

BOOK REVIEWS

Custom and Right. By Sir Paul Vinogradoff. Cambridge, Harvard University Press, 1925. pp. 109.

This small book in pamphlet form is but a fragment to show that the facts and ideas that are called legal can be studied with advantage from the same viewpoint as other branches of social phenomena, such as language, religion, folklore or customs, that are not legal. While all the other sciences that are called social have been almost transformed, some of them practically created, by scientific study, the law, which is the most social of them all because it has to do with rules of conduct of such importance that they are made imperative, has remained so far as scientific study is concerned, wholly untouched except in the most superficial manner. This treatment leads to generalizations that are often baseless. Lawyers as a class have always been seemingly impervious to any study of law except as a reasoning from text to text or from precedent to precedent. As a consequence rules of law, cumbersome and promotive of injustice, have survived long after the reason for them has ceased. Whenever a court has ventured on historical research in the law, almost without exception the legal history adduced has been laughable. In fact, until late years there has never been an adequate history of the English law.

When we come to a general philosophy of law, writers are still chopping the old and worthless chaff of what they call the analytical or the historical or the *jus naturale* school, which have been the work of men not lawyers. They go on classifying, reclassifying, subdividing and resubdividing the writers upon legal philosophy and their conceptions, which have never had the slightest influence on the actual development of law. Kant's or Hegel's philosophies of law which are merely philosophies of right, with the term used ambiguously,—this pale moonshine of metaphysics which never had scientific reality,—or theories of the divine origin of law or of its historical growth, or dicta of the school which bases law not on what it is, but on some assumed power that created it, are still the stuff on which legal philosophical dreams are made. We have the tangled metaphysics of Kohler, the rigid, logical deductions of the French or the practical makeshifts of the English, seeking to do duty as legal philosophy.

What has always been needed is scientific study. That study asks for facts and facts alone, unclouded by hasty generalizations. As soon as a science has facts, the philosophers can construct their philosophy, but a philosophy of a science where the facts are not ascertained can be performed by a metaphysician or a logician who assumes an *a priori* system or a set of general principles. Granted the premises, which are non-existent, the rest of it is an easy deduction. This is why no legal philosopher has ever been suspected of being a jurist.

Now this book suggests a better plan, which will not be popular because it involves hard work in ascertaining facts. But in the end the scientific method is bound to prevail. That method requires the study of social phenomena called law, not the study of what some inadequately informed person has said about those phenomena. In Herbert Spencer's *Sociology*, the part devoted to justice is grotesque. It is a borrowing from others whom he supposed to be generalizing on sound premises, but what is justice, or supposed to be justice at any time, is the most difficult thing to explain in all social phenomena. Any generalizing upon it is useless. Kant's celebrated solution that law is a system of rules devised on the

principle of giving to each individual the fullest liberty consistent with a like liberty in others, is, as a working principle to explain law at any given time, utterly useless. Yet almost everything adduced has some relevancy on some point.

This study of legal phenomena must be comparative in space among co-existent systems, and comparative in time as shown by progression of one stage of law to another. The material is co-extensive with the whole progress from mere brutes living in a social state to our highest civilizations. It involves comparisons among legal systems at different stages of either progression or decay. Yet all the time the main effort should be to avoid generalizing. Much of this I have stated is implicit and assumed in the book under review.

The first chapter is called *Methods of Jurisprudence*, showing the manner in which law develops, sometimes in one way, sometimes in another. Warnings against the hasty methods of Maine or of Post or of false analogies like those of Ihering or Leist in different spheres are adduced. Final results even in enlightened systems depend on "cross-currents, transitions and compromises between heterogeneous factors." But the point made is to work and study out the factors, in order to find why any particular rule exists as law.

The next chapter deals with the particular factors of custom and legislation. It examines, without dogmatizing, the difference between the gradual acceptance of law by means of custom and the conscious, purposeful statement of a law by the law-making power. The next chapter takes a particular instance of the family organization as a fertile source of law in different stages. Finally the last chapter, entitled *The Right of Appropriation*, carries the discussion into the origins of property and the clashing interests of the individual in his freedom to acquire and to contract as against the interests of the social organization. It is all in the easy method of a wise man talking, as if lecturing, upon topics, not seeking to exhaust, but to suggest.

This book is stimulating. It will bear reading and rereading. Like all good books, it suggests more than it says. The best thing about it is that when one of those gentlemen who is seeking to avoid thought and work sits down with his note book to copy out some hard and fast rule, he will be baffled. As to that merit of giving dogmatic rules, if it is a merit in any book, Lord Melbourne's remark about the Order of the Garter to his somewhat dazed Queen is strictly in point: "The best thing about the Order is that it has no damned nonsense of merit about it."

