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BOOK REVIEWS

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USURY AND THE USURY LAWS. By Franklin Winton Ryan. Boston: Houghton-Mifflin Co. 1924. Pp. xxi, 249.

A popular treatment of the subject matter of this study should prove a real weapon in the hands of those who are actively interested in the repeal of the typical American usury laws and in the substitution therefor of machinery and statutes more in accord with modern economic and judicial thought. After all, if this much desired advance is to be made, members of the various state legislatures are the individuals who need to be convinced. They must be shown, in the first place, that these usury laws are ineffective in attaining the end desired. That end is to prevent what in this book is called "moral usury." Moral usury is defined as "the exacting of a greater interest than is reasonable at the time, by taking advantage of the necessitous condition of the borrower." (P. 14.) To prevent moral usury is the purpose which the legislator has in mind when he votes for—or refuses to vote for the repeal of—the general statutory maximum specified in the old-fashioned usury laws. A more popular presentation of the material herein gathered together would go a long way toward convincing him that loans made to corporations, firms, and individuals for productive purposes cannot, from the very nature of the case, constitute moral usury; that it is only in the field of the small consumptive loan that the lender has the opportunity to take advantage of the dire necessity and inexperience of the borrower. It would convince him that where productive loans are concerned there is an organized competitive market and that the experience of both contracting parties makes it easily possible for them to arrange loans at the market rate and to circumvent, if necessary, any law which specifies a maximum rate lower than all the conditions justify.

In the second place, it must be made clear to the average legislator that loan charges involve two principal elements: true interest, or a return for the use of the capital advanced; and an extra charge to recompense the lender for the risk he assumes of not getting his capital returned to him. Loans for productive purposes are normally made by banks, and the amount which a bank will lend to a business organization usually has as an upper limit the net resources of the borrowing firm. The degree to which it will approach this limit in extending credit depends upon the prospects for profits—in particular, the prospects for using the particular funds loaned profitably. At times business enterprises do fail, but the percentage of failure is very small. Hence, where good credit judgment is exercised by the bank, the risk of loss is not great. For this reason the charges made by banks on their commercial loans are composed largely of true interest with only a small additional element for the risk assumed.

The situation is entirely different when small loans are made for consumptive purposes. There are many instances, of course, where individuals having bankable assets find it expedient to borrow small sums for temporary

consumptive purposes. The rates charged on such loans need not be appreciably higher than on loans for productive purposes because security can be put up and the risk element correspondingly reduced. But in the typical consumptive loan the borrower has no property which can be pledged. Whoever advances him funds has to assume a large element of risk and the rate he charges must be correspondingly high. To attempt by statute to limit the rates on such loans to six or eight or ten percent tends, as the author points out, to drive legitimate capital out of this field, leaving the necessitous borrower to the mercy of the loan shark. It is evident, therefore, that the general statutory maximum such as exists in forty-two states serves to defeat its own social purpose.

Among economists and jurists the author will find little dissent from his conclusion that the typical usury law should be repealed. It can have no effect on the market rate for pure interest; it tends to make loans more costly for both productive and consumptive purposes owing to the risks undergone in evading the law; and, finally, instead of protecting the necessitous borrower of small amounts for consumptive purposes, it serves to exploit him. He must pay more for his loans not only because legitimate capital is driven out of the field but because the loan shark's charge must be higher to compensate him for the legal risk he runs. Furthermore, as the author points out, when a statutory maximum exists, moral usury cannot be pleaded in the courts.

But to repeal the existing usury laws is but the beginning of the task. As a matter of fact these usury laws are better than no laws at all (p. 79). In the absence of an organized competitive market for loans for consumptive purposes governmental regulation of some kind seems imperative if the needy borrower is to be protected. "The ideal system of control," the author concludes (p. 170), "is an administrative tribunal with powers to fix and revise the charges on different types of small loans from time to time as found expedient, and with power to sit as a court in such cases as may seem to require this procedure."

