Book Reviews

Labor and the Sherman Act. By Edward Berman. New York, Harper & Bros., 1930. pp. xviii, 332. $3.

HIGH expectations are aroused when the author states that the purposes of this study are "to determine whether or not Congress intended that the Sherman Act should be applied to labor unions, . . . to describe the application of the Act to labor organizations, to analyze its effects, to evaluate these effects from an economic and social viewpoint, and to suggest to what extent and in which direction the present situation might profitably be changed." (p. 5).

Although the Sherman Law has been applied to labor activities since 1893 by the lower courts and since 1908 by the Supreme Court, in over eighty cases, and although the Clayton Act was passed in 1914 on the assumption that labor activities were subject to the ban of the Sherman Law, it is not without interest to determine how far this result was contemplated by the Congress of 1890. But the author's claim of having proved that "Congress never intended that the Act of 1890 should be applied to labor unions" (p. 265) is rather extravagant. His inquiry does not extend to the forces which led to the introduction of the anti-trust legislation, the contemporary literature, or even to the Congressional debates on the general purposes of the legislation and the evils sought to be remedied.[1] It is confined to a keen analysis of the portions of the debates dealing directly with labor organizations, the process by which the bill introduced by Senator Sherman became law, and the language of the bill in the course of this process. He does thus convincingly refute those,[2] including the Supreme Court, who found in the legislative history of the Act a positive intention on the part of Congress to include labor organizations, but beyond that his argument only "illustrates how fictitious can become the search by courts for the intent of the legislature in construing ambiguous enactments." The courts found "meaning where Congress had done its best to conceal meaning."[3]

The history of this yet unfinished process of the judicial moulding of the Sherman Law is told in considerable detail with a studious analysis of the opinions in the more important cases under it. Without detracting from the quality of this analysis one or two observations should be made. Although lower federal courts have too frequently given support to such an interpretation,[4] the Supreme Court did not hold in the second *Coronado*

[1] For the value of investigation of the legislative history in the interpretation of statutes, see Landis, *A Note on "Statutory Interpretation"* (1930) 43 HARV. L. REV. 886; *cf.* Radin, *Statutory Interpretation, ibid.* 863.

[2] Particularly MASON, ORGANIZED LABOR AND THE LAW (1925) 119 *et seq.*

[3] FRANKFURTER AND GREENE, THE LABOR INJUNCTION (1930) 144-5.

[4] The New York Court of Appeals has recently halted a tendency on the part of lower New York courts to be more liberal in the issuance of injunctions than was warranted by its own decisions. See Note (1927) 40 HARV. L. REV. 896; Comment (1927) 36 YALE L. J. 557; Note (1927) 27 COL. L. REV. 190.

case[5] "that an interference with production within a state (by an ordinary strike) was a violation of the Sherman Act, if the intent to restrain commerce existed." It did not hold "a coal strike to be a violation of the Act."[6] The Court was dealing with a case of interference by serious violence and conduct admittedly unlawful apart from the Sherman Act and its decision was expressly restricted to restraints of that kind.[7] A peaceful strike does not fall within this decision and is apparently exempted by the Clayton Act, even as that Act has been emasculated in the *Duplex* case.[8] It might further be pointed out that the significance of the author's statistics upon the judicial use of the Sherman Law in labor disputes should be considered in the light of certain facts relating to the cases upon which the statistics are based. Not only is diversity of citizenship the sole basis of jurisdiction in probably two thirds of the labor cases in the federal courts,[9] but in many of the suits involving the Sherman Law bases for jurisdiction other than the Law were relied upon, so that relief might have been granted even had the Law not been invoked. Furthermore, while in the author's count the case is the unit, in many instances a single dispute has occasioned from one to a dozen cases.

