BOOK REVIEWS


For some time there has been a special need for a concise textbook on the American law of mortgages suitable for the use of law students, as collateral reading in connection with their courses, and for such other readers as require a summary of mortgage law for ready reference. That Professor Walsh has met this need is most gratifying. His previous researches in the fields of equity and real property offered the right background for what can only be described as a very difficult undertaking. Functionally the mortgage is a security transaction and as such to be classed with suretyship and other means by which the creditor protects his loan and the debtor obtains credit, and some of its problems, such for example as subrogation, it shares with these allied topics. But the recurring problems of the mortgage relation, considered from the legal rather than the economic viewpoint, are peculiar to itself, due to the fact that the mortgage of the common law was of land and not chattels, and to its peculiar history, moulded for generations by conveyancers and modified by chancery, predominantly a property court. So too, American mortgage law, in spite of a superficial appearance of uniformity is in fact local in spirit, preserving in some of the older states practices that originated in the Colonial period, and in many states encumbered by statutory regulations not always well conceived or carefully expressed. This makes systematic treatment difficult, but, nevertheless, there are certain broad principles which meet with more or less ready acceptance that form a convenient basis for a text, and it is these accepted principles, supported by ample authority, that the author has collected and explained in this compact book. Beginning with a brief historical introduction there follow chapters on equitable mortgages, the interests that may be mortgaged, the debt, rights and duties of mortgagor and mortgagee, priorities, discharge, redemption, conveyances subject to mortgage, subrogation and marshalling, assignments and foreclosure.

The treatise is intended to present, and does present, a clear and precise outline of American mortgage law as a system, with due reference to characteristic divergences from the common trend. There is a special emphasis placed on New York law and citations from the courts of that state are frequent, as would be expected naturally in a book emanating from a New York school. It will also be admitted readily that New York influence has played a predominant part in the development of mortgage law in the West, and that decisions of the higher courts of the Empire State continue to exercise a wide authority. But readers in some of the older jurisdictions must be on their guard, bearing in mind that deeply rooted principles and practices do not readily yield to the influence of example excellent though it may be. This is noticeable in the discussion of the lien theory of mortgages, developed in some early New York cases and now the accepted doctrine in a considerable majority of American jurisdictions, as distinguished from the title theory of the common law more or less closely adhered to in a group of older states, particularly in New England. The author, like many of the judges in the lien states, is frankly contemptuous of the title theory and scornfully describes it as a relic of the past. He expresses surprise that England has ignored the solution of this problem in New York in the Law of Property Act of 1925. It may be doubted whether the jurists that drafted the property act had ever heard of the New York theory, but even if they had it probably would have made little impression. It is not the European habit to look outward for suggestions. The English lawyer is
above all things cautious, and the clauses pertaining to mortgages in the property act are part of the general design, to facilitate the transfer of property, without regard to theories or systems of any sort, as a glance at the act will show. In this country, in spite of the interest displayed by writers and jurists, it cannot be said that either the lien or title theory states have lived up to the strict logical implications of their respective doctrines. There are inconsistencies to be found everywhere, such, for example, as the rule in *Hubbell v. Moulton* very properly criticized by Professor Walsh. It would also be difficult to prove that as a purely practical matter mortgage law is better administered in one group of jurisdictions than the other—in Montana say than Massachusetts. The author describes as futile and stupid the concept of legal title in the mortgagee in cases involving tenants of the mortgagor. Since the depression cases involving defaulted mortgages on office buildings and apartment houses would indicate that the right of the mortgagee to take possession and collect the rents pending foreclosure has its advantages when the mortgagor is desperate or dishonest. True, the mortgagee in a lien state may apply for a receiver, but it is not certain that he will get one, and it must be admitted regretfully that receiverships are too frequently a minor form of racket. The most reasonable objection to the application of the title theory to this situation, as to others, is that it perpetuates the practice of self help which, however discreetly exercised, is not regarded with favor in modern jurisprudence. But it is not so much imperfect theories as it is dilatory, technical and expensive procedure that plagues mortgage law.

However desirable it may be, it is unlikely that uniformity in mortgage law in the United States will be attained for a long time to come. As formerly at Roman law, so now evolution is in the direction of the lien concept, but the conservatism of property law may be expected to retard its universal acceptance. In these distressing days mortgage problems have been chiefly economic. What was once the soundest of investments is in sad disrepute. The need is less for better mortgage law than for better mortgages. Recent legislation has been chiefly in aid of distressed debtors but such a tendency must reach a limit if this method of obtaining credit is to attract public or private funds. Statutory changes at this time modifying the procedure are not likely to disturb the well-settled principles of substantive law so competently explained in this useful volume.

*William H. Lloyd.*†

**WIRTSCHAFTSFÜHRERTUM UND VERTRAGSETHIK IM NEUEN AKTIENTHE.**


Dr. Zahn's learned monograph on Corporation Law is one of numerous studies in comparative law published by German lawyers. These studies show that not only in Italy and France, as the American reader might learn from Dean Wigmore's review in the Illinois Law Review, but also in Germany there is an intensive interest in this field of law. The numerous articles and textbooks on corporation law cited by the author—the list not being exhaustive—testify to the number of German scholars engaged in comparing German and Anglo-American corporation law.

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1. 53 N. Y. 225 (1873).

1. Book Review (1933) 28 Ill. L. Rev. 582.
The American literature which he has used, Dr. Zahn collected while studying at the Harvard Law School, and later at the Institut fuer auslaendisches und internationales Privatrecht in Berlin, where also he had at his disposal a complete collection of all American statutes, reports, journals and textbooks. But he does not appear to have consulted Berle and Means' monograph on corporation law which would have been most helpful. Notwithstanding this, Dr. Zahn presents to the German reader a well written and most interesting picture of many details of American corporation law, completing earlier studies of other authors.

The ambitious author has not confined himself to a simple comparison of the two systems of law, but has written his book with a distinct objective: he wishes it to be his contribution to the planned reconstruction of the German corporation law according to the fundamental principles of the Third Reich, i.e., the legal concepts developed by the genuine Germanic law. To accomplish his purpose he seeks to discover the leading principles of the corporation law of the United States, whose law belongs to the great family of Germanic law. Perhaps it would be a fair criticism to say that like many scholars who have sought underlying principles he has allowed his objective to color his deductions. In short, he has discovered what he wished to discover.

He reaches the conclusion that American corporation law is based upon two fundamental principles: first, the leadership principle: the directors are the leaders of the corporation; second, the American corporation is a bundle of contractual relationships, between the corporation and the state, between directors and shareholders, between the shareholders mutually.

