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Book Reviews

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BOOK REVIEWS

THE NEUTRALITY OF THE NETHERLANDS DURING THE WORLD WAR. By Amry Vandenbosch. Grand Rapids: Wm. B. Eerdmans Publishing Co. 1927, pp. ix 345.

A little country on the border of Western Europe found itself in the vortex of the World War pinched, pushed and punished by the belligerents on both sides. The history of this land goes back to the beginnings of civil liberty and the origin of international law. It is a land of high purpose, of learning, of great deeds and national accomplishments. It is this land, the Netherlands, and its difficulties in remaining neutral that Professor Vandenbosch discusses in a highly satisfactory way in the volume under review.

The experiences of the Netherlands offer a great opportunity to study the law of neutrality during the war. Due to her geographical position in Western Europe, Holland was involved in every phase of neutral and belligerent rights. Right of exile in the case of the Kaiser, exchange of prisoners, the visitation and search of vessels on the high seas, contraband and unneutral service, neutral convoy, the admission of prizes, the law of augury, radio and airship communication, and many other problems were forced upon the Dutch. With all of them Professor Vandenbosch deals in a spirit of fairness and at the same time leads the reader to a sympathetic view of Holland's troubles. Such a statement should be enlarged in that the consideration of the problems carries over into the results of belligerent action and the insistence of the Dutch upon neutral rights.

At the outset of the war Holland very specifically set up her neutrality regulations based upon the five and thirteen Hague Conventions. Not once but many times the government proclaimed its regulations and set forth clearly its views on disputed points. Exception was taken again and again to the position held by Holland but the firmness of her government and the clearheadedness of her statesmen enabled her to hold to her regulations. In this matter the Dutch experiences form a great body of material that will be of value as a working basis

for the recodification of the laws of neutrality on land. Nevertheless Professor Vandenbosch well says, the whole question of the future of neutrality is uncertain, dependent in a large part on the development of the League of Nations. If the League grows in power and influence then there will be no such thing as neutrality. Neutrality becomes as international society develops a makeshift especially if war is made an outlaw and if the belligerent is considered outside the pale of nations.

The law of Augury was revived in the World War after a long disuse. Its use was based upon public necessity and Dutch ships both in American and English ports, were seized for transport purposes. The use of this phase of international law was in reality an application of the right of sovereignty over property within the territory of the State. The Dutch Government did not deny the right of such jurisdiction but it did object to the heavy exactions, special regulations, and the irritating delays laid upon Dutch owners before the requisitioning took place. Very correctly does Dr. Vandenbosch close the chapter on Augury—the Requisitioning of Dutch vessels—with the statement that the law needs to be restated. Where may the right be exercised and what are the rights of owners and of neutrals under the heavy pressure of war? These are pertinent questions which the author has left necessarily without answer. Although in a book of this size many of the questions that arise cannot be answered the reader is now and then disappointed because the author has closed his chapter with a question and left him without an answer. Dr. Vanderbosch does show that the shortcomings of international law are many indeed and that the war emphasized them often to the great distress of neutrals.

The book is well documented with many citations and interesting appendices. It is written in a simple style that makes reading comparatively easy in so difficult a subject. Professor Vandenbosch had many obstacles to overcome in the publication of his book, obstacles that ought not to exist if scholarship is to be served. Fortunately he has seen the book come from the press and the students of international law are indebted to him for the careful and thorough analysis of Dutch neutrality. Perhaps he may some day enlarge his study by bringing out the economic questions involved and by setting forth the background

of Dutch history in its relation to the war. By the publication of this book Professor Vandenbosch has added to his reputation as a scholar and the University of Kentucky, of which he is a valued member, is increasingly honored in his place upon its staff.

FRANK L. MCVEY

CASES ON SURETYSHIP. By Stephen I. Langmaid. American Casebook Series. St. Paul: West Publishing Company. 1928, pp. xii, 662.

