

## BOOK REVIEWS

"CORPORATION SECRETARY'S GUIDE." By William H. Crow, A. B., LL. B.,  
Author of "Corporation Treasurer's and Comptroller's Guide." Prentice  
Hall, Inc., N. Y., 1926, pp. xx, 764.

An indispensable book to the busy Corporation Secretary is the recent  
"Corporation Secretary's Guide," published by Prentice Hall, Inc.

In compiling the book, Mr. Crow forwarded questionnaires to the secretaries  
of the larger corporations in the United States, covering the duties which they  
were required to perform and the manner and method of their performance, the  
answers to which have added considerably both from a practical standpoint, as  
well as a legal one, to the book. The data thus secured is of incalculable aid  
to one new to the requirements of corporation functions, and is especially adapted  
for the practice of young lawyers.

Each phase of the Secretary's duties is taken up from every possible angle,  
so that one with a workable knowledge of this book, would be a Corporation  
Secretary par excellence.

Every kind of form necessary in the practical carrying on of a large cor-  
poration is contained in the book, together with a statement of how the corpora-  
tion, in its various activities, works in practice. The question of the proper  
State in which to incorporate for divers reasons is carefully taken up and tabu-  
lated in such form that a hasty glance at the Tables in the book will point out  
the best State in which to form a new Company, taking into consideration ques-  
tions of taxes, bonus, and viewing the question from virtually every angle in  
which incorporators would necessarily be interested.

After defining the scope of the Secretary's office, the author takes up the  
mode and manner in which the English Secretaries are trained before they can  
become members of the Chartered Institute of Secretaries, and follows this dis-  
cussion with the suggestion that such an organization in America would be of  
benefit, not only for corporations, but also for stockholders and the public at  
large.

Pre-organization, as well as incorporation and organization, the manage-  
ment and control of the corporation, and other functions of the Secretary's  
office are treated extensively. Each act and duty of the Secretary is carefully  
gone over, even to the requirements of the inheritance tax, stock transfer laws,  
and the prevailing system of handling such transfers. Besides setting out at  
length the duties of the Secretary, the book also treats of the legal aspects of  
such duties and gives in detail the law on all duties which the Secretary per-  
forms, citing many cases.

The book is enriched with a complete Appendix containing charters, certifi-  
cates of incorporation of some of the larger corporations, all forms necessary in  
the working of a corporation, and forms of application for listing the various  
stocks on the different markets throughout the United States.

The substance of all Corporation Acts in various States of the Union, is put  
down in tabulated form, and in a manner that is best calculated to help the in-  
corporator reach a conclusion as to the State of incorporation.

It is, perhaps, the most complete book on necessary information in the formation and management of a Corporation, yet published.

William J. Conlen.

Philadelphia, Pa.

A HISTORY OF ENGLISH LAW. By W. S. Holdsworth, K. C., D. C. L., vols. vii and viii. Little, Brown & Company, Boston, 1926, pp. xxxii, 575, xxxii, 500.

The general topic covered in the seventh and eighth volumes of Dr. Holdsworth's great history is the development of the principles of the law from their mediæval foundations in response to the growth of the more intricate relationships of modern life. It is probably the most difficult part of the author's great task, because there has been less help to be had from previous historians and more especially on account of the great number of factors involved, and of the many conflicting currents of judicial opinion which have met and merged to form the doctrines of the courts at the present day. But Dr. Holdsworth has had one great advantage over his older predecessors in being able to view these complicated changes from this side of the great transformations brought about by the abolition of the old forms of action and by the reorganization of the English judicial system in the Judicature Acts and other modern legislation hardly less important. For this reason and because of the masterly way in which he has made use of these advantages, these volumes are likely to impress the lawyer and the historian alike as the most useful and the ablest part of Dr. Holdsworth's great undertaking. In his handling of this great and difficult subject the author has never let himself forget that he is retracing the *history* of these doctrines, and not merely giving us a series of treatises on the developed law. His emphasis is therefore always upon growth and change, and when one considers the number of cross-currents which have come together to form that development his admiration increases for the masterly grasp of their general trend which these volumes disclose. The author has grown with the growth of his great work, and no part of it appears to greater advantage than this. It is true that there is no more grace of style than ever and that the framework of the construction is sometimes too apparent for the reader's entire pleasure, while the numerous cross-references may tend at times to distract his mind from the general trend of the discussion; but there are defects inherent in any work intended to serve as a book of reference as well as a narrative and could not have been entirely avoided if that work was fully to answer all the purposes for which it was intended.

It is clearly impossible in a mere review to indicate all these things in detail for each of the many important topics included in these two volumes, but some idea may be given of their general scope with somewhat fuller attention to a few of the most important.

The seventh volume opens with an account of the changes both in procedure and in principle by which the land law has been transformed. This is probably the most difficult subject in the whole of the history of English law, for on no subject was the mediæval law so fully matured as on this, and in no other department of our law have the modern doctrines been more clearly the outcome of the mediæval ones. And partly for this very reason the changes in it have