From his analysis of the cases, the author deduces that restraints of production, transportation or marketing will each constitute a violation of the Sherman Act if the court finds an accompanying intent to restrain interstate commerce. (p. 202). Taking the notion of intent very literally, he urges convincingly the futility of "a research into the minds of men [when] skilled psychologists and scientists . . . have so far failed to produce an accurate technique capable of determining man's thoughts and purposes," and points out the absurdity of resolving contentious social and economic issues on the basis of such a research. (p. 239). The notion of intent, he proposes, should be entirely abandoned in favor of a "developed rule of reason in its highest form," which postulates two questions: first, is the restraint "direct, material and substantial." (pp. 230-1). If so, is it also socially harmful, that is, are "the benefits resulting from permitting the activity" socially less desirable than "the benefits resulting from prohibiting it"? (p. 241). Through this technique the factor of social philosophy will be brought out into the open. Then "the facts as to the social and economic effects of an act", being objective in character, can be "studied and discovered" with the aid of political science, sociology, and economics. (p. 241). While persons with different social philosophies would even then reach different results, "nevertheless the conscious application of a rule based upon considerations of social welfare would in time do much to improve the position of labor under the law." (p. 266). And if bias is found, judges, lawyers and the public may be educated "along the lines of a just policy." (p. 242).

But all this is quite disappointing to the expectations aroused in the opening pages. One looked forward to a rather concrete analysis and evaluation of the "social and economic effects" on a particular labor dispute of judicial interference in the name of the Sherman Law; perhaps also of its effects on the collective bargaining movement, or even on the "social welfare" in general. Instead, one gets the usual type of assertion

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[5] Coronado Coal Co. v. United Mine Workers, 268 U. S. 295, 45 Sup. Ct. 551 (1925).

[6] Pp. 129, 159, 198-9, 237, 248.

[7] *Supra* note 5 at 310, 45 Sup. Ct. at 556.

[8] Duplex Printing Press Co. v. Deering, 254 U. S. 443, 41 Sup. Ct. 172 (1921).

[9] FRANKFURTER AND GREENE, *op cit. supra* note 3, at 210.

and inference, albeit reasonable, based on the cases alone. One had expected a statement of "social and economic facts" to aid future action. Instead, one gets rather elementary theorizing which, again, is well done, but adds nothing to what has been urged by dissenting judges for over a quarter of a century. While it is undoubtedly desirable, as Mr. Justice Holmes has long insisted,[10] to bring social considerations to the forefront, rather than leave them inarticulate, it would be too sanguine to look for different results through the application of the author's technique. The cases in which Mr. Justice Brandeis dissented and forcefully presented these considerations doom such hopes, even apart from the still lamentable infrequency of the Brandeis and Frankfurter type of brief. Moreover, the one sure result of our whole experience with labor disputes and "government by injunction" is the very great resentment that has been aroused against judicial decision of labor contests according to the social philosophy of the court. No judge, whether in a District Court or the Supreme Court, would at this day be justified in deciding a labor case on his own notions, however firm, of the value of collective bargaining. Nor should he, on such grounds, attempt to set the limits of permissible contest, merely because his position enables him to do so. In this field he is dealing with the tensest and most crucial kind of social and economic issues. Proper regard for his function and the limitations of his machinery should compel him to defer his own judgment and avoid interfering whenever possible. The Sherman Law is conveniently vague for this purpose. Labor would do better not to pin too much faith on the education of judges "along the lines of a just policy," but to bend its every effort to secure the passage of the Shipstead Bill, now pending in Congress. Judges should insist upon full specification by the legislature before they attempt to deal with such highly combustible issues.[11] Only within very limited. spheres should the judiciary be called upon to apply the author's technique.

New Haven, Conn. HARRY SHULMAN.

Judge and Jury. By Leon Green. Kansas City, Vernon Law Book Co., 1930. pp. vi, 429.

THIS book purports to be no more than an effort to develop an understanding of tort law. But its many flashes of insight, which light up the entire judicial process, stamp it as much more than that. The book is not an orderly development of legal rules or legal philosophy. Rather it is an exposition of the place which legal rules hold in the judicial process. Illustrations are chosen from the field of torts, but they might have been taken with equal success from any of the conventional departments of the law. In describing the function of the elaborate logical technique of the law, the author combines a defense of legal theories with an attack on the use of them by legal theorists. His conclusions concerning the necessity of logical rules are conservative, but his reasons therefor will be somewhat disquieting to legal fundamentalists. In fact some of them have already indicated a profound distrust of their new champion.

