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REVIEWS

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REVIEWS.

Lincoln the Lawyer. By Frederick Trevor Hill, Member of the New York Bar. The Century Company, New York, 1906. Cloth, pages 332.

There is no more interesting figure in American history than Abraham Lincoln. Yet it is a singular fact that in the vast number of works concerning him but little attention has been given to his professional career. This neglect has seemed to produce a general impression that his practice at the bar was of a small and desultory nature and that at the time of his nomination for the presidency he was an obscure country lawyer only known by reason of his speeches in the famous debate with Senator Douglas. Recent investigations, however, have shown the error of this general impression. The conclusion is reached that the legal training of the statesman qualified him for his great task when he was called to the presidency, that "without such training he could not have accomplished his stupendous results," and that it is possible he would never have been called to that high station if it had not been for the position he had attained as a lawyer on the Illinois circuit.

Frederick Trevor Hill has not only rendered a distinct public service in presenting this book on "Lincoln the Lawyer," but he has provided for the profession a most entertaining legal recreation. It is primarily an attempt to show Lincoln's true position at the bar and the influence which his choice of a vocation had upon his subsequent career. A careful investigation and research of the records of the Illinois courts from 1836 until 1860 and personal contact with the few living contemporaries of Lincoln have especially qualified the authors to speak with authority.

Lincoln's early education had been sorely neglected. His opportunities for legal study were very limited, but after his admission to the bar his associations were such as to prove most valuable to him in legal training. A first partnership with Major John T. Stuart, who was engrossed in politics threw upon his shoulders the responsibility of a fair sized practice from the very beginning. Later his association with Judge Stephen T. Logan placed him under the tutorage of one of the greatest of the Illinois lawyers in whose office in later years were developed no less than four United States senators and three governors of states.

During his association with Judge Logan, Lincoln acquired a reputation which was more than local for being a safe counsellor and an able advocate. Though it is true that many of the litigations in which he was engaged were of no great monetary importance, yet many of these small cases involved most difficult questions and were in effect test cases which settled the law for

the new state. Continuing to rise in public estimation, upon his return from Congress in 1849 he became one of the leaders of the bar of the circuit among such men as Stephen A. Douglas, Gen. John M. Palmer and his former partner, Stephen T. Logan. Without doubt he was the best all-around jury lawyer of his day in Illinois. As a cross-examiner he has seldom been equaled. During his career he argued one hundred and seventy-two cases before the Supreme Court of Illinois, the highest Appellate Court of the state, showing a record rarely if ever equaled in his day.

One of the strongest confirmations of Lincoln's ability as a lawyer is the confidence which was reposed in him by his fellow competitors and by the judges before whom he practiced. Many of his most important cases were those in which he was engaged by other lawyers who had had an opportunity to know him in previous contests. His reputation for clear thinking and for honest statement of law and fact gave him what is known as the "ear of the court." And this was especially so in the course of his dealings with Judge David Davis of the Eighth Illinois Circuit, later Associate Justice of the Supreme Court of the United States. "It was Judge Davis and a handful of men who had learned to know and appreciate Lincoln as a lawyer—a small group of his fellow practitioners on the Eighth Circuit: Davis, the judge; Sweet, the advocate; and Logan, the leader of the bar, but especially Davis—who forced Lincoln upon the Chicago Convention in 1860, and thus gave him to the nation."

In presenting this material most entertainingly the author has not lost sight of the fact that in his extensive practice Lincoln lived up to the highest ideals of his profession. Throughout the book especial emphasis is given to this—his fairness to his opponents, his refusal to resort to questionable tricks or practices and his efforts to conciliate rather than to stir up litigation—making for the young lawyer a most valuable text book upon the ethics of the practice of the law.

The work is an important contribution to the literature upon this subject concerning Lincoln, bringing out as it does information concerning a phase of the great President's life which has hitherto been but briefly touched upon. It will be a source of satisfaction to the members of the bar to have it known that it was Lincoln's legal training which preeminently fitted him for his public work and that as a lawyer he is entitled to rank with the greatest the country has produced.

G. S. V. S.

Law of Contract. By Sir William R. Anson, Bart., D.C.L., 2nd American copyright edition from 11th English edition, by Ernest W. Huffcut, pp. lii, 462. Oxford University Press.