Instructors using Dean Ames' Cases on Suretyship, which has now been in use for over a quarter of a century, will doubtless welcome this new collection of cases, compiled by a former student of the late Dean Ames, as a worthy successor to the earlier volume.

Professor Langmaid has followed a slightly different order of treatment from that of Dean Ames. After considering cases under the Statute of Frauds, he takes up the Surety's remedies —Subrogation, Indemnity or Reimbursement, Contribution and Exoneration—before taking up the subject of the Surety's defenses. The compiler thinks that the student should have some knowledge of subrogation before taking up the subject of defenses. This would seem to be following out the precept of going from the easier to the more difficult problems and therefore sound. Since it is a very simple matter for the instructor to turn to defenses before considering remedies, if he feels that that is the logical way to cover the subject, it would seem that no one could object to the casebook on account of this re-arrangement of topics.

Professor Langmaid seems to have exercised good judgment in the selection of cases. He has used not over thirty that appeared in Dean Ames' work. He seems to have followed the practice of compilers of casebooks in the American Series and has taken cases from most of the jurisdictions in this country as well as those from the English reports. English, Massachusetts, New York, Indiana and Iowa cases predominate, however. The fact that he has included but seventeen cases decided during the past ten years shows that the compiler has not sacrificed worth to newness. Not more than eighty out of two hundred

cases selected have been decided during the past thirty years. There are some of the old cases used in Ames' casebook that one will miss from this collection, *Tomlinson v. Gill, Gibbs v. Blanchard, Lakeman v. Mountstephen, Mease v. Wagner, Howes v. Martin, Green v. Cresswell, Wildes v. Dudlow, Austey v. Marden, Brown v. Curtis, Raabe v. Squier, Kimball v. Newell,* and *English v. Darley,* all cases that have played an important part in the training of students in the past.

Due recognition of the development of compensated suretyship has been given by the inclusion of recent cases in which suits have been brought against guaranty companies. The compiler, however, has not overlooked the fact that the courts have in the main simply applied the principles of private or gratuitous suretyship to these cases and has not given an excessive amount of space to them.

The footnotes, which are found at the end of nearly every case, consist largely of excerpts from cases which the compiler could not include in their entirety but which he wished to call to the attention of the student. Due recognition of the value of law reviews is given by numerous references to leading articles and case comments.

Instructors of the law of Suretyship should not find the change from Ames' Cases to the present casebook difficult and it seems a safe prediction to make that the present volume will largely suplant the older work.

W. LEWIS ROBERTS

REAL ESTATE QUESTIONS AND ANSWERS. By Israel Flapan. New York: Prentice-Hall, Inc., 1928, pp. xv, 342.

In this well arranged volume the author has set forth, in some eight sections, a series of questions and answers designed to convey to the reader the fundamental elements of the law of real property and of real estate sales. At the beginning of each section a brief outline of the subject is given. The sections which the author has covered deal with Brokers and Salesmen, Principal and Agent, Real Estate Contracts, Deeds, Bonds and Mortgages, Landlord and Tenant, and Encumbrances. The last section deals with Miscellaneous Questions and Answers. There is also contained in the work practically all of the more im-

portant real estate forms, which have in most instances been taken from actual transactions.

The book is designed primarily for the use of the layman engaged in the real estate business. In view of the fact that an ever increasing number of states are requiring prospective real estate brokers to take written examinations before being allowed to engage in the real estate business, Mr. Flapan's book should fill a real need in such a field. It is intensely practical, and no technical legal education is essential to its full understanding. Even in those states which require no examination for real estate brokers, the book should be of great value to those engaged in the business. At the present time there are entirely too many persons earning a livelihood in this very important field of business who have practically no knowledge of its legal side, and consequently are not competent to give their clients the proper service. Mr. Flapan's book should be a part of every real estate broker's and salesman's library. It is as non-technical as such a book can be.

