BOOK REVIEWS

Anson on Contract. American Edition. By Arthur L. Corbin. New York, Oxford University Press. 1919. pp. lvii, 568.

The Law of Contract by Sir William R. Anson is probably the best short book yet published on that subject. It was written primarily for use in the instruction of students, being designed to present a clear and concise tracing in outline of the principles which govern contractual relations from their formation to their discharge. How admirably its author succeeded in the accomplishment of this purpose is well known, at least, to those who attempt instruction in the subject of Contracts.

Professor Corbin has now come forth with the third American copyright edition, the second being that of Professor Huffcut which appeared in 1906. The text of the edition now under consideration is that of the fourteenth English edition. But the latter half of the book has been entirely rearranged topically, and there appear about thirty-five sections of text which are the work of Professor Corbin. He has used most of the citations of authority in the footnotes of Professor Huffcut's last edition but has added many recent American authorities. We note the addition of numerous critical notes which represent careful and extended study by Professor Corbin. These constitute one of the most striking and valuable features of the book.

To a student familiar with Anson's *Contracts*, as it has heretofore appeared, there might occur the questions, Why should there be another edition? Have there been developments that need to be noticed? Are there defects in the original text which should be remedied? These latter questions, it is believed, should be answered in the affirmative and, indeed, are answered best by the illuminating additions themselves. In contrast to the balance of Anson's admirable discussion, his treatment of the two very important topics, "Contracts for the Benefit of Third Persons," and "Conditions," strike a critical reader as less satisfactory than the other topics, as lacking in comprehensiveness and clearness of analysis. Surely the necessity for a thorough consideration of these important topics is in itself ample justification for the edition in hand.

That the law is not a set of static principles is a fact not widely enough appreciated. The law at a given time is but an approximate reflection of society's ideas of justice. As our society develops and conditions change there will be changes in its notions of right and wrong. The law will as surely grow and as surely change as does the image in a mirror when the object before it has been changed, though not with that same promptness. The law's reflection of society's changed notion is always like an echo, belated. It must of necessity be indefinite and uncertain so long as society cannot formulate definitely its notions, or is divided within itself. Still, at the same rate and in the same manner as the *mores* of society change, so will the law change. Professor Corbin has in several places thrown into clear relief this characteristic of the law and guarded his reader against the erroneous notion often entertained that the law is a fixed and invariable system.

That new progress in legal thinking is seriously hampered by the lack of a recognized terminology of definite and invariable connotation is a further fact which is meeting with slow but increasing recognition. Probably the most considerable contribution of recent years toward overcoming this handicap was made by Professor Corbin's colleague, the late Professor Wesley N. Hohfeld, of the Yale School of Law. In two articles, which have so far appeared only in

(1913) 23 YALE LAW JOURNAL, 16 and (1917) 26 YALE LAW JOURNAL, 710, Hohfeld pointed out much of the difficulty above referred to. As the chemist has isolated a number of substances which he has termed "elements" and has shown all the complex substances which appear around us in the material world to be composed of these elements, or combinations of them, and to be capable of being disassociated, so did Professor Hohfeld find that all of our complex legal conceptions are made up of aggregates, often variable, of simpler fundamental conceptions. He reached a point where he found conceptions which defied further analysis. The term "right," he concluded, should connote an idea of the basic or fundamental, such as is embodied in chemistry in the terms hydrogen, oxygen or sulphur. Sulphuric acid is a complex substance made up of the elements hydrogen, oxygen and sulphur. So Professor Hohfeld concluded, such a jural conception as "property" or "legal title" is made up of an aggregate of simpler jural conceptions, often variable, namely, rights, privileges, powers, immunities, their correlatives and their opposites. He expressed his analysis in the following scheme of jural correlatives and opposites:

Correlatives	right	privilege	power	immunity
	duty	no-right	liability	disability
Opposites	right	privilege	power	immunity
	no-right	duty	disability	liability