But because of the "expense and difficulties to be overcome in setting up the elaborate machinery contemplated under this scheme of a complete administrative tribunal" the author is not optimistic about its being adopted. He urges, therefore, that the campaign be continued for the more wide-spread adoption of the Uniform Small Loan Law. He shows that even if a general statutory maximum is wrong in principle, the statutory small-loan maximum is right in principle because, among other things, "it recognizes differences in costs of making loans; operates only in the field where moral usury takes place; and aims to establish a legal definition of usury which will quantitatively approximate the true definition of moral usury." (P. 178.) Such laws have already been enacted in more than a score of states (p. 171), and, the author's investigations lead him to believe, with very good results.

In the matter of arrangement the book leaves much to be desired, but the wealth of material presented served admirably to clarify this reviewer's ideas on the subject. It might be objected that, in the form presented, it is directed only to those who are convinced in advance. Nevertheless, the wealth of ma-

terial gathered together will form an admirable basis for a more popular presentation of the subject which will be helpful in securing the desired legislation.

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CASES ON OIL AND GAS. By Victor H. Kulp. American Casebook Series. St. Paul: West Publishing Co. 1924. Pp. xix, 512.

Professor Kulp, in preparing his casebook on oil and gas, undertook no easy task. When the mass of law on the subject is studied, marked conflict in the authorities on many vital questions is at once discernable. More discouraging, still, is the fashion of loose statement of legal principles, which so often seems to characterize the holdings in this branch of the law. Even when the inquiry is confined to the decisions of a single jurisdiction, the same uncertainty appears. We find the courts of five states reversing their former holdings on an identical question. We experience the greatest difficulty in harmonizing the decisions of a particular jurisdiction on many other important propositions, and, finally, we encounter such an amazing lack of precision and clearness in the statement of the principles decided that not infrequently we are compelled to grope for the true holding of the court. In brief, it is hard to imagine any subject within the whole realm of American jurisprudence less susceptible of adequate treatment in a casebook, than the law of oil and gas.

In these circumstances, two things are indispensible to a work of this nature: first, unusual discrimination in the selection of the type cases; secondly, carefully written and rather comprehensive notes under each topic designed to harmonize the type cases with the settled law in relation thereto or to point out the conflict therewith. These being the basic requirements, it is evident, from a mere casual reading of Professor Kulp's book, that he has produced a noteworthy work. The selected cases, as a rule, are chosen with rare discrimination, and the notes throughout are decidedly illuminating.

But two possible criticisms occur to the reviewer. One of the storm centers of litigation in the law of oil and gas has been the question of mutuality in relation to those types of leases granting the lessee, in one form or another, the option to drill the property, or, in lieu thereof, pay a stipulated rental. This subject is not adequately treated in either the selected cases or in the comments of the author.

Another topic requiring more careful attention than is evidenced by this work involves the implied obligations of an oil and gas lessee to drill the property. Cases dealing with that aspect of the law are interspersed throughout the volume, but the subject is of such great practical importance as to merit a separate heading. Other cases should have been employed, and the author's comment on this branch of the subject should have been sufficiently comprehensive to define the lessee's obligations in this respect and to indicate whether or not the obligation is a covenant or a condition, referring also to those juris-

dictions where the breach of an implied obligation on the part of the lessees subjects the lease to forfeiture.

Notwithstanding these minor criticisms, Professor Kulp's book is a distinct and timely contribution to the cause of legal education. The production of oil ranks second among the mining and manufacturing industries of the country; its twin, the automotive industry, ranks first. In a broad, economic sense, the two are one, each being vitally dependent upon the other. The business of producing oil has developed a peculiar and difficult jurisprudence. In these circumstances, every important law school of the country should institute a course in this important specialty, and Professor Kulp's work should contribute to that result.

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LES IDÉES POLITIQUES EN FRANCE AU XVIIe SIÈCLE. By Henri Sée. Paris: Marcel Giard. 1923. Pp. 371.

