

BOOK REVIEWS

The Monroe Doctrine—An Interpretation. By Albert Bushnell Hart. Published by Little, Brown & Company, Boston. 1916. pp. 445.

In the light of complications which have arisen since the first utterance of the Monroe Doctrine and which the author says has made it a variable we are given a most comprehensive survey of this much-disputed subject. The manner of the great scholar he is, shows itself in the presentation of materials with that directness and force of quotations and sources from which he has drawn the interpretation. Thus there has been left to the reader ample margin for thought and his own conclusions while at the same time the method lends itself to the reënforcement of the writer's view-points.

Dividing the book into seven parts, the first three, comprehending about one half of the volume, are given to a careful narrative of the events leading up to and calling forth the Doctrine and then tracing it through its later history down to the present. The two succeeding parts take up the more difficult interpretation, relating the manner in which it was received by those of the world powers most vitally interested and attaching one by one the various meanings given to the several points of the Doctrine. In a third general division, designated as part six, is given a most interesting discussion of the future possibilities of the Doctrine; not entirely limited, however, by the consequences of the policy itself. A seventh part is added consisting of a list and brief description of the more important books dealing with the subject, giving the reader bibliography sufficient to enable him to go more deeply into any phase of the subject of particular interest. The detailed table of contents adds much in the way of making the book a convenient reference text for the student, as does a map showing the interests involved and indicating the original colonies and the later changes.

Beginning with the early history of the colonization period, and the rivalry in the movement among the European powers and their subsequent interests, as a foundation; and tracing it through the fortunes of the colonies and their later independent existence, the causal history of the case is given. The author aptly defines the attitude of the European powers toward the new world dur-

ing this period in his words " . . . that the European powers looked upon the American continent as a legitimate field of enterprise for them." The principal steps set forth either directly or impliedly in this foundation period are: first, the American Isolation doctrine and its counter of European Aloofness; second, the attitude of the United States indicated by its sympathy for the South American people, its later recognition of their governments and declaration of neutrality to sustain the recognition; third, the European Political System as governed by the Holy Alliance and the proposal of intervention in South American affairs. The spirit in which the Doctrine was first set forth is drawn from a number of well-chosen contemporaneous writings and reports.

From this we are led into the complicated part of the work which takes up the multitude of influences in the shape of later treaties, doctrines and succeeding presidents' messages; and the resultant variations of the original spirit and letter of the policy. In what degree it has been the result of selfish motives on the part of the United States is an interesting question upon which much light is thrown in the discussion of the Doctrine as Paramount, and Permanent Interest.

Not the least interesting part of the book is that which deals with the present status and future possibilities of the policy especially in view of the preceding history and analysis of the subject. Many of the mysteries of the more recent variations of the policy are clarified by a statement of the facts not generally known or understood, which have surrounded these changes. As to the future some idea may be gained from the implication in the words quoted from Emperor William when he says "Your whole country is an experiment. . . . Whether it will stand the storms of time as the older monarchies of Europe have done remains to be seen." Sufficient proof is given to indicate that this is not the exception to the rule of opinion as regards the attitude of foreign nations to this policy. Setting off the Doctrine in a background of Pan-American relations, is an equally attractive and opposing thought as to the future which is expressed in the words Pan-Americanism. As an outgrowth of the doctrine such an idea is pleasing and it is suggested in the speculations of the author in this regard that it takes on the aspect of the inevitable in that the Doctrine has become essentially a fact rather than a policy.

M. A. W.

Problems in Contracts. By Henry Winthrop Ballantine. Published by the Lawyers Coöperative Publishing Co., Rochester. 1915. pp. 363.

As the name indicates, this is a book of problems in the law of contract. They are topically arranged and are stated without making any suggestion as to answer or solution. There are in all more than 650 such problems. Of these, about 240 are taken from the examination papers of leading law schools, the majority being from Harvard. Of the remaining problems, very many are derived from leading cases found in the case-books.

After the statement of each problem, there are printed references to cases and to treatises from which presumably a solution may be obtained. Williston's Cases on Contracts have been used freely, more than 275 of them being cited. The total number of cases cited is about 1,000.

The author expresses the hope that his work will "stimulate a more searching and critical habit of reading cases," that it will induce a greater use of the library, "and, above all, that it will train the student in the practical application of legal principles and precedents, and will develop his powers of reasoning and arguing independently,—the great aim of legal education."

