financial reasons honorably to fulfill its obligation to the poor and which concludes "This Act may be cited as the Poor Persons (Honesty) Bill, 1925."

It is to be hoped, indeed there is every reason to believe, that *Justice and the Poor in England* will point the way and, by its revelation of the underlying causes, enable the English barristers and solicitors to erect a legal aid system worthy of the highest traditions of the English common law. And for their encouragement let us frankly admit that it is only within very recent years and after the causes had been made plain that the American bar bestirred itself to respond to Elihu Root's challenge in his foreword to *Justice and the Poor in the United States*—"It is time to set our own house in order."

REGINALD HEBER SMITH

Boston, Mass.

Cases on Equitable Relief Against Torts. By Zechariah Chafee, Jr. Cambridge. Published by the Editor. 1924. pp. 522.

This collection of materials is edited "primarily for students who have already mastered the main principles of Equity Jurisdiction and the Specific Performance of Contracts." "It is entirely practicable, however," in the editor's opinion, "to use this book for the introductory study of Equity if the more difficult cases be omitted."

The book is divided into six chapters and embraces some 500 pages. It is designed for a course of some thirty lectures; but more material is intentionally included than can be covered in such period. The volume will properly mesh with the Harvard Law School curriculum. It is in substitution for Ames' cases on equitable relief against torts and complementary with Pound's *Cases on Equitable Relief against Defamation and Injuries to Personality.* In structural arrangement and technique of presentation of materials there is a nominal departure from Ames. In types of cases presenting varied and more complex social, economic and even political considerations, there is a substantial addition to and modernization of Ames' materials. In the new volume also, there are almost no cases reported from the none-too-intelligible literature of legal antiquity. The presence of a decidedly liberal allowance of modern American materials is also notable.

The first chapter—some 150 pages—is devoted to "The Growth and Nature of the Jurisdiction over Particular Torts." Here is Chafee truly Ames. The purpose of the chapter is to point out, concerning the various torts, "that Chancery did not assume jurisdiction over them all simultaneously, and that each tort in the course of its development in Equity exhibited certain specific peculiarities of treatment." To this end reported cases and opinion-excerpts pass in review from earlier centuries down approximately to date. There are "Waste", "Trespass", "Disturbance of Easements", "Nuisance" and "Injuries to Business" to be so followed from their legal antiquity to modern days. The "jump" from case to case may be in terms of years or hundreds of years. Again, the "jump" may be from the case of a nobleman pursuing his tenant who may be about to prejudice his (the nobleman's) shade and shrubbery (1786), to a case concerning the privileges of the lessee of commercial premises to make the premises commercially fit (1878).

Assuming that it is important in a given case whether the rule of law is one way rather than another, and assuming that the utility of rules of law is determined by an evaluation of the social, economic and political conditions of the times and place where, truly this chapter of cases rolls up a voluminous hodgepodge of intricate problems concerning the *mores* of centuries long ago. If the author intends any such problem it seems almost

too great to attempt. The author affords no references to sources of materials which would be of assistance. But, grant a Utopian operation of the particular rule on a yesterday at the place where, what of it? A truism it is that "times change". Of course, it is also assumed by the reviewer that it is scarcely useful to become religious over these "ancient heads of equity" or their genealogy.

This is not necessarily intended as a criticism of the author's accomplishments in Chapter One. To the reviewer the material provides an excellent teaching tool of legal methodology. It challenges the instructor's methods of "solving" legal problems as well as affording opportunity to acquaint the student with the problem of methods and results. To lead the student to his own discovery that there is yet uncertainty and incompleteness in the data concerning the "origins" of legal phenomena—let us say Waste or Trespass, for example—lends aid to striking down any "budding" dogmatism or tendency to super-generalization and to inspire resort to scientific method and possibly, even, further scientific research into the particular problem at hand. An excursion into historical "origins" of legal institutions may well be useful to develop scientific methods in beginning lawyers. Again, as regards the "development" of let us say "Equitable Waste," Professor Chafee's materials may well be used to stimulate scientific methodology in law study. To find varying assignments of reasons for "Equitable Waste" in judges' opinions of the past 200 years may well be used to provoke inquiry into the stimuli for such behavior and the validity of the "theory." This will call for a choice of sources of data for such inquiry and for the end in view. And again, of what significance are these general statements (sometimes called "principles"), uttered by a judge in a case of a yesterday? To load rules of law with a social service for the era at hand is sufficiently instructive on whence the pertinent data. A course bringing out that legal evolution is not *in vacuo*, nor along metaphysical "immutable principles" is invaluable. Instruction in a scientific method that reaches out beyond the generalizations of judges into the present day world of affairs, is likewise invaluable. A "solution" of cases "on principle" yields to their pragmatic adjustment "on data." With these considerations in mind the reviewer sees excellence in the romp through the historical "origins" and "development" of the legal institutions treated.