For the lawyer engaged in real estate practice the book is of very doubtful value, and it is clear that the author, himself a lawyer, has not intended it for use in such a field. The question and answer method is never very effective for the student or practitioner of law, and the answers are rather too general, although the author has incorporated some valuable annotations. For the young lawyer the real estate forms might be useful, for all of them are up-to-date and in common usage. The law student preparing for a bar examination might find the book helpful for a brief, general review. But primarily it is designed for the layman, and it should fill an important need in that field.

WILLIAM C. SCOTT.

CHARLES DICKENS AS A LEGAL HISTORIAN. By William S. Holdsworth. New Haven: Yale University Press, 1928, pp. 157.

One of the many valuable results of Dr. Holdsworth's recent visit to America is the presentation in book form of his lectures on Charles Dickens as a legal historian, delivered in the William L. Storrs Lecture Series, 1927, before the Law School of Yale University. The series consisted of four lectures

in all: The Courts and the Dwellings of the Lawyers; The Lawyers, Lawyers' Clerks, and Other Satellites of the Law; Bleak House and the Procedure of the Court of Chancery; and Pickwick and the Procedure of the Common Law.

The titles of these lectures sufficiently explain their contents. Numerous quotations from Dickens supply the reader with vivid descriptions of the courts, lawyers and law clerks of the early part of the nineteenth century. The third deals wholly with the Court of Chancery at a time when that court was in ill repute; the last, with the common law court of the King's Bench.

Dickens had had personal experiences with the former court and felt none too kindly towards it. He attacked the law's delays and the injustices resulting therefrom just as vigorously as he attacked other abuses of his day. Not only did he assail the courts in Bleak House and the Pickwick Papers, but his portrayals of judges and lawyers are to be found in David Copperfield, Hard Times, Sketches by Boz, The Old Curiosity Shop, Great Expectations and A Tale of Two Cities.

Dickens' pictures of the courts, the lawyers, and the law of his day, the learned author believes, give us information which we can get nowhere else. "They are the pictures painted by a man with extraordinary powers of observation, who had first-hand information."

While Dr. Holdsworth calls the attention of his hearers to two or three mistakes that Dickens made in his law, which mistakes were due to the fact that Dickens was not trained in the law, it seems but fair to the reviewer that he should have cautioned them that Dickens, like all realists, tells the truth only in part. Dickens, especially, sought out the unusual characters as well as names, and made use of them in his novels. The realist selects his materials. Whether his result is true, depends upon how fair his selecting has been. He may go through a town selecting pictures of the slums and hovels of that town and have every picture accurate and still give a very false impression of that town as a whole. It was just this sort of thing that Dickens was guilty of doing. When one regards him as a legal historian he should bear this fact in mind. Dickens is always entertaining and his portrayals of courts and lawyers

will always interest the legal profession. The lawyer will find Dr. Holdsworth's lectures on Dickens as a legal historian equally as interesting.

W. LEWIS ROBERTS

PROBLEMS IN AGENCY. By Basil H. Pollitt. Newark: New Jersey Law School Press. 1927. Pp. xvi, 883.

This casebook, one of a series compiled by professors in the New Jersey Law School and intended for the use of its students, is novel. The cases are drawn almost entirely from the state of New Jersey and her sister State, New York. In addition, a very few English cases and some decisions by the United States Supreme Court have been included.

In his preface Professor Pollitt states that there are "forty-nine jurisdictions from the standpoint of the lawyer in this United States, rather than one. And sometimes the query arises as to whether it would not be quite as profitable to study intensively the decisions of one fairly representative state, following rather closely the fundamental concepts of the common law, as to dip at random (but so as to include in the table of cases decisions from all forty-nine jurisdictions) into the great mass of unassimilated case law that our American and British courts have been and still are, producing."

With this line of thought this reviewer is not in accord. It is submitted that the purpose of a casebook is far broader than the mere dissemination of the case law of a particular state. It is suggested that a casebook should contain material which will encourage constructive thought upon the part of the student. For this purpose cases from various jurisdictions are inserted, not to cover various states, but to give the student a chance to weigh the different arguments and conclusions. For this purpose minority as well as majority cases are inserted, and often cases which reach a wrong result. The student does not know which cases represent the better rule before coming to class. Such compilations call for thought on the part of students and care on the part of the teacher but they develop carefully prepared lawyers who can analyze cases and reach logical conclusions. In addition, many reforms come about by means of this method of teaching. The student learns in law school what the

better rule in a particular situation is. He learns at the same time or later what the rule in his state is. He is moved to remedy the matter in one way or another when he gets into practice, if the rule in his state does not represent the better one. This makes for progress.