There can be little doubt that the work is well adapted to serve its purpose. In one respect only does it seem to discourage independence. Frequently it requires great ability and originality to discover the issues involved in a set of facts and to state the problem in clear and definite form after it is discovered. The author of this book shows such ability, but also he relieves the student of the necessity of showing it. Of course, the same may be said of all the cases contained in the case-books when they were decided by able and well-trained judges.

The foregoing is, however, not a serious criticism. Beginning students in the law, even though mature and well-prepared, have no great original power of stating or of solving problems. They nearly always regard the printed "case" as both statement and solution and as leaving no problem whatever to the student except that of understanding. It is therefore very helpful to them to present legal problems *in the form* of problems. Every good teacher does it continually in his classroom, but it is not every good student who takes these problems home with him for original solution. A book like the present one enables him

to do this, and forms a useful supplement to the class work, whether that work is based upon a case-book or a treatise. Law students should buy a copy of this book and thumb it to pieces.

A. L. C.

A Selection of Cases under the Interstate Commerce Act. Edited by Felix Frankfurter. Published by the Harvard University Press, Cambridge. 1915. pp. 706.

Hitherto, there has been no satisfactory case-book on the Interstate Commerce Act for use in the schools. Such treatment as could be found was very meagre, consisting of a few cases among a large number on the more general subject of Carriers. The book in hand separates this portion of the subject from the general law of Carriers, which has by now been fully covered by case-books containing the leading decisions. That portion of the law covered by the act is of recent growth, and is being steadily developed, not only by judicial decision, but by amendment to the original act. The importance of the subject well merits the devotion of a separate case-book for its adequate treatment. The book in hand offers a carefully selected collection of authoritative cases upon the act under the topics of "Scope of Commerce Regulated by the Act," "Duties of 'Carriers' under the Act," "Functions of the Interstate Commerce Commission in the Enforcement of the Act" and "Function of Courts in the Enforcement of the Act." It constitutes an admirable basis for the study of the Interstate Commerce Act as it stood at the time the book was published, January, 1915, and with the aid of additional citations to cases covering the most recent interpretation of the act and latest amendments of the act is the best case-book for teaching this subject in the law schools. It is to be regretted that such a book must require frequent revision to keep pace with the growth of this branch of law, but in the study of a new branch of law, springing from and constantly changed by statutory enactment, such is the necessary invariable result, and will continue until the theory upon which the law is based has reached its approximately complete development.

W. W. G.

An Introduction to Roman-Dutch Law. By R. W. Lee, Dean of the Law Faculty, McGill University. Published by the Oxford University Press. 1915. pp. xxxv and 360.

This book was written to supply the long felt need of the student of Roman-Dutch Law for an introductory text-book in which might be found the general principles of that system of law. As is explained by the author in the general introduction, the Roman-Dutch Law is that which obtained in the province of Holland during the existence of the Republic of the United Netherlands. Carried thence to the East and West Indies, when these passed under the dominion of the Crown of Great Britain, it was retained as the common law of the colonies in accordance with the settled principle of English law and policy that colonies acquired by cession or by conquest retain their old law, so long and so far as it remains unrepealed. In the land of its origin it is no longer of practical value, having been replaced by modern codes. But in the colonies it is still in force, though its doctrines have felt the influence of the English common law and are rapidly falling into disuse. In British Guiana, indeed, a committee has been appointed to advise as to the necessary legislation to effect its abolition and the substitution of the English common law.

The text proper is divided into four books, treating of The Law of Persons, The Law of Property, The Law of Obligations, and The Law of Succession. The treatment is not exhaustive but is in keeping with the author's intention of setting forth, within a modest compass, the principles of the Roman-Dutch Common Law.

W. W. G.

Blackstone's Commentaries, with Hammond's Notes. Edited by William C. Jones. Published by the Bancroft-Whitney Company, San Francisco. 1915. pp. cxxxix and 2770.

The reading of Blackstone has among the younger generation of lawyers fallen largely into disrepute. The day has long since gone by when the study of Blackstone was an indispensable prerequisite to admission to the bar. The case system has justifiably displaced the text-book in the law schools of the country. But the case system alone leaves the student without an adequate conception of a system of laws—a coördinated whole—of which

each subject is an integral and correlated part. To the training in legal thinking and solution of specific problems is sacrificed a comprehension of the law as a whole. This evil has been recognized and brought before the profession in the report of Dr. Redlich on the Case Method. It is highly probable that the law schools will recognize the evil and remedy it in the future. But for those who have been under the case system alone, the remedy rests with themselves. The study of Blackstone furnishes an admirable basis from which to survey the whole field of the law. The value of its study has been long recognized. Professor Dicey has recently said: "To any student of English law, I unhesitatingly give this advice: Begin your study by reading Blackstone's Commentaries." To him who has completed his course in the law school, the same advice might well be given, for he is yet but at the beginning of his life-long study of the law.

