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BOOK REVIEWS

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BOOK REVIEWS

Curing the Criminal. By Jesse O. Stutsman. New York, The MacMillan Co., 1926. pp. viii, 419.

Can there be any such thing as "punishment" for a "crime"? Is punishment a measurable thing? Something that we can put a certain amount of into a scale pan to balance a given crime? Such is certainly the biblical interpretation. Do our courts and lawmakers hold this view? I would have said not if I had not had the opportunity a few years ago to discuss the question of punishment with a supreme court judge. I got then my first intimation that our theory of punishment is still based upon the Old Testament and is a part of every Christian's creed. Certainly many of our jurists belong back in the age where torture was a fine art. Christian society still expects an eye for an eye.

To thinking men this point of view is ununderstandable. Psychology believes today that man is made—*only formless protoplasm is born.* Man can do only what he is taught to do by adults and playmates and he can be taught this only within the limitations of the physical set-up surrounding him during his plastic years. Hence whatever the outcome man as an individual is not responsible. His social and physical matrix is responsible. If he deviates either he is sick and needs psychiatric and other medical attention, or else he has not received the kind of training necessary for him to act in accordance with group standards (which vary from year to year, community to community, and from nation to nation). Changing him is always an experimental individual problem. To change him one needs to know the technique of reconditioning. The deviant from our standard social behavior should, from the psychologist's standpoint, become a laboratory subject.

The progress that this general point of view has made in penology has been sketched by Mr. Jesse O. Stutsman, in "Curing the Criminal." The author is in no sense a psychologist or psychopathologist. His presentation shows that he is not a scientific man. His long practical experience in prison work (now general superintendent of Rockview Penitentiary) and his faith in research work in this field, however, make us forgive him for a very loosely knit volume. The fair chapters in the book are, Penology and the Dawning Science; The New Profession, in which he justly scores political appointments in prisons; Prisons Without Walls, where he shows that such are possible and desirable; Prison Industries and Compensation of Prisoners, where the sound argument is advanced that occupation should be taught and the excellent but by no means new appeal is also presented for compensation for prisoner and dependent family; The Police as a Deterrent Agency, in which he tells us much about bribery, strawbondsmen, etc., things we all know about but do nothing about; The Death Penalty, which he says will soon pass since it does not act as a deterrent of crime.

Mr. Stutsman argues valiantly for—and this is his "cure"—individual treatment, the indeterminate sentence in prisons without walls, for decent education along general and vocational lines, for parole at the proper time as a step in the gradual and unconditional return to society.

He is unfortunately an enthusiastic formal Christian and a moralist. This considerably disturbs the scientific reader. A warden when on duty has no business being either a Christian or a moralist. He is or should be a specialist with no bias of his own. He should work with an eye solely upon the outcome of the retraining and reconditioning of the subjects entrusted to him.

JOHN B. WATSON

The Doctrine of Continuous Voyage. By Herbert Whittaker Briggs. Baltimore, John Hopkins Press, 1926. pp. 224.

This is a very meritorious study of the origin and development of a rule of international law which in the treatises is generally described as the "doctrine of continuous voyage," but which might more appropriately be called the rule of ultimate destination. Aside from a few articles in the journals of international law there have been no special contributions to the literature of what has come to be an important rule or doctrine of the law of war. The present study, therefore, will be welcomed by students for the light which it throws upon a somewhat neglected chapter in the general history of international law.

The author reviews in turn the origin of the doctrine of continuous voyage in the so called "rule of war of 1756," its application by the British to blockade and the carriage of contraband before and during the Napoleonic wars, the interpretations which Sir William Scott placed upon it, and the more recent applications and extensions which it received during the Crimean war, the American Civil War, the war of 1896 between Italy and Abyssinia, the Boer War and especially the World War. There is also a summary of the discussions of the subject at the London Naval Conference.

Naturally, the major part of Dr. Briggs's study is devoted to a discussion of the extensions of the doctrine during the World War: its application to the carriage of conditional contraband, involving as it did the abolition of the distinction between absolute and conditional contraband; its extension to blockade operations; the invention of new presumptions of hostile destination, and the drawing of inferences of quiet from various circumstances; the shifting of the burden of proof from the captor to the claimant; the abuse of the right of reprisal; the taking of neutral vessels into British ports for examination of their cargoes; the abolition by Great Britain of the formality of the first hearing in the procedure of the prize court; the admission of extrinsic evidence for the purpose of condemnation; the narrow interpretation of the "common stock" doctrine, etc.