For these reasons, and others, this reviewer is not able to reconcile himself to the parochial attitude represented by this series of books. He prefers a casebook, national in character, representing various views on each problem, as more inculcative of thought stimlulation. But if the purpose of the book be accepted, Mr. Pollitt's book shows discrimination in selection of cases and a careful analysis of the subject of Agency.

The arrangement of topics is not dissimiliar to that found in other casebooks on the subject. About twelve of the cases found in Keedy's Cases on Agency are in this collection. Eleven cases found in Wambaugh's Cases on Agency, Second Edition, have been used by Mr. Pollitt. The old favorites, *Limpus* v. *London General Omnibus Co., Lloyd v. Grace, Smith & Co., Collen* v. *Wright,* and *D'Arcy* v. *Lyle* are in all three compilations.

The footnotes are scanty. The author deserves particular commendation for the citations to the more recent law review articles and notes, which as he suggests. are invaluable aids to legal research and as "provokers of thought."

Aside from the objections to the advisability of the plan of selecting all cases from one jurisdiction, the book is to be highly commended. As with all the casebooks in the series, the printing, paper, and binding are excellent, and the book presents a good appearance.

ROY MORELAND

LECTURES ON LEGAL TOPICS, 1923-1924. By Jacob Marks, I. Maurice Wormser, Pierre Lafaulle, Maurice Leow, Paul D. Cravath, Morris Hillquit, Young B. Smith, George G. Bogart, Edwin M. Borchard, Cornelius Doremus, Joseph M. Hartfield, Henry Crofut White, Cuthbert W. Pound, Walter W. Cook, Herbert Harley, Walter George Smith, Charles S. Whitman, Frank H. Hiscock, Daniel F. Calahan. New York: The Macmillan Company; 1928; pp. viii, 485.

The members of the Association of the Bar of the City of New York have made available to the lawyers of this country

the lectures delivered at the house of the Association in New York City by leading lawyers, judges and law teachers. The fifth volume containing the lectures for the court year of 1923-1924 has recently come from the press of the Macmillan Company.

Some of these lectures have to do with problems arising under New York practice and are of no great interest to lawyers in other jurisdictions. In this group are the two by Dean Young B. Smith: Some Problems in Connection with Motions and the Power of the Judge to Direct a Verdict. Also the lecture by Professor Borchard is confined chiefly to the New York declaratory judgment act. Progressiveness of New York Law by Judge Hiscock of the New York Court of Appeals reviews many of the cases of his own court which have marked an adaptation of common law principles to modern economic conditions.

Two lectures on foreign law and lawyers, one by a member of the Bar of Paris and the other by a member of the Bar of the City of New York, contrast the practice of law in this country with the practice of law in France and are significant in so far as they show an increasing interest on the part of Americans in foreign affairs.

The lecture on the Reparations Problem is of little value to the reader except as a matter of history.

Several lectures seem to fall under the heading of development and progress of the law: The Development of the Law, Business Management for Court, Efforts for Divorce Reform, The Administration of the Criminal Law, and the Utility of Jurisprudence in the Solution of Legal Problems. The first of these, delivered by Mr. I. Maurice Wormer, is especially interesting. He does not hesitate to register his disapproval of the "restatement of the law" as entirely unnecessary. "What we need," he says, "is not a 'restatement of the law,' but an educated, well-trained bar, and an independent, experienced and permanent judiciary, which will study the law 'from without' as well as 'from within,' and which will consider, in connection with the molding of precedent the teachings of the other great sciences, all of which correlative and correlated, must be harmonized with one another." The last of this group gives an excellent explanation of the Hohfeldian nomenclature with

citations of cases illustrative of the need of an exact terminology. His subject also contains a second part dealing with problems in procedural law.

