusive bibliography which follows each chapter. If the author does not advert to Aschaffenburg's theory of the purpose of punishment, to the reviewer most intriguing, it may be an omission, but cannot be called a defect and the reader is referred to Aschaffenburg in the logical place.

The puerile, futile, or shrewd and irrelevant arguments of Messrs. Tully and Darrow in their recent public display anent the death penalty could have produced only cacophonous applause of disgusted laughter from an audience familiar with this book. It would seem to be excellent for teaching purposes and it will give to any reader an *understanding* of conditions which, if widely enough disseminated, would effectually eliminate much evil.

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CASES ON THE LAW OF AGENCY. Selected and Arranged by Edwin R. Keedy. The Bobbs Merrill Company, Indianapolis, 1924. pp. xxiii, 823.

It was known that Professor Keedy had assisted in the preparation of Reinhard's Cases on Agency. The Reinhard collection was a satisfactory one. It stood up well in class-room use and it embraced the kind of materials necessary for theoretical and practical treatment of the leading ideas of Agency. There are *prima facie* and substantial reasons for believing that the present compilation is an improvement on the earlier collection. This collection of cases has been in preparation for several years. It is not a hurried and little considered compilation such as could be put together in a few months by one acquainted with the field. It represents many years of study and reflection on the problems of Agency and on the aptness of individual cases for pedagogical use.

In two outstanding particulars the present collection differs from the Reinhard compilation. It contains a comparatively large number of cases decided within recent years. The justification for this feature is not novelty

and modernity for their own sake, but the need of exhibiting in modern detail, general rules not clearly limited and developed in the older cases. The last thirty years have wrought many changes in the law and they have brought to light applications of rules in many novel forms, which, in their more recent unfoldment, are seen to be neither as simple nor as absolute as they once appeared. Case-books may longer survive the undermining process of change than textbooks, but they cannot ignore these developments entirely. Each generation should have its own case-books, and, in some fields of law, the changes are so rapid that even in a few years a case-book may be antiquated. Moreover, the tendency of case-book construction is toward a closer connection with the living law as it is evidenced in current decisions. From another aspect, the present-day emphasis is on analysis rather than, as in the last generation, on history. In this case-book, the compiler has not, however, put aside the old landmarks. On the contrary, while giving representation to cases many of which fall little behind the date line of the book itself, he has in various places started his topics with a new selection of old foundation cases. As might be expected of a compilation of cases on Agency made by one long seasoned in teaching it, the important familiar and leading cases are represented. We find also numerous recent English cases which indicates something more than diligence in canvassing the ground—that Agency is one of the least local or geographical of the fields of law.

The other important feature of difference is that the topic of master's liability to the servant for harms suffered in the employment, has been omitted in the present compilation as depending on principles foreign to the law of Agency. Cases on the liability of the master to third persons for harms inflicted by the servant have been retained. The distinction seems to us clearly a valid one and one that saves a large amount of space for strict Agency cases.

The work is essentially a new one; it is not merely a new edition. Making a partial comparison at random, we find that where thirty-eight of the Reinhard cases are included, fifty-eight Reinhard cases are omitted. The page volume of the two case-books is practically the same, but the present work embraces about fifty more cases than the Reinhard collection. About twice as many cases are cited in the footnotes for further study as are printed, and there are also numerous footnote references to the law review literature on Agency questions of recent years. The reviewer favors the practice of digesting the reference cases. Whether the decision is to be shown is another question. Any class-room vehicle is primarily for the use and information of the student, and it can hardly be expected that the average student will avail himself of more than twice as much collateral reading as is presented in a printed text. It is true the author says that this apparatus is primarily intended for the instructor's use, but we believe that what goes into a case-book should be primarily for the average student's use and not merely for the exceptional student or the instructor. Moreover, case-book instruction needs to be supplemented by problems. If the case-book does not supply these problems, the instructor must supply them.

This bland criticism of what is a matter of detail and also a matter of varying practice, does not touch the value of the selection made of cases printed. We believe that the collection as a whole is a valuable addition to case-book literature and that it is a fitting objective testimonial of the years of labor and research that have entered into it.

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THE RENASCENCE OF INTERNATIONAL LAW. By Manfred Nathan, K. C., LL. D. (The Grotius Society Publications, No. 3.) Sweet & Maxwell, London, 1925, pp. 218.