The author's analysis of the decisions and the practice during the World War is, on the whole, scientific and judicial in spirit although he makes no attempt to conceal his own view that the extensions and the interpretations, especially of the British prize courts, represented an unwarranted encroachment upon the rights of neutrals as they were defined by what he considers to have been at the time the established principles of international law. Writers, however, are not lacking who will not concur in his assumption that certain rules, which Great Britain was charged with having violated were really "established" principles of international law. Thus he apparently assumes that the old rule which required a ship to be condemned "out of her own mouth" and which excluded the admission of extrinsic evidence in the trial was a generally recognized rule of prize law. It was undeniably an established rule of British and American prize procedure but it is not easy to see why Great Britain did not have the right to alter it when changed conditions rendered the old rule absurd. Similarly, he appears to regard the British practice of taking vessels into a home port for examination of their cargoes as being contrary to an established rule of international law. But the fact is, this practice had been sometimes followed in former wars, notably during the American Civil War and during the Balkan wars and it is the opinion of most naval commanders (among them, the late Admiral Stockton) that under modern conditions search if permitted to be made only at sea would often prove

wholly ineffective. During the World War all the maritime belligerents resorted to the practice of taking their prizes in for examination, and it is certain to be followed in the wars of the future unless the necessity for it is removed by a system of certification as has been proposed. Dr. Briggs's criticism of the Anglo-French measures against German commerce as a "so-called blockade" follows the lines of the American protest, while the United States was neutral. Here again it may be confidently asserted that in the wars of the future when one of the belligerents is circumstanced as Germany was, favored by the proximity of neutral ports through which a stream of supplies from over the seas can pour into its territory, the right of blockade will be employed by the enemy to prevent it. Unless this is done the right of blockade will be illusory except when applied against insular states. It is certain that Germany would, had it been within her power, have adopted similar measures against the commerce of her enemies and it is hardly necessary to remark that when the United States became a belligerent during the late war she co-operated with Great Britain and France in enforcing the new blockade which as a neutral she had denounced as illegal. Dr. Briggs criticizes some of the presumptions of hostile destination which were invented by the British government and by the prize courts and the inferences of guilt which were drawn by the prize courts from various circumstances and transactions—and the criticism is not entirely unjustified—yet it is hard to see why in many cases the general principle was not sound. Take, for example, the reliance upon so-called "statistical" evidence where the pre-war importations of over-seas commodities into some of the neutral countries adjacent to Germany were practically *nil* but which during the years of the war soared to millions of pounds. They were often consigned to "order" or to "dummy" consignees or to agents of enemy governments, who flocked in large numbers to neutral ports, opened offices, sometimes in hotels, and in a few months were receiving enormous consignments of commodities for which Germany was in dire need. For the prize court to have closed its eyes to these realities, to have refused to draw inferences therefrom and to have presumed an innocence on the part of those engaged in such traffic and to have required captors to prove guilt may be a necessary principle of procedure in a criminal trial, but it is too much to expect that it will be followed by a prize court under the conditions which prevailed during the World War. The reviewer entirely agrees with Dr. Briggs that the right of belligerents to intercept the carriage of contraband to the enemy and to prevent by blockade all over-sea trade with him is a "qualified" right; at the same time it is a fundamental and incontestible right which may be reasonably extended and adapted to meet new and ever changing conditions, otherwise the right may be worthless as it certainly would have been during the War if the technical rules of the old practice had been strictly adhered to. The conclusion of the author is that the real problem raised by the doctrine of continuous voyage is whether it can continue to exist "without gravely imperilling international maritime law." Neutrals, he thinks, have international law on their side. He is perhaps right in concluding that there appears to be no solution of the problem short of a rule forbidding neutrals to trade at all with any belligerent.