Two lectures seem to fall under the heading of trial of cases. Both are by men of long experience as trial judges and contain many suggestions of value to young lawyers. The first is under the suggestive title of "Reflections of a Trial Justice" and the second is worded in the negative, "How Not to Try a Case." Both are of interest to the practicing lawyer.

Two more are of general interest only, "Banking Institutions and the Law" and "The Relation of the Practicing Lawyer to the Efficient Administration of Justice."

Lastly there are two of the lectures dealing with technical problems of the law which entitle the book to a place in every lawyer's library, "Collective Bargaining Between Employers and Employees," by Morris Hillquit, and "Insurance Trusts," by Professor George G. Bogert. The latter impresses the reviewer as the most valuable contribution in the book.

The diversity of the subjects shows the breadth of a lawyer's interests. The quality of these lectures as a whole is not of as high an order as that of some of the earlier volumes of the series.

W. LEWIS ROBERTS

HOW TO PROVE A PRIMA FACIE CASE. By Samuel Duetsch and Simon Balicer. New York: Prentice-Hall, Inc., 1928, pp. xxi, 567.

This book is attractive in form and, upon the whole, the material is clearly presented. The introduction states that the purpose of the book is "to indicate the elements which are necessary to prove a prima facie case, and to demonstrate the practical application of rules of evidence by means of questions and answers." No claim is made for the work as a scientific treatise on trial practice. On the contrary, it is "merely an effort to point out to the young practitioner a path through a field which is beset with many difficulties."

In so far as the work contains suggestive forms and mechanics of practice, it is valuable not only to beginners, but to those experienced who seem to labor unnecessarily in the presentation of evidence. However, it is submitted that these

forms could not be slavishly followed as formulae. One might gain this latter impression from the text, though the authors no doubt would disclaim such intention.

The work also aspires to fill the void caused by the failure to maintain a "laboratory" in our law schools. Two objections might be urged to this claim. (1) If by "laboratory" work is meant actual trial work as distinguished from the usual "moot" or "practice" work in the law schools, it may be said that there is very little of such work in the law schools (many believe it impossible to provide it); but this book does not and could not fill that void.

(2) Secondly, a very considerable number of law schools do give practice courses in which the students are given training in the matters emphasized by this book. However, both students and instructors, as well as inexperienced practitioners, will find the work helpful. Much has been written upon (to use a paradoxical combination) the theoretical or substantive side of practice subjects, but comparatively little on the practical mechanics thereof. So this volume's worth lies in its treatment of actual performance in the introduction of evidence rather than in a discussion of the technical rules of evidence.

The text contains eighty-eight forms or examples of proving a prima facie case by questions and answers. These constitute the greater part of the work, and in my opinion, this part could have been extended, and the last part omitted (which part is devoted to an outline of the grounds of divorce in all the states). There is no good reason for including statutory provisions such as these in a work of this kind.

There is portrayed also in another division, "A complete trial." Upon some minor points of practice, it varies from the usage in many jurisdictions. It could not well be otherwise. But upon the whole the picture of the complete course of a trial will repay a careful reading by the inexperienced lawyer or student in the law school.

The work would be improved by omitting many of the citations and excerpts from cases, on substantive law points, and devoting more space to practical questions. For as said above, the value of the book lies not in a discussion of the elements necessary to constitute a cause of action, but in the method of

proving such. In "How to Prove a Prima Facie Case," the *how* should receive even more emphasis than given by the authors. As an illustration of the last criticism above, as well as the one made in the beginning of this review, viz., that these forms of questions and answers could not be followed as formulae, let us refer to the first case, p. 9. In none of the preliminary questions is the conversation called for limited as to subject matter, so that in answer to the question "What was the conversation?" the witness could have related *any* conversation occurring at the time and place indicated. The question should have indicated at least the general subject matter. In form No. 6, p. 36, the second question does so limit the subject of the conversation.