As to the first, Dr. Zahn concludes that the leadership principle is the true explanation of the great success of numerous American corporate enterprises. The second principle has enabled the courts to strike a proper balance of mutual duties between the individual shareholders. In striking contrast, the fundamental principle of the present German corporation law, in Dr. Zahn's opinion, is that of democracy of capital, a concept which prevents German corporation leaders from achieving the success of their American counterparts. Furthermore, according to the "Koerperschafts" theory the concept of "corporation" is not a concept derived from contractual concepts but is derived from the concept that a group or association of natural persons called a corporation has a personality of its own which is distinct from each and all the personalities of the members of the association. There exist no personal obligations between the shareholders mutually. The individual shareholder derives his rights not from a contract he has made with the other shareholders but from his status qua shareholder. As a consequence in the case of an abuse of the voting power by the majorities, the minority is not protected by the strict rules which govern a breach of contract but by the provisions of the law of torts, restricting liability in those cases to intentional abuses.

Dr. Zahn has developed a philosophic explanation of these contrasts, and sees them as arising from different views of life itself. The American outlook is liberal, individualistic, and materialistic, and recognizes as the highest value the greatest economic success. As a consequence the American investor invests not in the enterprise but in the management, and thus the directors are given the freest rein to be as successful as possible. But Dr. Zahn has failed to complete his picture by presenting his views of the economic philosophy of the German people. Presumably he regards it as more idealistic.

Admitting—in fact asserting—that the so-called leadership principle of the American corporate system springs from a different ideology than that proclaimed

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2. THE MODERN CORPORATION AND PRIVATE PROPERTY (1932).
by German national socialism, Dr. Zahn does not hesitate to propose to draw inspiration from the American pattern. It is not the object of this review minutely to investigate the soundness of his contradictory and seemingly superficial philosophy. But it is startling that he would import the supposed results of ideas which he himself labels individualistic and liberal, two qualities so much scorned by national socialism; for if his premises were correct there would be no escape from the conclusion that the idea as a whole is unsuited to transplantation. Furthermore every foreign lawyer who would draw inspiration from the American corporation law must bear in mind that this law in its present stage of development is not a homogeneous body of thought, but is composed, roughly speaking, of two strata of legal concepts which are, in the last analysis, antagonistic, and each an outgrowth of its own economic background. Because of the changing economy, there is evidence that the contractual concept is gradually being replaced by the newer thought which conceives the corporation as an institution. Therefore, more valuable suggestions might have been gathered for his purpose had he focussed his attention upon the utterances of such noteworthy critics of corporate management as Mr. Justice Louis D. Brandeis, Thorstein Veblen, William Z. Ripley, and more especially upon the proposal of Adolph A. Berle and Gardner C. Means to build a new concept of the business corporation which would take into account the separation of ownership and management in corporate structures. Possibly it would have disconcerted Dr. Zahn to have discovered in the last chapter of the work by Berle and Means the contention that a corporation not only has a profit-making function but is an economic institution with a social function. On the other hand one might inquire, in the light of his conclusions, how he would explain the fact that the German corporate legal system, of which he gives so unfriendly a picture, appeared to offer so little obstacle to the business careers of such outstanding personalities as Siemens, Emil Rathenau, Krupp, Borsig and others.

Be that as it may, other scruples are engendered by his methods. His studies would have rendered a more valuable service had he avoided the emotional approach and pursued his inquiry by the more cautious and realistic institutional method so highly developed by numerous scholars of both countries. Thus he might have come to the realization that “the” American shareholder (investor) and his counterpart “the” German shareholder, upon whom he erects his superstructure are, for his study, no proper “ideal types” (Max Weber) to work with. At least, it would seem, he should have differentiated between the large and the small shareholder and the large and small corporation; for their situations differ materially. And one cannot but feel that his conclusion that in the American corporation law system the fundamental power of control is exercised by the board of directors bears the stamp of a hasty generalization. The situation, in reality, is more complex and, as Berle and Means have pointed out, there are five distinct types of control in operation. Only with regard to the so-called type of management control would Dr. Zahn’s statement seem to be correct. And in this case the power of control has its source not in the economic philosophy of the small investor who hopes that the quotation of his stock shall increase, but is the result of a simple economic fact, namely, the wide dispersion of stock ownership. Furthermore, with reference to the supposedly contrasting situation in Germany, Richard Passow’s monograph Die Aktiengesellschaft, which in fact Dr. Zahn has cited, discloses that the preponderance of the shareholders’ meeting exists only in contemplation of statutory provisions of the German Code of Commerce, while in practice the situation is as complex as it is in the American corporation system.

4. See further Dodd, For Whom are Corporate Managers Trustees? (1932) 45 Harv. L. Rev. 1145.
But even assuming that the two systems as Dr. Zahn has pictured them do prevail in the two countries, and moreover assuming that the American system is a result of a conscious development of legal theory rather than an accident of its economic environment, his suggestion that it be transplanted in German soil is one which should be made with great caution. Powerful critics and the recent federal legislation are seeking to check its unlicensed career in its native land, and it might mean the transplantation of a principle which has outlived its usefulness.

In his proposal to replace the "Koerperschafts" theory by the contractual concept Dr. Zahn should have been even more careful. It is the claim of the proponents of the "Koerperschafts" theory developed by Renaud and Otto von Gierke that it is genuinely Germanic; and if the new German Corporation Act should embody the contractual concept, the German law would accept ideas now prevailing in those portions of the civil law which are governed by the principles of French law.a

The assertion of Dr. Zahn that the contractual concept affords a better protection to the minority of the shareholders against abuses of the voting power by the majority than the institutional concept is disapproved by recent decisions of the German Supreme Court, which show that the rules of tort law and the general provisions of the German Civil Code, which Dr. Zahn has omitted to mention, are broad enough to cover all cases of real abuse.b

The importance of studies in comparative law lies in their tendency to remove the scholar to a distance and enable him to view the principles of his native law with a healthy scepticism of their eternal truth. But to attain this proper perspective one must travel unburdened with preconceptions.

The reviewer though questioning some of Dr. Zahn's conclusions willingly concedes to Dr. Zahn's able work a worthy place among the comparative studies. Viewed not as a final word but rather as a groping after new steps in the development of this essentially modern institution, this treatise is entitled to the careful consideration of scholars both because of the learning it discloses and also for the liberality of its attitude of willingness to learn by the experience of others.