As stated in the beginning of this review, Dr. Briggs's monograph is a useful and interesting contribution and its intrinsic value is not lessened by a few relatively unimportant errors and infelicitous expressions. To mention several of them, he speaks (p. 112) of the German prize code having been amended by a *Reichsgesetzblatt;* he frequently uses the expression "first leg of the voyage" when "lap" would be better; on page 148

he speaks of the German prize court having upheld the "validity" of an article of the prize code, as if it were competent to do otherwise, etc. In his bibliography one notes the absence of some important books such as Bentwich's and Cohen's works on the Declaration of London, Parmelee's *Blockade and Sea Power* and especially Virzijl's monumental *Droit des Prises de la Grande Guerre* which contains a comprehensive analysis of the jurisprudence of the prize courts during the World War, relative to the doctrine of continuous voyage.

JAMES W. GARNER

Profits, Dividends and the Law. By Prosper Reiter, Jr. New York, The Ronald Press Co., 1926. pp. xi, 260.

The preface of this book states "it is the author's hope that this book will stimulate further thought in the field of legal accountancy, enable lawyers to appreciate the accounting principles involved in arriving at the profit available for dividends, and serve as a ready reference to lawyers, business men and accountants where legal authority is needed."

There is substantial reason to think that the author's hope will be realized. The book is a stimulating and interesting book in a field where there has been no first rate American book of accountancy, and it is in its clear statement of accounting principles that its chief merit lies. There is undoubtedly a wide divergence between the accountant's sharply defined conception of profits and dividends and the rather muddy conceptions of the courts on the same topic, and this presentation of the accountant's conception may therefore be of real value in the working out of the law.

The book is far less successful in stating the legal side of the muddle than it is in stating the accountant's side, and the author has not "suffered" with his law in the same complete way that he has come to know his accountancy. While his analysis of the impairment of capital cases is satisfactory, he has not given adequate attention to recent federal income tax cases which have gone far to establish a basis on which the law of what is profit may be worked out. His treatment of the doctrine of *Bassett v. United States Cast Iron Pipe & Foundry Co.*,[1] is far from adequate; he does not cite the important later cases and the literature on the topic—*e.g.* the *Day*[2] and *Moran*[3] cases in the same Court; *Collins v. Portland Electric Power Co.*,[4] recently affirmed by the Circuit Court of Appeals,[5] and the unreported *Norwich Power v. Southern Railway* case decided in Virginia in 1925 on the same topic, nor the recent legal articles in regard to it by Mr. Berle and others.[6] His treatment of the subject suffers markedly from that lack of knowledge of these authorities. Nor does the book deal at all with the questions which arise in law or accountancy where, as is most common, corporate business is conducted through controlled or partly-owned subsidiaries and it becomes necessary to determine rights *inter esse* between several classes of shareholders for various accounting periods.

The law which the book expounds is too far the not-thought-out law of the compiled text books—the author has not got close enough to the legal problems completely to understand them or to be sympathetic with them—

[1] 74 N. J. Eq. 668, 70 Atl. 929 (1908).
[2] Day v. United States Cast Iron Pipe & Foundry Co., 96 N. J. Eq. 736, 126 Atl. 302 (1924).
[3] Moran v. United States Cast Iron Pipe & Foundry Co., 96 N. J. Eq. 698, 126 Atl. 329 (1924).
[4] 7 Fed. (2d) 221 (D. C. Or. 1925).
[5] 12 Fed. (2d) 671 (C. C. A. 9th, 1926).
[6] See Berle, *Non-Cumulative Preferred Stock* (1923) 23 COL. L. REV. 358; *id.*, *Participating Preferred Stock* (1926) 26 *ibid.* 303, and citations.

but nevertheless the book is interesting and stimulating and a real step in a much needed formulation of law on the topic which can hardly be done without the background of accountancy.

JOSEPH P. COTTON

Growth of Legal Aid Work in the United States. By Reginald H. Smith and John S. Bradway. Washington, Government Printing Office, 1926. pp. v, 145.

It is improbable that even the imprimatur of the Government Printing Office can wholly obscure the inherent distinction or conceal the importance of this admirable little book. Its distinction is recognized by a former president of the United States, the present Chief Justice of the Supreme Court, who has written a discriminating preface. The importance of the subject presented and the excellent workmanship exhibited in its treatment deserve a more honored binding, an energetic distributor and a price that proclaims the value of the work.

