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Book Reviews

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BOOK REVIEWS

THE PHILOSOPHY OF LAW AND OF RIGHTS. By William Ernest Hocking. New Haven: Yale University Press.

"The philosophy of natural right, which Locke and his successors made current in America as well as in England, has done us much good service, and not a little bad service: it can no longer be taken as a guide." This is from Professor Hocking's preface; it constitutes his thesis. With its development he proceeds "on the shoulders of men who have discarded what we judge to be behind us" namely, Professors Josef Kohler and Rudolf Stammler of Berlin.

The fact that the philosophy "current in America" was fearlessly made a part of the American Declaration of Independence and woven warp and woof into our constitutional law does not trouble Professor Hocking, but it does appear to have cramped his style. After stating that the law might "make good use of a philosophy if there were a philosophy it could use", the author proceeds—with commendable reliance upon Messrs. Kohler and Stammler—to advance reasons why he is not in favor of the philosophy that the law is now using. "The condition of our ignorance then" he says, "will not permit us to assume, will never permit us to assume, that human powers develop as well in servitude as in freedom: the presumption will always be on the other side". But this "presumption" may be more or less summarily overthrown, it seems, since the individual has a right merely "to become what he is capable of becoming" and "has no natural or absolute right to liberty, nor the pursuit of happiness . . . nor to life itself unless human life can be shown to be an indispensable condition to such becoming—which would be difficult."

Thus, peering through the maze of these involved passages, we gather that man is after all, really a child of his age and the circumstances of that age. His boasted natural right "to become what he is capable of becoming" will, of course, stand him in good stead when society makes him incapable of becoming anything other than a slave or a corpse. Professor Hocking has

struggled manfully to make the Socialistic morsel more tasteful to those who have learnedly "become what they are capable of becoming". We doubt whether he has succeeded. Certainly he has made it sufficiently philosophical—and abstruse. We still incline to "Locke and his successors".

CLARENCE MANION

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HOW TO DO RESEARCH WORK. By W. C. Schluter. New York: Prentice-Hall. 1926. pp. VII, 137, index.

In this scientific age there has spread an epidemic of research. At first it was confined principally to governmental bureaus, universities and occasional business enterprises. But with the advent of the World War everybody became inoculated. A manifestation of 'Ontogeny recapitulates phylogeny' is applied to shaving cream, automobile tires, Freudianism, or anything in the woods. In response to this infectious wave Dr. Schluter has published his 'Research Work', whereby the public is given a proper perspective on research and the student is enabled to carry out his pursuit efficiently.

The field of research is an amphitheater of human interest; extending as it does through the studies of: law, medicine, chemistry, commerce, social and political economy, literature, etc. A regrettable part about the book, from a lawyer's point of view, is that the author has restricted himself to the commercial and economic phases of the subject.

It is a thoroughgoing course on how to plan and provides a method of procedure from beginning to end, thus eliminating fumbling and desultory effort. The principles are concisely put forth by Dr. Schluter in sixteen distinct steps and the student is not exposed to a categorical maze in which he must pause every five or six pages to orientate himself.

The casual reader may have no immediate need to discover problems or the methods upon which the solution of these problems are predicated, but nevertheless a purchase and reading of this book would mean $1.25 and two hours well spent.

F. A. McK.

HANDBOOK ON THE CONFLICT OF LAWS. By Herbert F. Goodrich, Professor of Law, University of Michigan. 1927. St. Paul: West Publishing Company. pp. 500.

The student who searches among the law books and the commentaries of a hundred years ago will find little information relating to Conflict of Laws. It has only been in recent years that the law upon this subject has been formulated and settled. In England as late as 1858 this field of the law was described as "incomplete and chaotic". In America judges recognized practically no treatise as authoritative until Story's was published in 1834.