The author's treatment of torts is brilliant and original, chiefly because his underlying point of view is unusual. Those who devote their lives to legal scholarship usually tend to emphasize rules, standards, and princi-

[10] Vegelahn v. Guntner, 167 Mass. 92, 104, 105-6 (1896); Plant v. Woods, 176 Mass. 492, 504 (1900).

[11] *Cf.* Brandeis, J., in Duplex Printing Press Co. v. Deering, *supra* note 8, at 479, 488, 41 Sup. Ct. at 181, 184.

ples. These are always proclaimed by appellate courts. An unconscious assumption seems to follow that other agencies of justice such as trial courts and juries are unimportant. They impinge only on the fringes of consciousness. The truth is that more than ninety per cent of litigation depends on their action, uncensored by appeal. But inasmuch as equity assumes that that is done which ought to be done, may not the legal scholar assume that these lower bodies are following directions? Inconsistencies of result may always be explained in two ways: (a) that they are caused by decisions on mere questions of procedure which do not affect substantive law no matter how much they affect the litigant, and (b) that the question involved is not one of "law" at all but one of "fact". Whether a jury or a court determines this question of "fact" is merely a matter of procedure, provided the jury is properly instructed in the substantive law. If the jury is not astute enough to understand these instructions, that is no part of the law of torts. This is almost necessarily the consequence of considering the substantive law of torts and the procedure as separate fields of investigation. The members of any priesthood are necessarily more concerned with the proper expression of a creed than in conduct. Hence the point of departure in legal study has generally come to be the philosophical observations of the appellate courts.

The originality of this book lies in the fact that the author does not center his attention on the appellate court. He is interested in the effect of the whole judicial process on a tort case. Instructions to juries on negligence are unimportant as part of the substantive law of negligence but extremely significant as part of a ritual to put the jury in the proper frame of mind to decide the case. The important thing is whether the jury is to be given any power in the case, and if so how much. The difference between procedure and substantive law is a useful device for one who is making an index of decisions, but nothing more.

Courts are looked upon by the author as an agency of government not essentially different from any other body of officials whose duty it is to make decisions regulating human conduct. Public officers must, however, explain what they do, and tradition requires that the explanations of courts be consistent. Sometimes their decisions will be in the form of definite administrative directions, sometimes inspirational sermons, and sometimes necessary self-justification. Explanation will be equally necessary whether they adopt the language of the social scientist or confine themselves to Blackstone. The necessity for this combination of a practical formula and a mystical creed is one of the important factors in making a decision. Mr. Green calls it the "administrative factor." He classifies others of equal importance as moral, economic, preventative factors, and, as a final one, adds the justice factor—the emotional reaction of the court to the situation of the parties before it. Needless to say this last has greater influence with the trial court and jury who do not have to explain their actions on the printed page, just as the importance of the logical creed will often appear uppermost with the appellate court.

Dean Green's book examines the effect of these factors on the decision of a tort case as it goes through the various bodies which divide the responsibility of deciding it—the trial judge, the jury, and the appellate court. Thus the law of torts is made to appear as a process to which disputes are subjected. Only by understanding the steps in the process, the methods of delimiting the functions of the jury, the trial and appellate courts, can we achieve anything but a fictitious predictability.

The chapter on "Jury Trial and the Appellate Courts" is a particularly brilliant presentation of an idea too often overlooked because of the emphasis which law schools place upon what appellate courts say. The author

undertakes to demonstrate that the entire system of doctrines, rules and principles is an ingenious device which appellate courts use to keep trial courts and juries under control. It is by means of these that they exercise and extend their power. Once the appellate court says that the violation of a so-called rule is not "prejudicial error" or that action on the part of the trial court is "discretionary," we find that the rules of law involved vanish like a snow bank under a summer sun. The appellate court may still reverse but they must say why in terms of the particular case; and in this they are handicapped by the fact that the trial court knows more about the case than they do, and can state it in terms with which it is difficult to find fault. Elaborate rules give power to appellate courts; words sounding in "discretion," "the facts of the case are peculiar," etc., transfer the power to the trial court. The history of legal doctrine is in part, at least, a history of the increase in the control which appellate courts have insisted upon exercising behind the lines.

