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BOOK REVIEWS

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The Chief Sources of English Legal History. By Percy H. Winfield. Cambridge, Harvard University Press, 1925. pp. xviii, 374.

Although this book is an expansion of a course of lectures delivered to law students of the Harvard Law School, it is of great value and usefulness not only to students of legal history who necessarily must have already been grounded in the law, but to students of history generally and to practising lawyers. To the librarian it is an invaluable reference manual. To all alike it points out the existence of materials and the commentaries, calenders and indexes which relate to them. Legal records and law books are integral parts of the historical materials of a country, to be used by each searcher for such purposes as his search demands. This may be to throw light on political, or social, or economic history, to trace the development of both political and legal institutions, to find the origin and trace the growth of juristic ideas as parts of the philosophy of a particular civilization; to increase the weight of a legal argument before a judge engaged in the trial of a case; or to influence legislators in their action in regard to pending or proposed legislation.

Dealing with materials which may serve so many and varied uses, and which are the products of so many centuries of political and legal activity, and being based on only a brief course of lectures, Dr. Winfield necessarily has limited himself to providing a general guide to chief sources. His plan, as stated in the preface, is to lighten the toil of the beginner, "first, by an attempted valuation of the groups of authorities which he must consult; secondly, by some account of the more important individual sources in each group." His approach is that of the legal historian, and of one interested in listing, arranging, and setting off against their appropriate backgrounds the materials known to exist and available for use. There seems to be no conscious intention of leading up to the study of "internal" rather than "external" legal history, to use the words of Dean Pound's introduction. He very properly holds himself rigidly to a general treatment of groups of sources with description and comment on individual examples of the items which make up the groups. If he had been aiming at a "general doctrinal history" of the law—a phrase which it is difficult to comprehend unless it means a history based upon "a survey of the sources and appraisal of the materials" of "historical research on individual points" of doctrine—undoubtedly he would have arranged his materials topically.

Only two chapters, those on Sources of Anglo-Saxon Law, and on the Influence of Roman Law on English Law, deal with topics which are subdivisions of legal history. He has made little or no attempt to indicate even the chief sources with respect to the development of specific legal doctrines and institutions. The index to the book directs the reader to mention of courts, pleading, procedure, real property, contracts, criminal law, jurisdiction, equity, etc., scattered throughout the book; but no attempt is made to provide a specific bibliography of any of these subjects. This is perhaps the next step, but certainly not one which Dr. Winfield intended to take in this book. Crawford's *Guide to the Study of the History of English Law and Procedure,* an unpretentious work prepared for the use of college students and not for law students, and Maxwell's *Bibliography of English Law to 1650,* are both based on a plan which might well be adopted for a second volume of Dr. Winfield's bibliographical

studies. There would then be provided a syllabus for the research student of English legal history pointing out the source material of specific topics of research. This plan has the advantage of forcing the author to seek origins even when they are not to be found among the ordinary sources of legal history. For example, the origins of trade-mark law are found not in the Year Books, nor in the mediaeval treatises, nor in the proceedings of local courts, nor in any sources mentioned by Dr. Winfield. They are found, Dr. Schechter tells us, (*Historical Foundations of the Law Relating to Trade-Marks*) "in the great mass of records of the organizations of merchants and craftsmen themselves, supplemented by the researches of antiquarian and archaeological bodies."

The groups of sources described are statutes, public records, case law, abridgements and text-books. The three first are undoubtedly sources, while abridgements and treatises, in so far as they summarize material not now available in more authentic form, may serve in place of sources. This distinction, however, is a matter of definition, as the author points out. Sources and "authorities" may mean one thing to the legal historian and another to the judge in a court of law.

In writing the chapter on Public Records, the author has the advantage over anyone attempting to describe the source materials of American legal history. No one can describe the legal public records of the United States until those records have been examined, listed, indexed, and calendared. That is the next task in preparation for writing the history of American law. After many hands have done this work, and after the legal profession has supported some coöperative effort to publish the results of this labor, a description of records and the guides to them can be added to the existing descriptions of printed American legal literature. In this process the first generation of American legal historians will be trained; but they will be exhausted by the labor of preparation, leaving the second and subsequent generations to reap the benefits of their work. The future historian of public records as sources of American legal history will also find it necessary to add to the story of public records, the story of countless private records, in order to complete the picture. Our records cover a much shorter period than those of England; but they refer to so many major and minor jurisdictions, and are to be sought in so many repositories that the mere problem of discovery and description is staggering to the prospective legal historian. Dr. Winfield's treatment of the English public records is so fine as to put every student of English legal history in his debt.