Since that time, however, a change has taken place. Back in the days when travel was an adventure and the prairie schooner was a popular means of transportation there was little need for the courts to consider the laws of other states. But with the advent of quicker methods of travel, and the growth of inter-communication, it became necessary for the courts to consider rights arising under the laws of foreign jurisdictions. A common law of Conflict of Laws was evolved and became part of our system of jurisprudence.

The leading work upon this subject has been Dicey's Conflict of Laws. In recent years two case books have also appeared, one by Professor Beale of Harvard and another by Professor Lorenzen of Yale. Professor Goodrich of Michigan has now added a text book to this list.

Whether or not Professor Goodrich's work will displace its predecessors in the esteem of the courts and the legal profession is, of course, a question that a mere student cannot decide. The book has a number of excellent points, however, that recommend it even to the most superficial observer. It is one of the Hornbook series with all the admirable features of those works. There is a black-letter outline of main principles, an extended commentary, and extensive notes with citations. Cross-references are made to Lorenzen's Cases on Conflict of Laws, so that the book may be used as a supplement to casebook study. In addition, Professor Goodrich writes in a concise and readable style.

In these days when an Indiana citizen may sally across the state line with his car and leave desolation and lawsuits in his

wake, an attorney is apt to be faced with many difficult problems of Conflict of Laws. A good working knowledge of this branch of the law is becoming increasingly important. Professor Goodrich's book can be counted on as an aid in acquiring such a knowledge of the essential rules and principles.

JOHN A. DAILEY.

CASES ON THE LAW OF ADMIRALTY. By George de Forest Lord and George C. Sprague. pp. 837. St. Paul: West Publishing Co. 1926.

This is a compilation of selected cases on Admiralty Law; it represents the experience of Messrs. Lord and Sprague both as teachers and practitioners. The book was edited with a two-fold purpose: to acquaint the student with the fundamentals of maritime jurisprudence, and to aid the proctor in prosecuting his suits. The first purpose of course is the primary one. An appreciable task was undertaken, for the time allotted to the subject of admiralty law by most law schools permits of but a superficial study. The editors have appreciated this constraint, and have set forth only the fundamentals; the more thorough treatment as required by the bar is given by extensive annotations. Because of space limitations, admiralty procedure has been omitted.

The cases are arranged under the following topics: jurisdiction, maritime liens, rights of maritime workers, carriage of goods, charter parties, salvage, general average, marine insurance, pilotage, towage, collision, and limitation of liability. Apparently cognizant of the fact that the vocabulary of seamen is foreign to law students, the editors have inserted in the appendix the various pilot rules (with the explanation of terms), and a full-page plate of the mariner's compass. Different forms of charters are also printed, as are the boundary lines of the high seas, and The Stand-By Act of September, 1890.

Several cases are diagrammed, so that there is little chance for misinterpretation. Indeed, the whole book seems to be possessed of rather a salty flavor, and may develop in a few students a love for the sea. After all, there is some foundation for the sailor's abhorrence of "land-lubbers".

A creditable feature of the book is that most of the cases are of very recent date.

F. A. McK.

THE ANNOTATED FEDERAL JUDICIAL CODE AND JUDICIARY. By James Love Hopkins. 1926. Cincinnati: W. H. Anderson Co. pp.567.

James Love Hopkins has long been regarded as an authority on questions of Federal Procedure, and his handbook on the Judicial Code has been widely acclaimed as a great aid to practice in the Federal Courts. The third edition of his handbook was necessitated by the passage of the Act of June 30, 1926, which embodied for the first time in the Judicial Code statutes relating to the judiciary.

The complete text of the Code now in force is contained in this new edition, and most of the sections have been exhaustively annotated. The introduction comprises an historical summary of the Federal Court system, and an explanation of the reasons which led to the adoption of the Code. Following the introduction are maps of the nine Federal Circuits, with the locations of the various courts indicated. A table of Cases and an index complete the volume. The book is bound in red leather, and of a size convenient for carrying.

C. J. R.