No one interested in legal institutions can afford to miss the stimulation which an intelligent consideration of the ideas in this book will afford. It is the starting point for new intellectual adventures. The reviewer predicts that it will perhaps be the inspiration of a study, such as has not yet been made, of the American Trial Court. In spite of the fact that its activities are all that most litigants are ever concerned with, this great institution still lies buried under layers of legal dialectic.

New Haven, Conn. THURMAN W. ARNOLD.

International Arbitration from Athens to Locarno. By Jackson H. Ralston. Stanford University, Calif., Stanford University Press, 1929. pp. xvi, 417. $5.

THE author of this book has rendered such useful service to the profession by his digest of the decisions and holdings of international tribunals in his *Law and Procedure of International Tribunals* and he has in other ways manifested so high a degree of social usefulness that we were entitled to expect more from a work bearing so expansive a title as the one under review. The reviewer was a little taken aback by the statement in the preface that "the only book containing in detail pronouncements of arbitral and other international courts of justice remains the *Law and Procedure of International Tribunals* by the present author." Thus to overlook the six-volume work of Moore, which is still the source book for most work of the kind the author has here undertaken, excites wonder.

The book is mainly descriptive rather than analytical. It is divided into five parts, of which the first, derived largely from the digest paragraphs of the author's previous volume above mentioned, seems the best. This part deals with the functions of international tribunals, the reservations to arbitration treaties, the essentials of the *compromis*, the question of jurisdiction, the form and procedure of arbitration, the internal law of arbitral tribunals, and international awards, including the sources of their invalidity and their force. The author indulges his known strictures upon international law announced in his *Democracy's International Law*[1] and expounds his thesis that international law is largely contrary to the "natural law" governing individuals. As he makes his own definition of natural law, namely, the psychological reactions produced by certain stimuli, it is not easy to quarrel with him. But he speaks not profoundly of a much

[1] See Book Review (1923) 32 YALE L. J. 520.

discussed subject. He properly objects to titles based on conquest and the supposedly binding character of treaties imposed by duress and violence. The historical fact, however, seems to be that, unless such treaties are acquiesced in, they rarely last long. His strictures upon the laws of war and neutrality, which he refuses to recognize as anything but practices, whatever that may mean, are unfounded. Admitting the folly of the institution of war as a mark of a defective and retarded civilization, the necessity for rules for conducting the duel, which materially affects third parties, is self-evident. Without such rules, the chaos would become practically universal, and force completely subjugate law. Indeed, the surprise should be not at occasional violation, but at the degree of observance. The arbitral tribunals which Mr. Ralston discusses have enforced these rules, thus refuting much of the author's argument. The objection to the suggestion that arbitration is a process of compromise, and not judicial, notwithstanding the distinguished name the suggestion bears, is well taken. For the distinction between political and legal questions the author assembles many quotations, but he has missed important ones, such as the contributions of Lauterpacht. His emphasis on legislation as a necessary factor to facilitate arbitration and correct decisions, while endorsed by others, is very debatable. On the power of tribunals to decide upon their own jurisdiction, a most important question, the author overlooks the voluminous literature which developed out of the decision of the Rumanian-Hungarian tribunal on the optants' question. Other decisions of mixed arbitral tribunals in this connection deserve consideration. German literature is practically unnoticed throughout. On the Calvo clause as a jurisdictional clause, the author quotes a number of divergent opinions, but apparently leaves unmentioned the important decision of the Mexican-United States tribunal in the *North American Dredging Co.* case[2] in 1926, approved by the British-Mexican tribunal in *Mexican Union Ry. Case.*[3] On individuals before international courts (p. 68), much more should have been said; the subject has a literature. So with the "interior law of international tribunals."

Part II, on the influences working toward judicial settlement, deals with the movements—literary, legislative, and propagandist—which promoted international arbitration. A chapter is devoted to Latin-American work, but the Jay treaty is better entitled to mention among the modern pioneers.

