

law school use. Prior to this one, the best by long odds was the casebook by Dean Ames. For some years there has been a need for a new book, presenting recent case material, prepared by a scholar who has used and profited by the work of Ames. This new book has now appeared. Dean Arant has in general followed the analysis of Ames, but has made a few variations. About half of his cases are taken from the recent period since 1900—certainly a proper proportion. About one fifth of his cases are also to be found in Ames' casebook; about forty are English cases and the remainder are well scattered through the United States. This looks well balanced and sufficient to relate the past to the present.

Realizing that he has presented more material than can be discussed with a class in the time usually allowed to the subject, Dean Arant has suggested in an appendix a number of cases that may be omitted. This is probably helpful to new teachers of the subject. An examination of some of these cases indicates that the reviewer would not always follow the suggestion of the author. At any rate, it is far better to have too much case material than just barely enough. No casebook can ever contain enough material for an instructor who has any ambition as a scholar.

In a recent number of the *COLUMBIA LAW REVIEW*, a learned writer criticizes very justly the current reviews of casebooks; and he describes the very high standard that they ought to attain. The present reviewer cannot reach that standard; besides he believes that half a loaf is better than no bread and that the readers of book reviews have some share of responsibility. Only part of the cases in the present volume have been read by the reviewer; those are well selected and afford plenty of opportunity for analytical and constructive work. Footnotes are not fattened up with long lists of cases; and it is not necessary that they should be. There are nearly two hundred references to casenotes in a dozen of the leading law school reviews.

The volume makes a handsome appearance as to type, paper, and binding.

ARTHUR L. CORBIN.

International Law. By L. Oppenheim. Volume 2, *International Disputes, War and Neutrality*. Fourth Edition, by Arnold D. McNair. New York, Longmans, Green & Co., 1926. pp. lv, 752.

Perhaps it is unnecessary to do more than notice the appearance of a new edition of a book which before 1914 had earned for itself so high a reputation as that of Oppenheim. So much has happened since 1914 that a rather complete revision of many of the topics covered was justified, otherwise a 1926 edition would be misleading. The splendid contributions made by Dr. McNair in periodicals might have justified the hope of such thorough revision. The expectation is not met. Although Oppenheim's and McNair's material is to some extent thrown together indistinguishably, apart from certain paragraphs of Dr. McNair cited in the Preface, many of the pre-war statements appear without addenda or criticism, leading possibly to the conclusion that nothing has occurred with respect to these topics justifying comment. See, e.g. "articles conditionally contraband" (pp. 636 ff.). While the reviewer is not among those who believe that belligerent violations of law alter the law, and is of the opinion that the pre-war rules of maritime warfare have with minor exceptions, not experienced any lawful change, still it is surprizing to find little or no mention of the numerous extentions and distortions of established rules which belligerents sought, with some actual though not legally recognized success, to impose upon neutrals. The ostensible uncertainty into which the law has been placed by preferring to regard violations as "modifications" or "growth" can lead to no happy results in international relations. A new

Declaration of London, that will obtain ratification, is much needed. Many of the new paragraphs of Dr. McNair have material of value. Limitations of space forbid extended comment. On the other hand, section 269a, seeking to point out an alleged distinction between indemnities and reparations is positively misleading. Some propagandist invented the distinction, until now it finds its way into standard text-books. One is reminded of Mr. Mencken's fantasy as to the origin of bathtubs. Mr. Vizetelly, Editor of the *Literary Digest*, troubled by a statement of the editor of the *Wall Street Journal* that there was a well-known distinction in international law between "reparations" and "indemnities" submitted the question to John Bassett Moore. With his usual perspicacity and humor, Judge Moore scouted the idea in a letter published in the *Literary Digest*, June 27, 1925, at 63.

EDWIN M. BORCHARD.

Constitutional Limitations. By Thomas M. Cooley. Eighth Edition, by Walter Carrington. Boston, Little, Brown & Co., 1927. Vol. I. pp. cciii, 1-730. Vol. II, pp. xix, 731-1565.

The seventh edition of this work appeared in 1903, and required something over a thousand pages of text. Although the editor of the new edition has wisely not sought to include all new cases, the increased bulk is largely due to notes of such cases. The editor has made some additions to the text, and has carefully distinguished such additions. The editorial work has been competently done, and the new edition will serve a useful purpose. But there is a limit to what an editor can do to make effective for present use a legal classic originally published nearly sixty years ago.

Judge Cooley's text is in the main a reflection of conditions and problems of 1868. To a large extent he crystalized and strengthened legal movements of that day. His work had a great influence on the law, particularly on the expansion of the protection of "due process of law." New editions, even when prepared by the author, usually retain the point of view of the first edition. And when an independent editor appears, the text and point of view remain unchanged, unless, as is the case with some English books, the editor writes a new book on the basis of the old.

Occasional additions to the text, as in this edition, cannot make a treatise adequate to the needs of the present day. With respect to evidence obtained by illegal searches and seizures (pp. 631-636), zoning (1315-1318), blue sky laws (1339), and numerous other matters, the editor has valiantly sought to make a modern treatise, but he has largely failed, not because of absence of competent effort, but because of the futility of the task. The notes and additions to chapter VII, dealing with the circumstances under which a legislative enactment may be declared unconstitutional, show the editor's familiarity with modern developments, but it would have required a new chapter rather than a re-edition of Cooley to present the present law. The reader will get from pages 382-384 a highly inaccurate conception of present developments in the law as to "consequences if a statute is void." In spite of its new dress, Cooley remains an old book. The legal profession needs a volume that will do for 1927 what Cooley did for 1868.

W. F. D.

REVIEWERS IN THIS ISSUE

Learned Hand is a Judge in the Federal Circuit Court of Appeals for the Second Circuit.

Ernest Greene Trimble is an Instructor in the Department of Government at New York University. Mr. Trimble, who is the author of a thesis on

THE LAW OF PRIZE, received his doctorate from Yale last year.

Edwin M. Borchard is a Professor in the Yale School of Law.

Arthur L. Corbin is a Professor in the Yale School of Law.