The chapters on statutes, case law, abridgments and text-books are the result of painstaking study and analysis. They treat of these classes of books with a comprehension which can only come from a long and minute study of the books themselves. Probably no living person is more intimately acquainted with the early English Abridgments than he. In these four chapters he has gone far toward giving us a general history of English law books; and although his purpose is not to provide long lists of books, he has given us means the better to prepare such lists and to resolve their problems both bibliographical and legal. His work well illustrates the intimate connection between historical bibliography and legal history, both doctrinal and institutional.

The least impressive chapters in the book are the two on Equipment for Research in Legal History, and on Existing Bibliographical Sources. They were not intended to be exhaustive, but yet, in the latter chapter, it is surprising not to find listed among guides to printed sources Soule's *Lawyer's Reference Manual* which certainly is more important than some guides which he does include. It is an error of judgment to select for

mention only the Harvard Law Review from the many legal periodicals published in the United States. He is also unaware that a fourth volume of Chipman's *Index to Legal Periodicals*, covering the years 1909–1922, was published in 1924. On page 28 he points out the fact that the *Index to Legal Periodicals* does not include references to non-legal periodicals; and he suggests that for this reason the legal historian "must make use of the periodicals indices which appear in the English Historical Review, and of other guides of the same kind." This is to ignore entirely Poole's *Readers' Guide to Periodical Literature*, (1802–1907) and the *Readers' Guide to Periodical Literature* (1900 to the present). It also ignores the fact that Jones' *Legal Index*, covering down to the year 1899, does include references to articles of legal import in general periodicals. These, perhaps, are details which ought not to be recorded in the review of a book which as a whole is entitled to profound respect, and which has already proved its great usefulness.

FREDERICK C. HICKS

Columbia University.

The World Court. By Antonio Sanchez de Bustamente. Translated by Elizabeth F. Read. New York, The MacMillan Co., 1925. pp. xxv, 379.

The first seven chapters of this book are devoted to the history of a world court in idea and in practice from the Amphyctionic Council to the ratification of the Statute of the Permanent Court of International Justice. There is little which is not well known to students of international law, but it is convenient to have this material in compact form; and the general public, for whom the book is primarily intended, will doubtless be interested to know of this long history back of the present world court.

Throughout, the writer carefully distinguishes judicial settlement, which puts the application of law first, from arbitration which puts the settlement of disputes first. The philosophies back of these two instruments may be fundamentally different, but the author admits that writers have often supported proposals for judicial institutions with arguments more applicable to arbitration. Thus of Pierre Dubois, who wrote in the middle ages, he makes an observation "applicable to many others, that the reason why the judicial settlement of disputes has seemed opportune or necessary has rarely been because they wished to make law the rule of life, but usually because it appealed to them as a remedy for the evils of warfare which weakened one part of the world at odds with another part that is regarded as its natural and inevitable foe" (p. 8). It may be noted that Professor Hudson who has also presented a book on the court (*The Permanent Court of International Justice*, 1925, pp. 12–14) does not attach great importance to this distinction, and the present author seems to admit that it may be less significant in practice than in theory (p. 153).

Signor de Bustamente is not only a distinguished Cuban jurist but he has been a judge of the world court since its establishment in 1922. His discussion of the organization and work of the court in chapters 8 to 15 is consequently of unusual interest. At the time of the Hague conferences he supported the Latin American demand for equal representation of all states on such a court, although he wished to couple it with life tenure of judges to assure their independence. He is, however, fully satisfied with the present method of selection made possible by the existence of the League of Nations and, with it, regards the more limited tenure (nine years) as necessary in order to assure occasional representation on the court to a larger number of states. He regrets, however, the financial dependence of the court on the League of Nations and suggests an

endowment to support it. It may be noted that national courts are always dependent on political bodies for compensation without injury to their judicial independence.

