

BOOK REVIEWS

Formal Bases of Law. By Giorgio Del Vecchio. Translated by John Lisle of the Philadelphia Bar. Introductions by Sir John Macdonell, Professor of Comparative Law in University College, London, and Shepard Barclay, formerly Chief Justice of the Supreme Court of Missouri. Published by the Boston Book Company, Boston. 1914. pp. LVII and 412.

This treatise is the tenth volume in the Modern Legal Philosophy Series which is edited by a committee of the Association of American Law Schools. It is one of a number of translations of famous works of a lego-philosophical character for which the profession is already indebted to this committee.

The book comprises three essays entitled "Philosophical Pre-suppositions of the Idea of Law," "The Concept of Law," and "The Concept of Nature and the Principle of Law." The three form a connected work which is presented under the title, "Formal Bases of Law."

The author is a celebrated jurist of Italy and is also a professor in the University of Bologna. He has produced a great many works of a character similar to the one in hand, several of which have already been translated into different foreign languages.

The committee which has in charge this series is endeavoring to supply a need which is being felt more and more, namely, that philosophy and law should be brought closer together; that in solving our problems in jurisprudence we should not be without that aid which philosophy can give. Since this has been neglected almost entirely in America, it was thought that the proper way to begin the education of American lawyers along this line was to familiarize them with what had been done by the great thinkers abroad. To this end the committee have undertaken the translation of the works of representative European writers.

There are two distinct schools of Italian writers upon the subject of the philosophy of law. One group denies the existence or possibility of a true philosophy of law; the other, otherwise differing greatly among themselves, holds the opposite view. The latter group has within it two groups, the one being

described as positive and the other as idealist. The one treats law as a fact to be examined; the other recognizes the existence of the ethical element, the ineffaceable distinction between what ought to be and what is. Del Vecchio belongs to the idealist and to the type of idealist last referred to. His teaching is clearly expressed and is peculiarly free from the heavy verbiage so common to philosophical writers. He is a student of comparative law in its widest sense and recognizes its value as a storehouse of experience. The distinctive note of his teaching, however, is that there is and must be an element in jurisprudence not derivable from experience. He presents a point of view that is worthy of consideration and we heartily commend his book to our readers.

H. W. A.

Park's Annotated Code of Georgia. Revised and brought down to date under the supervision of Orville A. Park, Macon, Ga. Published by authority of the General Assembly. The Harrison Company, Atlanta, Ga. 1914. Volume 1.

This is the first volume of Georgia's new code and comprises the "Political Code." The publishers guarantee that the set will not exceed seven volumes. Volumes 2 and 3 will contain the "Civil Code"; Volumes 4 and 5 will contain the "Practice Code"; Volume 6 will contain the "Criminal Code." The last volume will contain a general index, an index to all local laws from 1800 through 1914 and miscellaneous tables. The work will be kept up to date by the issuance of a Cumulative Supplement. The text of this code is to be the same as that of the Hopkin's Code of 1910 with such amendments and changes as have been made necessary by subsequent legislation. The lack of annotations in the Code of 1910 is the principal reason for the necessity of this revision. To make up this deficiency notes have been placed under proper sections and have been arranged under appropriate catchwords in alphabetical order. Federal citations constitute one of the new features of the work. The mechanical system of cross-references from one section to another is excellent. The printing of the work is of the highest degree of excellence. Its accuracy shows the labor and skill that must have been brought to bear by the compilers. When the set is completed Georgia will probably have the most complete code of any state in the union.

H. W. A.

The Individual Delinquent. By William Healy. Published by Little, Brown & Co., Boston. 1915. pp. XVI and 830.

One of the great problems with which every society has to deal is the handling of those of its members who engage in what is termed anti-social conduct. Whether the number of such social delinquents is increasing or not, it is hard to say. It suffices that each year so regularly reveals new additions to this unfortunate element of society that the amount of such increase can be fairly accurately foretold in advance.