For the introduction of the student to the study of the law of contract there is no better book published than the work of Sir William R. Anson. It is unsurpassed for a systematic arrangement of topics, for a clear and brief statement of principles, and for a lucid explanation of those principles. The work contains as

much of historical detail as can be read by a beginner with much profit, without at the same time containing such a "mass of statement and illustration" as might tend to "oppress and dishearten the student." The unusual success of the author in attaining his object is evidenced by the wide popularity of the numerous editions of his work, and by the extent to which other writers have used his outline and his text.

In section 32 and again in section 50 it is stated that an offer under seal cannot be revoked even though it has not been communicated to the offeree. This appears to the reviewer to be incorrect. In the first place, it is difficult to see why an offer under seal cannot be withdrawn, even after communication, in case the offer contains no express or implied promise that it shall remain open for a period of time. Surely a seal has an effect only upon a *promise*, dispensing with the necessity of a consideration for a *promise*. There seems to be no ground for a distinction between offers under seal and offers not under seal; such a distinction should be made in the case of promises alone. All mere offers are revocable before acceptance. But secondly, even though the offer contains a promissory expression or implication that the offer is to remain open for a period of time, it should be held to be revocable before it has been communicated. Such a promissory expression is a mere *pollicitation* before it has been assented to by the offeree, and is not a promise at all. See Anson, sections 6 and 23. It is the assent and not the seal that turns a *pollicitation* into a promise. Further, can there be such a thing as an uncommunicated offer? The existence of an offeree and communication to him would seem to be presupposed by the term "offer" itself. See Anson, section 29. If so, it ought to be held that the creator of the thing may stop half way in the creating process, and by drawing back his words before they have been given the breath of life by communication, prevent them from ever becoming an offer at all. The case of *Xenos v. Wickham* and other similar cases can probably be explained so as not to be in conflict with the foregoing. The author admits that his rule is "anomalous" and "irreconcilable with the modern analysis of contract," and the American editor advises that the text be taken with great caution in the United States.

The editor cites American cases in numbers amply sufficient for the student's purpose, and in his notes gives due consideration to the variations from the English doctrines as they exist in our many American jurisdictions. He has also made satisfactory additions to the text itself in places where the condition of American law is such as to demand it; as for example in the case of contracts for the benefit of third persons and in the case of discharge of contract by substantial performance. Altogether this edition is to be highly recommended to American students.

A. L. C.

The Law of Innkeepers and Hotels, Theatres, Sleeping Cars. By Joseph Henry Beale, Jr., Bussey Professor of Law in Harvard University. Wm. J. Nagel, Boston, Mass. Pages 621, Buckram.

Professor Beale's latest work is written in the same clear and concise manner which characterizes his former works on public service companies and taxation of such corporations. The result is an up-to-date exposition of the law on the various subjects with every opportunity offered for ready reference. This is shown by the division of the book into 32 chapters with 452 sections which, with a lengthy alphabetical index and copious chapter headings makes it convenient to turn to any desired phase of the subject with the least possible amount of searching. About one-half of the book is given to the main subject of Innkeepers. The opening chapter gives a short history of English inns and medieval conditions of travel and traces the development of the law to the present day, showing the necessity for the rather onerous duties and liabilities of this class of public servants. That there is even now a considerable difference between the English and American views of their responsibilities is clearly indicated by the extracts taken from the decisions in both countries. On the various points of conflict no attempt is made to strike a middle ground, but the differences are stated as such leaving it to the individual reader to draw his own conclusions. This is to be commended, as it avoids the confusion which so often arises in such cases. Short chapters are devoted to the status of keepers of boarding houses, lodging houses, restaurants and bath houses, and also to the proprietors of theatres. The chapter on sleeping cars makes very interesting reading. While the law on the other subjects may be said to be fairly well settled, the law of sleeping cars, anomalous as it is, is still being developed. As the author states, "a sleeping car company is neither an innkeeper nor a common carrier," but still owes many of the duties of both to the public. For this reason the subject has been carefully taken up and, as far as possible, its exact status defined. In an appendix of 227 pages the most important American statutes relating to inns and other houses of public entertainment have been collected and arranged in order of states, from Alabama to Wisconsin, followed by those of the district of Columbia and Federal laws. The citation of decisions includes those contained in the American Digest and English Annual for 1905, and Canadian and other Colonial Digests for 1904.