He showed by reference to well-known legal works and court decisions that so simple a term as "right" has been used in a half dozen different senses and oftentimes with little or nothing to indicate which meaning was intended to be conveyed by the term, or that the user was aware of the unfortunate looseness in the use of it. At one time "right" is used in its proper sense, as the correlative of "duty"; again it is used when "privilege" or "power" or "immunity" would go far to add to clarity and precision. Such a complex conception as "legal title" will be used to describe the jural relation of one who acquires what is commonly termed "absolute property" in a physical *res*, as well as that jural relation which exists in one who acquires as purchaser a *res* by virtue of a contract induced by fraud. The same term is used of one who acquires a *res* under a contract of sale containing one or more restrictive covenants. And yet again the term employed of a principal after he has delivered possession of a chattel to an agent with power to sell. If these and other jural relations which are frequently described by the same term are analyzed, it is easily seen that they are very different in content. The fallacies of a syllogism in whose premises the apparently common term marks variant content need no elucidation. If we are to make progress in clearness of legal thought, then, we must eschew the use of terms of such variable connotation and adopt a terminology which embodies definiteness and constancy of connotation. It is, indeed, one of the many meritorious features of Professor Corbin's book that he has embodied in it Professor Hohfeld's terminology and analytical method. He has generally done this by means of critical footnotes, the value of which it would be hard to overestimate. Occasionally, however, he finds it necessary to insert entirely new sections, as in Sections 37a, 274a, 373, 385, 386 and 401. For this purpose and for the further purpose of making necessary supplements and corrections in the text, he has also inserted several valuable new sections dealing with the general subjects, "Infants," "Contracts for the Benefit of Third Persons," and "Conditions." The problems in these topics are well analyzed and the rules stated with admirable clearness and conciseness.

Another merit of Professor Corbin's book, which deserves notice, is a result of his adoption of the analytical method of attack above referred to. In

numerous places he emphasizes the necessity of sharply distinguishing between facts of life and the jural relations consequent upon such facts. An illustration of the practical value of the point under consideration is seen in note 3 on page 53 where our editor considers the subject "Irrevocable Offers." After observing that Professor Langdell, in his *Summary of the Law of Contracts,* has asserted that an irrevocable offer is "a legal impossibility," which view is held by other writers of prominence as well, he analyzes the problem and reaches the conclusion that there is nothing impossible either in the conception itself or its application. If by "offer" is meant the *act* which is done by the offeror, of course, that cannot be revoked, because it is now a part of history. "But," says he, "if we mean by 'offer' the legal relation that results from the offeror's act, the *power* then given to the offeree of creating contractual relations by doing certain voluntary acts on his part, then the offer may be either revocable or irrevocable according to the circumstances. The idea of an irrevocable power is not at all an unfamiliar one." It is organized society's notion of justice, backed by its power to compel observance of its rules, which causes that legal relation known as "power" to result from the voluntary doing of acts called an "offer." It causes that relation to result because, according to its present ideas of justice, it should result. If there are circumstances, according to those same ideas, which make it unjust that other and subsequent *acts* called "revocation" should result in the extinguishing of the "power" already existing in the offeree, that same organized society may reasonably refuse to cause that *legal result,* which we may also define as "revocation," to follow. It is submitted that Professor Corbin's conclusion is correct and that it could not have been reached without the aid of a discriminating analysis. This one example must suffice to show the practical necessity for, and value of, such accurate analysis in the solution of legal problems.

It is the writer's belief that an entirely new book from the pen of Professor Corbin, where he would have had a freer hand, would have resulted in even a better piece of work. Yet only a casual comparison is necessary to produce conviction that the edition in hand is much the most valuable that has yet appeared. In some very vital respects, as a reference book, it will soon be recognized as very helpful. Of course, it makes no pretense of being exhaustive in the citation of authority. The book, however, will command the attention of the lawyer, as well as the student, who seeks either a clear and concise statement of the principles of Contract or a suitable aid to the development of the power of legal analysis.

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A Society of States. By W. T. S. Stallybrass. New York, E. P. Dutton & Co. 1919. pp. xvi, 243.

Mr. Stallybrass has written a sensible and straightforward discussion of the juristic problems involved in the concept of a League of Nations. He has particularly addressed himself to the diminution of sovereignty which is supposed to result from submission to the verdict of the League; and he has, of course, no difficulty whatever in showing it to be groundless. The book has little claim to originality; but it is clearly and sensibly written and will doubtless help those whose problems are still in the realm of theory rather than of practice.

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