Friedrich Kessler.†


This lecture, which in the process of nature became a law review article, but which now appears bound in boards, is slight, misleading, and shallow. It warrants reviewing less for itself than for the lessons to be derived from its defects.

It contains some reasonably useful observations; I know nothing of Goodhart's which does not. English law has, e. g., been codified to an extent we commonly overlook.1 And the problem of code as against case-law is in truth vitally different from the question of the divergence between the Continental and the English traditions in regard to judicial precedent. The two problems have been too often confused. And sudden breaks with precedent are in fact less likely in England than on the Continent. Also, a general practice of courts is

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5. See I WIELAND, HANDELSRECHT 396-434.
6. See II id. 203 ff. and the cases cited.
1. E. g., marine insurance, real property, companies.
a surer guide to justice than any individual decision possibly could be. And it is indeed unfortunate, save where an old case lays down a semi-eternal truth, that any ghost-case four centuries old should walk to frighten modern judges from a sane decision.

But with these observations the virtue of the booklet is wellnigh exhausted. What remains is unworthy of an author otherwise justly known for care and ability.²

I list a few details before turning to the more important questions broached, and manhandled. It is hardly in the spirit of science, when publishing in 1934, to cite Gerland’s 1910 attack on the English precedent-system without mentioning his explicit recantation of 1929.³ Recantations do not alter truth, but they do help to weigh a statement adduced as considered and authoritative.

Nor can one, without gross distortion, take France and France alone as “The Continent”, on this matter of Precedent. Nor does Goodhart accurately present the situation even in France.⁴ Capitant had not indeed, when Goodhart wrote, published his case-book;⁵ nor could any man foresee that it was Capitant who would publish one. But no one with any feel for the course of events in French law could doubt that one was in the immediate offing, and that it would have a future, and mark the future.⁶ While in Germany the Kommentar had long been elbowing the Lehrbuch out; indeed, the tendency to entrust editing to judges, instead of professors, had been observed not only by publishers but by the profession.⁷

To continue with the picayune: Goodhart states that “in the training of an English lawyer far more emphasis has to be placed upon the development of what may be called a legal approach to the cases than is true in a Continental law school”. Either this means that a case-lawyer needs to learn case-law (instead of the modern ways of code-law) which is not worth saying. Or it means that the Continental attack on a state of fact is less artificially “legal” than the English, which is nonsense.

Less petty is objection to the absurd assumption that there is, or has been, a common law system of precedent. Or indeed that there exists one such consistent line of doctrine in application in any Anglo-American jurisdiction today. Of course there is not. Any lawyer in his daily work proves that. And Goodhart’s failure to know it⁸ throws his whole paper so far off balance as to make it—viewed as a whole—worthless.

For instance (1) Coke, Blackstone and modernity cannot, e. g., (even in England) be lumped and still make sense. (Incidentally, the question Goodhart raises: whence came our present precedent system? may prove to turn as much on the personal attributes and needs of Coke and Eldon as on any other single factor). (2) American observation (e. g. Frank) cannot be used, apart from consideration of the American courts the Americans have been observing: Goodhart knows this elsewhere, though he misinterprets the phenomenon.⁹ (3) Doctrine (“The House of Lords cannot reverse itself”) cannot be taken as mirroring

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² Except for the essay in Recent Theories of Law.
³ PROBLEME DES ENGLISCHEN RECHTSLEBENS (1929), passim, but especially at 26: “Hence I take my stand on the side of the precedent-idea, and thus expressly renounce the view I formerly defended.”
⁴ Deik, The Place of the “Case” in the Common and the Civil Law (1934) 8 TULANE L. REV. 337, especially 355 ff.
⁵ LES GRANDS ARÊTÉS DE LA JURISPRUDENCE CIVILE (1934).
⁶ Cf. the work of Lambert.
⁷ Called to my attention by Gunther E. Jacobson.
⁸ Even when quoting Bentham’s “rule of wax, which they twist about as they please”. Bentham knew.
⁹ Determining the Ratio Decidendi of a Case (1931) 40 YALE L. J. 161.
the practice of the courts.\textsuperscript{10} Whereas the working of any precedent system is a question of practice, not of doctrine. The practice negates half of what Goodhart adduces.\textsuperscript{11} (4) "Absolutely binding" no decision ever was. Goodhart has of course a stronger case in England than could be made here for using this queer term. Englishmen do have a reverence for old ways which we lack. Their reverence goes so far that repeatedly, even when they do not like it, they follow not only the form, but the substance of such ways. In this I find the English almost unique: a sociological anomaly. The books abound with instances, and Goodhart has picked some good ones. But he overlooks creative distinction as being a part of a precedent system. He overlooks likewise the development and application of "principle" as a part of a precedent system. He overlooks moreover what Fuller \textsuperscript{12} wisely remarks on: that with an offering of three to five variant opinions in a single case it is not so hard to "follow precedent", because "the" precedent is six-wayed. (5) Finally, I stand amazed at Goodhart's conception that a single case freezes future law. I understand that even a case of first impression shapes future law, and often to its disadvantage. But I had thought that by now scholars might have discovered what every practicing lawyer knows—to wit, that any authority can be limited to its narrowest facts and procedural issue, or, and at will, can be expanded to the limits any piece of its phrasing will bear—or beyond. And that only a series of later interpretations will harden it to the point of resisting the smith's hammer.

Now the queer thing is that such a booklet, inaccurate in detail, unsound in base, badly comparing two things each of which is misconceived—that such a booklet can nonetheless perceive both a problem and a need: For even when accurately described, with full allowance for its full \textit{de facto} leeway, our existing systems of precedent remain a clog on judicial feet. \textit{Any} of our systems of precedent.

But this is true, to my mind, for one reason only: that the possibilities \textit{given in the system itself} are not fully understood. Judges, like Goodharts, take silly doctrine seriously, instead of building new doctrine in true consonance with what they have been actually \textit{doing} for a century and a half. A new doctrine based on actual judicial practice would leave ample room even for the rapid movement modern times require.\textsuperscript{13} If, as our law teaches, past judges' decisions are the guide to what further judges are to do, we have authority to move—to move far and fast.

\textit{K. N. Llewellyn.}\textsuperscript{†}


Mr. Walker-Smith's book purports to be something less than a biography, and something more than a collection of cases. It is "primarily an account of the principal cases in which Lord Reading figured prominently as counsel or judge";\textsuperscript{2} yet at the same time "it aims to present a balanced and impartial estimate of the possibilities given in the system itself".\textsuperscript{3} But if a testing of the hypothesis be wanted, it is available in my \textit{PRÄJUDIZIENRECHT UND RECHTSPRECHUNG IN AMERIKA} (1934).