Part I, comprising three-fourths of the pages of this small volume, consists of a summary statement of the rules of International Law as these are covered in the standard British texts. This part bears the rather pessimistic caption "The Decline of International Law." Part II, however, entitled, "The Revival of International Law," is better indicative of the author's immediate intention in writing which is to urge the claims of the World Court and the necessity of the recasting of the rules of International Law, as steps toward the guarantee of peace.

Perhaps the most arresting suggestion in the volume has to do with the method to be followed in making International Law in the future. International Law in the past, says Mr. Nathan, has owed its influence "mainly to fortuitous circumstances, such as wars and disputes, and the treaties, conventions, or other arrangements made for their settlement. This has led to the improvement of some branches of the subject, while others have met with comparative neglect. . . . What is needed is that there should be a permanent and officially recognized body of jurists, charged with the duty of codifying and defining International Law, and of making recommendations as to necessary and desirable changes; that the personnel of this body should be selected, not so much by reason of their being representatives of various countries as of their acknowledged eminence as authorities; that their recommendations should be made effective by treaty and by legislation in their respective countries—in short, that they shall receive the full authority of law" (pp. 171-173).

Unfortunately, when it comes to specific proposals in the matter of international legislation, Mr. Nathan gives his attention almost exclusively to the law of war. Nor does he apparently see that one of the chief arguments for the World Court is that in it there is available a machine for utilizing the best thought of international jurists, so much of which now goes to waste, without recourse to the formal, not to say formidable, processes of international legislation—which are indeed utterly impracticable usually.

Furthermore, if anything can be certain, it is that the world's peace cannot be maintained solely by the application of jural tests to the conflicts of nations. Just as in the field of industrial relations, such conflicts are more

often than not of interests which have never yet been completely defined legally. Thus, far from being ready for a regime of statute law, the international *communitas* is still at that imperfect stage of development in which the law must be disguised as custom or equity, and must be constantly supplemented by compromise. Herein, in fact, consists the real condemnation of Senator Borah's sophomoric preposterities.

But not only is Mr. Nathan a lawyer—he is also an Englishman, and so regards the problem of world peace from the point of view of the world-flung interests of the British Empire. It is from this point of view no doubt that he advances the contention that there can be "no lasting settlement" "without the participation of so important a power as the United States of America" (pp. 178-179). The reviewer submits, on the contrary, that the present problem of peace is primarily European, and that this is the problem of arriving at a *status quo* which Europe is willing and capable of maintaining by her own resident forces and without more than intermittent assistance from the United States.

One other feature of this book which will be of interest to legal readers is its discussion of the question whether International Law is law (see especially pp. 151-167). To the Austinian conception, which defines law by the test of sanction, Mr. Nathan returns the neat answer "That laws existed before sanctions, that the sanction derives its authority from the law, and not the law from the sanction" (p. 193). Elsewhere, however, he quotes Professor Amos's admission, that "technically speaking, no doubt, all the most characteristic constituents of 'a law' in the strictly national sense are obviously absent from International Law" (p. 163). The prolonged debate between the Austinians and their opponents remains an interesting one even to this day, partly at least because each side is so much better on offence than on defence.

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A TREATISE ON INTERNATIONAL LAW. By William Edward Hall. 8th edition. Edited by A. Pearce Higgins. Oxford University Press, American Branch, New York, 1925, pp. xvii, 952.

It is no small tribute to the classical treatise of William Edward Hall that the publishers should have thought it desirable to issue an eighth edition and should have been able to secure the services of so competent a scholar as Professor Higgins for the task. First published in 1880, Hall's treatise very soon won recognition as a brilliant statement of the general principles of international law and a clear and forceful presentation of the existing practice of states. Its combination of legal analysis and historical research, of concise description and close argument gave to it an authoritative position among lawyers and publicists which it still holds today. It is true, indeed, that in the controversies between Great Britain and the United States which were then in progress, Mr. Hall assumed rather the attitude of a special

pleader than that of a detached scholar, and that in conflicts between English and Continental practice he frequently failed to do justice to the latter; but these were but minor defects when compared with the outstanding merits of the treatise as a whole.