People who talk about Kohler being a great jurist will not realize what a loss to jurisprudence Vinogradoff's death has been. He had under way another volume of his historical legal writing to be devoted to that most difficult period lasting from the ruin of the Western Roman Empire to the end of the Dark Ages. It would have been the work of a great legal scholar, certainly the greatest in the last fifty years in any land. One is appalled to think of how much work this jurist did. Merely his preparation by equipment in the languages was enough for one lifetime. A Russian who left the University of Moscow to live in England, he wrote English like a native with purity and precision. He was an expert on the manuscripts. His discovery of Bracton's *Note Book* is one of the romances of the law. His book on Greek law showed a mastery of the Greek philosophers, orators and historians on legal matters. In the Roman law he could correct the errors of Ihering. Latin was to him almost a native tongue. In modern languages, German, French, Italian and the Scandinavian, he was an adept. In England he became the greatest authority on the old mediaeval common law. His writing on villeinage from a legal

and social standpoint made that subject his own field. He gained the highest legal distinction, the Corpus professorship. He had mastered the German, French and Italian legal writing. He reminds one of the surpassingly wide learning of a Cujas, a Casaubon or a Scaliger. He could have argued a case with Lysias on Athenian law, or have been of help to Tribonian in compiling the Corpus Juris of Justinian, or told Bracton how to reconcile his common law with the Roman law of the Glossators. He could have lectured after Irnerius on the Roman texts at Bologna. He could have discussed with Cujas his reconstruction of Ulpian. He could have pointed out to Coke his numberless errors in the early English law. Yet he could illuminate his learning by the latest cases in the English courts. And just as he had reached his most effective years his death came "to remind us, what shadows we are and what shadows we pursue."

JOHN M. ZANE

Chicago, Ill.

Sources and Literature of English Law. By W. S. Holdsworth. With a Foreword by the Right Honorable Lord Justice Atkin. New York, Oxford University Press, American Branch, 1925. pp. 247.

This book is based on a series of lectures delivered by the author at the request of the Council of Legal Education in 1924.

We wish that Dr. Holdsworth had chosen a different title. "Sources" and "Literature," especially when applied to the subject of law and to a somewhat ancient period of our history, have such an ominous sound to so many ears that the title hardly conveys any idea of the form and spirit of this work. Here are no long lists of ancient books, no mere massing of facts about books. We have instead a straightforward, orderly, and intensely interesting account of various types of records, reports and treatises, and of their respective importance and influence in the general field of our legal development. We are introduced not only to the written sources themselves, but to the men, the individual men, who produced them and first used them. This human element which runs through the book, coupled with the lack of anything antiquarian or pedantic, gives a vividness and freshness to these pages that one would hardly anticipate from the title.

On the subject matter no comment need be made—not even in regard to the hitherto too little understood subjects considered in the last two chapters under the general heading of "Developments outside of the Common Law." Fundamentally much, if not most, of what we have here has already appeared in the *History of English Law*, references to which, for further information on the various topics treated of, are given at the end of each chapter in this more recent book. But the form and general presentation of the material is new. Within the limits of a comparatively few pages the writer has succeeded in compressing the history of English legal literature for more than six centuries—from the time of the Norman Conquest till the end of the eighteenth century. This compression has been skillfully done. The reader is spared both a mass of details and mere generalities; there is a good balance of proportion and perspective; no one period or subject is emphasized at the expense of any other.

The book "is intended for students who are beginning to read law." Its usefulness can not be limited by such narrow bounds; all whose interest is primarily in things legal should be included among those who will be benefited by reading it.

GEORGE E. WOODBINE

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Sumptuary Legislation and Personal Regulation in England. By Frances Elizabeth Baldwin. Baltimore, Johns Hopkins Press, 1926. pp. 273.

This social-legal study, like Professor Kent R. Greenfield's *Sumptuary Law in Nürnberg*, is much too timely and enlightening a contribution to remain long in the forbidding confines of the usual Ph.D. thesis. For it might well be perused by him who ponders the principles of *malum prohibitum* or who essays the question: When may legitimate individual behavior become a social wrong serious enough to justify paternalistic state inhibition?