Part III, on the history of arbitral tribunals, devotes two chapters (36 pages) to the 2200 years from ancient Greece to the Jay treaty. Most of the information in this sketchy record comes from Raeder, Tod, and Phillipson. The notable contributions to arbitration of the 12th and 13th centuries among the Italian city-states, so learnedly recorded and analyzed by Frey,[4] are not even mentioned. A fragmentary account is given of the early American arbitrations and those to which the United States and Great Britain, the United States and Mexico, and the United States and other countries have been parties—all of them, down to 1896, fully covered by Moore; a few arbitrations between other nations are also briefly described. Darby did much of this work, but for reference a new recital is not without utility. The work of the defunct Central American Court of Justice is briefly set forth. To the important mixed arbitral tribunals under the recent peace treaties, three pages are devoted. Several

[2] North American Dredging Co. of Texas v. United Mexican States (1926) 20 AM. J. INT. LAW 800.

[3] (1930) 24 AM. J. INT. LAW. 388, 394.

[4] See Book Review (1931) 25 AM. J. INT. LAW 192.

important recent arbitrations, such as that of the Standard Oil Company against the Reparation Commission,[5] do not appear to be noted.

Parts IV and V deal with the work of The Hague conferences, which were indeed most important for arbitration, and with the cases before the Permanent Court of Arbitration and the Permanent Court of International Justice. International commissions of inquiry are noted. As a descriptive survey of modern arbitrations, the work will be of interest. As an analytical or philosophical work, it largely fails. Perhaps the author had no such aspirations.

New Haven, Conn. EDWIN M. BORCHARD.

The Poor Law Code. By W. Ivor Jennings. London, Charles Knight & Co., Ltd., 1930. pp. lxxxviii, 302. 10/6.

THIS book, unlike many of the published annotations of English statutes, is not dedicated merely to the needs of the practicing solicitor or barrister. By means of a masterly introduction, which is entitled, "The Administration of the Poor Law," Mr. Jennings traces the evolution of poor relief in Great Britain from the original acts in 1388 to the last revisions in 1930. It is through this essay, and the author's summary of the general effect of each section of the Poor Law Act, 1930, that the book presents for American students a concise but carefully considered survey of this important phase of local government in England.

The significance of the Poor Law Act, 1930, rests, as Mr. Jennings points out, not so much in the number of new amendments to existing statutes, as in the fact that by it "for the first time the poor law is reduced to manageable proportions, and any intelligent person, even though he has no legal training, can now see at least the main principles of the law" (p. lxxi). This is a normal outcome of the evolution of parliamentary acts. Centuries of accumulation in the form of superimposed statutes and departmental rules and orders eventually create an unwieldy mass of enactments, difficult to administer, and often defectively bound together. Then it becomes necessary for Parliament by one new act to correlate and simplify.

The most important modern change in the method of poor relief occurred in 1929 through the Local Government Act of that year. The Poor Laws, since the famous and still basic Act of 1601, had in many ways been the core of local government powers. Each parish was given the power as well as the duty to put its able-bodied unemployed to work, to provide apprenticeships for children, and to give relief to the elderly indigent. That scheme was substantially unchanged until 1834, when, as a result of the report of a famous Royal Commission, Parliament sought to remedy the defects which had been brought to light during the intervening centuries. The chief defects had been the faulty administration of the justices, in whom control of poor relief had been vested, the heavy charges that had fallen upon the landowners, and the failure of administrators to carry out their duty under the Act of 1601 to find work for those who were able to work. By the Act of 1834, the administration of poor relief was given to a specially created Poor Law Commission. Relief to able-bodied persons was curtailed, and an attempt was made to merge individual parishes into larger districts for the purposes of the Act. Thereafter came the inevitable crystallization of commission procedure, which, as in other cases, was unpopular to the extent that efficiency was achieved at the expense of the traditions of the British Constitution. In 1871, the Poor Law Commission was absorbed by the Local Government Board, which in turn was super-

[5] (1926) 22 AM. J. INT. LAW 404.

seded in 1919 by the Ministry of Health. The chief change under the Local Government Act, 1929, was to abolish the old local boards of guardians and to make the county councils the administration agencies, subject to the central control of the Ministry of Health. It will be readily seen that this evolution has created interesting problems in the relation of the local political units to the central government in Westminster. These problems are adequately treated in the author's annotations to the sections of the new consolidating act.

