

BOOK REVIEWS

Manual of the Uniform Land Registration Act in Virginia. By Eugene C. Massie. Published by Everett Waddey Co., Richmond, Va. pp. 206.

Unlike most manuals, about half of this book is devoted to a controversial argument in favor of the statute of which it treats. The argument is in more of a popular than a legal style, and by its vehemence inspires the reader with distrust. It may be questioned whether this book was the proper place for matter which is strictly partisan. Its presence here is partially explained by the fact that the author has been an advocate of the Torrens System for years, and to him more than to anyone else is due the passage of this act in Virginia.

There has been a great deal of controversy concerning this system of land registration. It is by no means a new reform, the first "Torrens Act" having been passed in South Australia in 1858. Acts following this to a greater or less extent have been adopted in fourteen of our states, in the Philippines, and in Hawaii. A Land Registration Act was presented to the American Bar Association in August, 1915, and, with certain amendments, was adopted. The Virginia Act, here annotated, is a copy of the act so adopted.

The Torrens System, in brief, is a method of guaranteeing the title of the owner in a court of law. It is accomplished by means of a suit brought by the owner. All persons claiming an interest are made parties, and the judgment is final and conclusive. "The purpose," says the author, "is to make transactions in land as easy, quick, and cheap as transactions with personal property." He emphasizes the advantage of the ability to pledge real property for a loan more easily than is possible under former laws. Statistics are quoted by other writers, however, to the effect that a Torrens Act does not increase facilities in pledging realty. Yet it is well to bear in mind that statistics may be quoted to prove almost any assertion in such a controversy as this. The opponents of the system also deny the desirability of making real property a quick asset, subject to fluctuation when money is "tight." There are at least two sides to the question.

Opponents of the act find a proper substitute for it in the strengthening of actions to quiet title. They overlook the per-

manency of the remedy offered by the act through the improved system of the registration of transfers.

The annotations in Mr. Massie's book are full and clear. A long list of forms is added. The book will undoubtedly be of value not only to lawyers in Virginia, but to lawyers in other states where a Torrens Act is in force.

A. E. HOWARD, JR.

The Law and the Practice of Municipal Home Rule. By Howard Lee McBain. Columbia University Press, New York City. 1916. pp. 724.

The development of our political institutions has shown two divergent tendencies; the one toward greater centralization of power, the other directly opposite. The first is manifest in the gradual centralization of our government from a collection of isolated communities in the early colonial days into colonies, then into the loose federation under the Articles of Confederation, later into the somewhat stronger union of the early United States under the Constitution with its emphasis on states' rights and numerous restrictions on federal power, indicating a distrust of a strongly centralized government, resulting finally in the present strongly centralized government with less emphasis on states' rights and greater federal control extended over the states, largely by the free interpretation of the commerce clause.

Of recent years there has been manifest within the states a tendency away from centralized power in regard to matters of local interest. This has been due to the rapid growth of the city, with its peculiar problems and its strong sense of civic identity. In our early history the state legislatures were fully competent to enact laws for the small villages and towns within their boundaries. The rise of the city has created problems with which the state legislatures, drawn in controlling numbers from other and smaller communities, have been unfitted to cope. Further, the city has been jealous of control from the outside and unwilling to have its local rules determined by a state legislature. The result of this has been the cry for "home rule"—the right of a city to govern itself and make its own rules in matters peculiar to itself.

The book under review is aimed to throw some light on the situation thus arising, to point out the pitfalls into which legislators have hitherto fallen in their attempt to bring about home

rule, and to offer some suggestions whereby adequate provision for home rule may be assured. That this is no easy task is apparent from a mere cursory reading of the book. The legislatures and even the courts have been exceedingly ready to nullify the effect of constitutional provisions and statutes passed to bring about some degree of home rule. For example, under the New York constitution of 1846 there was a provision providing for the local selection of local officers. There was also a provision whereby the legislature could select "all officers whose offices may hereafter be created by law." The legislature avoided the constitutional requirement of local selection of local officers by creating a Metropolitan Police District, a Metropolitan Sanitary District, and others, whose territorial limits were practically coincident with those of New York City, which were to perform local duties and whose members were to be appointed by the legislature as "officers whose offices may hereafter be created by law," and thus in fact the legislature itself selected local officers in spite of the constitutional provision against it. Numerous examples of other ingenious methods of circumventing the constitutional provisions in this and other states are given.

A large part of the book is taken up with a careful analysis of the history of the home rule in those states which have granted charter-making powers to cities; namely, Missouri, California, Washington, Minnesota, Colorado, Oklahoma, Arizona, Oregon, Michigan, Ohio, Nebraska and Texas.

The final chapter contains valuable conclusions as to the machinery of home rule, the terms in which it should be granted, and the relation between the powers of cities and the powers of state legislatures. The author apparently favors its extension under a system analogous to the federal system of government, power over their own affairs being conferred upon cities by a state constitution in much the same way as it was over state affairs as reserved to the states by the nation, the people of each city being compelled to work out for themselves an appropriate machinery for the exercise of these powers.

The book is very evidently the result of long and patient research. It is written in a clear and logical style—a scholarly work. It is not written for the lawyer as a legal textbook, but rather as an aid to the student and serious-minded reformer of our present system of city government. We commend it to all such as a book well worth the careful study necessary to its appreciation.