Since Professor Holdsworth in the fourth and sixth volumes of the new edition of his HISTORY OF ENGLISH LAW—to be noticed in the next number of this REVIEW—considers, among other cognate subjects, the political theories formulated in England and on the Continent during the sixteenth and seventeenth centuries it would seem fitting to call attention, in these pages, to a comparatively recent work by a competent French scholar dealing with a significant phase of the subject. Histories of political ideas tend to be rather jejune; unless treated with imaginative insight and exceptional skill they are apt to resemble funeral baked meats with the original ingredients bereft of their pristine savour. Fortunately M. Sée has the gift of lucid and informing exposition in which the most talented of his countrymen have long excelled. He begins by tracing the growth of the idea of absolutism in its historical setting, paying due regard to such subjects as reasons of state, abuses of administration, and the slowly developing reaction manifested in the dimly emerging ideas of popular rights, individual liberty, the social compact, and toleration. Outstanding thinkers are discussed in some detail, notably Bossuet, Fénelon, Boulainvilliers, Saint Pierre, Vauban, and Bayle — the latter distinguished, among other things, for being the "thought-master" of Bernard Mandeville whose cynical, thought-provoking FABLE OF THE BEES has reappeared during this past year in a new edition. In addition, M. Sée has carefully appraised the views of practical statesmen like Richelieu and that self-designated embodiment of the state, Louis XIV; he has ably dissected the reasons which led St. Simon, author of the celebrated MEMOIRS, to oppose the absolutist régime, and has discussed the import of incidents like the Fronde, as well as the influence of the revocation of the Edict of Nantes and the English Revolution of 1688 on French speculation and practice in politics, economics, and religion. In five or six pages of conclusion the author resumés the main points of his thesis, and the general trend of French historical development in the seventeenth century

in connection with the more important conclusions of the leading thinkers. Besides studying for himself the works of these latter, he has read widely in the voluminous literature that has accumulated about the subject. As a compact statement of a very striking epoch in political theory the work is highly to be commended.

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THE LAW OF AUTOMOBILES. By Xenophon P. Huddy. Seventh edition, by Arthur F. Curtis. Albany: Matthew Bender & Co. 1924. Pp. xliii, 1521.

Here is one of the two best ready-reference books in the day's most actively litigated branch of the law. It is hardly a real text book; automobile law is still too unsettled for more than digests. Its rapid development and numerous ramifications have brought forth conflicting decisions; even the place of the motor vehicle in the law is still in confusion—more than one court, for example, still regards the automobile in the ancient light of a dangerous instrumentality, while others have long since realized its place in the modern industrial and social system. Thus while in this seventh edition the size of the volume has been enlarged, the number of citations increased, four chapters added, and index and table of cases amplified, the book is still a compilation of cases, valuable for preliminary investigation, but one which must be used as a beginning only. It must be complemented by examinations of new statutory experiments, new applications, and later decisions. An example: the chapter on "Transportation of Intoxicating Liquors" has been enlarged, yet with all of its late citations it is incomplete today without an understanding of the pronouncements of the United States Supreme Court in recent cases on search and seizure.

The new edition is especially valuable for its consideration of what may be called the "business law" of automobiles: sales, chattel mortgages, conditional sales, liens, insurance. This branch of motor vehicle law is more settled, and principles are clearly set down, giving interesting analyses to the student and helpful guidance to the practitioner.

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CRIMINOLOGY. By Edwin H. Sutherland. Lippincott Sociological Series. Philadelphia: J. B. Lippincott Co. 1924. Pp. 643.

Good texts in the field of criminology are few, but the volume under discussion is undoubtedly the best that has appeared. The value of Professor Sutherland's work consists largely in its point of view which is stated in his first chapter as follows: "Crime and all the social policies connected with crime belong to the field of human nature. * * * Consequently it is essential to have a fundamental science of human nature in order to control such policies effectively."