The chapter (15) dealing with the work of the court is well done. In it the author skilfully compresses in non-technical language the essential facts and legal grounds for the advisory opinions and decisions which have been given. The expert can find more extended analyses of these cases in Hudson's book.

On the main controversial questions which have been raised in connection with the court the author expresses definite opinions. He favors compulsory jurisdiction and points out that the court actually has a large compulsory jurisdiction through ratification of the optional clause by many states and of forty-seven special treaties and agreements. This jurisdiction is continually growing.

Although recognizing the importance of public opinion as a sanction, he sees the need of more material forces behind the court. Thus he approves of the amendment to article 13 of the League Covenant which would place "judicial settlements" as well as "arbitrations" under the guarantee of article 16. When he wrote, this amendment was not in effect (p. 248) but has since become so. The author points out a number of special treaties which provide definite sanctions for certain decisions of the court (pp. 248 *et seq.*)

On the question of advisory opinions, Judge de Bustamente has some doubts, but admits that they have worked well in practice (pp. 265–266). The reviewer does not think that he adequately explains the reason for their success, namely, that they make possible an isolation of the legal aspects of a case for judicial settlement without prejudicing the application of political wisdom to the case as a whole. Thus the court can be of service in many controversies involving political issues. The author holds that article 14 of the Covenant is mandatory with respect to advisory opinions, thus disagreeing with Judge Moore and the majority of the court in the *Carelia* case (pp. 253, 278). He agrees with the majority of the court that secret advisory opinions should not be given, but doubts whether the transmission of requests for such opinions to all members of the League and to states mentioned in the annex is advisable or necessary. If the aim in such transmission is to get essential information, he logically concludes all states should be included (pp. 260–262), and in fact other states often have been (pp. 268, 270, 272, 277, 280, 282).

With the statute's limitation of jurisdiction to disputes between states or League Members, he is in full accord. The right of individuals of one state to sue foreign states in the Central American Court of Justice (1907–1917), he thinks one cause of that court's demise (p. 77) and the proposals for an international criminal jurisdiction against individuals, he considers premature (p. 193).

Of the present Central American court established in 1923 and the proposal for a Pan-American court made in the Santiago conference of the same year he is mildly critical. Multiplicity of courts he points out will decrease the prestige of all and increase the general expense. One court is not as yet overburdened with work, and courts for special geographical areas would inevitably develop conflicting doctrines of law which would prevent the very object of a world court, to unify and stabilize international law (pp. 312, 318). If an American atmosphere is thought necessary for settlement of American disputes, "Why not have semi-annual sittings of the world court at Havana?" he asks.

In the final chapter, the author discusses briefly the history of American relations with the court. The book is instructive and should be welcomed

by many Americans whose interest in the subject has been attracted by the recent Senate approval of the statute. It is equipped with an extensive bibliography and texts of the statute and rules of court, but unfortunately has no index.

QUINCY WRIGHT

University of Chicago.

Traité Pratique de Droit International Privé. By Antoine Pillet, Paris, La Société Anonyme du Recueil Sirey, 1923–24. Vol. I, pp. 789, Vol. II, pp. 960.

Of the theoretical writers on the Conflict of Laws none occupies a higher rank than Pillet. In France, Pillet stands without a peer. His writings as a jurist are known throughout the world, especially his *Principes de Droit International Privé,* published in 1903, in which he expounds the fundamental principles of the Conflict of Laws. In the present work, the author's aim is mainly practical, the object being to set forth the positive law of his own country.

The treatise deals with the topics ordinarily included in French works on the Conflict of Laws, namely nationality, the rights of foreigners, the different topics covered by the French Civil Code, such as family rights, property rights, including literary, artistic, and industrial property, obligations and succession, procedure, the execution of foreign judgments, and such topics, contained in the Commercial Code, as partnerships, bills of exchange, and bankruptcy.

In connection with every topic, the author gives the historical background. He traces the development of the positive law of France from the earliest decisions to the present time, and he discusses the present position of the courts critically in the light of his own theory concerning the Conflict of Laws.