\textsuperscript{10} This is commonplace. But if a testing of the hypothesis be wanted, it is available in my \textit{PRÄJUDIZIENRECHT UND RECHTSPRECHUNG IN AMERIKA} (1934).
\textsuperscript{11} \textit{Cf.} the series of cases on clogging an equity of redemption, \textit{Wormser, Cases on Mortgages}, 347 ff.
\textsuperscript{12} Book Review (1934) 82 \textit{U. of Pa. L. Rev.} 551, at 552.
\textsuperscript{13} Essays on Research in the Social Sciences (1931) 106n.

\textsuperscript{1} P. vii.
\textsuperscript{2} \textit{Ibid.}
career" of its very eminent subject. The author is to be congratulated upon his achievement of the former of these objectives. He has taken full advantage of the opportunity for dramatic narrative which the wide-ranging career of Rufus Isaacs afforded. The cases covered by the volume may be divided into two classes: first, leading cases of great interest to the lawyer, and second, cases of a sensational character for more general reasons.

In the first class, *Allen v. Flood* 3 has unchallenged priority. The author's account is clear and accurate, 4 though his incidental excursions into social and legal philosophy exceeds in naïveté the opinions of some of the noble and learned lords in that case. 5 The *Taff Vale* case, 6 however, on the liability of trade associations for torts committed in the course of industrial disputes is not very adequately treated, 7 and the inadequacy is not compensated by the mixture of "heart beats", "nerves and sinews", "throbs of human emotion", and "pulse of national feeling" with which the author bespatters his peroration. 8 This case and the cases of *Howden v. Yorkshire Miners Association* 9 and *Denaby and Cadeby Main Collieries Ltd. v. Yorkshire Miners Association* 10 lead up fittingly to a discussion of the Trade Disputes Act of 1906 11 and the role played in its enactment by Rufus Isaacs as a private member. Later, as Attorney-General, Rufus Isaacs was to use his great experience in trade union matters in the enactment of the Trade Union Act of 1913, 12 which overrode *Osborne v. Amalgamated Society of Railway Servants*. 13

In the field of constitutional law, Rufus Isaacs, as Attorney-General, argued the question of the legality of the levying of income tax without authority of statute, in a quaint Stuart atmosphere, in the case of *Bowles v. Bank of England*. 14 Only less venerable than this discussion of Magna Carta and the Bill of Rights, was that of the Statute of Treasons of 1351, in the great case of *Sir Roger Casement*, 15 tried before him as Reading, Lord Chief Justice, in 1916. Mr. Walker-Smith's account of the facts and arguments in the Casement case is among the best chapters in the book. 16 A fuller treatment of Lord Reading's influence on the law as to the effect of war on contracts with enemy subjects would have been welcome. *Porter v. Freudenberg* 17 is dismissed very summarily. 18 Finally the case of *Director of Public Prosecutions v. Beard* 19 is of great interest not merely because it is the leading case on drunkenness as affecting mens rea, but because Lord Reading sitting as a member of the House of Lords concurred in a decision reversing his own decision in the same case as Lord Chief Justice in the Court of Criminal Appeal. 20

The general reader, however, and perhaps even the American lawyer, will be more interested in the many cases falling into the category of the sensational with which in one capacity or another the present Lord Reading has been connected. They are described with a wealth of background, and, on the whole, a lightness of touch, which holds the attention. They give a fascinating cross-section of English social and political life in the last decade of the last, and the first quarter

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4. PP. 37-46.
5. See p. 46, "Liberty of action must, in the interests of the community, be restricted when that liberty of action infringes on the rights of others; and it seems to me that *Allen v. Flood* was just such a case. . . ."
7. PP. 111-117.
8. PP. 136-137.
16. PP. 352-386.
18. PP. 345-346.
20. PP. 387-388.
of the present century. The turf is represented by the Chetwynd case and the "Bob" Sievier case; the "morals of society" by the Hartopp divorce case, the Gordon custody case, the Gaiety Girl divorce case; political scandals, by the government cordite contracts case; by the struggle of Sir Edward Russel for a clean administration of the liquor Licensing Act, 1904, in Liverpool; by the great fight between the Cadburys and the "Evening Standard" concerning Chinese slavery and the Quaker conscience; by the scotching of rumors concerning the private life of the present King George V, with interesting reflections on the law of seditious libel; war-time psychology, by the case of Krause the Boer patriot, and the tragic cases of Sir Ernest Cassel and Sir Edgar Speyer; the by-paths of finance, by the Liverpool Bank case, Suffield v. Labouchère, and the case of Whittaker Wright. The less attractive forms of criminal activity are represented by the famous trial of Frederick Henry Seddon and his wife for murder by poisoning, in which Rufus Isaacs prosecuted when Attorney-General. Among the extra-judicial matter, the very impartial chapter on the Marconi scandal will be of interest to American as well as English "muck-rakers."

Mr. Walker-Smith is at his best in narrative not dealing directly with the qualities of Lord Reading. The short chapter on the Titanic disaster and inquiry is among the best in the book, though its concern with the present Lord Reading is of the most incidental nature. From the point of view of biography, however, the book is not a success. The author's admiration of his subject is thrust upon the reader on almost every page. A less frequent use of terms of laudation, and a more frequent use of real analysis would be less irritating to the judgment of the reader. There are one or two signs that the author is well capable of such analysis. The comparison between the advocacy of Carson and Rufus Isaacs as shown in the Gaiety Girl divorce case and the Chinese slavery case and between that of Edward Marshall Hall and Rufus Isaacs as shown in the Seddons' case, are admirable.

On the whole, the value of this book does not lie in its treatment of the career of the present Lord Reading; that career is worthy of a much acuter and more literary presentation. Its real value is as a collection of *causes célèbres* of the last decade of the nineteenth and the first quarter of the twentieth century. The criterion of selection, namely connection with one of the greatest living English lawyers, is an adequate assurance that they will hold the interest as such.