The theme is thus strikingly stated, "In recent years much has been written concerning the law and its effect on the collective interests of wage earners; there is a voluminous literature on the law of labor unions, collective bargaining, strikes, picketing, closed shop, injunctions; but little space and attention have been devoted to the law as it affects the individual claims and the individual rights of the wage earner and of his family in their everyday life. . . . However vital and important the larger topics may be, there have been moments in the lives of thousands of men when the collection of their overdue wages was the most important thing in the world, because it meant the difference between food and hunger, and there have been similar moments in the lives of countless women when the collection of compensation for a husband's injury or death meant the difference between independence and destitution."

The succeeding pages show how far we have failed to make good our American boast, incorporated in the Fourteenth Amendment of the Federal Constitution, that no state shall deny to any person within its jurisdiction the equal protection of the laws. It is true that in all our states, courts have been established to do justice between disputants, but they are not really open to the poor litigant. At the very outstart he is barred by the requirement of security for costs, which he cannot give. Even in those states, numbering somewhat more than half of all, which have *in forma pauperis* laws, the provisions made for the relief of the impecunious complainant are inadequate. But even if he is able to raise the money for costs and fees, he is helpless without the advice and aid of a lawyer, whose charges, even when reasonable from the standpoint of time consumed, must often absorb the whole of the petty claim. Then follow the vexations and wasteful delays incident to formal court procedure which cost the poor man time and money and sometimes his job as well. Certainly for the poor the delay of justice is the denial of justice. The authors show clearly that with regard to costs, attorneys' fees and delays, we have much to learn from the more advanced methods made use of in other lands.

Then follows quite the best and most comprehensive description anywhere to be found of the numerous remedial agencies employed in the several states to better the evil conditions so clearly disclosed. These agencies are listed in this order: small claims courts, conciliation tribunals, industrial accident commissions, administrative officials (such as commissioners of banking and of labor), the public defender and legal aid organizations. The work of the author of *Justice and the Poor,* a book well on the way to become a classic, is easily recognized in the admirable account of the origin and development of the now wide-spread practice of

providing a public defender for poor persons accused of crime, and of legal aid organizations, now efficiently co-ordinated through a national association with the prospect of soon effecting, through the ministration of the League of Nations, connections with similar agencies in many foreign countries. Mr. Bradway's hand is seen in the numerous and detailed statistical tables, both in the text and in the appendices, which add greatly to the value of the work and to the cogency of its argument. It is to be regretted, however, that the authors did not include in their account of conciliation courts in this country the story of the unsuccessful efforts made about the middle of the last century to establish such courts in New York, Wisconsin, Michigan, Indiana, Ohio and North Dakota, which was so dramatically told by Chief Justice Winslow in an address before the Wisconsin Bar Association in 1914.

To the increasing number of persons who are coming to appreciate the social need of extending to the poor and unfortunate the equal protection of the law, this little book will provide invaluable information both as to procedure and technique.

W. R. VANCE

Cases on Federal Taxation. By Joseph Henry Beale and Roswell Magill. New York, Prentice-Hall, Inc., 1926. pp. xv, 719.

The purpose of this case book, as stated in the preface, is "to collect, particularly for the use of students of law and business, materials for the study of the interpretation and administration of the more important federal tax laws." With this in mind, chapter I is devoted to the Constitutional Aspects of the Taxation of Income, chapter II to Classes of Taxpayers, chapter III to the Tax on Individuals, chapter IV to the Tax on Corporations, chapter V to the Tax on Estates and Trusts and chapter VI to Administrative Provisions. In Part II is discussed the Estate Tax, in Part III the Gift Tax and in Part IV the Capital Stock Tax. As spades with which to dig into the ground, the cases are well chosen, and under the skilful guidance of a teacher thoroughly informed concerning the development of the law as well as the more recent decisions, this book will be very valuable.

The truth is, however, that even with such able and well informed men as the two compilers of this book, they cannot satisfy or be expected to satisfy the needs of the practicing lawyer. It is hopeless even for the specialist in tax matters to keep abreast of the decisions. For example, in discussing the gift tax, how could the authors have referred to *McNeir v. Anderson*,[1] in which Judge Augustus N. Hand passed on the constitutionality of the gift tax law, when it was only decided on February 16, 1926? Again, there is no reference to Professor Magill's able article in the YALE LAW JOURNAL,[2] *Tax Exemption of State Employees*. Obviously not; it did not appear until June, 1926. But no practicing lawyer will have completed his search and study of the subject of the applicability of tax law to state instrumentalities if he has failed to read it. *Frey v. Woodworth*[3] went to the United States Supreme Court but was dismissed on appeal on the motion of the Solicitor General.[4] The reviewer shamefacedly acknowledges that though he had been watching this appeal closely, he did not know of the dismissal of the appeal until it was disclosed in the footnote on page 967 of Professor Magill's article. The stu-

