

the district attorney or magistrate. We learn how to get evidence of the crime through the medium of a search warrant. We are warned that search warrants have at times an unfortunate recoil and that we had better be sure that we possess "probable cause". If we do, here are all the forms properly drawn up and signed by Mr. Meegan the owner, and Mary Smith, a corroborating witness. The district attorney then investigates the case. Perhaps we want a bond to keep the peace. If so here are the forms. We present the case in the magistrate's court. We learn how to provide for bail, how to arrest a fugitive from justice in another state, how to proceed before the grand jury, how to try the case, how to appeal. Various side excursions are offered to us by way of habeas corpus, methods of holding witnesses who wish to depart before testifying, changes of venue, etc.

The three hundred things that can happen to a defendant in New York are thus cataloged and discussed. Realizing that no book of directions as to how to operate a mechanical contrivance is complete without blueprints, the author has provided us with a large chart about 24" x 30", which starts with the arrest of the criminal in one square and branches out in all directions showing everything that might happen to him in a criminal trial in little squares. Each square or station of his progress is labelled. They are connected by arrows, so that if the defendant does not happen to land in a square which releases him, he automatically moves on to the next square which in turn opens up its series of possibilities.

The simplicity and straightforwardness of the book is further illustrated by the fact that in its three hundred and ninety-four pages, only thirty-seven terms are used which need explanation in the glossary. Even these terms are not particularly difficult but the author plays safe. For example the glossary tells us that "ante" means "before" and "post" means "after", whereas "vs." means "against."

The author is not critical of the existing methods of criminal procedure. If there is anything which he would change about it, it is not mentioned, and he goes to some trouble to explain and justify distinctions between legal facts and non-legal facts, and the general methods in vogue in drawing up criminal pleadings. If present indictments are obscure and contradictory, the fault lies in the nature of things, and not in the rules of criminal procedure. For example, in referring to the practice of inserting contradictory counts in an indictment, so confusing to a layman, he says: (p. 369)

"Here the two stories (counts), while contradictory in detail and in essential detail for each story, set out a series of facts which amounts to larceny by virtue of a different provision of the statute; but, read together, they have reference in the mind of the pleader, to the same transaction, *una et eadem res* (the glossary helpfully informs us that this phrase means 'one and the same thing'), but two different versions thereof. *And this is as it should and must be.*" (Italics ours.)

The book will be useful to anyone who wants a quick reference to the mechanics of New York criminal procedure.

Morgantown, W. Va.

THURMAN ARNOLD.

*Edward Coke, Oracle of the Law.* By Hastings Lyon and Herman Block. Boston, Houghton Mifflin Co., 1929. pp. viii, 385. \$6.

*Chief Justice Coke; His Family and Descendants at Hollham.* By Charles W. James. London, Country Life, Ltd., 1929. pp. xiv, 340.

The long subtitle of the first of these books accurately describes its contents to be the story of Coke's long rivalry with Francis Bacon, some account of their times and contemporaries, famous trials in which Coke par-

anticipated, his stand against King James I to maintain the supremacy of the Common Law, his share in wresting the Petition of Right from King Charles I, with a statement about the law writings of Coke on which generations of lawyers were trained. These matters find their appropriate places in five sections respectively on Coke the boy, the lawyer, the judge, the patriot and the writer. There is an appendix on the Rule in *Shelley's Case*. The book is well indexed, and contains nineteen excellent illustrations.

Without the trappings of learning, there being no foot-notes and no precise references in the text to the sources of information and quotations, this book is in fact the result of painstaking and extensive search among printed materials. So far as facts are concerned, it probably has added nothing to our information concerning Coke and his times. On the other hand it has overlooked nothing already known, and could easily have been supplied by its authors with all of the paraphernalia of Ph.D. scholarship. That they have not done so should not prevent one from realizing that they have given a more complete and circumstantial account of Coke's public life than has hitherto been available. By synthesizing known facts they have performed a creative act. The result is in many respects happy.

The authors have been influenced in their literary style by the prevalent fashion in biography. That is, they have sought to make the book interesting and easy reading. At the outset they labor in the process, being lumberingly sprightly. When they reach Coke the lawyer, they strike their true stride and proceed straightforwardly with a wealth of detail in itself so interesting that the call to literature is forgotten.