On p. 304, form 56, the answer to the question, "Did you have any conversations with him?" is technically objectionable and subject to be stricken out, leaving only the one word "yes." Probably no harm could result from failure to object to such an answer in this case, but it might be very harmful in many other cases in which prejudicial evidence might be given voluntarily by the witness. We are aware that it is a difficult matter to prepare a set of questions and answers to which no valid objections may be taken, but it should be approximated as nearly as possible in a book of this nature. Other instances might be given of minor defects in the forms set out. The authors are doubtless busy lawyers and have not been able to give the matter the attention it deserves. The work could be improved, but it merits improvement.

FRANK H. RANDALL

CASES ON THE LAW OF BANKRUPTCY INCLUDING THE LAW OF FRAUDULENT CONVEYANCES. By William Everett Britton. American Casebook Series. St. Paul: West Publishing Company, 1928, pp. xxi, 769.

Professor Britton's long and careful studies in the field of statutory law eminently fit him for the task of compiling a case book on the subject of Bankruptcy. In treating this difficult subject he has followed the order of courts as they arise in the disposition of a case in actual practice.

A chapter on Federal and State Bankruptcy Legislation is followed by one on Conditions Precedent to Adjudication and

the Administrative Machinery for the Enforcement of the Act. This latter chapter covers the questions: Who can be a bankrupt? What constitutes an act of bankruptcy? What are the steps necessary in disposing of a case in bankruptcy? The third chapter deals with the resources of the bankrupt's estate, the time title passes, the property interest involved, and the interests subject to adverse claims. Chapter four is concerned with the liabilities of the bankrupt's estate, five with the bankrupt's discharge, and six with partnership bankruptcy.

These chapters are subdivided so as to give a section of the book to nearly every section of the act. These subdivisions are more carefully worked out than in any other casebook on the subject. At the head of each section the text of the section or sections of the Act covered are set out in heavy type. In the footnotes found at the end of these sections are very suggestive questions designed to stimulate the reading of cases there cited and references given to articles on the subject in the leading law reviews.

The compiler in his rather lengthy preface has emphasized his belief in the necessity of a very careful word study of the statute and his selection of cases has been made with this belief in view. As he has further pointed out, emphasis has been placed chiefly on the substantive law aspect of bankruptcy rather than procedural matters.

The appendix contains the Bankruptcy Act as a whole with amendments and annotations. It also contains the complete Bankruptcy forms.

The careful subdividing of the subject and printing the text of the statute in a prominent manner at the heads of these subdivisions should greatly aid the instructor in presenting this difficult subject to the student. Professor Britton has done a scholarly piece of work.

W. LEWIS ROBERTS

THE ELEMENTS OF CRIME (Psycho-Social Interpretation). By Boris Brasol, M. A. New York: American Branch Oxford University Press. 433, pp. xvii, 380.

Mr. Brasol, formerly prosecuting attorney of the 14th district of St. Petersburg, Russia, and a student of criminology and scientific investigation of crime under Prof. R. A. Reiss in

Lausanne and Prof. Bertillon in Paris, gives in this book a clear and concise digest of the social factors which adduce to the causation of criminal acts, treating crime as a social phenomenon. In the latter half of his work, which deals with the psycho-physical nature of crime, he treats of the influences of the bio-chemical reaction on human behavior, the effects of drugs, insanity and disease on the individual and the responsibility of the criminal for his acts motivated by these influences.

The author states that social friction is the prime underlying cause of crime, meaning thereby that the individual who, either through heredity or acquired character or taint, finds himself unable or unwilling to conform to the usages and laws of the social majority, will become more egocentric or anti-social until finally this propensity impels him to break the law, transforming him from a potential to an actual criminal. This growth of egocentricity is fostered by repetition of small anti-social acts such as lying, petty pilfering, etc., leading to the formation of anti-social habits. Great also is the effect of imitation of the admired acts of others who have progressed farther on the downward path. These influences are especially noticeable in children and in young first offenders. From such beginnings are developed the modern bandit, the criminal gangsters and the Apaches of modern society, as well as other forms and types of criminals.