Beginning with the earliest known sumptuary laws enacted by the English Parliament in the 14th Century, personal legislation is traced through the Lancastrian and Yorkist periods to its zenith under Queen Elizabeth and to its decline in 1604 under James I. These early regulations proposed to control not only food and drink, but likewise the use of certain practical commodities, the number of guests at weddings, the use of cosmetics and the manner of personal dress. They even crept into international affairs in the instance of the treaty providing for the marriage of King Louis of France to Princess Mary of England, sister of Henry VIII. Furthermore, many of the acts blend with early attempts at price-fixing, regulation of weights and measures, protection of pure foods and beverages, and preservation of peace and order. Consequently the book affords historical perspective for an objective consideration of the Volstead Act, the National Net Weight Law, and the Food and Drugs Statutes.

Among the motives for the strictly sumptuary legislation in England, Dr. Baldwin mentions: "(1) The desire to preserve class distinctions, so that any stranger could tell by merely looking at a man's dress to what rank in society he belonged; (2) the desire to check practices which were regarded as deleterious in their effects, due to the feeling that luxury and extravagance were in themselves wicked and harmful to the morals of the people; (3) economic motives; (a) the endeavor to encourage home industries and to discourage the buying of foreign goods, and (b) the attempt on the part of the sovereign to induce his people to save their money, so that they might be able to help him out financially in time of need." To this is added sheer conservatism and dislike of new fashions. There were doubtless other causes which Dr. Baldwin does not stress, e.g., guild standardization and community cooperation for public health which apparently obtained both in England and on the Continent during the Middle Ages—according to Dr. A. W. Blythe's *Foods, Their Composition and Analysis*. But in revealing indulgences which English sumptuary regulations strived to curb, many pages are consumed, which would be of more interest to devotees of the *Woman's Home Companion* than to jurists. Lurid pen pictures glide before the reader, detailing the trousseau of the prioress in the *Canterbury Tales*, the originality or aboriginality of medieval ladies' sartorial daring, the grace or disgrace of misses' hairbobbing, and other delicate touches of gentlewomen's coiffure too intimate for legal comprehension.

The territorial jurisdiction of these English sumptuary laws is contrasted with those of Central Europe in that "The English ordinances were national rather than local in character, and dealt with fewer subjects than did those of other countries." For instance the "cities of the Rhine country assumed all the functions of government, and ruled their few citizens in a more strict and intimate fashion than the King of England was able to do in his wider dominions. Their records contain materials which are not found in English towns," as had already been indicated in Professor Greenfield's study of Nürnberg, and in Dr. Blythe's work.

The problem of enforcing sumptuary legislation in England evidently

devolved upon the courts, local officers, sheriffs, knights, coroners, assessors of victuals and corn, lords of manors, and the parliamentarians themselves in contrast to some modern American legislators. As early as 1287 certain persons were convicted by the fair court of St. Ives for having used false measures. One statute required the mayor and bailiffs of London to inquire into the illegal sale of wines. Another required coroners to inquire "of those who live riotously and continually haunting taverns." Several cases of enforcement are reviewed, *e.g. Claxton v. Everingham*; and *The King v. Inge and Carrol*. In 1363, after the Statute of Apparel was enacted the Chancellor "charged all the members of Parliament to abide by this statute, to enforce it and cause it to be enforced, and not even to attempt to do anything in any respect contrary to it. The commons, upon their return home, were ordered to publish abroad the new regulations and to make them known to all the people, so that in the future everyone should dress, and make his household and servants dress, in accordance with the ordinance." Considerable ordinance power seems to have evolved from the discretion granted to enforcement officers, and in 1363 some members of Parliament even suggested to the Chancellor that the results of their deliberations be issued as ordinances rather than as statutes "so that they might amend the same at their pleasure." They were so promulgated. Church officials and guilds were also concerned in enforcement, and public sentiment was sometimes appealed to by poets and satirists alike.

Despite these efforts, the Parliament repealed much sumptuary legislation by the Act of 1604. "After its passage, not a single statute of apparel was enacted, though occasional regulations of various kinds were issued in an effort to curb extravagance. These grew fewer and fewer, however, as the years passed by, until finally they disappeared altogether. The reasons for this steady decline of interest in sumptuary legislation, one can, in the absence of positive evidence on this point, only surmise." Dr. Baldwin suggests several probable reasons, and is inclined to accept Montesquieu's conclusion that "manners and morals, like religion, lie outside the range of human compulsion," and leaves undecided, as does Blackstone, the "question how far private luxury is a public evil." She concludes her thorough research with the further observation of Blackstone, that legislators in England "have changed their sentiments on this point, as is shown by the early evictment and the later repeal of sumptuary laws." Yet one might ask if there is any causal relation between this decline of sumptuary law administration and the rise of Puritanism, Quakerism, and Methodism. And one might very well wish further enlightenment concerning the actual methods and results of sumptuary law administration in Europe and in America. Dr. Baldwin's monograph is not concerned chiefly with this problem, which is the real test of legislation. Professor Greenfield's study of such administration in Nürnberg was interrupted by the World War. Authorities disagree as to the experience in America. It is to be hoped that this complementary study will be supplied eventually.