This statement makes possible an approach to every particular phase of the crime problem through social psychology and sociology; and this approach is vigorously upheld throughout the discussion. It appears first in the author's brief disposal of the purely legal view of crime. The law regards crime as an individual act in violation of an existing proscription, and brings to bear formal penalties in accordance with historically developed criminal process directed against such acts. This shows us much about the law, but little concerning the nature of the act and the genetic factors in its occurrence. The true analysis of the nature of crime would show it to be a conduct reaction, involving a particular individual in a particular social situation. Without this central view of the problem an attempt to classify crimes on an exclusively legal basis is unilluminating; and furthermore, even if one holds this view, the classification of crimes remains unsatisfactory, because of the infinite variety of individuals and situations which may occur in producing the phenomenon of crime. At this point, the legalist, if aggrieved, may challenge the scientific validity of any study which cannot offer a classification of its fundamental elements. The difficulty, however, arises out of the complex nature of social phenomena which defies mechanical analysis.

The author next takes us into the maze of criminal statistics, presenting the available material from private and public records, including data relating to the loss of life and property through criminal activity. The data is presented in great detail, and the amount of crime it reveals is a most astounding commentary upon what we are sometimes pleased to call our "Christian civilization." As regards property crimes it is informing, to say the least, to learn from one responsible estimate, that they cause an annual loss in the United States of nearly three billions of dollars. The estimate cited modestly adds that this sum does not include the losses from political graft! It is further more notorious that our annual homicide rates in some of our larger cities exceed those of whole countries in Europe.

With this basis of statistical fact the discussion takes up the problem of cirme causation, pointing out the well known fallacies that lurk in statistical interpretations. Quoting Thomas, the author states that, "'Taken by themselves, statistics are nothing more than symptoms of unknown causal processes'." Then he adds, "The mechanisms involved in delinquency can be understood only by prying into the situations by methods that do not abstract the traits or conditions, but see them in relation to the rest of the situation." This is sound, and needs to be driven home, especially for those who have not learned to take the organic view of social causation. The one method that does involve the organic view is the individual case history. Sutherland boldly states that "there is no reason why we should not have a continuous record of every individual in the United States." Well, there is no reason why we ought not to have such complete knowledge; but there are a good many reasons why we cannot expect to have it in the near future, because it would require that parents, teachers, and public officials generally become case workers. Such a condition might be the social worker's paradise, but to effect it would be more than the dullness of officialdom could tolerate.

Regarding the existence of a distinct criminal type, Sutherland, after a survey of the evidence, concludes that there is no typical criminal, unless it be the young adult man living in the city. Differences in racial proclivities to crime are interpreted as economic and cultural phenomena. Finally, the author declares that there is little difference between criminals and non-criminals as regards mentality. If this be true, what reams have been wasted in making out a case against the feeble minded and other defective groups concerning their alleged greater propensities to crime! The psychiatrists, no doubt, will challenge such a statement, but the author's main contention holds; namely, that in order to demonstrate that mentally diseased persons are potentially criminal more than others, we must show that mental diseases are more prevalent among criminals than among the non-criminal population. This, however, has never been questionably proved. Where comparisons have been possible, as in Dr. Murchison's studies of feeble mindedness in the army draft and in state prisons, no higher proportion of this mental disease is shown to exist in prisons than was found in the army when the same racial groups were considered. However, the author does admit that the extremely egocentric type, now termed the psychopath, is likely to get into difficulties with other people more frequently than normal persons. Still, it adds little to science to declare that a difficult personality is likely to get into difficulties! One gathers in general from the discussion that a vast deal more must be learned about the normal, as well as the abnormal, before we can state with any degree of precision how great a responsibility for crime is to be placed upon the single factor of mental disease. Again, we revert to the fundamental truth that crime is the product of a total situation in which the social as well as the biological and psychological factors have to be considered. The notion of a "born criminal" type must therefore be thrown into the discard along with the theological fallacy of "total depravity."

The author's further analysis of causation includes detailed discussion of home, neighborhood, economic, and cultural conditions, including public opinion. Social disorganization is perhaps the all-inclusive concept here. Our social system is weak in that it fails to provide stable social structures in which well-ordered personalities can develop. Disintegration of family and neighborhood life is accompanied by a lowering of moral standards,—in some cases by their complete destruction. In this process there arises what Thomas has called "the individualization of behavior" by which the young person attempts to stake out a way of conduct based upon unrestrained impulse unchecked by any effective or continuous social discipline. The only possible outcome is disaster.