*Julius Stone.*

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No student of the law of nations in general or of international adjudication in particular can afford to be without this work, which appears to be the most complete and authoritative book which has yet appeared on this subject. The author's aim is to provide comprehensive studies of the law of the Court for the

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assistance of lawyers who may appear before it and of others who must deal with its problems. Professor Hudson, the recognized American authority on the Court, is remarkably well prepared for this task. In the field of international law, his knowledge is great, his experience varied and broad and, in addition, from their very inception he has been in close connection with the Court and with the League of Nations. The present work is based, as he says himself, "upon a continuous study of the documents, upon numerous contacts with persons interested in the Court, and upon an unflagging interest in its activities".1

It should be noted that this is a work for lawyers rather than for political scientists, in the sense that the author devotes himself, in the main, to analysis rather than criticism. For example, he spends little time on such controversial questions as the impartiality of the judges of the Court, or the correctness of their decision in the Austro-German Customs Union case. Mr. Hudson does not abstain, however, from expressing his personal opinion; for example, he criticizes the attitude of the United States Senate toward the Court in these words: "The spirit of nationalism prevailing led not only to unfounded criticism of the structure and work of the Court, but also to a distrust of the purposes which it might be made to serve."2

The book is divided into six parts. Part I is devoted to the precursors of the Permanent Court of International Justice. The Permanent Court of Arbitration, which constitutes the subject of Chapter 1, covers familiar ground, and each of its well-known cases is treated in a brief summary, almost too brief, in fact, to be very useful. This Court, in the author's opinion, served a very useful purpose. "Unquestionably, States have been aided in the desire to resort to arbitration, both by the procedural provisions and by the existence of the agencies which constitute the Court."5 In Chapter 2, which deals with international commissions of inquiry, Mr. Hudson says that "in more than thirty years, only three commissions of inquiry have been created", and "the commissions were too limited with respect to their reports for them to be more generally serviceable"4. Chapter 3, on the Central American Court of Justice, is based on documents not easily available, and constitutes an original and penetrating analysis of the work of that interesting institution. The failure of the court is ascribed to these facts: the judges had no independent position; the jurisdiction of the Court was too broad; it never developed a satisfactory procedure; the cases were of small importance, except two, and the ambitions of the United States deprived these of reality.6 Chapter 4 reviews the proposed international prize court, whose importance the author considers to have been exaggerated, for the reason that its close connection with war atmosphere rendered unlikely its ultimate success. Chapter 5 considers the importance of the effort to create, in 1907, a court of arbitral justice. "Great credit is ... due to the men who struggled so valiantly to establish the Court of Arbitral Justice, and it seems possible that without their effort the world would have been unprepared to take the step forward which was achieved in 1920."8

Part II consists of a study of the creation of the Permanent Court of International Justice. Chapter 6 considers the provisions for a Court in the Covenant of the League of Nations. Chapter 7 takes up the adoption of plans for the Court; Chapter 8, the drafting of the Statute (an invaluable analysis, in over sixty pages, of the evolution of each article); Chapter 9, the revision of the Statute; and, finally, Chapter 10 considers the question of the participation of States not Members of the League of Nations. This last chapter is devoted mostly to the question of the proposed adhesion of the United States.

1. P. vii. 
2. P. 231. 
4. P. 33. 
5. P. 67. 
6. P. 81.
In Part III is found a study of the organization of the Court; first, the election of members (Chapter II); second, the rules of Court (Chapter 12); third, the Registry (Chapter 13); fourth, the finances of the Court (Chapter 14); fifth, diplomatic privileges and immunities of members (Chapter 15); and, finally, certain problems of the Court's organization (Chapter 16).

Part IV, in Chapters 17-22, takes up the jurisdiction of the Court under the following headings: access to the Court; jurisdiction in general; jurisdiction under special agreements and under treaties in force; obligatory jurisdiction under Article 36; exercise of contentious jurisdiction; advisory jurisdiction. The author believes that wide acceptance of its obligatory jurisdiction these last years has greatly increased the importance and usefulness of the Court, and has demonstrated that some of the framers of the Statute were too timid in their views. With respect to advisory jurisdiction, the author sees in it three distinct advantages: first, the avis consultatifis have greatly facilitated the Council's handling of international disputes; second, they have facilitated the efficient functioning of various other international institutions, and finally they have proven to be of value to States engaged in disputes, when they were unable to agree upon the submission of questions to arbitration or adjudication.

In Part V we find an exhaustive study of the procedure and practice of the Court (Chapters 23-26), with these chapter headings: Representatives of States Before the Court, Written Proceedings, Oral Proceedings, and Practice of the Court.

The Application of Law by the Court is the title of Part VI, and certainly most lawyers will turn to this section first. It consists of but two chapters: in Chapter 27, The Law Applicable by the Court, we find a consideration of the application of international law, conventions, custom, general principles, judicial decisions, teachings of publicists, decisions ex aequo et bono, private international law, municipal law, resort to sources, stare decisis, res judicata, and citations made by the Court. In Chapter 28, International Engagements and their Interpretation by the Court, an analysis is made of the Court's attitude toward the law of treaties with respect to form, effectiveness, the rules pacta sunt servanda and rebus sic stantibus, and the effect of treaties on third parties and on private individuals. Finally, an important section is devoted to the interpretation of international instruments. Lawyers may regret that this Part VI, although of undoubted value and great practical usefulness, was required to be rather summary in nature, probably for lack of space, and some will express the hope that Mr. Hudson may some day devote an entire book at least to this particular subject.

A review of this unusual book would be incomplete if it failed to note the inclusion, in an appendix, of pertinent documents of the greatest usefulness.

John B. Whitton.


The Selden Society has undertaken a gigantic task in editing the Year Books, which cover a period from approximately 1292 to 1535, by bringing together the complete set of manuscript reports of each case, printing the best both in the original Anglo-Norman and in English, and, wherever possible, the Latin record collected from the plea rolls, with the English translation. The

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7. P. 409.
size of the task can be estimated from the fact that with the publication of the twentieth volume of the Year Books Series in 1934, nearly twenty years after the first volume was published, the Selden Society has reached only Michaelmas Term of the tenth year of the reign of Edward II. Publication of Year Books under this plan by the Selden Society, by the Rolls Series, and by the Ames Foundation in this country now makes available in the present form reports for the years 1292 to 1346 (with the end of the reign of Edward II still uncompleted), 1388 to 1390, 1422 and 1470. Notwithstanding the slow progress of the work, however, the result is well worth the effort expended, for slowly but surely there is being unfolded a true picture of English "law, life, logic and incidentally the language of the fourteenth century," as Professor Maitland has put it. To appreciate the value of these studies one would do well to read the introduction to the first volume of the Year Books Series, written by that great scholar. Although the work of the Selden and kindred societies has long been known to scholars, not only in the field of law, but also in philology, history and economics, it is unfortunate that the average practising lawyer, particularly in this country, has not been made acquainted with what is the proud distinction of our Anglo-American legal history, namely, the early reporting of law cases, and that our legal profession has contributed so few names comparable with those of Maitland, Turner, Bolland, Pike, Horwood, Vinogradoff, Holdsworth and the like.