[1] 2 Fed. (2d) 813 (S. D. N. Y. 1926).
[2] (1926) 35 YALE LAW JOURNAL, 956.
[3] 2 Fed. (2d) 725 (E. D. Mich. 1924).
[4] 46 Sup. Ct. 347 (1926).

dent should use his fountain pen and on page 289 of the book insert a reference to this article, noting especially the footnote reference on page 956, note 3. He should also note a cross reference to and carefully study *Metcalf v. Mitchell.*[5]

The rapidity with which decisions are being made in this field of the law leads to the somewhat pessimistic conclusion that it is wholly impracticable to compile a text or case book on this subject which will not be out of date before the book can be proofread and bound. In this connection it may be noted (p. 523) that the case of *Girard Trust Co. v. McCaughn,*[6] involving the question of the taxability in the estate of a settlor of the corpus of a trust where he has reserved the income to himself for life, was reversed by the Circuit Court of Appeals for the Third Circuit on February 23rd, 1926. Its reasoning was expressly repudiated by District Judge Westenhaver in *Cleveland Trust Co. v. Routzahn.*[7] On the other hand, as recently as June 1, 1926, the Circuit Court of Appeals for the Second Circuit, in the case of *Frew v. Bowers,*[8] reached the same result as did Judge Dickinson in the District Court in the *McCaughn* case.

What a difficult thing it is these days to write any authoritative kind of a law book in almost any field of the law! Someone should devise a mechanical contrivance which will permit inserts to be made as freely as McKinney's supplements to the annotated statutes of New York are inserted in the main volumes.

The book discloses conscientious effort to bring within the realm of student work material which will enable the student to come to grips with the leading questions of federal tax law. Read from that point of view, the book is an admirable piece of workmanship. Taken, however, from the angle of the active practitioner, daily face to face with tax problems upon which he must advise, it facilitates research but is not conclusive. Our advice to the student is to dig and dig, omitting no instructor's notes or suggestions, using his fountain pen freely, if he wishes to keep this book later on for use in his practice. He should regard the book as a challenge to him to find the most recent decision on any branch of the subject under discussion in the classroom, and if he follows this advice he may have the supreme satisfaction of startling his professor with a reference to a decision with which the professor himself is not yet familiar. In the reviewer's classroom days this was no mean triumph for a student.

JULIUS HENRY COHEN

The Negotiable Instruments Law Annotated. By Joseph Doddridge Brannan. Fourth Edition, by Zechariah Chaffee, Jr. Cincinnati, The W. H. Anderson Co., 1926. pp. cxlviii, 1041.

[c] The new edition of Brannan is an excellent work. What may be regarded as its prime object is the collection of cases decided under the act, and this appears to have been thoroughly accomplished. For the most part, the comment on cases is good. From a technical standpoint, the cases are well arranged and well stated, while the new marginal references enable the reader to come quickly to the decisions on the point under consideration. Superior as a whole to its earlier editions, this work finds place in the small row of books which both teacher and practitioner in the commercial law field must keep close at hand for constant use.

[5] 46 Sup. Ct. 172 (1926).
[6] 3 Fed. (2d) 618 (E. D. Pa. 1925).
[7] 7 Fed. (2d) 483, at 485 (N. D. Ohio, 1925).
[8] 12 Fed (2d) 625 (C. C. A. 2d, 1926).

As a handbook, the omission of the full text of the extensive Ames-Brewster-McKeehan discussion is an unmixed blessing. The decisions on the points raised, or in many cases the lack of such decisions, during the past 25 years, suffice for most purposes. Indeed, now that the act has been adopted in all the states substantially as drafted, the search for discrepancies, however well intentioned in the beginning, should end in favor of an endeavor to point the way to a uniform enlightened interpretation.