The next block of material in the volume is concerned with the machinery of criminal justice, including a somewhat original treatment of "Popular Justice." The rapidly accumulating data regarding the defects of our police and criminal court systems are exhaustively treated. With a few notable exceptions the legal profession remains unmoved by these assaults upon the operation of the criminal law. The lawyer may stand pat and inquire, "What are you going to do about it?" The most light comes, no doubt, from the success of our juvenile courts where traditional procedure from start to finish has been

modified in the direction of science and socialization. Slowly the methods of the juvenile court are penetrating adult procedure. It may well be that in another decade or two our criminal courts will be transformed beyond recognition though an assimilation of the science and sympathetic insight that now characterizes the better of our juvenile courts. Meanwhile, the influence of the juvenile court is extending also to the schools and the home replacing the mechanical, repressive treatment of behavior problems with somewhat more enlightened methods. The whole trend of things is towards making criminal justice, so-called, an intelligent and informing process which will lead to an understanding of the problem of crime, and, better still, to its prevention. This great movement needs the cooperation of the legal profession, but even if this cannot be had in larger measure, a favorable outcome, however postponed, is inevitable.

The remaining chapters in the book are given over to a discussion of the theory and practice of punishment, to means for reformation, and to the problem of the prevention of crime. Here, as throughout the volume, the methods of historical and logical analysis are pursued. Both the theory and technique of punishment are condemned on grounds of social utility. "It is desirable," writes the author, "to regard punishment as a thing which has been tending for some time to disappear and be replaced by these other methods, and as a thing, which, from the point of view of ethics and economy, it is desirable to get rid of as quickly as the general public can be induced to take the other attitude towards criminals." The other attitude referred to is the scientific one which is being more and more successfully applied in our juvenile courts. Perhaps the cause of public education in this field was effectively served in the Loeb-Leopold trial, where, in spite of the usual sensationalism of the press, and a good deal of popular clamor for the death penalty, a scientific analysis of the two youths was carried through, and their cases were disposed of without resort to legal executions. To some this may seem to have been the result of mere judicial clemency—an ancient prerogative. But in view of the scientific evidence introduced by request of the court, a real innovation in procedure seems to have been involved. To familiarize the public to even a slight degree with the parlance of the psychiatrists forecasts, let us hope, the dawn of a new era.

As a corollary to the need for getting away from the old idea of punishment is the necessity for conceiving the traditional prison in a new light as a place for research and experimentation as well as for custody. Detention and incarceration there must be for certain types of offenders. But the architecture; regime, and personnel of the prison must be renovated in accordance with the newer penology. In view of the fact that the author's own state—Illinois—has recently built a new prison after the model of Jeremy Bentham's Panopticon, suggested one hundred and fifty years ago, one is moved to cry, "How long O Lord!" If our legislatures continue to monumentalize the errors of the past in brick and mortar, the ideals of the penologists will remain unrealized for some time to come.

The extended discussion of probation and parole indicate that while these measures are promising substitutes for the prison, in whole or in part, their administration under present conditions prevent their accomplishing all that they should. Undermanned departments and untrained officials cannot do the job. Perhaps it can never be done with 100 per cent efficiency until society, as a whole, puts the same confidence in social case work that it now has in medical practice for the cure of disease. Again, it is a question of public education.

The author's last two chapters deal with reformation and prevention. In reformation an intensive study of the individual is fundamental. On this basis treatment should be diversified intelligently in accordance with individual needs. Such a policy requires a complete reorganization of our present state institutional system, the abolition of local control, the establishment of a central clearing-house for study of offenders, and the placing of the whole system of jails, prisons, reformatories, probation and parole departments under the control of a State Department of Corrections. Under prevention the emphasis is placed on the need for checking the process of social disorganization through a socialized education that will begin in the grades and extend to adults beyond the age of formal schooling. As though the objectives suggested in prevention of crime were not already sufficiently difficult, the author finally adds a word concerning the desirability of making government a science. This idea is as old as Aristotle, but it deserves reëmphasis here, inasmuch as the inefficiency of government is nowhere so glaringly apparent as in its blundering dealings with offenders.