The present volume is edited by Miss M. Dominica Legge, who has made the translations and, in the Introduction, has written exhaustively of the language of this and other early Year Books, and by Sir William Holdsworth, who has revised the translations and has also contributed in the Introduction valuable studies on the land law, procedure, pleading and evidence and other phases of the law and life of this period.

Although most of the law of the early fourteenth century is as strange as that of a foreign nation, nevertheless there appears in the argument of the reports of the Year Books much that can appeal to a modern lawyer. The writs of novel disseisin, it is true, of entry, formedon in the descender and others are only names now, and writs such as cui in vita, aiel, basafel, cessavit, moderata misericordia, and cosinage are completely strange. Once, however, the import of these ancient writs is clear, the cases themselves and the nature of the interests involved become comprehensible, and our patronizing condescension towards the efforts of our predecessors gives way to real respect. It would seem to be true, as Professor Maitland has said: "The qualities that saved English common law when the day of trial came in the Tudor age were not vulgar common sense and the reflexion of the laymen's unanalyzed instincts: rather they were strict logic and high technique, rooted in the Inns of Court, rooted in the Years Books, rooted in the centuries."

The economic condition of the time can be seen from the types of actions brought. It is a rural civilization with which these cases deal, and interests in land are paramount. Of the seventy-seven cases reported, five have to do with waste, nine for the taking of beasts and in practically every case a question is raised as to some interest in land. The Church appears as an interested party in twenty-one of these cases, in two of which we learn that a monk is "dead in the law" and can neither sue nor be sued. The hand of the King is seen jealously guarding his interests from encroachment by the ecclesiastical and local courts. In one case a testator named six persons to act as executors of his estate, then provided in a final paragraph that "to execute all these things I wish the aforesaid (naming three of the six) to have administration of all my goods". Notwithstanding the fact that the ecclesiastical court had named

1. 17 Selden Society.
2. No. 76.
3. No. 35.
4. No. 27.
the last three as the proper administrators of the estate, the Court of Common Bench would not allow them to sue without the other three named. In another case 6 where a local court had refused to allow an “essoin of the service of the king”, or excuse for absence from court by reason of the king’s service, and for default of appearance had deprived two defendants of seisin in their land, the Court of Common Bench reversed the judgment, restored the seisin to the defendants and allowed them damages, put the plaintiff in mercy, and “likewise the whole Court of Cookham in mercy for the false judgment”. The report of the case recounts that the freedom of the court was taken into the hand of the King because of this great error and this false judgment, one of the Justices recalling that the Bishopric of Durham had been taken into the king’s hand in the same fashion because the Bishop would not allow the king’s protection.

The shyster lawyer’s hand is seen in one case 6 where the tenant in dower of certain lands leased the lands to the reversioner, who committed waste thereon, and then, in his capacity as reversioner, sued the tenant in dower for the waste committed by himself as her sub-tenant. The report ends with a query.

In one case 7 there is evidence that a grant of land “to A and his heirs in fee simple” creates a right in land in the heir presumptive or heir apparent. Coke has said 8 that “by the ancient common law of England, a man could not alien such lands as he had by descent without the consent of his heire,” and Glanvil stated, about 1188, that a man can not part with all and thereby disinherit his heir. 9 Maitland, however, is of the opinion that the heir could not prevent an alienation of land in the thirteenth century, and that “there is no proof that it was done before the Conquest”. 10 The evidence from the case above cited would seem to indicate that in the early part of the fourteenth century, the right of the heir had to be considered in making a grant of land. The defendant in this case claimed through one Alice, saying that the land had been granted to “this Alice and Roger her husband . . . to them and to their heirs in fee simple . . . And Alice survived, and . . . William . . . released and quitclaimed all his right in her seisin by this deed”. The same William thereafter granted his “reversion” in the same land to the plaintiff. It would seem that the only reversionary interest William, whoever he may be, could have in an estate to “Alice and Roger and to their heirs in fee simple” would be the interest of an heir. It seems to be conceded that if the deed to Alice and her husband in fee simple can be proved, then the release to her of William’s right in her seisin will prevail over William’s grant of his reversion to the plaintiff.

Magna Charta, only a hundred years old at this time, appears in two cases as something more than an intangible “charter of liberties”. It is a statute containing a number of provisions long since forgotten. A writ of moderata misericordia is brought 11 based on section 20 of the Great Charter, which provided that no free man should be emerced for small trespass, except in accordance with the degree of the offence. The same “Chartre de fraunchises D’Engle- terre” is met in another connection where a man is charged with services to his lord “by homage, fealty and suit to his court, and by the services of nine shillings a year”. This the man claimed had been reduced by agreement to the services of seven pounds of pepper a year. In reply to the argument that the former common law services held, plaintiff shows Magna Charta, section 16.
BOOK REVIEWS

providing that “no man shall be distrained to do more services for his free

tenement than are due from it (quam inde debetur)”, and argues that “de-

betur” guarantees a right to contract for such services. 

In this volume one may find clues to various other subjects that have in-

terested scholars in English legal history—the use of the “secta”, the province

of the jury and the difficulty in bringing them into court, the matter of the

King’s Peace, not to speak of sidelong on the life and customs of the time.

The volume is prepared and edited with the care, intelligence and learning

which have become almost synonymous with the name of the Selden Society.

One misses the brilliant and illuminating footnotes of some of the earlier vol-

umes. In general, it might be suggested that because of the lack of a general

index there is not proper access to the valuable studies made by scholars who

have contributed to the various Introductions of these volumes of the Year

Books Series; and that in each Index there should be a complete reference to

to all articles which have appeared in past volumes.

Marion S. Kirk.


Codes, Inc., New York, 1934. Pp. xxiii, 842. Price: $6.50; with semi-

monthly supplement $10.