Many social factors are studied in the work to demonstrate their influences in the causation of anti-social propensities in the development of the criminal. While it is shown that the number of crimes against property tends to increase during periods of economic depression, poverty per se does not produce criminals nor breed crime, refuting the socialistic doctrine that low wages lead to crime. In the United States prosperity and crime are at present shown to be on the increase, while in Russia there exists great economic depression and a very high crime rate and in England and on the continent of Europe wages are low but the number of crimes is also very low compared with our own country and Russia. In all of France with a population of 39,000,000, there were 29 highway robberies in 1919, while in the city of St. Louis there were 1087 and in Chicago 1862 such robberies in that year. Our murder rate is shown to be ten times as great as that of England and Wales.

Of especial interest to lawyers and legislators is the author's treatment of crime in its relation to legislation and procedure in which he demonstrates that wise laws lubricate social contacts while laws which stand in conflict with the desires, customs, ideals and tendencies of a large number of the citizens intensify social friction, thus greatly increasing the number of criminals. His study of the effects of the Volstead Act in the United States is illustrative of this result. It is shown that in the city of Atlanta, when there was no restriction on the sale of alcoholic beverages between the year 1902 and 1907, arrests for drunkenness increased from about 3000 a year to about 6500. In 1908 the state adopted state-wide prohibition but did not forbid the importation of alcoholic beverages from other states. The arrests for drunkenness fell off from 6500 to less than 3000 a year and remained at about that figure until 1917, when the state went "bone dry" and in 1919 the "dry" Volstead act went into effect, which was followed by a steady rise in the number of arrests for drunkenness until in 1924 the number was close to 8000. To the author, "the mast alarming feature of National Prohibition is the impetuous spread of intoxication to American children."

The impunity of offenders in this country is ascribed to lack of modern scientific methods in the police personnel, the absence of highly trained and politically independent judicial officers comparable to the *Untersuchungsrichter* in Germany and the *Juge d'Instruction* in France, poor methods of interstate or federal registration and the absence of politically independent institutions of scientific criminal research. The modern professional criminal makes use of modern scientific discoveries in the waging of his anti-social business while the mechanism of the law seems from these records to be hopelessly antiquated. In order to cope with the professional delinquent, modern technique of detection must base its findings on material evidence, as the testimony of witnesses is not worthy of the sublime faith which it now enjoys in most of our courts.

The main question agitating the courts today is as to the responsibility of the individual for his criminal acts. Crime and insanity are not identical, for most of our criminals are not only sane, but many of them have been shown to possess more than the average mentality. In the words of the author, the in-

terest of criminology in the problem of insanity is: "(1.) the extent to which mental anomalies actually prompt a person affected thereby to act in an anti-social manner and (2.) the general principles governing the question of criminal responsibility in its relation to insanity." The first of these problems is left for the neurologists to solve. As to the second, the author finds the Anglo-American rule of holding the individual responsible for his acts when it is proved that at the time of its perpetration he was capable of discriminating between right and wrong, is productive of much confusion in the courts and is often a question which the jury is incapable of solving. As a remedy he suggests that neither side in the case be permitted to introduce expert testimony, but that the court take judicial notice of the sanity or insanity of the accused on evidence submitted by trained psychiatrists appointed by a neutral body.

The influence of psycopathic states of mind on the causation of antisocial acts is discussed in the light of modern psychology. Neuresthenia, histeria, epilepsy. dementia precox, feeblemindedness and alcoholism are instructively discussed in their relationships to crime. As modern psychologists are by no means in accord as to the etiology of these disorders, the reader is given a brief symposium of the conclusion of some of the most eminent ones from the extreme views of Freud tracing most of these abnormalities to aberrations of the sex instinct to the more conservative teachings of Prof. James and Dr. Healy.