The rapid growth of international law in the closing decades of the nineteenth century led to a second and third edition of the work at the hands of the author himself. Accompanying the third edition of 1889 was a new preface in which Mr. Hall prophesied the misfortunes which were to come upon international law during "the next great war" and the reaction by which the anticipated breaches of the law would be followed. So accurate was the prophesy that the preface has been widely quoted since 1914, and Professor Higgins has wisely chosen to reprint it on its own merits. The present edition marks a still further increase in the size of the earlier editions, the last of which appeared while the great war was in progress. A new chapter has been added upon the organization and functions of the League of Nations, and new sections have been incorporated dealing with the states created since the war, with the protection of minorities, the recognition of new states, and other recent developments resulting from the peace treaties or from special conventions. This supplementary material is presented in the scholarly form which those who know Professor Higgins might have reason to expect.

From one point of view there is an advantage in bringing down to date a treatise which has sufficiently conspicuous merits to warrant revision. The student is enabled to compare the state of international law some forty years ago with conditions of today, and to bring home to himself the remarkable progress that has been made both in the theory of the law and in the practical operation of its principles. On the other hand it may be quite impossible for the editor to correct the general tone and outlook of the treatise under revision, and in this instance the reviewer would suggest that, while the revision of the facts of the law is satisfactory, the new edition as a whole is far from being an adequate expression either of the position which international law holds today among the nations or of the forces which are directing its growth or the tendencies by which its progress is marked. It is to be hoped that Professor Higgins will soon give us a treatise of his own in which these points will be properly cared for.

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PRINCIPLES OF CORPORATION LAW. By William W. Cook, Lawyer's Club, University of Michigan, Ann Arbor, Michigan, 1925, pp. xlv, 815.

In the MICHIGAN LAW REVIEW of February, 1923, Mr. Cook discussed at length the requisites of the "Law Book of the Future." In that article he suggested that there is an imperative demand for a comprehensive and practical American treatise on all law for use of law students and lawyers, legislators and the educated classes generally. He pointed out that Blackstone's and Kent's "Commentaries" formerly served an extremely important

purpose in stating legal principles succinctly and without such excess of references that the thread of the discourse is lost in the interwoven fabric of a mass of complicated and distinguishing decisions. Blackstone and Kent have been outgrown, and in any event such a work by an English author would not be adapted to American legal needs. A modern American treatise of this nature, he believes, should be prepared under the supervision of scholars working in or from a Law School or Law Schools, suitably endowed for the purpose. This same idea is emphasized in the preface to the eighth edition of his six-volume text on Corporations, which is generally recognized among lawyers as the leading authority on that subject.

In the present volume Mr. Cook has attempted to put these theories into practice, so far as the field of corporations is concerned. He has endeavored to state the law succinctly and, at the same time, exhaustively, leaving out only the mass of citations which are the usual addenda to a textbook. He has given references only to cases in the Supreme Court of the United States, to very recent cases in other jurisdictions, to some few statutes, and to the eighth edition of his larger book.

The program which the author has thus laid out for himself is obviously ambitious. The thought must strike anyone familiar with the law that such a program cannot be carried out; that no text can be adapted to lawyers, law students, legislators and laymen without becoming too general for the lawyer or too theoretical for the layman. The technical reader of the very short and direct preface, wherein this purpose is set forth, will accordingly begin to read with extreme skepticism. Such a reader, however, is due first for surprise and then astonishment that Mr. Cook has been so signally successful in doing exactly what he set out to do. One might well expect from him a thoroughly well written, accurate and concise text, but it is beyond anticipation that a single author could achieve such singular success in so large a program. Fulsome praise in a book review particularly when the book emanates from a world famous authority, may well be discounted as what is to be expected. For that reason I do not attempt to expatiate at length upon the intrinsic virtues of the work, but suggest rather the particular needs which are filled from the points of view of the lawyer and the business man.

The book strikes me as the best text on any subject that I have seen. It is an adequate basis for an opinion upon almost any phase of general corporation law. There is range beyond anything which could be expected in one volume. It discusses the nature of corporations, subscriptions, holding companies, particular incidents of capital stock, sales of stock, illegal combinations, pledges and mortgages of stock, broker's contracts, examination of books, dividends, powers of stockholders, frauds on stockholders, *ultra vires*, stockholder's suits, bonds and mortgages, receivers, foreclosures, reorganizations, taxation, dissolution and forfeiture of franchises, unincorporated associations and public service corporations; a list of subjects exhaustively analyzed sufficient for the usual needs of almost any law office, apart, of course, from the statutes and decisions of the state in which the attorney practices.

