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Book Reviews

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BOOK REVIEWS.

THE ELEMENTS OF JURISPRUDENCE. By Thomas Erskine Holland, K. C.
Eleventh Edition. Oxford University Press, 1910, pp. xxv, 451.

The frequent revision of this useful work seems to indicate that there is a steady demand for the book in courses given in the subject. In this eleventh edition the author has made no important changes but the revision has been carefully done, as is evidenced by the fact that the latest developments in legal principles, including the law of automobiles and of aeroplanes, have been taken cognizance of in the added notes. (Cf. p. 169, Note 4, and p. 188, Note 3). The added matter, amounting in all to about seven pages, consists almost entirely of additions to the notes. There is a refashioning of Chapter V, The Sources of Law, the six sources of law in the sense of 'the modes through which or the persons through whom, those rules have been formulated which have acquired the force of law,' being broken up into two categories: (First) The causes which have, as it were automatically, brought into existence rules which have subsequently acquired legal force; viz. I Custom, II Religion, III Scientific Discussion, and (Second) The organs through which the State either grants legal recognition to rules previously unauthoritative, or itself creates new law; viz. by I Adjudication, II Equity, III Legislation. The new form is an improvement over the old as adding to clearness. There are two misprints made in the rearrangement: at the top of p. 325, the repetition of a line, and on page 330, second line from the top, "indirectly" for "indirect."

J. H. D.

WORK-ACCIDENTS AND THE LAW. By Crystal Eastman, Attorney at Law.
Member and Secretary, New York State Employers' Liability Commission. Edited by Paul Underwood Kellogg. New York: Charities Publication Committee, 1910, pp. xvi, 345.

This book is one of the products of the Pittsburg Survey. The first part of it consists of facts, carefully presented and analyzed; they relate to accidents studied in detail from several points of view. It is asked, for instance, who is responsible for this and that accident, and to what extent? This study leads to the conclusion that for at least twenty-eight per cent of the accidents no one is really at fault. It is further shown that the economic loss which inevitably follows accidents commonly falls upon the families of the injured, or upon charity—an incidence which does not tend to furnish the strongest inducement for the prevention of accidents. The study is not hysterical at all, but it is human, not hesitating to say that this or that condition is wrong by all common human standards.

The law of employers' liability is analyzed unimpeachably, both in respect to its history and its practical workings. Its chief fault is held to be the uncertainty under which it places both the injured man and the employer; its

chief injustice is said to be based on the erroneous assumption that employer and workman are equally able to look out for their own individual interests, both in making contracts and in getting such remedies as the courts afford. Uncertainty, besides entailing delay and high costs, hinders the law from furnishing the motive such laws might furnish to employers to do more to prevent accidents.

The two legislative remedies possible—an extension of the policy already started in some states of mitigating the rigor of the doctrine of assumption of risk, and the other remedy of making the risk of accident a charge on the business, expecting it to be shifted in the end to consumers,—are both carefully considered, and their relative merits argued out to far reaching consequences. The conclusion is decidedly in favor of the European practice, that of making the risk of accident a charge on the business: this policy would be a great change in the theory of the common law, but would be the only one socially serviceable to the extent of providing for the accidents that are unavoidable. A cardinal advantage of such a policy would lie in the definite fixation of the compensation for different kinds of injuries. Definiteness would help furnish the employer a more adequate motive for giving thought to methods of prevention.

To a lawyer the book should prove useful as giving a large number of concrete examples of accidents, which suggest not only useful lines of attack and defense in personal injury cases, but especially help equip a man to discuss the growing question of how the laws should be changed and why. The chief thesis of the book would seem to be that prevention of accidents is more possible than it has been thought to be: that accidents are not inevitable "simply because they continue to happen"—and that the matter is important enough to enlist more of the thought of employers, lawyers, and the general public. It seems to have a rather optimistic tone, as holding that methods of bringing attention to bear on the matter are already recommending themselves, and there can be little doubt of the ultimate outcome. This book would seek to inform and arouse the public conscience.

C. E. P.