The book is a scholarly scientific study of the factors leading to the production of criminals from the standpoint of a lawyer and a student of psychology and sociology. The style is pleasing and not too technical for the average doctor, lawyer or educated layman. The criticisms of our courts and procedure are just and constructive with many suggestions for more advanced methods of examination of the criminal and scientific means for the detection of offenders.

GILBERT L. BAILEY

ORGANIZED LABOR AND INDUSTRIAL CONFLICTS. By Edwin Stacey Oakes. Rochester: The Lawyers Co-Operative Publishing Company. 1927, pp. xxxii, 1333.

This book is dated January, 1927, and is dedicated to the Chief Justice of the United States. It is a comprehensive treat-

ment of the subject of Industrial Conflicts, including the major problems that arise with respect to labor unions, strikes, boycotting, black listing, injunctions and arbitration. It cuts squarely across many of the major fields of the law, such as contracts, torts, criminal law and equity.

For the most part, the author gives us a long series of particular situations and states of fact, and rarely makes generalizations therefrom. He does not as a rule, offer typical sets of facts, but rather individual situations. This is not true, however, of the entire book, and the present reviewer believes the writer is at his best in Chapter 21, the heading of which is designated as "General Principles."

Owing to this method of presentation, the subject matter is hard to index and the section heading difficult to select, and it seems rather strange to find a heading of sufficient importance to be put as a title of a section, and then find that the section contains only two or three lines, as occasionally happens. A different plan might also easily avoid having some chapters running several hundred pages, and others only half a page.

Among the interesting topics dealt with are those of criminal syndicalism and sabotage, and the restricting of the issuance of injunctions in industrial disputes. There are seven appendices, the first one being entitled The Right to a Free Market; the second, The Effect of Motive to Make Otherwise Lawful Acts Actionable; the third, Combinations to Inflict Injury Otherwise than in Advancing Legitimate Interests of Members; the fourth, Expressions of Judicial Opinion Upon the Question Whether it May be Unlawful to Combine to do What an Individual may Lawfully do; the fifth, *Allen* v. *Flood* and Comments Thereon; Views of American Courts; the sixth, *Quinn* v. *Leathem* and Other Cases Holding Secondary Boycotts Permissible; and the seventh, Instances of Decrees Rendered in Strike and Boycott Cases. These appendices, however, do not deal with general principles, nor does the author give his own opinion or theory in any of them. He quotes what the courts have said, and presumably quotes from the more significant cases.

Two other appendices, one giving the statutes on criminal syndicalism and sabotage, and another giving the statutes dealing with the restricting of the issuance of injunctions in in-

dustrial disputes would have been valuable, but doubtless on account of lack of space such matters are omitted.

It is easy to criticise almost any book, and of course, difficult to perform the task better than the author has done. Despite the fact that the author rarely gives his own opinion and rarely theorises yet the book contains a great deal of valuable material. Such famous cases as *Allen* v. *Flood*[1] and *Quinn* v. *Leathem*[2] are treated, as well as the Buck Stove and Range case[3] and *Lumley v. Guy*.[4]

Chapter 24, dealing with the "Effect of Strikes and Liability for Nonperformance of Duty or Contract Obligation," is an interesting and valuable discussion of the problems involved, and the case law therein is reasonably well brought down to date. The author, like everyone dealing in the field of industrial relations, faces the difficulty of showing a continuous growth of a body of principles originally adapted to a rural community, extended and applied to a highly organized industrial urban community. He finds the courts faced with the new problem without much guiding from the legislature. The courts had to put new wine into old bottles until the legislature could manufacture new bottles for the new wine. It is accordingly difficult for anyone to develop the problem from the standpoint of general principles rather than from the standpoint of specific cases and specialized situations.

Lawyers will find this book a mine of information in dealing with industrial relations cases, and students in law school will find it useful for the study of particular problems in various fields of the law.

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[1] (1898) A. C. 1.
[2] (1901) A. C. 495.
[3] 219 U. S. 381.
[4] 2 El. & Bl. 216 (K. B. 1853).