The book of Professor Healy breaks away from the usual mode of approach to this problem. We have always had lots of theories. Heretofore the method of approach seems to have been to try to work from the general to the particular. There has been a sort of general theory that certain defects were responsible for social delinquency and remedies have been sought to be applied to individuals for the cure of these assumed defects. The present work takes up the problem scientifically. It represents the laboratory method of approach. A thorough investigation of each particular case precedes any suggestion of remedy. In other words, we have here the point of view of the physician who diagnoses and then prescribes.

The book pretty clearly shows that, in most cases, adult criminals acquire their delinquency in childhood. The part which heredity, disease and environment play is clearly shown. The most effective methods of study and diagnosis are suggested. It is a book with which every one who has to deal with offenders should be familiar. It has a message for teachers, religious leaders and parents no less than for the judge, the court officer and the institutional authority.

H. W. A.

Legal Principles of Health Administration. By Henry Bixby Hemenway. Introduction by J. H. Wigmore, Dean of Northwestern University Law School. Published by T. H. Flood & Co., Chicago. 1914. pp. XXXVI and 859.

The importance which attaches to the idea expressed by the term "Public Health" depends primarily, in any society, upon density of population. When people have to live in large numbers in a small space whatever affects the health of one

affects the health of all, that which is accurately termed the "Public Health."

The book in hand is interesting as being a contribution of a legal character by a member of the medical profession. We are therefore not greatly surprised that the author seems to treat his subject in a somewhat rambling fashion. It is not objectionable but the reader wonders somewhat that there is so much space devoted in the book to topics that would hardly be expected to be found there. Much that we find in the book would be quite as well, if not more, in place in a book on constitutional law. Hence the title of the book is a trifling misleading.

The work on the whole, however, is one of merit. The discursive portions of the book which deal with constitutional law are, after all, probably necessary, as a background, to the completeness of the work. The parts in which the author deals with "Public Health Powers and Limitations," "Vital Statistics," "Pure Foods and Drugs," "White Slave Traffic," "Purity of Interstate Waters," "Meat Inspection," "Sanitary Authority of the States," "Quarantine," "Water Supplies," "Drainage and Garbage Disposal," "Pure Food and Drug Regulation," "School Inspection," "Industrial Regulation," "Eugenics," and "Licenses" contain what we would expect to find. Herein lies the principal merit of the work. The treatment of the subject is untechnical and especially suited for the class of people to whom it will prove of most value, namely, those interested in public health and public health administrators. Such people are not often trained in the law and will find a great advantage in the author's untechnical, if rather prolix, discussion of the elementary principles of law bearing upon the subject and an understanding of which is necessary to an adequate comprehension of the specific rules of law governing the administration of the public health. The author seems at his best in his clear discussions of the principles of preventive medicine. Indeed, one feels that he might well have given more space to the discussion of this phase of the subject.

That author comes valiantly to the defense of the "uncertainties of the law." We would hardly expect this from a layman, but we doubt if any lawyer could make a better argument justifying the changes which our law undergoes through judicial decision. He also sounds a timely warning to the layman who, in his zeal, urges the passage of ill-considered laws which must be drawn by amateur sanitarians. We entirely concur in Pro-

fessor Wigmore's unhesitating recommendation of this work to the public and to judges and lawyers no less.

H. W. A.

United States Compiled Statutes. Compiled by John A. Mallory, assisted by members of the publishers' editorial staff. 1913. West Publishing Company, St. Paul, Minn. Volumes Five. pp. CIII and 5686.

This is a compilation of all the organic and statute law of the United States of a general and permanent character in force December 31, 1913. The purpose of the work is to make readily accessible the statute law now in force which has been made difficult of ascertainment because of subsequent repeal and various modifications of the original acts. The passage of a large mass of legislation on subjects many of which were not included under the title heads of the Revised Statutes, which were followed in the Compilation of 1901, made the Cumulative Supplement plan, which in turn followed it, inexpedient and a recompilation necessary. To accomplish their purpose the publishers have brought to their aid every useful mechanical device. The work is of particular excellence in this respect.