The author is to be congratulated upon putting within the compass of a text so scholarly, penetrating, and readable a study.

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THE FEDERAL POWER COMMISSION. By Milton Conover. Baltimore: Johns Hopkins Press. 1923. Pp. x, 126.

THE GENERAL LAND OFFICE. By Milton Conover. Baltimore: Johns Hopkins Press. 1923. Pp. x, 224.

These are two of the series of "Service Monographs of the United States Government" now being prepared by the Institute of Government Research. The avowed purpose of the series is to present in a briefly descriptive but non-critical form studies of the several departments of our national government, each of the twenty-four odd volumes in the series discussing a separate department of the service. The Institute believes, and rightly, that such individual studies will not only be of interest to a public, bewildered by the complexities of the national government, but will also be of constructive value to the Congress in framing future legislation, and to the various administrative departments in effecting better inter-departmental co-ordination.

The first of the above mentioned volumes presents in a painstaking and

accurate, though rather prosaic, manner the history of governmental control of water power from colonial days to the present time. Unfortunately, the consideration of the actual activities of the Federal Power Commission is limited to a single brief chapter of but ten pages. In view of the fact that this body has, during its four years of existence, actively supervised the development of some 7,850,000 water horsepower in all parts of the United States, and in so doing has dealt with many complex situations, it would seem that this phase of the subject demanded more complete treatment. An excellent bibliography is included in the appendix.

The second volume treats in a like manner the history and activities of the General Land Office. Again the bibliography, consisting in this case of forty-two pages of references, is a valuable feature of the work. It collects a mass of material which has been printed from time to time in the various government publications but which is not elsewhere collected or indexed in convenient form.

The two monographs well fulfill their avowed function of being briefly descriptive studies, but they do no more.

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THE REASONABLENESS OF THE LAW. By Charles W. Bacon and Franklyn S. Morse. With an Introduction by James A. Woodburn. New York: G. P. Putnam's Sons. 1924. Pp. xii, 400.

This volume is difficult to classify or describe. According to the authors its thesis is "stated in its title." But it is not a critical analysis of the content or methods of the law in the light of any postulated canons of reasonableness as the title might imply. It is more in the nature of a summary description of some of the elementary principles of American law. Its scope is best evidenced by citing the titles to the six parts into which the volume is divided. They are as follows: The Legal Basis of American Government, Constitutional Law, The American Common Law, Equity, International Law, and Statute Law.

The method of treatment is anything but critical. About two-thirds of the text is composed of quotations, taken mainly from judicial decisions, though there are a few quotations from treatises, monographs and articles. Frequently the quotations used are merely dicta, having little to do with the issues before the court and therefore of no legally authoritative value. This is particularly true of many of the quotations dealing with purely historical and descriptive matters. One wonders why judicial decisions are quoted at all in such cases, for much more accurate and illuminating quotations could be found in treatises and articles of accepted scholarship. When a court ventures into historic matters and begins taking "judicial notice" of certain sweeping generalizations regarding American history, that is not the occasion the reviewer would seize to prove the reasonableness of the courts and certainly such dicta should not be cited as historical authority. It would be difficult to find a more

misleading picture of the powers of the Second Continental Congress than the quotation taken from *Penhallow v. Doane* (pp. 12-13). The preceding paragraph by the authors shows that they have a more accurate conception of the situation. Then why the misleading quotation? The authors are frequently more persuasive when they write than when they quote.

But the text is not free from obvious error. For example, the text indicates that the carrier's liability for freight is the same as for passengers (p. 163); marriage is said to be a contract (p. 165). In passing upon the validity of state statutes, it is declared that the courts "have constantly" construed the fundamental guarantees "in the light of the social and economic conditions which existed when the statutes were made, not in the light of such conditions existing when the constitutions were made" (p. 71). One might well wish that such were the case, but a familiarity with constitutional decisions shows only too clearly that the statement is by no means accurate.