The reading of the book is made pleasant by the absence of mistakes in proof-reading and the use of bold clear type.

F. P. M.

The Declaration of Independence.—Its History. John H. Hazelton. Dodd, Mead & Co., New York, 1906. Cloth. Pages 613.

John W. Hazelton has rendered a true service to the student of the early history of the American state in presenting the work entitled "The Declaration of Independence—Its History." Before the appearance of this volume it has been necessary for the

careful student of this portion of our history to search many volumes to glean the facts concerning this document. There are several books on the subject which have been written by thoroughly competent men, but in all of them the truth is obscured more or less by the personal views of the authors, which, though undoubtedly based on the original sources of information, have not the true ring about them. In this work John H. Hazelton has presented the original sources and has made only whatever comment is necessary to enable the reader to appreciate their true significance. This feature of the work stamps it as authentic and reliable rather than as second hand and of doubtful reliability. The author quotes very freely from whatever letters, documents and other contemporaneous writings that exist and which throw any light on the facts. The work abounds in cuts of these writings which alone are of great interest.

The account begins with the First Continental Congress held in Philadelphia on the 5th of September, 1774. It was then that the people of the Colonies recognized for the first time that "the cause of Boston was a common cause," and adopted the non-importation acts to bring the mother country to terms by cutting off her trade with the Colonies which was considered as of vital importance. This was the first step towards uniting the Colonies. Yet in this congress no action towards declaring independence was suggested.

Subsequent chapters deal with the events of the years 1775 and 1776, the initial step which, the author states, was taken on Friday June 7th, 1776, drafting the Declaration, the signing, the effect of the Declaration and what was thought of it, etc. The ground is thoroughly and systematically covered.

Much valuable material is to be found in the appendix. The notes of Jefferson and various letters, which throw much light on the points involved are given. The author has adopted a very helpful method of presenting the seven authentic drafts of the Declaration, the Declaration on parchment, now in the Department of State; the Declaration as written out in the *corrected* Journal; the Declaration as printed by Dunlap under the order of Congress, a copy of which is wafered into the *rough* Journal; the draft of the Declaration in the handwriting of Jefferson, now in the American Philosophical Society in Philadelphia; the draft of the Declaration in the handwriting of Jefferson, now in the Lenox Public Library, New York; the draft of the Declaration in the handwriting of Jefferson, now in the Massachusetts Historical Society, Boston; and the copy in the handwriting of John Adams of the "*Rough draught*" of the Declaration, now at the Massachusetts Historical Society. The lines of the six drafts are placed under the lines of the first draft above mentioned so that the differences are brought out in a most striking manner. This arrangement has been very cleverly carried out and is one of the many instances in which the author has shown his skill. Following these drafts are accounts of their histories and explana-

tory notes. There are also copious notes to the text and to the index, further amplifying the story of the famous document.

Taken as a whole the work is complete and accurately presents the fact uncolored by personal bias and opinions. It is safe to say that hereafter students will depend on this work for an authentic account of the history of the Declaration of Independence.

C. H. H.

American Bankruptcy Reports—Digest of the Bankruptcy Decisions under the National Bankruptcy Act of 1898. By Melvin T. Bender and Harold J. Hinman of the Albany, New York, Bar. 1906. Pages, XIII, 560. Buckram.

With the increasing importance of the subject of Bankruptcy the members of the bar have for some time felt the need for a reliable and comprehensive digest of the American Bankruptcy Decisions. The busy lawyer of today finds it a difficult and laborious task to examine minutely each volume of a long series of reports. Therefore the Digest under discussion will undoubtedly receive a hearty welcome from all members of the profession who are at all interested in the subject of Bankruptcy.

This volume includes within a compass of 560 pages, a clear, concise and complete digest of all the decisions under the Bankruptcy Act of 1898, reported in the American Bankruptcy Reports, volume 1-14 inclusive (1898-1906) and of the notes contained in each volume. The first XIII pages are taken up with a table of the sections of the Act of 1898 construed, considered or affected by the reported decisions. The general arrangement of topics and the system of subheads and cross-references closely resembles that employed in the Century and other standard digests. The arrangement of the work as a whole is excellent and it will undoubtedly prove it self an invaluable assistance in ascertaining the law on the various phases of the subject of Bankruptcy.

J. M. F.