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OUR ELEVEN CHIEF JUSTICES, by Kenneth Bernard Umbreit. Harper and Brothers, New York, 1938. Pp. xiv, 539. \$3.75.

This volume, which purports to be a "History of the Supreme Court in Terms of Their Personalities," deals with the lives of the eleven men who, by reason of merit, accident, or the stroke of political lightning, have been called to the office of Chief Justice of the United States. Such a book must of necessity be condensed, episodic, and to a large extent superficial. John Marshall, whom Beveridge found worthy of four large volumes, must be reduced to eighty-four pages, while Roger Brooke Taney is compressed into forty-eight. As a history of the Supreme Court, in terms of personality or anything else, it can have little value. Necessarily there cannot be much that is new. The importance of the book must lie in the fact that it collects, for the first time in one place, the biographies of eleven favored individuals who, some of them beyond all other Americans, have shaped the law and the government of our country.

Mr. Umbreit makes rather an interesting picture out of the haphazard and ill-assorted group that they are. I am not sure that he has done justice to, or even realized, the fascinating set of curious chances that made judicial bedfellows out of Ellsworth the Connecticut Yankee, Marshall the first-family Virginian, Taney the Maryland Catholic, Chase the Ohio marplot, White from the Vieux Carré, and the little brown brother's Big Bill Taft. Anyone with a rather cynical philosophy that the destinies of nations are the playthings of blind chance might entertain himself at length with the speculation as to what might have happened to us if, for example, John Jay had accepted the second appointment which was tendered to him in lieu of Marshall, if Taney had remained unconfirmed by the Senate, or if—perish the thought—Roscoe Conkling had not declined Grant's offer, and had become Chief Justice instead of Waite. Or, coming to more recent matters, if Chief Justice Hughes had died, say in the spring of 1933. There is no profit in such idle fancies, of course, but there is amusement, of a melancholy kind.

Mr. Umbreit deals charitably with his subjects, and is inclined to skip rather lightly over their foibles and weaknesses. He does not say that Ellsworth was professionally incompetent, that John Rutledge was a man who never should have been appointed to any Court, that there were serious flaws in the character of Salmon P. Chase, or that Melville Fuller was definitely one of the weaker brethren. But it is there if one reads carefully.

The point at which Mr. Umbreit departs from the usual estimate of the Chief Justices is in his effort to make a great judge out of Morrison R. Waite, who, I think, usually is regarded as an undistinguished mediocrity. The attempt does not quite succeed—the author rests it almost entirely upon the decision in *Munn v. Illinois*, in which the power of the legislature to fix the rates to be charged at grain elevators was upheld. A good decision, of course, but surely not the outstanding and epochal matter that Mr. Umbreit makes of it. Nor, with deference to the learned author, is it so entirely surprising that such a decision should come from a judge who had spent the greater part of his life in the service of railroads and public utility companies. The theory that a man who takes a client sells out his soul and his independence of thought forever finds abundant refutation in the history of the entire Court, and Waite is only one instance of a recurring phenomenon. Furthermore, even if personal prejudices are warped forever by the unholy association, it is not an unknown thing for a good lawyer to conclude that the law must tolerate what he himself abhors—vide Mr. Justice Holmes. It does not seem likely that Morrison R. Waite will be remembered when the other ten are forgotten.

By and large, the book is worth reading. The conclusion to which one comes is that, except in two or three instances, the choice of our Chief Justice has been a happy one, even if sometimes rather blind. As a group, the eleven compare favorably in character, in honesty of purpose, in foresight and independence, in legal ability and power, with any equivalent consecutive list of judges that one could find in England, or perhaps in the civilized world. Their influence upon our nation has been enormous and incalculable, and it is a useful thing to have them summarized in one place.

WILLIAM L. PROSSER*

HANDBOOK OF THE CONFLICT OF LAWS, by Herbert F. Goodrich.
Second Edition. West Publishing Co., St. Paul, 1938. Pp. xiv,
624. \$5.00.

The first edition of Goodrich, published in 1927, appeared at a peculiarly opportune time, when, during a considerable period, there had appeared in England merely some new editions of old books on the conflict of laws, and in the United States there had

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