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Johnson Newlon Camden--A Study in Individualism

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BOOK REVIEWS

JOHNSON NEWLON CAMDEN — A STUDY IN INDIVIDUALISM. By Festus P. Summers. New York. G. P. Putnam's Sons, 1937. Pp. 605.

Legal history, — if we may paraphrase Macaulay, — in its striving towards perfection combines legal precepts with social and economic history. One seeks primarily to find the extent to which legal doctrine has been the product of existing conditions of civilization, and then pictures this by a vivid portrait of various of its many striking phases. Nor are these lacking in the works of Maitland, Vinogradoff and others. The difficult task, that of charting with more or less certainty a future course of action on the basis of the legal materials of the past, historians habitually ignore. Thus, the profits from their research are often left to wholly unskilled hands.

Perhaps the current tendency to overlook the role of history in social control has been due to the rigid separation in treatment of each of these hostile elements of authority and history. Institutional treatises abound, filled to overflowing with the latest judicial utterances and exhaustive in treatment of each topic surveyed. The "law" is presented as one meets it in the reports and restatements; occasionally, statutory references creep into the text, but almost never fundamental historical study. These tools of the busy practitioner are obviously intended for immediate personal advantage, not for constructive legal reform. By the same analogy, excellent volumes by historical jurists are available, their discussion separated as far as possible from conditions of reality. Probably it would be improper and grossly unfair to expect the historian to discuss the present worth of the requirement of consideration in contracts, or to attempt to justify equitable conversion in a vendor-purchaser situation where there has been destruction of the *res*. Legal history seldom deals with the real merits of a phase of case-law which by painful evolution has gradually crystallized into hard and fast rules. In any event, unimaginative digests and colorful histories have ultimately made partition of a field of legal literature "of which they were formerly seised *per my et per tout*." Now these hold "their respective portions in severalty, instead of holding all in common." Legal history then suffers, just as the unknown heir is sometimes overlooked, in the process of partition.

Granted this division of labor, (with none of the usual advantages), Dr. Summers' life of Johnson Newlon Camden presents faithfully the social and economic history of West Virginia, during the latter half of the nineteenth century. As a member of the faculty of the Department of History of West Virginia University, the author has had access to the voluminous Camden collection of *Letters and Papers* now deposited in the University library, "the size and richness of which alone adequately justify the present work." In consequence, we have no grave and stately record such as biographies usually offer, but rather a lively representation of the characters and manners of society over a period of six decades. With great industry and great acuteness, Dr. Summers has sought both to picture and to explain the career of a prominent statesman, and has done so in ample fashion by describing the forces which dominated and shaped the spread of industry here. Accordingly, the book may properly be said to summarize, and perhaps to epitomize, the development of the state.

As the title implies, Senator Camden was an individualist in every sense of the term. From the early days of his training at West Point, he constantly strove for commercial and industrial leadership, frequently against severe obstacles and without assistance from others. Successively prosecuting attorney in Braxton and Nicholas counties, he was a merchant at Sutton, a land speculator in Lewis county, and an investor in oil and gas enterprises in the western part of the state. Removing to Parkersburg, Camden went into the refining business and in time became president of two important subsidiaries of the Standard Oil Company. Always more or less active in banking, he devoted time and thought to building the Ohio River Railroad, the West Virginia and Pittsburgh Railroad and other lines. Throughout it all, he remained continuously a leader in political life. It can truthfully be said that few West Virginians have enjoyed so wide a career or attained such outstanding success.

The importance of the present volume to the legal profession is obvious. With a knowledge that is extensive and profound, the author has told from original source-material the beginnings of many of the important industries of the state. It is frequently necessary in litigation to ascertain the precise origins of an enterprise: in various instances, these facts have been set forth fully here. Moreover, new data has been made available as to the origin

of the "long and short haul clause", and indeed of the Interstate Commerce Act, itself. Similarly, after reading the rather complicated story of the railroad rebates on oil shipments, one can understand the imperative necessity for ultimate passage of the Elkins Act. In truth, this work is strikingly practical, for it teaches not only the rules which governed industrial expansion in the past, but indicates the mode for their application in solving future problems of the state.

The style of the author is both clear and interesting. Unquestionably the book will be of service in tracing the growth of legal doctrine, in the legal history of the state that is yet to be written. Dr. Summers is to be commended for a most satisfactory performance of his undertaking.

The volume has an excellent index.

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THE SCIENCE OF JUDICIAL PROOF. By John Henry Wigmore. Boston, Mass. Little, Brown & Company, 3d ed. 1938. Pp. 1065.

A treatise by Wigmore dealing with the subject of evidence requires no introduction. In *The Science of Judicial Proof*, the author considers, not the trial rules governing the admissibility of the evidence, but the greater and far more important field dealing with the valuation of the proof. Our formal legal studies deal largely with the former and the latter is left to the realm of chance, to be acquired, if at all, through experience. After the evidence is admitted, what use will be made of it? Will it be effective in proving the point at issue, will it contribute to such proof or will it be successfully refuted by the opponent? The trial rules are necessary because it is impossible for the court in the limited time at its disposal, and because of the untrained personnel of the tribunal (untrained in the various scientific fields) and the diversity of interest of the litigants, to consider all the evidence, evaluate each item and eventually reach a conclusion. Much of the evidence which a scientist would consider and place some value upon (even though a negative one) must be omitted from the trial.