WM. W. GAGER.

The Prosecution of Jesus, Its Date, History, and Legality. By Richard Wellington Husband, of Dartmouth College. Published by Princeton University Press, Princeton, 1916. pp. v, 302.

About eighty-five years after the crucifixion of Jesus Christ the famous Roman historian Tacitus, an aristocratic pagan, wrote in his *Annals*, chapter xv, section 44: "Nero falsely accused as guilty and punished most cruelly those persons hated for their infamous acts, who were commonly called Christians (*christianos*). Christ (*Christus*), the founder of this name, during the reign of Tiberius was put to death by the procurator Pontius Pilate. The pernicious superstition, momentarily repressed, broke out again not only in Judaea, the original country of this evil, but also in Rome." Concerning the trial of Jesus Professor Husband says: "The fundamental doctrine here advocated is that the whole case was one of Roman law, enforced in a Roman province, and that the Jewish law played but a most insignificant part."

Professor Husband's efforts to support these contentions are successful. His authorities are principally the recent papyri discoveries concerning Roman provincial administration and also procedure in Roman provincial courts, which discoveries of modern scholars have been available to the world only since the year 1912. Professor Husband cites also from Cicero, from certain Early Imperial Roman jurists in the *Digest* of Justinian, and from source books of Roman inscriptions such as the *Corpus Inscriptionum Latinarum*. Professor Husband's book is very interestingly and lucidly written.

Professor Husband rejects as erroneous the opinions that either the Romans alone or both the Romans and the Jews were concerned in Christ's arrest, and he holds that only the local Jewish officials participated in Jesus' arrest; namely local Jewish officers "who constituted the regular police force under direction of the Sanhedrin" reinforced by "some members of the temple guard (*i. e.*, the *chief captain* and *band* of the Gospel narrative) to assist the officers in case resistance should be offered." Professor Husband believes that the most probable explanation of the word *multitude* in the Gospel narrative is that "in the darkness of midnight the disciples fancied the (arresting) party much larger."

Professor Husband holds that the Jewish Sanhedrin, anciently the supreme tribunal of the Jews, was, in Christ's time, sheared

of the power of capital punishment and of all important criminal jurisdiction (except local police and infractions of the peculiar Jewish ecclesiastical law, to enforce which limited jurisdiction the Sanhedrin had the power to make arrests); that the Sanhedrin was also as to serious offenses a sort of "binding-over court" for the Roman governor, preparing the documents and investigating the evidence (*i. e.*, an "indicting-body") so that such cases "might be handled more expeditiously when the Roman governor appeared in Jerusalem." Professor Husband calls attention to the fact that newly discovered Egyptian papyri reveal in Egypt the existence of similar native police tribunals and indicting bodies, and point to the conclusion that such was the Roman policy of administration throughout the provinces.

Professor Husband's opinion is that Jesus, having been indicted by the Sanhedrin for treason against the Roman Empire (it being alleged that he was trying to establish himself as a King), was prosecuted by the Sanhedrin or their representatives in the Roman court of Pilate, the provincial governor. Certainly the then Roman criminal procedure permitted a private person or persons to institute a criminal action, for in the Early Imperial Roman law the State very rarely undertook a prosecution on its own motion. Professor Husband holds that the proceedings before Pilate, including the sentence of crucifixion, were in accordance with the then Roman provincial criminal law and procedure applicable to Roman subjects (*peregrini*), who were not really citizens and to which class Jesus belonged.

The Gospel narrative of Pilate's sending Jesus to Herod for examination, because Jesus resided in Galilee, has been disputed as genuine; at any rate, if genuine, Herod, the tetrarch or governor of Galilee, was without jurisdiction at Jerusalem, which city was situated in Judaea, Pilate's province.

CHARLES P. SHERMAN.

German Legislation in Belgium. Fifth Series. By Charles Henry Huberich and Alexander Nicol-Speyer. Published by Martin Nijhoff, The Hague. 1916. pp. 271.

German Legislation in Belgium. Sixth Series. By Charles Henry Huberich and Alexander Nicol-Speyer. Published by Martin Nijhoff, The Hague. 1916. pp. 300.

- Ophthalmic Jurisprudence.* By Thomas Hall Shastid. Published by Cleveland Press, Chicago. 1916. pp. 147.
- Virginia State Bar Association.* Vol. XXIX. 1916. Edited by John B. Minor. pp. 336.
- Blockade and Contraband.* By A. Maurice Low. Published by Columbia Printing Co., Washington. 1916. pp. 16.
- Commercial Arbitration in England.* By Samuel Rosenbaum, University of Pennsylvania. Published by the Chicago Legal News Co. 1916. pp. 71.
- Appointment of Judges to the International Court of Arbitral Justice.* By Thomas Raeburn White. Published by the American Society for Judicial Settlement of International Disputes, Baltimore. 1916. pp. 18.
- Questions on the Correction of the Illicit Preconception and Stare Decisis Habits.* Issued by Samuel B. Clarke, New York City. pp. 24.
- Questions on Professional Conduct.* Issued by the New York County Lawyers' Association. 1916. pp. 27.
- State Administration in Maryland.* By John L. Donaldson, Roanoke College. Published by the Johns Hopkins Press, Baltimore. 1916. pp. 155.

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