The present edition is based upon that of Professor Hammond, using the same text and embodying to a large extent his valuable notes. There have been added numerous notes by the present editor, as well as notes in the form of extracts from the writings of acknowledged authorities on the history and theory, as well as the practice, of the law. These are intended to show the important modern modifications of or innovations on the common law. Students of the law would do well to read this edition of what the late Professor Maitland called "a great readable, reasonable book about the English law as a whole."

W. W. G.

The Commodities' Clause. By Thomas L. Kibler. Published by John Byrne & Company, Washington. 1916. pp. 178.

The purpose of this book is to treat in detail of the conditions in the coal regions due to the entering upon mining operations of the railroads of the country, the application of the Commodities' Clause thereto and the fundamental weakness of the clause. In order that the situation may be compared with that in Europe, a chapter is devoted to the exposition of conditions there. There follows a chapter on the conditions existing in the United States. The rest of the book is given over to a discussion of the Commodities' Clause, its history, operation and weakness. The conclusion of the author that "the present law as construed is deficient in that it permits a railway to own and operate min-

ing, manufacturing, or producing concerns, and transport the products thereof, provided only that such products be sold prior to presentation for shipment; and to maintain relations with mining, manufacturing, or producing concerns, through stock ownership, or interchange of directors or officials, or otherwise, which enable such railway to carry on operations in virtual violation of the law" comes as a surprise to many of us and presents a problem, which, if existent, as appears by the author's consideration of the matter, must be remedied by adequate legislation. The author presents an amendment which merits attention as a proper solution of the problem.

W. W. G.

American Government and Majority Rule. By Edward Elliott, Ph.D. Princeton University Press. 1916, pp. viii, 175.

In this attractive little volume we find a thoughtful and interesting discussion of the democratic theory of government and its practical working as exemplified in the United States. Doctor Elliott, who has been Professor of Politics at Princeton, has had the skill to present ideas which, as they seem unhackneyed but yet carefully developed, form a real contribution to a subject that has called forth many works of varying usefulness.

The subject is quite properly treated from the historical point of view. We see first the original somewhat inconsistent attitude of our forefathers, who, believing in the sovereignty of the people and yet distrusting government as an engine of tyranny, established a complicated system of checks and balances for the protection of the minority and demanded that each constitution should contain a Bill of Rights; and we see how the democratic theory is developed, until now the government is considered the agent, not the master, of the people and many new devices are originated to assist in attaining the end that the majority shall rule. Doctor Elliott's own conclusion is that a democratic government to be effective must be simple, and of the new devices he favors the commission form of government and the short ballot, while he feels that the initiative and the referendum are a step away from simplicity in governmental agencies. In elaborating upon this theme that the form of government should be made as simple as possible, he makes illuminating suggestions as to the reformation of our state governments: namely, that the administrative officials of the state should not be elected but

should form a cabinet appointed by the executive, that there should be but one house of the state legislature, that the executive through his cabinet acting as heads of departments should have the right to frame, introduce and advocate bills, and that the choice of representatives in the legislative body should not be restricted to residents of the district to be represented. It would seem doubtful whether this last change, which is most strenuously urged by our author, would not accomplish all the results he desires in allowing an expert lawmaker, who represents the people rather than a locality, to continue in office indefinitely, unless the various representatives are elected at different times. Otherwise the removal of the residence restriction would be of little avail to the defeated legislator, who would be compelled in any event to remain quiet until the next general election, at which time he might well seek office in his own district again. Professor Elliott seems, however, to contemplate a general election of executive and legislature at the same time.

It would have added to the usefulness of the work had the author added citation of authorities to such statements as are not his personal conclusions. An excellent bibliography is, however, appended. In the limits of a short review it is impossible to point out all the suggestive ideas contained in a work like this, but one of the many must suffice. After stating that the most encouraging feature of American democracy is the presence of a spirit which, in spite of repeated defeats, renews the battle for majority rule, while the most discouraging feature is the successive failure of each new institution or arrangement to accomplish such rule, he suggests that possibly it is our viewpoint which needs correction and that instead of looking for some means for the final solution of the difficulty, we should see in the constant struggle itself the real nature of Democracy.

C. E. C.