MILTON CONOVER

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Cases on Agency. By Floyd R. Mechem. Second edition by Warren A. Seavey. Chicago, Callaghan & Co., 1925. pp. xxvii, 845.

At the outset and by way of summation of the reviewer's judgment it

may be said that this case book is an excellent piece of work. It is built by Professor Seavey with much of the material used by Professor Mechem in his pioneer effort and a great deal more material in addition, though the arrangement and structure are according to a different pattern.

The reviewer has been particularly interested in the chapter dealing with the liability of the principal in tort. Professor Seavey's long experience in teaching Torts places him in a peculiarly advantageous position to survey the field and to estimate the pedagogical value of the cases. The results of this experience are manifest here. In this chapter the cases are grouped into three sections: "In General," (pp. 352-450); "Liability for Acts of Independent Contractors," (pp. 451-465); and "Representations" (pp. 466-501). While he does not overlook the leading cases of the earlier years of the development of the doctrine of *respondet superior* he inclines to draw his material from the modern reports. For the greater part, especially in section 1, the selections are from American courts. And the cases, taken by and large, possess that virtue often mentioned in connection with wit but also appropriate in case books, brevity. In this section the student is introduced to the topic by the action of trover in the pawnbrokers' case¹ (where Holt makes the pronouncement that "whoever employs another, is answerable for him, and undertakes for his care to all that make use of him,") and is led, sometimes by way of frolic and occasionally on a detour, to the application of that doctrine in the trespass action against a railroad² for the wilful assault on a passenger by the railroad's employee. Frequent footnotes are rich with collected cases; leading articles from law reviews and other publications covering one phase or another of the general problem under discussion are cited, e.g., pp. 352, 359, 408, 410, 421; but the expectant reader will be disappointed if he looks for any sustained references to current editorial comment upon or related to the several cases.

So much for a brief descriptive account of a sample section of the book. As to the substance of the matter included there, if any criticism or suggestion is in order it is, not so much on the ground that anything included should have been omitted, but rather that something is omitted which might well have been added. There seems to be an undue emphasis upon the element of control for determining whether the relationship of master and servant exists. It cannot be denied truthfully that the preponderant language of the cases runs in terms of control, but there are nevertheless some other cases³ which indicate a definite desire and effort on the part of at least a few courts to escape from the exclusiveness of control as a test and to seek further indicia of the relationship as a basis upon which to decide the cases. All courts seem to agree that control is a factor, but some insist it is only a factor, one of the many which must be considered. What those other factors are has been discussed elsewhere.⁴ The only suggestion urged here is that the inclusion of one or two cases presenting

¹ *Jones v. Hart* (1698) Holt, K. B. 642.

² *Goddard v. Grand Trunk Ry.* (1869) 57 Me. 202.

³ *Barrett v. Selden-Breck Construction Co.* (1919) 103 Neb. 850, 174 N. W. 866; *Braxton v. Mendelson* (1922) 233 N. Y. 122, 195 N. E. 198; *Franks v. Carpenter* (1922) 192 Iowa, 1398, 186 N. W. 647.

⁴ *Tiffany, Agency* (Powell's 2d ed. 1924) sec. 37; See Smith, *Frolic and Detour* (1923) 23 COL. L. REV. 444, 456; and NOTES (1920) 20 COL. L. REV. 333.

squarely that point of view would have been quite appropriate.⁵ Moreover, such cases might produce the desirable result of persuading the student to make a more specific and searching inquiry into the economic basis upon which *respondeat superior* is soundly rested.

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A Manual of Roman Private Law. By W. W. Buckland. Cambridge, England, Cambridge University Press, 1925. pp. xxvii, 432.

The present volume is a condensation of the author's larger work, *A Textbook of Roman Law from Augustus to Justinian*, published in 1921, to meet the needs of beginners in Roman Law. It leaves out some of the more controversial matters and much of the detail appearing in the Textbook. It omits also all notes save occasional references to the *Corpus Juris*. In outline and treatment it follows, with minor exceptions, the older work.