In order that the work might be a complete compendium of the positive law of France relating to the Conflict of Laws, Professor Pillet includes all treaty provisions and their interpretation by the courts. The treatise is unique among modern continental works on the Conflict of Laws in that it contains a critical discussion of the complete body of case law of a country in which the problems of the Conflict of Laws have arisen with great frequency during the last century. No other author has undertaken such a task. Professor Weiss published a monumental work on the subject some years ago, the second edition consisting of six volumes having appeared during the years 1907–1913, but his was largely a theoretical work. No attempt was made therein to discuss the French case law in detail. Pillet's work does not pretend to cover the same ground. No attention is paid as a rule to the views of other writers. In like manner, no attempt is made to state the positive law of other countries. Only where the French law is uncertain or where the decisions appear to the author erroneous does he show what has been held on the point by foreign courts. Everything is subordinated to the primary object of subjecting the positive French law to a critical analysis in the light of the author's personal views. As the author's fundamental theory has been fully developed in earlier works, there was no need of devoting much space to these in the present work, but we do find therein a detailed application of his theory to every problem presented. This makes Pillet's treatise of supreme importance to every student of the Conflict of Laws.

ERNEST G. LORENZEN

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Law Reform. Papers and Addresses by a Practicing Lawyer. By Henry W. Taft. New York, The MacMillan Co., 1926. pp. ix, 265.

Mr. Taft (Yale B. A. '80, M. A. Honorary '05) who has previously published *Occasional Papers and Addresses of An American Lawyer* and *Japan and the Far East Conference,* has now collected and published under the above title, a paper upon *Some Aspects of Law Reform in England and the United States,* and eighteen addresses which he has delivered upon various occasions and topics (chiefly but not entirely dealing with Law Reform), together with an Explanatory Introduction which serves as a thread by which to connect the contents.

The immediate reflection of the present reviewer which a complete reading of the entire book provokes is the practical hopelessness of any comprehensive Law Reform due to a combination of (a) the nature of our National and State Governments and the distribution of their powers; (b) the inertia and indifference of certain constituent elements in our body politic; (c) the active opposition of other elements, and (d) a neglect of opportunity and refusal of responsibility by others.

The very fact that any substantial or procedural reform must operate within at least forty-nine different jurisdictions (National and State) each governed by its own laws and each having its own independent legislative body makes the task Herculean, if not utterly impossible.

Inertia and indifference both within and without the legal profession make it still more difficult; opposition of particular interests increases the difficulty, and finally the flippancy, inaccuracy, misrepresentation and refusal of aid from the newspaper press fill up the picture truthfully drawn by the author (e.g., p. 140 *et seq.* 234). Each of these aspects of the situation is treated incidentally in this series of addresses, although Mr. Taft, while he does not underrate the difficulties, speaks hopefully and courageously. He has never missed the opportunity to point out by way of illustration specific defects and to suggest particular reforms. He is not one of these who are contented merely to practice law as it is and to be devoted exclusively to the interests of clients or selves. He has a broad vision and a wide experience; he is able to contrast with our situation the successful efforts at Law Reform in England, extending over the period from the apparently futile agitation of Jeremy Bentham to the radical change and improvement wrought by the Judicature Act of 1873. The limits of space preclude an extended review of each of these addresses. Their usefulness and instructiveness as a foundation for a possible reform lie in the enumeration of specific inadequacies or anachronisms with a suggestion of the remedy. These have not been collected in one group, but will be found scattered at various points through the respective papers or addresses—they are embraced within what he styles (p. v) the existing order of antiquity. He voices the hope that he may aid, however little, to arouse the public interest which is essential to the great task of law reform (p. vi).

The specific horrors (p. 5) of our present recognized system which are mentioned by the author include "the archaic methods prevailing in England in the Eighteenth Century," as Dean Pound aptly styles them (pp. 17, 98); defects of procedure, anachronistic rules relating to pleading, evidence and practice (p. 10); the diversities of procedure in the federal courts (p. 15, 40, 104); the uncertainty and complexity of American law (p. 16); the difficulty of obtaining uniform legislation (p. 21); the administration of criminal law (pp. 21, 86); its laxity (p. 22); its technicalities (p. 22); the lack of support in public opinion (p. 24); the devices of counsel to procure delays and new trials (p. 27); the multiplication of statutes and law reports (p. 29); the exuberance of judicial opinions (pp.