Two questions arise in the mind of one who looks across an ocean at the phenomena of English legislation. The first concerns the fact, as Mr. Jennings states, that the Act of 1601 is still the basis for poor relief. The evolution is said to have been in the administration of the theories of relief rather than in the theories themselves. It would, however, be idle to suppose that even in England "principles" so bound up in economics and sociology as are those of the poor laws have remained immutable for more than four hundred years. The answer would perhaps be found in the inarticulate shift of principles through the multiplication of departmental rules and orders. Mr. Jennings himself concludes that, in spite of the 1930 Act, which was supposed to reduce to its lowest terms the evolution of four centuries, "the law must . . . be considered to be in an experimental stage" (p. lxxxviii). Do Parliament, the Minister of Health and the County Councils presume still to experiment with immutable principles?

The second question concerns the relation of the poor laws to the current problem of unemployment. If as early as 1601 it was deemed to be the duty of the parishes to find work for those who could work, and in the alternative, to give relief, is the government's present dealing with the unemployed ancilliary to the poor law relief, or an entirely new undertaking? Two sections (15 and 45) of the new act deal with relief of the able bodied unemployed. In his commentaries on section 45, Mr. Jennings suggests that in times of depression, the authorities will give relief without exacting labor. But there seems to be no provision in the act for determining the relation between the relief it provides by its own terms, and that which may be available through other agencies.[1] This may be a hiatus readily understood by students of the problem in England. But in the United States the relation between emergency legislation to cope with unemployment and the traditional forms of poor relief has yet to be determined.

Mr. Jennings' book is admirably organized with its tabular outlines of the changes in the poor laws, its cross-references to preceding acts, and its appendices of statutory rules and orders. It represents a commendable attempt to give to a professional annotation some of the breadth and scope of such extra-legal treatments of the subject as the Webbs' *History of Poor Relief*.

New Haven, Conn. RICHARD JOYCE SMITH.

[1] Mr. Jennings himself has written on the extent to which poor law relief will be given to industrial workers on strike. Jennings, *Poor Relief in Industrial Disputes* (1930) 46 L. Q. REV. 225.

How to Find the Law. A Legal Reference Handbook, Including Chapters on Brief Making. By Fred A. Eldean. St. Paul, West Publishing Co., 1931. pp. xv, 782. $3.

THE reader who, with curiosity aroused by the publishers' statement that they have issued "a new type of book on the subject of legal bibliography," examines Mr. Eldean's *How to Find the Law*, is doomed to disappointment. It might with greater accuracy have been described as a revised and rearranged edition of Cooley's *Brief Making and the Use of Law Books.* A comparison of Mr. Eldean's book with the fifth edition of Cooley reveals the fact that chapters 12 to 19 are identical, except for a few foot-notes and typographical changes, with Cooley's Chapters 30 to 37 respectively. These chapters, by Professors Wambaugh, Sunderland, Crandall and Redfield, have been regular features of the successive editions of Cooley. Chapters 20 and 22 rearrange, bring down to date and add some new material to, Cooley's Part VI. Chapter 21 brings together sections of Cooley's Chapters 3 and 4. Most of the remaining chapters are based on corresponding parts of Cooley. They have been rewritten, condensed and usually much improved, so that they are undoubtedly Mr. Eldean's and new, although they can scarcely be said to be of a new type. He has done well to eliminate the long descriptions of specific books contained in Cooley's Chapters 15-27. Chapter 10 corresponds in subject matter with Cooley's Chapter 29, but is a better substitute for it.

In Cooley's work, pages reproduced from law books, with photographs of the books such as are used in advertising circulars, are grouped at the end of the volume. Mr. Eldean uses many of the same pictures and a smaller number of specimen pages, but intersperses them in the text at appropriate places. Theoretically this is a good idea, but in practice, typographical confusion and physically bad book-making are the results. It may be doubted also whether the use of facsimile pages at all is a good device. Certainly they are poor substitutes for handling the books themselves, and should not be allowed to delay that experience.

Whether that part of Mr. Eldean's task which consisted in rearranging Mr. Cooley's materials should have been undertaken is a question on which opinions may differ. But once it was undertaken, the scissors should not have been spared. For example, the present rearrangement brings within eight pages of each other two separate tables of Regnal Years which in Cooley were 466 pages apart. A comparison of these tables shows that they differ in important details.