Of the last section of the chapter—"Injuries to Business"—the reviewer has doubts, however. These cases impress the reviewer as being primarily problems in the substantive law of Trade Regulation. There seems to be little question of "equitable" relief. The author's materials and the arrangement thereof offer limited opportunity for any functional consideration of Trade Regulation problems.

In presenting what the reviewer presumes to call the second section of the author's book there is a departure, in form at least, from Ames. What experience induced the change is not stated. Ames is substituted for "by a different classification, in which each fundamental equitable problem, such as . . . 'the balance of convenience' . . . [is] presented as a unit, regardless of the kind of tort involved in the particular case which illustrates the problem." The cases are grouped by "general equitable principles."

"Bases of Equitable Relief" is made the heading of Chapter II with subdivisions concerning "The Establishment of the Tort" and "The Inadequacy of Other Remedies." Herein do we observe the courts, in the particular case, putting content into prevailing generalizations ("general principles") —such generalizations as have heretofore been variously stated—see *Hart v. Leonard*, page 150—and such more familiar formula as "inadequacy of legal remedy" and "irreparable injury." How far the author's "establishment" of "the tort" is intended to be in illustration of or a departure from

Langdell's teachings concerning the impotence of equity is not quite clear to the reviewer.

Material affording opportunity to examine various types of injunctional orders, the problem of ordering "affirmative acts" as distinguished from orders not to refrain from doing or not-doing, material illustrative of the "flexibility" of injunctional orders issued and outstanding and the possibilities of their ramifications are fully presented under "Relief in Equitable Proceedings Against Torts" in Chapter IV. Rules touching awards of damages in addition to or in substitution for specific relief are also covered in this chapter—these problems being carried over into the Code states where the distinctions between actions at law and suits in equity "are abolished," but where questions of choice of actions and jury trial still come to the top.

Cases putting meaning into such formula as "balancing convenience," "discretion," "laches" and "clean hands" are brought in under "Defenses to Specific Relief Although Other Remedies Are Inadequate" in the fourth chapter. An editorial note on the "Effect of Legislative Changes in the Law of Torts" paves the way for *Truax v. Corrigan* and the problems signallized by that case.

In the final chapters consideration is had of the power of the official of the political state to invoke equitable relief for "Protection of Public and Social Interests," *Georgia v. Tennessee Copper Co.* and *In re Debs* having received text space. A survey of some problems of contempt and imprisonment therefor constitutes the problems of the last chapter—"The Enforcement of Specific Relief."

The author is substantially indebted to Ames, as he acknowledges, for text materials and materials used in annotating the text cases. The author's original citations are extensive, however, and include a full citation of articles and notes from law school publications.

WESLEY A. STURGES

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Our Federal Republic. By Harry Pratt Judson. New York, The MacMillan Co., 1925. pp. xii, 277.

This is an interesting and timely book. It represents the frank but deliberately-formed views of the president emeritus of the University of Chicago upon some of the most fundamental problems in our national political life. It strongly argues that we have gone too far in giving to the federal government centralized control over matters that were formerly reserved to the states, that, in the interests of liberty, toleration, and a proper development of local responsibility, this tendency should be checked, and, if possible, reversed. One of the last paragraphs in the book reads: "There should be a Twentieth Amendment to the Federal Constitution. It should simply repeal all amendments following the Fourteenth." (p. 267). Nor are the views thus expressed merely the grumblings of a fearful or discontented conservative, as our younger school of radicals delights to picture them. President Judson's thesis is fairly presented and persuasively developed in an adequate setting of historical fact and political experience; and his conclusions, however debatable, cannot be dismissed to the satisfaction of any thoughtful mind by the use of a few of the large, vague adjectives, so common in the vocabulary of the *New Republic.*

The author first explains the basic idea of our government—which he happily calls "the federal equilibrium"—that certain powers shall be exercised by the national government for all, certain others by the state governments for their localities, and some are forbidden to the governments of both the nation and the states, being reserved to the people of the United States until such time (if ever) as, by constitutional amendment, their