31, 33); inadequate briefs (p. 32); effusive official reporters (p. 33); conservatism and tenacious adherence to tradition (p. 36); the universal tendency to resort to legislation (p. 36); unrepealed, unenforced, unenforcible and archaic laws (p. 37); the failure of the press to do what it might to promote reform (p. 45); the confusion of our divorce law (p. 51); the deplorable method of ascertaining damages for negligence (p. 55); the injustice of the common law doctrine of contributory negligence when contrasted with the admiralty doctrine (p. 56); the relative futility of efforts of lawyers and bar associations, without the support of the general public (p. 57); difficulties and absurdities in will contests and the law of evidence therein (pp. 60, *et seq.*); the ineffectiveness of the hypothetical question to experts (pp. 77, 95, 131); the inability to comment upon the failure of an accused to testify in his own behalf (p. 83); the limitations upon proof of other acts of an accused to indicate his criminal intent (p. 84); the possibility of repeated writs of *habeas corpus* (p. 84); the abuses of trial by newspaper (p. 84); sensational exploitation of a criminal (p. 85); restrictive rules of evidence which impede or prevent the ascertainment of truth (pp. 90, 131, 232); "the straight-jacket of conventional restrictions" (p. 92); abuse of cross-examination (p. 93); the irrational limitations of the *res gestae* rule (p. 94); the legislative jealousy which withholds the rule making power from courts (p. 100); the narrow judicial interpretation of remedial procedural statutes (p. 102); the multiplication of decisions upon procedural statutes (p. 102); the absence of professional cordiality (p. 122); and the tendency to make jury trial sacrosanct and to deprive the judge of his historical functions therein (p. 194).

Limitations of space require that this review be limited to those parts of this collection which relate especially to its title; but there is much else there, including a consideration of "Justice and the Poor" (p. 109); interesting facts in the early history of the Supreme Court of the United States (p. 127); the nomination and election of judges (p. 133); the London Meeting of the American Bar Association (p. 171); a detailed review of decisions under the espionage law, with some liberal thoughts upon the human tendency to persecution (p. 200); the World Court (pp. 251, 257) and the Memorial to President Harding (p. 260).

The word picture of the history of the Hall of William Rufus (Westminster Hall, p. 172) and the meeting there of the American Bar Association in the summer of 1924 is thrilling.

In his addresses Mr. Taft not only discusses the defects above enumerated, but he supplies remedial suggestions. The consideration of the faults of law and procedure and the inherent difficulties which make substantial reform seemingly impossible, except here and there a little in particular localities, provokes in the reviewer a tendency to despair, which, however, is in a measure modified by Mr. Taft's own quotation from that arch critic Jeremy Bentham (pp. 12, 13) in part as follows:

> "The good which the laws produce is ever with us, every day and every hour; while the evil is but casual and fleeting. But the good is enjoyed unperceived, without being referred to its source, as if it came in the ordinary course of nature; while the evil is acutely felt, and, in describing it, suffering, spread over vast space and a long course of years, is focussed by the imagination on a single point. What abundant reasons for mistrusting exaggerated complaint!"

CHARLES A. BOSTON

New York City.

Depreciation in Public Utilities. By Delos F. Wilcox. New York, The National Municipal League, 1925. pp. 112.

This monograph is devoted to one of the two most keenly contested controversies in public utility valuation. The first is, whether the appraisal of properties for rate-making should be based primarily upon the original installation cost of the constituent units, or upon the estimated reproduction cost at the time of the investigation, treated only incidentally by Dr. Wilcox. The second is, whether depreciation should be deducted from the cost new [from the original cost or reproduction cost], and what elements should be included in the deduction.

Dr. Wilcox presents a very readable and indeed fascinating analysis of the general position maintained by the public representatives in the extensive rate litigation of recent years. He discusses depreciation from its natural two-fold aspect: (1) as a regular or current operating expense to be paid by consumers, and (2) as accrued depreciation to be deducted from the gross cash investment in the properties. This is stated in the subtitle of the monograph as the "Relation of accrued depreciation to annual depreciation and maintenance". This relationship is excellently set forth and, it seems to the reviewer, must be accepted as a scientific matter by anyone who has competence for comprehending the subject.