Most of us have come to believe that a large library is essential, not only in order that we may have immediately at hand a great number of cases for citation in our briefs, but also, in order that we may refer to cases from jurisdictions other than our own before we are willing to give a definite opinion upon a matter in any wise intricate. This attitude is itself the cause of its own extension. When we once begin to go afield, we find that field becomes broader and broader; and unless we are among the fortunate few who possess a large library of our own, we become increasingly dependent on access to a library such as can be maintained only in a city of some size. The country lawyer is not so badly off as his brother in the city. The country lawyer has to learn to depend upon a few books, his native sagacity, and his own knowledge; but the city practitioner feels lost if he has not at hand references beyond the dreams of the most eminent jurists of a century ago.

Does this attitude make for better decisions by judges who must be so careful to distinguish between apparently conflicting decisions that they avoid that simplicity of statement which makes for clarity and progress in the law? To my mind, this is doubtful. Although we have far more references than formerly, I see slight progress toward that goal of clarity and definiteness which Mr. Cook has set for us and toward which he has so far advanced. That progress is essential, if the law is to maintain that place in the minds of the educated classes to which it is entitled, and in which it must remain if our fundamental ideas of government are to stand. We lawyers are too likely to lose sight of the fact that the law ultimately rests upon the effective majority of intelligent citizens; and that its dignity and usefulness is ultimately dependent upon their crystallized opinion. From this point of view the work deserves its highest praise. It is eminently suited to the layman. It is readable and will not confuse him by unnecessarily technical legal phraseology. The explanations are such that the business man can understand them. Every executive of a large corporation in the country could read the book with advantage. And beyond the immediate practical benefit derived, the lay reader cannot fail to gain respect for the law and legal institutions, an attitude which decidedly needs cultivation among business men.

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A HISTORY OF ENGLISH LAW. By W. S. Holdsworth, K. C., D. C. L., volume VI (Book IV continued, 1485-1700. The Common Law and Its Rivals). Little, Brown and Company, Boston, 1924, pp. xxviii, 719.

This sixth volume is the latest and the penultimate installment of Dr. Holdsworth's exhaustive history of English law. Of its seven hundred pages three hundred are devoted to public law and the political conditions and theories that accompanied and influenced the law's development in sixteenth and seventeenth century England. This part is really a summary of the history of the English constitution and of English political theory. Dr. Holdsworth discusses the great duel between Parliament and prerogative and

shows the effect upon both of the gradually growing perception of the modern theory of legislative sovereignty. In so doing, he adds little or nothing to what we already know, but his discussions of these important topics are always judicious and strictly impartial. He does full justice—as frequently is not done—to the loftiness of the political and constitutional ideals of such men as Bacon, Strafford and Ellesmere, without denying, on the other hand, the impossibility of achieving these ideals under Kings of the Stuart type, and the consequent political necessity of some such action as Parliament actually took. It is good to have these matters thus temperately set forth in a book on the history of English law, for some knowledge of them is an absolute prerequisite to an understanding of the growth of the law; but one might question the advisability of devoting quite so much space to ancillary topics, however important, when they are as fully treated in other easily accessible modern books as these are.

The bulk of the remaining four hundred pages, devoted to the private law, deals with the ranks of the legal profession, legal education, and the literature of the law in the seventeenth century, including an account and an estimate of the part taken in the law's development by the chief lawyers, judges, and legal historians of the time. Of these the accounts of the ranks of the legal profession and of the decay of the old legal education in the Inns of Court are among the most interesting and valuable. Particularly interesting are the parts where the author traces the history of attorneys, solicitors, and barristers, and shows the rise of the new King's Counsel at the expense of the ancient Serjeants at Law. The biographical parts, while, for the judges, they naturally contain few facts not found in Foss or Lord Campbell, are full of well-balanced judgments regarding the contributions of great lawyers such as Saunders and Maynard, but particularly Lord Nottingham's part in the development of equity and the work of Sir Matthew Hale and Sir John Holt. Legal literature in general in this period hardly lends itself to interesting treatment, and beyond his valuable discussions of the writings of a few important men such as Sir Matthew Hale and Roger North and his accounts and estimates of the principal reporters, drawn largely from Wallace's *Reporters*, as all such accounts must be, Dr. Holdsworth's narrative tends rather too much to approximate a mere list of the law books published in the period of which the number was more considerable than the quality. The development of the doctrines of the law of this time is little touched on, but preserved for the next and concluding volume of the history. One important subject, however, seems to be unduly neglected: the subject, so fundamental at this period of the history, of the independence of the judges and the changes in judicial tenure through which it was finally attained.

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