After due allowance is made for the tremendous difficulties encountered in the attempt to summarize the whole field of American law in the narrow compass of a volume, the effort does not merit commendation. The method is faulty in its inception. Errors in elementary principles have crept in that should have been avoided. The quotations used are occasionally misleading. In their attempt to prove the reasonableness of the law the authors have been more optimistic than accurate. They have evaded even the elementary difficulties that are involved. They have not been critical. They have failed to come to grips with the fundamental problems that bar the pathway of any rational attempt to appraise the reasonableness of the law. Perhaps the reviewer is expecting too much in an elementary text. But surely one may question the value of a text, with such a title, that evades and ignores the difficulties inherent in the very thesis of the book, and which fails to give to the reader some knowledge of critical and scientific method. An elementary text ought at least to introduce the student to the nature and difficulties of the problem and indicate some of the modern scientific methods by which it may be intelligently attacked.

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THE PHILOSOPHY OF LAW. By Roland R. Foulke. Philadelphia: The John C. Winston Co. 1925. Pp. ix, 102.

It is hard to decide just where to begin to criticise this book.

Most of us feel at times the urge to "set and think" about things in general. If we be lawyers this urge may take the direction of legal philosophy. We may have the experience, while ruminating thus regarding legal whys-and-wherefores, of discovering a (to us) brand new idea or of hitting upon a (to us) fine new statement of something old; but we are apt to be disappointed as to the novelty of our find by a little exploration in the literature extant. Probably Mr. Foulke wrote his little book with a discoverer's enthusiasm;

evidently he is not familiar with the Continental literature on legal philosophy, nor with the legal analytical studies in English of Terry, Salmond, Hohfeld, and Pound. Indeed his book is, despite its name THE PHILOSOPHY OF LAW, rather a venture in the field of legal analysis; and as such is much less modern in conception than the works of the authors mentioned.

Perhaps, however, this book is not intended to be original, but is intended only to be what the publisher describes on the cover as "A Short Plain Statement of the Essential Nature of Law." The book is short enough, to be sure. Into one hundred small pages is compressed the entire philosophy of law. If by the further word "plain" it is intended to suggest that the statement is simple or clear, the word is misleading. To read this book is as easy and enjoyable as it would be to peruse a work composed only of geometrical theorems; practically speaking it is just a succession of definitions and dogmatic assertions. It is replete with passages like the following (secs. 87 and 88—there are in all 107 sections):

Scope of Jurisprudence

"§ 87. The science of jurisprudence is concerned primarily with interests. It is perhaps safe to say that political power is never concerned except with conduct damaging an interest. It may, however, fail to take any action with respect to some interests, and some conduct damaging an interest. Interests, conduct damaging interests, and the operation of political power, describe the scope of jurisprudence and the field which is the concern of the practicing lawyer.

Interests—Definition of

§ 88. I have an interest in an object when I will be affected in any way by any change in that object, whether that change is produced by an outside agency, or occurs in the object itself. This interest may vary in intensity from mere idle curiosity to absorption of my entire welfare. The principal object in which man is interested is himself, and self-interest is, therefore, the greatest interest in the world. Objects may exist without any one having an interest in them, as in the case of wild animals, undiscovered countries, etc. An interest, however, cannot exist without an object. The confusion which exists on this point results from confining the word "thing" to material objects. A patent or copyright is not tangible, but one may have an interest in them. An interest, however, cannot exist without someone having the interest, although it is to be noted the person having may not be an owner. Animals have an interest, as the interest of a dog in his master, but such an interest is not the concern of political power, notwithstanding it may be damaged by the conduct of an individual."

Undoubtedly Mr. Foulke has done some serious thinking, but it is safe to call his essay in the field of legal philosophy a failure, whether it was written as an original contribution to scholarly literature, or as an easy introduction to basic legal concepts.

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THE SALEM WITCH TRIALS. By W. N. Gemmill. Chicago: A. C. McClurg. 1924. Pp. iv, 240.