The Textbook aimed to be a practical treatise, setting forth the Roman Law as a Roman lawyer might have done. One of the main objects of the author was to purge the Roman Law found in the older treatises of all modern concepts and doctrines which had crept into it and to free the classical law of the Byzantine influences which the interpolations by Tribonian had introduced into the classical texts. Professor Buckland lays before the reader the Roman Law from the time of Augustus to that of Justinian as he finds it supported by specific texts. He does not indulge in speculation nor embellishment. If the data are insufficient to support a rule, he says so, and if he finds inconsistencies, he does not attempt to gloss them over.

In the Manual, the same descriptive method is used. No attempt is made to develop the different topics from an historical, doctrinal, or comparative point of view. This makes the book more difficult reading than the ordinary institutional work on Roman Law. In common with the Textbook it has the distinct merit, however, of giving to the reader a more realistic picture of what the Roman private law actually was.

ERNEST G. LORENZEN.

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Lectures on Legal Topics, 1921-1922. Delivered before the Association of the Bar of the City of New York. New York, The MacMillan Co., 1925. pp. 390.

Here is a wholesome and diverting volume, with as much diversity in topic, tone and treatment as may be found in a modern radio program. Fourteen leaders of the Bench and Bar have, in most instances, selected their own subjects; always, the phases of it which they have developed and discussed.

These lectures come hot from the workshops and battlefields of the law. Scholarship and erudition they reflect, but in no academic aloofness. These

⁵ In the footnote on page 354 Professor Seavey inserts a quotation (from *Arnold v. Lawrence* (1923) 72 Colo. 528, 213 Pac. 129) which approaches this viewpoint as nearly as any matter noted by the reviewer. It should be added that *Standard Oil Company v. Anderson* (1909) 212 U. S. 215, 29 Sup. Ct. 252, which is reprinted on page 370, is thought by some to contain the viewpoint implicitly.

discussions spring from the grass roots of day-by-day experience—"in the field," as the engineers would call it.

Consequently these lectures breathe and reflect realism and sophistication, and at the same time are faithful to the Anglo-Saxon passion for bettering our methods of handling disputes. In addresses of this character, each speaker is inclined to display almost evangelized zeal for his favorite theses, and the whole tendency is to surround the profession of jurisprudence with an aura of exalted advocacy.

At the same time, one cannot read the pronouncements of Judge Cardozo, of Judge Hough, of Learned and Augustus Hand, of Judge Swayze, or of the various leaders of the profession, without feeling that the law has made headway in America and has established an intellectual independence and vigor in seeking constant improvement in its own processes, without sacrificing what is vital and basic. We no longer catch a delineation of a jurisprudence which, like Milton's lion, has been "paving to get free its hinder parts"; a measure of the progress made might be found in the comments elicited by the present volume, if compared with the judgment pronounced upon the writings of lawyers in a pamphlet which found extensive circulation in England, and the American colonies:¹

"There was Law before Lawyers; there was a time when the Common Customs of the Land were sufficient to secure *Meum and Tuum*. What has made it since so difficult? Nothing but the Comments of Lawyers confounding the Text and writhing the Laws, like a Nose of Wax, to what Figure best serves their purpose."

For bringing together the speakers whose addresses constitute this readable compilation, students of juridical progress are indebted to Mr. Guernsey Price, Chairman of the New York City Bar Association's Committee on Conferences and Lectures, and to his associates in that active committee. Although a majority of the lectures were delivered by judges and lawyers resident within New York State, nearly all of their topics were of interest as far-flung as Anglo-Saxon jurisprudence. To the editorial members of the Committee, I would suggest that future volumes, if equally replete with working material, deserve an index as well as a "contents" page.

The address which immediately commanded widespread public attention in this series was that of Judge Benjamin N. Cardozo of the New York Court of Appeals, whose topic was "Progress in the Law: A Ministry of Justice." His plea was for the early establishment of a permanent tribunal which "would not only observe the workings of the law as administered day by day," but "would enlighten itself constantly through all available sources of guidance and instruction" and would work expertly, impartially and unceasingly, for the accomplishment of conserving changes and the defeat of unscientific and unsound innovations. This constructive recommendation has not yet been enacted into law, but it is brought back to mind and presses for primary consideration, *in principle*, whenever remedial legislation in this field is being formulated.

