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BOOK REVIEWS

THE BULWARKS OF PEACE. Heber L. Hart. London: Methuen. 1918. Pp. iii, 221.

Among all the writings that have appeared on the problem of preserving the order of world society, the most searching and the most illuminating is Hart's *Bulwarks of Peace*. Particularly in connection with any consideration of the plan of the Paris Covenant of the League of Nations, it compellingly arrests attention.

Two points deserve especially to be noted. The author urges the insufficiency of general rules, of principles of conduct, of standards of right,—in short, of international law,—through arbitration or any cognate process, to obviate war. International law is a system of rules which purports to govern the relations of state. It ignores the existence of nations. But nations are the physical bases upon which states exist. And nations are living organisms. As such they are necessarily involved in continual change. While one is being born, another may be dying. Changes in nations lead to changes in states; but there is no uniformity in the ways in which nations severally change. International law makes no adequate provision for giving effect to the operation of these natural causes from which the necessity for changes in states arises. The movements of the spirit of nationality, the natural changes in the relative vigor and population of nations, and the desires of ambitious states for enlarged dominion, will, from time to time, cause wars, unless appropriate measures to prevent them are taken collectively by all states or such of them as together possess preponderant power.

Having criticized destructively the conceptions of equality, of neutrality and of non-intervention among states, from the stand-point both of the theory of international law and of fact, the author finds the appropriate measures to be taken to prevent war to consist essentially, not primarily in the development of international law or of judicial machinery, but of an administrative authority with power to make political decisions *ad hoc*. International law, even if reinforced by an effective sanction, would be an inadequate basis of public right. General rules there must be; but general rules alone are unsatisfactory. There must be provision for a discretionary authority, for particular orders, for occasional commands adapted to special states of fact, to the needs of living and ever-changing organisms. Administration is as necessary as a system of judicature. It need not be pointed out how fully these ideas are embodied in the proposed Covenant of Paris.

This is one of those rare books of which it may be justly said that it should be read by everyone.

ROBERT T. CRANE.

A SOCIETY OF STATES: SOVEREIGNTY, INDEPENDENCE AND EQUALITY IN A LEAGUE OF NATIONS, by W. T. S. Stallybrass, Fellow and Vice-Principal of Brasenose College, Oxford, of the Inner Temple, Barrister at Law. New York, E. P. Dutton & Co., 1919; pp. xviii, 243.

It is refreshing, in the confusion which has been created by obscurantist clamor about national sovereignty and the League of Nations, to turn to such a straightforward and sensible little book as *A SOCIETY OF STATES* by Mr. Stallybrass. The author concedes at the outset that a league of nations involves some delegation of the attributes of sovereign power and independence. He goes on to show, however, that the notion of absolute sovereignty and independence has long since ceased to accord with the facts of international life and that a league of free nations is by no means so abrupt a departure from recent practice as many have supposed. He suggests three alternatives either of which might be regarded as the goal of international development: (1) world dominion, or universal monarchy; (2) the apotheosis of sovereignty, or universal anarchy; (3) the organization of the society of nations, or universal law. Of these, the first is hardly relevant to present conditions and the second, to say the least, is very much discredited. The third is probably the rationale of much that has transpired in the past and it is certainly the hope of the future. From this point of view the question of a league of nations presents nothing that is revolutionary. It is simply a matter of the present practicability of certain proposed steps in the right direction.

Mr. Stallybrass states briefly the theory of the sovereign state in its logical perfection, indicates some of the more obvious restrictions upon sovereignty which have grown up in the custom and practice of nations, and concludes with a discussion of further limitations which may be thought to be involved in the proposed League. There is nothing in the book for those who have already had an opportunity to study the subject. It makes no pretensions either to learning or to originality. For those who have not studied the subject, however, the book offers an excellent introduction to a fund of information which needs to be more widely disseminated.

EDWIN D. DICKINSON.

PRINCIPLES OF THE LAW OF CONTRACT with a chapter on the Law of Agency, by Sir William R. Anson, Bart., D. C. L., of the Inner Temple, Barrister-at-law, Warden of All Souls College, Oxford. Third American Copyright Edition, edited, with American notes by Arthur L. Corbin, Hotchkiss Professor of Law, Yale University School of Law. New York, Oxford University Press, 1919. Pp. lvii, 568.

Contrary to what might have been anticipated in the case of a work that has gone through so many editions, the latest revision of Anson on Contract exhibits substantial improvements. Professor Corbin shows himself to be a real recensionist and not a mere compiler of citations. The present book is based specifically upon the twelfth English edition, we are told, and includes most of the additions made by Dean Huffcutt in the Second American Copy-

right Edition. The editor has not hesitated to re-arrange and to re-classify the topics, particularly those relating to the interpretation and discharge of contract, and it is believed that a more logical analysis has resulted. The text itself, while in the main that of the English author, has undergone some change, and quite a number of new sections have been added including a chapter on "Contracts for the Benefit of Third Persons in the United States," and a sub-division on the subject of conditions. Professor Corbin rejects the theory that the right of the Third Party Beneficiary is equitable and treats the subject from a strictly legal standpoint. There is undoubtedly much to be said for this view and it seems to be in line with the way the matter has been worked out by the courts. In a few instances perfect clearness and accuracy have apparently been sacrificed for the sake of brevity, e. g., the section on "Waiver of Conditions" in the subdivision on conditions does little to clarify the much abused terms of "waiver" and "estoppel."

The editor's chief contribution consists in an application, through changes in the text and by means of critical notes, of the terminology and analytical method advocated by the late Professor Wesley N. Hohfeld. An attempt has been made at more thorough analysis and greater accuracy of statement than was possible with the old terminology, and in some fields progress has undoubtedly been made, notably in the matter of Offer and Acceptance and Assignment.