Judge Gemmill has written an interesting account of the Salem witch trials of 1692. In a half dozen short chapters which are introductory in nature he reviews the history of witchcraft, indulges a few comments on puritan character, and describes briefly conditions at Salem when the witch delusion began. Then follow eighteen chapters devoted to the trials themselves. As far as possible the narratives have been constructed from the original records of the trials. They are repetitious, in consequence, but it is well that the record be complete.

It is an astounding tale and one difficult to appreciate adequately unless the reader school himself to catch a viewpoint of more than two centuries ago. Salem was a village of 1,700 souls. There were no public schools. Most of the inhabitants were illiterate. Rum drinking was prevalent. Everybody was superstitious. It was a time when even the President of Harvard College believed in witchcraft.

Neither magistrates nor ministers of the gospel were capable of seeing the hideous folly of it all. Of the nine judges who presided at the Salem witch trials, one was "a man of ability, but a bigot of the worst type." Another was "honest, but weak and vacillating." Another was "utterly unfit," "a vain, shallow sycophant." Another was "a firm believer in witchcraft" and "presumed all the accused guilty before their trials began." The rest were weak and ignorant men. And the ministers, who contributed so much to the common madness, were no better than the judges.

An illegal court sat from May 27, 1692, to September 24, 1692. More than two hundred persons were arrested, many were convicted, and over one hundred remained in prison when the tribunal finally adjourned. In one hundred and twenty days the court sent twenty people to the gallows.

It is well that Judge Gemmill has thus made available for everyone, in a narrative as interesting as it is significant, the story of this strange delusion. We may understand our Puritan forefathers a little better for having read it. And some recent criminal trials, rather badly conducted, as it seemed to many, will at least stand the shock of comparison. After all we have been getting on in these things since the Pilgrims landed on Plymouth Rock.

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WORKING MANUAL OF ORIGINAL SOURCES IN AMERICAN GOVERNMENT. By Milton Conover. Baltimore: The Johns Hopkins Press. 1924. Pp. vii, 135.

The author has performed a real service in taking this step in the direction of "a case method in Political Science." The plan of the manual presents problems and assigns source materials for classes in college and university courses in American government to supplement the usual text-book.

The series of eighteen exercises, which have been "adapted to the congressional set of public documents found in every library which is a complete depository of the national government," deal with such topics as: the constitution; the administrative branch; the congress; the electorale; the judiciary; international affairs; state government; city government; and local government.

The value of the instructional method suggested is in the training given students in dealing with original materials, especially the evaluations of these materials as sources. It is hoped that the author, aided by the suggestions of others who use this little book as a guide in the proposed method of teaching, may find time to collect those materials which have proved most worth while into a "casebook" for the study of American government. Such a book would afford better opportunity for the case method experiment in political science, since an important factor in case method instruction is the discussion hour where best results are obtained when the group arrives with the problem in mind as a result of uniform preparation and enters into the discussion under the direction of a skilled instructor. Much more may be derived by the class from such instruction than from that in which all depends upon the individual's report. True, less ground will be covered, but that which is covered will be more thoroughly done.

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NATIONAL PROHIBITION. THE VOLSTEAD ACT ANNOTATED AND DIGEST OF NATIONAL AND STATE PROHIBITION DECISIONS, WITH FORMS. By Arthur W. Blakemore. Second edition. Albany: Matthew Bender & Co. 1925. Pp. lxxxiv, 1101.

That events under the Eighteenth Amendment and the resulting Volstead Act are moving rapidly is indicated by the fact that this second edition follows the first by a bare two years and that the 816 pages of the first edition have expanded to 1185 pages in the second. That the author's belief that at the time of the first edition "practically all possible questions in relation to the Act have been already definitely settled" was mistaken is sufficiently shown by the "new features" of the second edition two years later. This is especially true as to matters concerning searches and seizures and the questions national and international raised by the rum running fleet off the Atlantic coast.

The segregation of these cases from the mass of decisions is a very useful service for those having occasion to deal with the Volstead Act and its enforcement and the new edition will be very welcome to them. The main features of the first edition, referred to in 22 MICH. L. REV. 745, have been retained in this and seem to call for no further comment at the present time.

E. C. G.