The ripe wisdom of the elder jurists permeates the pages of Judge Hough's discussion of the review of criminal causes in the Federal Courts

¹ *A Discourse on the Rise and Power of Parliament* (1677).

and Judge Swayze's exposition of the need for improving the sources of the law. Judge Learned Hand has persuasively brought together the evidences of need for re-examination of some of the processes of proof and concepts of evidence, in the light of present-day commercial conditions. He calls attention to these deficiencies of the trial, without any buoyant hope or inducement that a perfect judicial system may be devised and administered by men actuated by the "fierce individualism" of today.

Virtually a volume within the volume is made up of the five lectures on *The New Civil Practice Act and Rules*, the adoption of which by the State of New York had caused considerable consternation to the senior practitioners, in 1921. The author of this treatise on the new procedure was Dean Carlos C. Alden, of the Law School of the University of Buffalo, whose revisions and annotations of *Abbott's Forms* and other standard practice works have given him high standing in this technical field. Dean Alden's lectures were delivered within three months after the taking effect of the new legislation, and pointed out numerous defects as well as advantages, which seemed to him to inhere in this laborious attempt to simplify civil procedure in New York State. Although the lecturer at that time spoke from a point of view not sufficiently detached from the perplexities, the ambiguities, and the innovations, which had been the by-products of the legislative consideration, he confessed, in his closing paragraphs (in December of 1921):

"I have a growing respect for this Practice Act. I think it is going to develop into a very useful innovation in many ways. It is some hardship to us now to have what we know about the Code thrown aside, and to have to rearrange our knowledge; but eventually I think we will be glad for what has been done."

Many of the defects to which Dean Alden called attention in this series of lectures were soon remedied by legislative action, as foot-notes in the present edition point out.

The lamented Sir John W. Salmond, of the Supreme Court of New Zealand and the British delegation to the Washington Conference on the Limitation of Armament, made an earnest plea for the simplification of the modern law library and for official furtherance of the tasks of codification which since have been so acceptably carried forward by the American Law Institute. Sir John's address on "The Literature of the Law" is unrevised in this volume, because of his subsequent death. The erudition of Hampton L. Carson of Philadelphia was reflected in his address upon James Kent, compiled from unpublished letters and documents in Mr. Carson's possession, largely in the handwriting of New York's great Chancellor and commentator, to whom Mr. Justice Stone has referred as "in many respects the most gifted and attractive figure in the annals of American jurisprudence."

A significant sketch of the development of constitutional law in America, from the pragmatic point of view of a jurist who has dealt with the constitutional questions of the decade, was contributed by the Honorable Augustus N. Hand, of the United States District Court. A similar service as to "Canadian Constitutional Law" was performed by the eloquent Charles J. Doherty, K. C., formerly Minister of Justice of the Dominion of Canada and representative of the Dominion at Versailles and Geneva. Henry M. Powell, of the New York Bar, discussed concretely the taxation

of personal and corporate income in New York, and our benign and beloved Willard Bartlett, formerly Chief Judge of the New York Court of Appeals, charmed all of us with his informal account of that Court and its predecessors, in the course of which he "lifted the veil" and gave an impressive view of the manner and spirit in which the conferences are held in that great State tribunal of justice and leadership, which has lately been presided over by jurists of the eminence of Cullen, Willard Bartlett, and Hiscock.

Perhaps characteristic of the sources of this volume is the fact that it places first an exceedingly practical and controversial discussion of "next steps in corporate reorganizations," based upon that *cause célèbre*, *Northern Pacific Railway Company v. Boyd*,² in the light of Circuit Judge Martin T. Manton's opinion in the *Ætna Explosives Company* case³ and other decisions in that agitated arena of the law. The views of the *Boyd* case, presented by James N. Rosenberg in opening the subject, were vigorously combatted by Allen Wardell and Robert T. Swaine, along lines which have since been the theme of most animated arguments before the Courts.

If I were asked to select a "key" paragraph, to reflect the mood and temper of most of this vital volume, it would be from the gifted pen of Judge Cardozo:

"The time is ripe for betterment. '*Le droit a ses époques*,' says Pascal in words which Professor Hazeltine has recently recalled to us. The law has 'its epochs of ebb and flow.' One of the flood seasons is upon us. Men are insisting, as perhaps never before, that law shall be made true to its ideal of justice. Let us gather up the driftwood, and leave the waters pure."

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² (1912) 228 U. S. 482, 33 Sup. Ct. 554.

³ *Graselli Chemical Co. v. Ætna Explosives Co.* (1913, C. C. A. 2d) 252 Fed. 456.