The NRA program fostering intra-industry agreements is not, in concept,

the product of the depression. It is the heightened echo in a vacuous business

world of a cry long uttered without response. For many years trade has sought

the sanction of law for pools and co-operative agreements along the lines of the

German Cartel system. In fact, industrial combinations were attempted as far

back as common law times when under the decisions they were held to be un-

lawful and against public policy. At the beginning of the eighteenth century,

this rule was relaxed and in an English case, Mitchell v. Reynolds, the court

held: “In all restraints of trade where nothing more appears, the law presumes

them bad; but if the circumstances are set forth, that presumption is excluded,

and the Court is to judge of those circumstances and determine accordingly;

and if upon them it appears to be a just and honest contract, it ought to be

maintained.” In America the same liberal view was suggested. In the case of

Hubbard v. Miller, it was stated: “If considered . . . with reference to the

situation, business and objects of the parties, and in the light of all surrounding

circumstances, with reference to which the contract was made, . . . the re-

straint contracted for appears to have been for a just and honest purpose for

the protection of the legitimate interests of the party in whose favor it is im-

posed, reasonable as between them and not specially injurious to the public, the

restraint will be held valid”. But the courts were very loth to extend this

principle; perhaps rightly so.

The admixture of unscrupulous politics with the rapid and unchecked

development of trade and industry in this country, resulting in abuses that were

both shocking and predatory, led to the passage of the Sherman Anti-Trust

Law which provided that: “Every contract, combination in the form of trust or

otherwise, or conspiracy, in restraint of trade or commerce among the several

states, is hereby declared to be illegal.” Every attempt, then, at co-operative

effort to obviate trade evils was regarded with suspicion and almost fear. The

benefits were too restricted and overshadowed by imaginary harm. No account

† Until her death, on December 27, 1934, a member of the Philadelphia Bar.

12. No. 7.

1. 10 Mod. 27, 85, 130 (1711).
2. 27 Mich. 15 (1873).
3. Id. at 19.
was taken of the reasonableness or unreasonableness of restraint of trade, and
not until 1911 when the Standard Oil case was decided by the Supreme Court
was the rule of reason again invoked. The organization of trade associations
seeking to curb rampant and ruinous competition was impeded and blocked by
the cautious Department of Justice. Although the Federal Trade Commission
was called into being to deal with recognized trade abuses and arranged abortive
trade practice conferences in 1928, it nevertheless lacked the power and convic-
tion to cope with the increasing problem. The furthest that the courts would
go in easing the situation, was to sanction the exchange of information and
statistics without permitting enforceable agreements. There had in the mean-
time been developing a strong opinion concerning the possibilities and advan-
tages of self-regulation by industry. The culmination of this growing belief
found expression in President Roosevelt's message to Congress January 3, 1934.
wherein he said: "We seek the definite end of preventing combinations in fur-
therance of monopoly and in restraint of trade; while at the same time we seek
to prevent ruinous rivalries within industrial groups which in many cases resem-
ble the gang wars of the underworld and in which the real victim in every case
is the public itself. Though the machinery hurriedly devised may need adjust-
ment from time to time, nevertheless we have created a permanent feature of
our modernized industrial structure and with it will continue under the super-
vision, but not the arbitrary dictates of government itself."

It is manifest to those who have been intelligently watching and studying
this experiment that trade codes and agreements have every likelihood of be-
coming a permanent factor in the economic life of this country. The imme-
diate concern is the just and equitable enforcement of this new industrial law.
It must necessarily follow, too, that the lawyer will have the opportunity and
responsibility of contributing to this new endeavor. He must therefore sup-
plement his legal knowledge with the history and circumstances that gave rise
to the NRA and should prepare himself for this task by wider study and con-
temporaneous acquaintance with the literature on the subject.

Much has already been written on the subject of the National Industrial
Recovery Act and much more will be written. The effectiveness and the value
of this literature will depend wholly upon the comprehensiveness with which
the subject will be treated. Among the early data on this subject, there has
appeared A Handbook of NRA, which was published in its first edition on
September 12, 1933, three months after the passage of the Act. In the second
edition, the editor, who is associate professor of business law of the College of
the City of New York, and a member of the bars of New York and the District
of Columbia, has considerably amplified his work. Although primarily written
for the layman, the material compiled forms an excellent elementary textbook
for the lawyer as well. The National Industrial Recovery Act (Title I) treat-
ing of the regulation of industry and trade generally and the regulation of oil
transportation, is analysed thoroughly. Its legislative history, constitutionality
and its relation to anti-trust laws together with the analyses and comparisons
of the code provisions are particularly helpful in painting a picture of the entire
scene, so that at a glance one may get a comprehensive grasp of the purpose
and intent of the NRA program. All the executive orders, regulations, agree-
ments, administrative rules and judicial decisions relative to the Act, are given
in detail and form an indispensable part of this volume. As a supplement to
this work there is issued The NRA Reporter, which appears semi-monthly and
keeps the data under the various chapters up-to-date. The volume is infor-
mative in nature, and not polemic and forms a distinct contribution to the study
of a subject which will unquestionably leave its impress on the economic life
of our country.

H. H. Cohen†

†Member of the Bar, Philadelphia, Pa.; Regional Director, Knitted Outerwear Code
Authority, Pennsylvania District.

Here is a terse law book, "edited for the business man", and readily comprehended not only by experts, but by the general public—"that vast multitude which includes the unthinking and the credulous, who in making purchases, do not stop to analyze, but are governed by appearances and general impressions." 1

Its avowed purpose, which it obviously achieves, is "to present in the simplest manner, consistent with comprehensiveness, an interpretation of the Federal statutes and the body of common law dealing with trade-mark registration protection and with unfair competition." 2

It has been said that "Trade-mark law is not merely one branch of the law of unfair competition—it is the law of unfair competition." 3 However that may be, when we are told by Mr. Munn at the outset that over $40,000,000 was paid for the trade-mark "Maxwell House" and the good will of the business associated with it, one instinctively desires to know a little more about trade-mark law, anyhow.

This book rejects the "flickering torch of the antiquarian" and delves into the function of the trade-mark in modern business. It picks out typical marks and discusses them from a practical standpoint. "Consider, for example, the trade-mark of Old Dutch Cleanser. It is full of human interest, motion, life and suggestion. It brings up in the mind the mental picture of dirt fleeing from an energetic Dutch scouring woman. That this mark has been a powerful aid to sales is obvious. Suppose Old Dutch Cleanser had been called Climax Cleaning Powder. Can you imagine anybody acquiring more than the most languid interest in anything with a name so dull? It reminds one of hard and sordid toil."

Federal trade-mark laws, Patent Office rules and trade-mark practice generally are discussed in three chapters, from which we learn that a trade-mark may be legally sound even if it is not registered; that a manufacturer cannot register a trade-mark and file it away with the intention of using it at some future time; and that the word "Ivory" on soap is the perfect trade-mark, because as applied to soap, "Ivory" is purely arbitrary and fanciful. It describes no characteristic or quality of the soap. The mark is obviously easy to remember, to pronounce and to spell. It is simple, and at the same time it suggests that the soap upon which it is used is pure and valuable.