From a financial and accounting standpoint, the question is a simple one; it really is not a subject about which there can be reasonable controversy. One is strongly tempted to state, as Dr. Wilcox intimates, that the only occasion for controversy is the financial interests of the companies in obtaining the highest possible valuations. To be sure, all legitimate private interests should be properly conserved. There should be no confiscation under the guise of regulation; investors should be treated fairly in every way. But this does not mean that students, commissions and courts should close their eyes to obvious facts that the merest tyro in accounting and finance readily understands.

Dr. Wilcox makes especially clear that depreciation, whether as allowance in operating expenses or as an element in valuation, includes not only ordinary wear and tear, or the so-called "actual" depreciation, but also the invisible or functional elements, particularly obsolescence. This invisible or intangible factor is usually the more important, especially in those utilities, like electricity and transportation, where the progress of the arts or the rate of change is particularly rapid. In such cases items of property are discarded, not because they are "worn out" in the ordinary sense, but because they are superseded by more suitable and economical units. If this phase of depreciation is not provided through operating expenses and the proper accumulation of reserves, there is not only incorrect accounting and an unscientific basis of rates, but there is danger of financial disaster to the companies.

Besides the general discussion of principle, Dr. Wilcox in the third section of his study makes a survey of a number of street railway properties, giving in each case a brief historical account of the system, and showing that the provisions for depreciation have been inadequate to meet the requirements, especially the great factor of obsolescence in transportation.

The reviewer, of course, finds himself thoroughly in agreement with Dr. Wilcox's general position. There are some points of view with which I should disagree so far as mere form of statement is concerned. For example, depreciation is defined as a lessening in value due to wear, obsolescence, etc. But, it seems to me, in the problem of accounting and rate-making, depreciation is wholly a matter of *costs*, not *value*.

When a unit of property with limited life is purchased, the cost is a capital charge and represents an investment. Thereafter as the life of

the unit expires in operation, its original cost is gradually transferred to operating expenses, and the amount is replaced by the consumers and is indicated by the accumulation of a reserve. When the entire life has expired and if the estimates have been correct, the full original cost has been included in past operating expenses, and the depreciation reserve is equal to the original cost, so that sufficient funds have been collected to replace in like cash amount the original cost of the unit.

At any point during the life of the unit, the remaining capital investment is the original cost less the amount included for it in the reserve. This is wholly a cost category, not value, and it seems to me that the position of the public would be better represented if the cost view were consistently advanced. This would get away entirely from the value concept which, in general, is rejected by Dr. Wilcox but which nevertheless is involved in his fundamental definition. It is rather difficult to start from a value standpoint, and then refuse to recognize changes in price level and other conditions affecting values. But if we start with and stick to costs we have no such difficulties of logic, and we may consistently hold that the cost of service is the proper basis of rates.

Issue could be taken with Dr. Wilcox also as to the precise significance of the depreciation reserve and as to certain aspects of the several methods of providing for depreciation. Such technical discussion would obscure the fact that Dr. Wilcox's service is to present for the ordinary reader, in an attractive way, the fundamental truth over which a confusing controversy has been raised. But no one who has been confused and reads this monograph, can fail to see the light if he really wishes to see.

JOHN BAUER

New York City.

Cases on Contract. By Ernest W. Huffcut and Edwin H. Woodruff. Fourth edition revised and enlarged by Edwin H. Woodruff. Albany, The Banks Publishing Co., 1925. pp. xx, 808.

This is an improved edition of a well known case book, published in very attractive form. The policy of printing American cases only is still followed. Langdell and others carried the opposite policy to an extreme, and thereby may have tended to conceal from the student the evolutionary growth of law and its modern variations. The exclusion of English cases produces the same effect, in perhaps a lesser degree; it deprives the student of that long perspective so valuable in evaluating reasons logical and social.

The attempt to cover the subject in the same manner as does Sir William Anson in his treatise results in presenting a few cases in each of many fields and in some inadequacy of treatment in particular fields of great importance and difficulty. The part where the greatest inadequacy appears is in the section headed "Breach by failure of performance of a term in the contract." This is improperly placed under the head of "Discharge" (where Anson placed it). Minor breaches by a party do not discharge either himself or the other party. Major breaches may privilege the other party to perform no more, but frequently would not discharge the contract breaker himself from his primary contractual duty. In this field above all others extended case experience is necessary to give the student the capacity to advise a client or to inform a court.