Mr. Eldean's Chapter 11, "Business Data for the Lawyer," by Professors Nathan Isaacs and Georges F. Doriot, has no counterpart in Cooley. The underlying idea of combining legal with non-legal bibliographical data is excellent but not new, a fact which was illustrated as long ago as 1914 by Kaiser's *Law, Legislative and Municipal Reference Libraries.* The chapter has been prepared by capable hands and will be useful. It is unfortunate, however, that no mention is made of the *Public Affairs Information Service,* of which the sixteenth annual cumulation was issued in 1930. This co-operative, non-commercial enterprise of a group of American libraries, published weekly, and cumulated five times a year, goes a long way toward providing an index of trade and business journals, the lack of which the authors deplore. Its character, scope and aims are such as entitle it to a prominent place in a chapter on business data for lawyers.

New Haven, Conn. FREDERICK C. HICKS.

The Law of Insolvency in British India. Tagore Law Lectures, 1929. By Sir Dinshah Fardunji Mulla. Bombay, James & Co., 1930. pp. lxvii, 933. Rs. 12.

AT a time like the present when there is serious attention being given to the adequacy of our own bankruptcy system, this volume has more than ordinary utility. That there is something to be gained from studying the experience of other nations in dealing with the same or similar phenomena of insolvency is now being more generally recognized.[1] This book makes it easier to carry that exploration to one more field.

Mulla's work is a treatise on the Presidency Towns Insolvency Act of 1909 and the Provincial Insolvency Act of 1920, two Indian bankruptcy statutes of complementary territorial jurisdiction, the texts of which, together with the supplemental court rules, form a large part of the book. But to these the author has added, besides a copious citation of cases, both English and Indian, an excellent discussion of the comparable provisions of the two acts and of the analogous rules of the English, and even occasionally of the American, bankruptcy laws. As a legal text the work is on a high scholarly plane. The analysis is keen and incisive; doctrines are traced through to their origin in earlier statutes or to their roots in the earlier common law. The author does more than translate, interpret and expound the rules of the cases in the orthodox way. In a manner sometimes ironic, at all times pointed and untempered, he offers his own criticisms of statutes, cases and administration, bringing to the book a flavor that is unusual.

After speaking of the neglect of the administration in bankruptcy to investigate the conduct of the bankrupt, the author adds: "Unless some reform is made, the Insolvency Court will continue to be a place of pilgrimage for debtors, to enter at one door with offerings of debts for the gods presiding in it, and to depart at the other door, discharged from all their debts and all their sins." But for the figure of speech, the picture is strikingly familiar here. Similarly, India, as well as this country, appears troubled with the problem of the "apathetic" creditors who "write off their debts and take no further action," and with the task of making more effective the criminal provisions of the statute. To be sure the glimpses of the problems of administration and the manner of the laws' operation are given a place of secondary importance. But added to the solid and substantial text they greatly increase the interest and utility of the volume to those concerned with a comparative law treatment of this important subject.

New Haven, Conn. WILLIAM O. DOUGLAS.

Crime and the Criminal Law in the United States. By Harry Best. New York, The MacMillan Co., 1930. pp. xvii, 615. $6.50.

To say that this is a conventional text book of crime and criminal law, written in the conventional terms of that curious science, sociology, is to express both the merits and the faults of the work. The first one hundred pages are a condensation of the ordinary short text on criminal law. They cover almost all the definitions in current use, the conventional classification of crimes, and all of criminal procedure, both federal and state.

[1] See DONOVAN BANKRUPTCY REPORT.

After reading it, the elementary student would unquestionably think that he had acquired valuable information and would be able to talk with some facility about the subject. Perhaps this is a useful thing to teach him to do, although some suspect that it is not. The bulk of the book consists of a discussion of the many detailed tables of statistics which it contains. Herein may lie its particular usefulness, although this great mass of information is impossible to evaluate without testing it out on some particular problem. But if the statistics are at all accurate it would certainly be easier to find them in this book than to hunt them down in their original sources. The conclusions reached by the author are the usual ones. Various things about our administration of criminal justice must be made bigger, better, higher, greater, and fuller, depending on thing to be improved; many of the things which the author says in this connection are unquestionably true.