In Volume 1 are found the "Organic Laws of the United States," including the Declaration of Independence, the Articles of Confederation, the Ordinance of 1787 for the Government of the Northwest Territory. The Constitution, with its Amendments, are reprinted from the Revised Statutes of 1878, with the accompanying historical and explanatory notes and Analytical Index to the Constitution which appeared therein. To the Constitution are added the two amendments ratified in 1913, the 16th, authorizing taxes on incomes, and the 17th, providing for election of Senators by the people of the several states. The remainder of this volume, as well as Volumes 2, 3 and 4, contain the statutes compiled and the notes thereto. Volume 5 contains the index and tables.

The general arrangement of the Revised Statutes has been in the main preserved but a new series of section numbers has been made necessary because of the large amount of new matter and the many amendments and repeals which had to be dealt with. The Revised Statutes references are placed in parentheses opposite the section numbers herein where the section is still in

full force. If it has been superseded or repealed, that fact is added in the parenthesis with full historical notes. Where the section covers matter entirely new, its number is accompanied by a parenthesis containing the date of the Act with the number of its chapter and section. Whenever any change has been made in a section, explanatory notes are added showing the change and development of the law up to date. The publishers are to be especially commended for the excellence of this feature of the work.

At the beginning of Volume 5 are some very valuable mechanical aids in the form of tables. In the first one we find the sections of the Revised Statutes which have accompanying them their corresponding sections in this compilation. Then comes a chronological table of laws. The dates of all acts and resolutions in force up to the end of 1913 are given, beginning June 1, 1789. These are accompanied by references showing, in a single line, where the act or resolution will be found in the Statutes at Large, the Revised Statutes and in this compilation. Then follows a table of acts repealed or superseded, chronologically arranged, with references to explanatory and historical notes in this compilation. Lastly, there follows a table giving the popular name of Acts from 1789 to date, alphabetically arranged with references to their places in the States at Large and in this compilation.

The index of this work, like that of its predecessor, *Compiled Statutes of 1901*, is based on the excellent one in the Revised Statutes. Owing however to the large amount of new matter that had to be dealt with here, much elaboration was necessary. This has been exceedingly well done and reveals the thoughtful mind of the specialist in the preparation of statute indexes.

The work, as was said in the beginning, purports to contain only that statute law which is of a permanent character, and represents an endeavor to make it readily ascertainable. This has been most admirably accomplished by the mechanical excellence of the work.

H. W. A.

Bartolus on the Conflict of Laws. Translated into English by Joseph Henry Beale, Royall Professor of Law in Harvard University. Harvard University Press. Cambridge. 1914. pp. 86.

There could be no more fitting tribute to the memory of Bartolus, that great 14th century Italian jurist, to whose mighty creative ability all modern law is heavily indebted, than to publish on the six hundredth anniversary of his birth an English translation of his famous treatise on the Conflict of Laws, which, as Professor Beale so truly says, "is the starting point and the cited authority for all subsequent work on the subject for five hundred years."

Very familiar are the topics discussed by Bartolus: questions of the extra-territorial effect of contracts, wills, torts, crimes and judgments; distinctions based on the *lex loci contractus*, *lex loci solutionis*, *lex rei sitae*, *lex fori*. Two of his doctrines (and others might be instanced) show the modernness of Bartolus. "The form of an act pertains to the jurisdiction of the city (*i. e.*, state) in whose territory it is done." (p. 27.) "By reason of the place in which a crime is committed, everyone is subject to that jurisdiction, even a stranger" (*i. e.*, foreigner). (p. 49.)

That Bartolus was the modern world's first great international lawyer is seen from the following passage: "It is the custom of England that the eldest son succeeds to all the goods. Now one having goods in England and in Italy dies; the question is, what law governs" (p. 44).

Professor Beale's very apt and lucid translation is dedicated most appropriately to the University of Perugia, where Bartolus taught law for many years. Many other works of Bartolus will be soon made available in English to the rank and file of American lawyers. Then will be *intensified* our appreciation of the debt owed by modern law to Roman law—no one can avoid noticing in this present translation of Bartolus how constantly he employs doctrines taken from Roman jurisprudence.

C. P. S.