"A proposed trade-mark should not be adopted until every one of the following questions can be answered affirmatively in regard to it:

1. Is it easy to pronounce?
2. Is it easy to remember?
3. Is it easy to spell?
4. Is it simple in design?
5. Is it attractive in sound and appearance?
6. Is it different from other trade-marks of the same class?
7. Can it be affixed to the goods with which it is to be used?
8. Is it registrable and protectable?"

The fifth chapter, in which Mr. Munn discusses the law of Infringement and Unfair Competition with excerpts from the leading recent cases, is for the lawyer the most valuable in the book.

Chief Justice Hughes, at a patent bar dinner in New York, once referred to patent lawyers as the "high priests of the inner mysteries of the temple of just-

2. Foreword.
Mr. Munn makes it apparent that the trade-mark lawyer is perhaps not quite so occult. A trade-mark either has been “infringed” or it has not. Competition is either “fair” or “unfair”. The appeal of trade-mark law, therefore, is more directly to the elemental sense of justice in man and his conscience. “Mysterious Mystic Magic” is thus reduced, very often, to a simple question of natural law and equity. The sharp edge of the chisel which is the lance of the average unfair competitor is very often nicked, therefore, by decisions in which the court points out, as it once did in a case which the reviewer tried, that “a man who means to deceive wants to get such resemblances as will enable his goods to be sold, and such differences as will provide him with cover when his practice is discovered. On the one hand, he wants to blind the public, and on the other hand he wants to blind the Court”. 4

Mr. Munn has made a valuable collection of the leading authorities on the law of substitution, secondary meaning, simulation of dress of goods, and the rules of damage in trade-mark infringement and unfair competition cases. The book is well written and readable. In one or two cases it might be amplified with profit. At page 29, for instance, it is stated that the word “Cloverdale” was rejected by the Patent Office for use on canned fruits and vegetables as being geographical. While that is true, it is also a fact that the word “Cloverdale” was trade-marked in 1918 for use on carbonated beverages, and with the aid of such registration, the reviewer was able to procure an injunction on behalf of the owner of such trade-mark against a competitor who used the name “Clover Club”. 5 The court stated:

“In the instant case, defendant’s ‘Clover Club’ is claimed to be an infringement of plaintiff’s ‘Cloverdale’. The similarity of sound is striking, and, considering the usages of the ultimate purchase in this line of trade, the possibilities of palming off one kind of ‘Clover’ for another are great. The less wary purchaser glancing at the label and seeing a clover-leaf on it, would feel satisfied. A casual inspection of the label might satisfy him as to the correctness of his choice. But the primary test would be the name, and the characteristic part in the trade-mark of each of the contending parties is undoubtedly the word ‘Clover’.” 6

On the whole, Mr. Munn has achieved his purpose splendidly and his book affords a solid, quick introduction to a field of the law that has great financial possibilities and intriguing intellectual appeal. To the business man, the book should be invaluable. Who does not pity the originator of the name “Kerosene” who permitted it to drop into innocuous desuetude as a proprietary trade-mark and to become common property? 7 And who does not envy the originators of the trade-marks “Kodak” and “Vaseline”, which have been so thoroughly publicized and protected that while they still remain private trade-marks they have found their way into the dictionary as synonymous with the respective generic names of the products themselves? 8 To know how to originate and protect such marks is to taste Power, brush shoulders with Achievement, and exult in the lilt of Life itself.

John F. X. Finn.†

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6. Id. at 340, 257 N. Y. Supp. at 752.
 Cotillo, J.: “The fact that a large part of the public may associate a trade name with a generic name for a product is a tribute to the skill with which the firm has popularized the name.”
BOOK NOTES


The worth of the services rendered by Andrew Hamilton to the ideals which we have come to call American needs no demonstration; his record stands proven, and he is recognized as a luminary in the affairs of the Bar and of his country. But a hero's laurels need refurbishing occasionally; and Mr. Weinberger's gracious performance of that task is perpetuated in this slender volume. These two addresses were delivered in Philadelphia and New York at the unveiling of tablets to the memory of Andrew Hamilton; they are devoted to an appreciation of his work in the defense of John Peter Zenger in the most famous libel trial of our legal history. To what we already know about the facts of that case, they add little, although one must mention that Mr. Weinberger publishes here for the first time a facsimile of an affidavit signed by Zenger. Their justification lies in the force with which they call attention to the alarming way in which our country seems to be withdrawing its hard-won allegiance to principles of freedom of speech and press. Mr. Weinberger drives home points which may not be overlooked; one may pass over irritation at a style necessarily oratorical as a concession to the fundamental importance of his analysis.

More than anything else, the typographical beauty of this volume must be remarked. It may be appreciated by one who lacks the taste of a bibliophile—even a lawyer can see grace and attractiveness in the format. Production of legal works has seemed too long to be directed by a League for Hideousness, just as legal style has been characterized by the crudely split infinitive. There is no reason why ideas which impress the mind should not be made equally pleasing to the eye; and there is not a single spark of legal genius which would not shine more brightly in a setting planned as carefully as is this book. It is not the plaint of a purist to express a hope that this work may mark the beginning of an effort to present great legal thought in some guise other than squat, stolid, unlovely quartos.


Congressional regulation of security exchanges has opened new fields for legal pioneering. Mr. Meyer, by presenting a general survey of this legislation followed by a section by section analysis has provided the point d'appris for a complete understanding of the Act and an appreciation of the more technical law review material now appearing on the subject. Written soon after the passage of the Act, the book presents only general principles, making it more valuable for security-men than lawyers.


This volume answers a need created by the recent movement to curb the increasing encroachment by laymen upon the professional activities of lawyers. No attempt is made to present the views of the authors but, as indicated by the sub-title, A Handbook for Lawyers and Laymen, this is an impersonal and ob-
jective compilation of materials which may be used to form an accurate basis for determining whether a particular activity is a wrongful practice of law.

The material collected is of four main types: the relevant statutory provisions of the various states; digests of all American cases which deal with material aspects of the problem, which are classified topically and as to states; statements of bar associations, trust companies and other organizations adopted separately or jointly by them which are declarative of the proper field of respective activity for lawyers and laymen; and a complete bibliography of literature of a critical nature dealing with the limits of the lawyer's field of activity and various other facets of unauthorized practice.

The book is accurate and authentic throughout and is a complete and reliable source of reference which should prove of invaluable assistance to any concerned with problems of lay encroachment upon legal practice.