been more gradual, but at the same time more revolutionary than in any other sphere. For to mediæval English law there was no such thing as ownership in the true sense, no true *dominium* such as the developed Roman law knew and protected against the world by the remedy of the *vindicatio rei*. In fact the farthest-reaching of all the old actions affecting land was the writ of right, a decision upon which determined merely the question as to which of the two contending parties had the better right, the *maius jus* to the land in dispute: it determined nothing as to third parties; and this limitation is proof of the fact that our law then knew no ownership of land at all in its proper sense, no right *in rem* as against the world, but only a right *in personam*, founded in seisin, against the disturber of it. Such an idea was insufficient for the matured jurisprudence of Rome, and it proved equally inadequate for our own law when it approached a like maturity. A different conception of rights in land had to be formed, but as usual in our law it was not formed by discarding its older basis, and as usual also the transformation is largely bound up with the history of procedure. The chief complication lay in the fact that the forms of action in our earlier law were rigid and exclusive, and if they were not to be discarded—a thing not then to be thought of—they must be actually extended, while theoretically remaining what they always were, just as vines must be called trees if their cutting was to be made actionable in earlier Roman law, because the only appropriate form of action applied only to trees. Thus began in England that fascinating but complicated growth which centred about the fictions connected with the action of ejectment particularly and served to keep it in line with the fundamental, social and economic changes of the time, but without entirely destroying its historic connection with the simpler conditions prevailing in the middle ages. It was a change brought about step by step and case by case, and its history is treated in these volumes in masterful style, with a clear understanding not only of those steps in all their detail, but of the significance and result of the development as a whole. No part of Dr. Holdsworth's history shows a greater mastery of his subject than this. Some four hundred pages are given to this part of the history of the law and it is none too much. There are, for example, admirable accounts of the action of ejectment, of the nature of seisin, of contingent remainders, of the rules against perpetuities, of easements, and of prescription.

From the land law the author then turns to a shorter narration of the history of the law of chattels, including the varying views of the nature of ownership and possession and an account of the rôle played by the action of trover, analogous in its importance for personalty to the action of ejectment in the history of the land law.

In volume eight he deals with what the Romans styled the law of obligations and with such historical subjects connected therewith as the growth of the law merchant and its gradual absorption into the common law, with the law of negotiable instruments, of banking, commercial societies, agency, bankruptcy, maritime law, and insurance, all of which have been so deeply influenced by the law merchant. Influenced so deeply, in fact, that in many of these departments, as Dr. Holdsworth truly says, there has been a true "reception" in England of a law that was in reality *jus gentium*. An adequate discussion of the history of many of these branches of our law must therefore include not merely the cases by which they were elaborated by the courts in England, but as well the whole

history of the customs of merchants from which they were so largely drawn. This Dr. Holdsworth has done and done remarkably well. There is, for example, a most interesting account of the transition from the mediæval to the modern view of "usury," and a section on the history of the English doctrine of consideration, including a comparison of it with the *causa* of Roman and modern Continental law, which is among the best in the whole work, though I doubt whether the Romanists would be entirely satisfied with a description of *causa* which merely makes it mean actionability without setting forth any reason why it was so.

Volume eight closes with an account of the history of crime and tort and of criminal and civil liability in general in the period, since the beginning of the seventeenth century. This includes a discussion of the development of constructive treason, admirable but rather summary and with some strange omissions, and an account of the history of negligence, contributory negligence, the co-servant rule, the measure of damages, etc., very clear, but too short to be entirely adequate. The discussion of the history of the law of defamation is somewhat fuller and in it the author does not hesitate to criticise, and with justice, the conclusions even of the latest cases in retaining the sharp distinction between written and spoken defamation which so marks the English common law as compared with other legal systems.

C. H. McIlwain.

Cambridge, Mass.

CURING THE CRIMINAL. By Jesse O. Stutsman. The Macmillan Company, New York, 1926, pp. viii, 419.

The problem of criminality has assumed such vast proportions that no single student can hope to become expert in the understanding or treatment of all its various phases. The author of this volume, because of his extensive experience covering many years in dealing with convicts, approaches the subject from the single angle of the possible reformation of the criminal. While this subject bears no more direct relation to the prevention or elimination of crime than the hospital does to the prevention or elimination of disease, it nevertheless is an important matter, and is coming to be regarded as a social responsibility. The term "cure," however, is a misnomer, except in a purely figurative sense. Criminality is not a disease, although it often results from a diseased mind or body. It is anti-social behavior against which society needs protection. As in the case of disease, this protection is best secured through prevention. It is futile merely to treat results as a solution for the problem.

This attitude is forcefully stated in the author's preface where he says: "Corrective agencies are largely palliative. . . . It would be infinitely better if the millions spent annually for the punishment of crime could be diverted to scientific measures to stop the poisonous fountain." But "crime is present—a constant, unremitting, devastating fact. . . . We must meet the conditions as we find them."

What, then, shall we do with the criminal? The whole book is demonstration of the futility of vindictive punishment and a plea for the substitution of adequate treatment. Beginning with a description of the evolution of humane meth-

ods he discusses penology as a dawning science in which traditional methods are being replaced by modern clinical procedures, involving a new professional attitude on the part of wardens, who approach their task with a responsibility far different from that of a mere "political appointee." He reviews the problem of prison architecture and stresses the need for adequate facilities for work, education, and recreation. He show "prisons without walls" to be the outgrowth of "the failure of the traditional type of prison." He portrays the old type of prison discipline as the completest expression of "Man's inhumanity to man." Discipline for him is correctional and constructive, not repressive and dehumanizing. A chapter is devoted to sane methods of self-government. In order that treatment may result in the rehabilitation of the capable, much emphasis is laid on the diagnosis of criminal personality. Probation and parole are discussed as "mile posts in our progress toward the individualization of treatment." Excellent chapters, though hardly a legitimate part of the main thesis, are devoted to The police as a deterrent agency, Socializing the court, and The death penalty.

Too much cannot be said for the poise and sanity of the whole treatment. It is in harmony with the most advanced ideas of the best students of the subject and is devoid of the sentimentality which characterizes so much of the near reform in this field. The criminal must be dealt with firmly but kindly, not with a view of making him suffer vindictive retribution, but whenever, and as far as possible, to reconstitute him a worthy member of society. Every one in any way connected with the commitment or care of the criminal should read this volume.

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