

## BOOK REVIEWS

*A History of English Law.* By W. S. Holdsworth, M.A., Vice-president, Fellow and Lecturer of St. John's College, Oxford. Little, Brown & Co., Boston. 3 vols.

Some one has said that the history of a country is written in the deeds of its great men. It might be said with equal truth that the history of a country is the history of its great institutions. In no sense is this more true than in tracing the growth and development of a country's legal system.

In *A History of English Law*, Mr. Holdsworth has endeavored to contribute to legal literature an exhaustive treatise on the rise of judicial procedure in England and to trace its expansion to the present day. Confessedly relying upon Pollock and Maitland's *History of English Law* for the foundation of these volumes, but amplifying and enlarging, there yet seems ground for the hope of the publishers that the present work will prove almost as valuable to the profession as the masterpiece which was its inspiration.

The work is to be complete in four volumes. Of the three that are now ready the first volume is devoted to the history of the courts and of the jurisdiction exercised by them at different periods. The second volume covers Anglo-Saxon antiquities; the third, the Mediaeval common law. It is the purpose of the work to give to the student of law an outline of its history. "Neither complete understanding, nor accurate statement of existing law is possible," says the author, "without some knowledge of the basis upon which that law rests."

The volumes are valuable as an inexhaustible store of legal history and lore. The work dates back to Glanvil's treatise on the *Laws of England*, written about 1187, and being the earliest text-book on the common law. Thus is the tale of the rise of the English legal system brought back to the days before the law courts had made much law. The history of the various courts which had their rise and fall and played each their part in the law's development, has been interestingly narrated.

The work thus far has met a quick and generous criticism. It is, perhaps, but fair to say that it is essentially intended for the

profound student, though as a book of reference it should prove valuable. In each of the volumes there is an index and table of contents which are carefully constructed and offer ready access to any topic treated in the book and upon which one might be seeking information.

It is almost unnecessary to say that the author, himself an Englishman, has voiced an appreciation of England's legal history. In closing Volume 3 which deals broadly with the Mediaeval common law, he says: "Though the litigiousness of a partially civilized age, the technicality in procedure which is necessary to an early stage in the history of law, and the collapse of all good government which marked the close of this period (the 12th and 13th centuries), often led them to lay down as law, rules which assisted to pervert justice, yet the live practical atmosphere of the law court in which those rules were evolved by the process of keen debate never let them lose sight of the human needs which those rules were intended to regulate. Thus, amid much ingenuity which was misdirected, there was much which was well directed; and for better or worse, some of its products still colour our minds and govern our lives in this twentieth century."

And it is with this last thought well in mind that we can see the value of the study of early law.

C. K. W.

*The Fixed Law of Patents.* By William Macomber. Little, Brown & Co., Boston, Mass. 1909. pp. 1060.

This is a most excellent work written for the general practitioner, as well as the patent lawyer, by an author who has had over twenty years' active practice in the patent law, and has by this book given the profession the result of his many years' labor.

The author recognizes the fact that a patent is a monopoly created by statute in contravention of the common law, and therefore every decision upon a question of patent law must necessarily root back in a statute. Consequently every title and main proposition is worked out from the statute.

The title of this book is unique. There are many good features embodied in it, the patent law being stated as it is and not as the interpretation of some author. Hence the term "Fixed Law of Patents," defined by the author, as consti-

tuting the patent statutes, the decisions of the United States Supreme Court, and the decisions of the nine Circuit Courts of Appeal. Except in minor instances, the quotations are in the exact language of the court.

The authority of a court of original jurisdiction is not stated, as the same is not deemed fixed law, however long it may have remained as the sole decision upon the point involved, or however much respected.

The arrangement of titles, sub-titles, and cross references are so complete that the rulings upon a point of law under examination may be found with the least possible expenditure of time.

A most valuable feature of the book is the table of cited cases, containing in each instance the name of the judge writing the opinion, the names of the dissenting judges, and the judge writing the dissenting opinion.

The author is to be congratulated upon the preliminary chapter entitled: "A Brief Survey of the Fixed Law of Patents," which contains a most excellent summary of the main titles and as complete and concise a statement of the patent law as it is possible to write.

G. E. H.

*The Power of Eminent Domain.* By Philip Nichols. Boston Book Co., Boston. 1909. pp. 560.

This is the first work devoted entirely to the law of eminent domain that has come to the writer's attention. Previously, we find discussion of the subject taking up but a small part of a work on Constitutional Law. The author lately being assistant corporation counsel of the City of Boston, during his term of office came in contact with many problems involving the subject and has given us in this work the results of his investigations.

It is obvious upon examination of the book that the time devoted to its preparation has been well spent, as the many phases of the subject are clearly and concisely presented and their importance impressed upon us.

The work is divided into eleven parts dealing with the rights of the states to acquire property by eminent domain with its limitations, what constitutes a taking, public use, property, and just compensation.

It is written in a very satisfactory manner, citations being used only where necessary and then not at great length, but the leading cases are discussed so that one after reading is conversant with the law without being confused by many exceptions. It is a work which should be procured by every practitioner having any work involving the law of eminent domain.

H. J. C.

*Law of Persons and Domestic Relations.* By Walter C. Tiffany. 2nd ed. West Publishing Co., St. Paul. 1909. pp. 656.

The contents of the second edition of this work are very similar to those of the first edition, which was issued some thirteen years ago. Since then some of the subjects discussed have attained greater importance, both on account of the intrinsic nature of the subject and the varied judicial decisions bearing upon them, the most notable, of course, being the law of married women.

This edition has elaborated the subject bringing the law to date as far as compilation in a text-book can. The latest cases are discussed with special emphasis upon the subject of divorce, a section being added dealing with its extra-territorial effect, and the property rights of married women are discussed at length.

The remaining subjects follow closely the first edition, being supplemented with many late citations.

Those who have not seen the first edition would do well to procure this volume, and those having the first volume will find a more comprehensive discussion in this work.

H. J. C.