The method of the book leaves no spot for a final summary and appraisal of Coke's character, accomplishments, and place in history. The reader is left to decide for himself. Here, it seems, an opportunity was lost. Is the traditional view that Coke was a "mere lawyer" correct? What is the explanation of the strikingly contrasted episodes of his life? His harsh conduct as a prosecuting officer, the sacrifice of his daughter to obtain his own return to political influence, his bitter antipathy to Bacon, his avarice for land, on the one hand, and on the other, his industry, his personal abstemiousness, his learning, his bold stand against James I for the independence of the judiciary, his equally bold defiance of Charles I in defence of Parliament. In this last episode in Parliament, Coke first burst into tears, unable to speak, and later, controlling himself, named the Duke of Buckingham as the cause of all their miseries. "How came tough old Coke upon Littleton, one of the toughest men ever made, to melt into tears like a girl, and sit down unable to speak?" asked Carlyle. "The modern honourable gentleman cannot tell. Let him consider it, and try if he can tell! And then try if he can discover why he cannot tell!" The authors do not answer the question how he could have been the "most offensive of Attorney-Generals" (Spedding) and "one of the most disagreeable figures in English history" (Trevelyan), while he was also the "most admired and venerated of judges" (Spedding).

Mr. James, former librarian at Holkham, in the second of the books under review, deals chiefly with the private life of Coke, and by the use of material to much of which other biographers have not had access, lays the basis for new judgments. While he has consulted printed works, his volume is made up mostly from manuscripts (largely unpublished) which are at Holkham, at Heveningham Hall, and in the British Museum, the Bodleian and Trinity College, Cambridge. The greater part of his book is devoted to the family and descendants of Coke, but the material on the family and on the first two generations of descendants throws much light on Coke himself. The fifty pages which relate directly to Lord Coke are filled with quotations from manuscripts, portions of some of which are reproduced in facsimile.

For example, while he was writing, Mr. James had before him Coke's own copy of "A Reporte of the Judgment and Part of the Arguments" in Shelley's Case, with his notes thereon; his notes for his seven Inner Temple readings; his Answer to the King in the Commendam case, in his own handwriting; an account of his imprisonment in the Tower; and a chronological list of events in his life, entitled "Degrees and Proceedings." At the end of this record Coke wrote these words, "He came to all his offices and places without begging and bribery."

The author does not defend Coke for all things for which he has been universally condemned; but on some matters he begs to differ. On the assertion that Coke was narrow in his religion—a fanatical puritan—Mr. James says, "I do not agree. His constant reliance on, and veneration for, the law of God as before everything else is very marked. I believe him to have been a sincerely religious and devout man of what is called the 'old High Church' school." An intimate acquaintance of Coke's is quoted as saying, "Never was man so just, so upright, so free from corruption as he was. Courteous to great and small, and the most religious and orderly man in his home that lived in our state." Ample evidence from household accounts is given that Coke was not stingy, and that he kept a hospitable home. There is much to show that to his large family he erred in being over-generous, and that Lady Hatton must bear a large share of the blame for the disgraceful events that cluster around their daughter Frances. For those who are interested in the life of a great public figure, Mr. James' book offers a fascinating supplement to the formal biographies. In lawyers and law writers the following comment by Coke written when he was composing his Institutes may strike a responsive chord:

"Whilst we were in hand with these four parts of the Institutes, we often having occasion to go into the city, and then into the country, did in some sort envy the state of the honest ploughman and other mechanics; for one, when at his work, would merrily sing, and the ploughman whistle some self-pleasing tune, and yet their work both proceeded and succeeded; but he that takes upon him to write, doth captivate all the faculties and powers both of his mind and body, and must be only attentive to that which he collecteth, without any expression of joy or cheerfulness whilst he is at work."

New Haven, Conn.

FREDERICK C. HICKS.

*Famous Speeches by Eminent American Statesmen.* By Frederick C. Hicks. St. Paul, West Publishing Co., 1929. pp. xi, 990. \$5.

This is an anthology of important public addresses made by leaders of American thought since 1850, from Seward to Lincoln. If one were inclined to be captious, he might take issue with Professor Hicks on his definition (in the preface) of the last word in the title, 'Statesmen'. If he had said 'Eminent Americans' instead of 'Eminent American Statesmen' the title would have been more in keeping with the contents, and no less suggestive.

One cannot examine the book without becoming aware of the fact that not only is oratory not dead, but that the past three-quarters of a century has produced speeches and speakers that will compare favorably with those of any previous period in American history. A reader may miss from the Table of Contents the names of some of the more distinguished American orators, but if he will read the speeches themselves he may be surprised to learn what a substantial amount of real oratory has been delivered during this period. This volume is an effective answer to those who assert that oratory is a lost art.

To attempt a detailed account of the fifty-odd speakers and the 960 pages