The citations to the more important recent cases and periodical literature have been added and most of the notes have been brought down to date. To this statement there is one quite obvious exception, viz., the note on procedure on page 16. Anson's work is so well and so favorably known as a concise statement of the fundamental principles of Contract law and has demonstrated its usefulness to such an extent as to justify this edition which does much to elucidate these principles.

G. C. GRISMORE.

THE CENTENNIAL HISTORY OF THE HARVARD LAW SCHOOL, 1817-1917. Written and Compiled by the Faculty. Harvard Law School Association. Cambridge, 1918, pp. x, 412.

Judged from any valid point of view this story of the first century of life of the Harvard Law School, forms the most brilliant chapter in the history of American education. If one considers the standards of instruction and of scholarship set by its faculties or the objectives of their training, nothing finer can be pointed to anywhere. In sustained effort and achievement there is no parallel to Harvard's. If one turns to productive scholarship, considering the extent and nature of the field, Harvard's professors and graduates have established a record that is incomparable. No other institution has had anything like as great influence as the Harvard school, whether one considers the results of its instruction as realized by its graduates at the Bar and upon the Bench, or the development and improvement of the science of our law traceable to the scholarly production of Harvard men, or, above all, its vitalizing

effect upon legal education throughout the country, and indeed wherever the common law has directed its conquering march.

It is therefore altogether appropriate that the story of this service to law and justice and through them to the country, should be told by its present faculty aided by graduates. To them the gathering of material and its presentation has been a labor of love, and yet the history of their school has been told with admirable restraint and in the best possible taste. Some of the material has appeared elsewhere; thus one recognizes in the sketch of Ezra R. Thayer, portions of the tribute in the Harvard Law Review, written by Dean Pound, a singularly beautiful tribute, itself characterized by a certain Grecian quality of fitness, proportion and beauty which Dean Pound attributes to the intellectual and spiritual life of his lamented predecessor. The greater part of the work of collecting the material fell upon Prof. Chaffee, and he has performed his task well. Adequate accounts of the school, the library, the fine collection of portraits and prints, and the students are given in the eight chapters of the main text. In the Appendix are sketches of Law School teachers, the succession to the professorships, a bibliography of the legal writings by Harvard teachers, and of the "case system" and other topics in legal education. Thus the book is a valuable and comprehensive source of information and suggestion for law teachers everywhere.

The work contains a chapter on "The Future." What of that future for Harvard? Perhaps an outsider may venture a word not inappropriately. Always among the leaders in legal education, the Harvard school from the time of Langdell has exercised an influence, extraordinary and wholly unequalled. Its premiership during that period has never been seriously questioned by any informed person. This preeminence at first unperceived became established beyond cavil during the deanship of Ames. While Langdell was the pioneer and founded a great tradition and moulded an effective method, to Ames fell the task and the privilege of breathing life into the plan, of developing and perfecting and refining it, a truly creative work which only a great scholar, a compelling and gracious personality and a character *sans peur et sans reproche*, such as Ames's, could have accomplished as he accomplished it. Other schools have caught the inspiration, and Harvard is no longer alone, far in the front, but there is every reason to believe not only that the School is still true to its great tradition, but also that it will certainly continue to forge ahead, creating new methods, new ideas and adding always to that science of the law, which it has so nobly served. With its fine buildings, its unequalled library, its splendid student body, with a faculty under the leadership of a man whose genius for the law has never been surpassed in this country, with Wambaugh and those superb teachers and men, Beale and Williston of the Ames group, and the brilliant younger men who have been added to the staff, Harvard's efficiency and influence and prestige for the future are completely assured. And even as Harvard has generously aided in and rejoiced at the development of other fine schools, so may we who are serving the same cause, elsewhere, observe

with appreciation and pride and admiration, the continued and growing success in service, of the great school to which we all owe much.

HENRY M. BATES.

THE MASTER OF THE OFFICES IN THE LATER ROMAN AND BYZANTINE EMPIRES, by Arthur E. R. Boak, University of Michigan. New York: The Macmillan Co., 1919, pp. x, 160.

This monograph is published as Part I, Volume XIV, of the University of Michigan Studies, Humanistic Series. It attempts to treat the entire history of the Mastership as an organ of administration, thus filling out the work of Seeck on the earlier period and of Bury on the later history of the institution. It is a supplement to the author's doctoral dissertation on the *Roman Magistri*, some of the results of which are given in the first chapter of this study. The two taken together show how the term *magister*, which has the same root as *magistratus* and *magisterium*, was taken as a title for the head of this great bureaucratic, administrative organization—created according to the author by Diocletian—instead of some derivative of the word *dominus*, which contains the concept not only of overlordship but also that of ownership. This lends credence to the author's theory that the title *magister* was first conferred by Diocletian upon the senior tribune of the Praetorian Guard. It was this emperor's policy to weaken the authority of the *praefectus praetorio*, that *alter ego* of the imperial *dominus*, and the new official would not be allowed any of the titular attributes of sovereignty, however important his bureaucratic, administrative functions might be. The author shows that this master of the great bureaucracy retained his functions almost unchanged till after the middle of the seventh century, but that during the next century he gradually lost his great powers, and that later *magister officiorum* is simply an honorary title, without administrative functions.

The work throughout is based on the original sources, with full citation and criticism of the bibliography, and with valuable appendices giving references to the title *magister* in inscriptions and in literature, and a list of the various masters of the offices, from the fourth to the twelfth century; the whole constituting a valuable contribution to the administrative law and history of the late Roman and Byzantine periods.

JOSEPH H. DRAKE.