The cases are well selected, many recent ones being included; and the explanatory footnotes have been greatly enriched. For those who prefer Anson's order of presentation and care for no English cases, this case book will certainly appear to be the best. In seminary courses, also, it will be of much service alongside of other standard works.

ARTHUR L. CORBIN

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American Prohibition Digest—1926 Annual. Edited by Arthur W. Blakemore. Albany, Matthew Bender & Co., 1926. pp. xxv, 389.

The practical legal importance of prohibition is shown not only by the mass of cases concerning it, but also in the number of textbooks which have appeared upon the subject. Mr. Blakemore is responsible for three—*National Prohibition*[1] published in 1923, *Prohibition* (2d ed.) published in 1925, and the present volume. The latter contains original digests of prohibition and search and seizure cases, both state and federal, decided between October, 1924, and October, 1925. There are upwards of nine hundred cases—some of which are included more than once on different points. The book is evidently prepared as a supplement to Blakemore on *Prohibition* (2d ed.), although it can be used independently of that work. While the great majority of the search and seizure cases are liquor cases, the pages (164 to 232) devoted to this subject have a broader appeal. The law of search and seizure is very important to-day with regard to the enforcement of criminal and revenue laws generally. One of the most vital problems is the admissibility at the trial of evidence procured by unreasonable search. Many states do not agree with the United States Supreme Court in rejecting such evidence if the question is properly raised. Almost every jurisdiction had reached a determination upon this issue prior to October, 1925. Mr. Blakemore does not attempt, either in the earlier works or in the *Annual Digest*, to show the law upon this subject in each state. Of course the works do not claim to cover all the cases, yet as some of them are included, it is regrettable that the position of all the courts is not stated.[2]

The Editor does not confine himself entirely to digests of the cases. There are frequent helpful editorial comments and occasional references to his earlier work. Law Review articles and notes are sometimes mentioned, but some pertinent ones are omitted.[3] Possibly their absence may mean very little to most users of the book; but there is always the possi-

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[1] Reviewed in (1924) 33 YALE LAW JOURNAL, 794, by Ganson Goodyear Depew.

[2] During the period covered by the digest, Florida decided to follow the federal rule excluding evidence procured by unreasonable search. *Hart v. State* (Feb. 1925) 103 So. 633. Colorado decided to admit such evidence, although an application is made for suppression in advance of trial. *Massantonio v. People* (June, 1925) 236 Pac. 1019. In addition, many cases have been decided which affirmed the position already taken in the several jurisdictions. For a statement of the holdings prior to March, 1925, see (1925) 23 MICH. L. REV. 764; (1925) 59 AM. L. REV. 728.

[3] For example: Harno, *Evidence Obtained by Illegal Search and Seizure* (1925) 19 ILL. L. REV. 303; Hinton, *Use in a State Court of Evidence Unlawfully Seized by Federal Officers* (1925) 20 ILL. L. REV. 76 (see page 225 of Digest) and two articles by the reviewer, *Admissibility of Evidence Obtained Through Unreasonable Searches and Seizures* (1925) 25 COL. L. REV. 11, and *Prohibition and the Doctrine of the Weeks Case* (1925) 23 MICH. L. REV. 748, reprinted in (1925) 59 AM. L. REV. 728. In addition, a number of shorter comments upon topics treated in the Digest have appeared, *e.g.*, (1925) 25 COL. L. REV. 497 (see par. 224, p. 220 of Digest); (1924) 23 MICH. L. REV. 181 (see p. 226 of Digest); (1925) 23 MICH. L. REV. 307 (see pp. 70–71 of Digest); (1925) 23 MICH. L. REV. 663 (see par. 230 at pp. 222–223 of Digest); (1925) 23 MICH. L. REV. 891; (1925) 9 MINN. L. REV. 474 (see par. 159 at pp. 195–197 of Digest); and (1926) 35 YALE LAW JOURNAL, 612.