And there is no doubt that in this regard the present edition should be of even more help than the last on many points. At the same time there are some contentions urged which are of doubtful value. For example, it is difficult to see what purpose is served by asserting positively again, and with no authority, that section 40 is in conflict with section 9 (5) and should be repealed.[1] Section 9 (5) reads that an instrument is payable to bearer when the "only or last indorsement is in blank." When a special indorsement follows a blank indorsement, neither the only nor the last indorsement is in blank, and the instrument is not payable to bearer within the provisions of the act defining bearer paper. That being the case, section 40, providing that bearer paper may be negotiated by delivery although specially indorsed, applies only to instruments originally payable to bearer, as suggested by Mr. McKeehan.[2] As to the policy of making this distinction between bearer and order paper, regardless of how it may have come about, that is a point on which further evidence should be taken before any change is made. Looked at from the standpoint of the business community as a whole, rather than that of a particular holder, it may well be desirable to continue to have one type of instrument which approaches money in negotiability by remaining negotiable by delivery alone although specially indorsed.

The cases representing the two views on the question whether a payee may be a holder in due course under the act are well presented.[3] The difficulty appears to be purely one of construction. No adequate reason of policy seems to have been advanced by anyone to show that a payee taking in good faith and for value should not be entitled to the same protection that would be accorded any subsequent holder. And, from the payee's standpoint, no convincing reason appears for distinguishing between the situation where the person delivering the paper to him was a thief in the position of remitter and that where the delivery was by an agent acting contrary to authority. Such being the case, it is desirable to clear up the question by amendment. The amendment proposed by Mr. Chaffee[4] does not seem satisfactory. There are many points to be considered for which space is not now available. The proposed amendment, however, would add to section 52 (the section defining holder in due course) a provision that to be such a holder one must have had no notice "that the delivery to himself was wrongful." While the use of both "negotiating" and "delivery" in the section would seem to make it clear that a payee might be a holder in due course, does the amendment accomplish its purpose and no more? In section 14 the phrase "negotiated to a holder in due course" is used, and it is quite conceivable that a court in construing this with the amended section 52 would decide that two types of holders in due course were provided for: those to whom the paper has been negotiated and those to whom it has been delivered. As the payee could well fall in the latter class it might still be held that he was not a holder in due course within section 14. This would be covered, no doubt,

[1] p. 294.
[2] p. 325.
[3] pp. 361 to 374.
[4] pp. vii and 361.

by amending section 14 to follow the language of section 16 in the similar situation.

The proposed amendment would also go too far. It applies not only in cases of payees, but of subsequent holders as well. A holder, to be entitled to the rights of a holder in due course, would need to show not only that the requirements of the present section 52 had been met, but in addition that he had no notice of a "wrongful" "delivery." Perhaps this would all be construed not to increase the requirements of the present section. But surely it is unwise to risk conflicting interpretations. And what is meant by "wrongful" in this connection? It would seem that all points could be covered directly by amending only the latter part of section 30, the section defining negotiation, to read somewhat as follows: if payable to order it is negotiated *to the payee by delivery or to a subsequent party* by the indorsement of the holder completed by the delivery.

There is obvious danger involved in tinkering with a statute. We have had too much suggestion of amendment without enough emphasis on whether change is necessary. In any case, when change is shown to be desirable, the principle of uniformity should not be wholly ignored, although it may never be fully realized. Some twenty-five years hence, it may be well to undertake a comprehensive revision of the act, after thorough discussion, and with the approval and support of the Commissioners on Uniform State Laws. In the meantime, in making minor amendments, it would be desirable when possible to follow the same procedure.[5]

There are many other points which might be discussed with profit. There is much to be said both from the standpoint of the lender and that of the borrower in favor of an amendment specifically authorizing additional acceleration provisions. It seems possible that some of the supposed difficulty with regard to section 28 may be occasioned by a strained interpretation of the section as one relating to burden of proof.[6] The much discussed position of a drawee who has certified a check altered as to payee is still uncertain.[7] The approval as a matter of policy given the Illinois case[8] denying recovery to the drawee, seems to lose sight of the fact that this interpretation of section 62 would apply generally and that all drawees are not large city banks in position to insure. Further, the taker from the alterer in many cases will have acted for a prospective profit and there is no good reason why he should keep his profit at the expense of the drawee. Also in many cases the taker may have had misgivings, not amounting to bad faith, concerning the regularity of the transaction, and could therefore perhaps best be charged with detecting the alteration.

There is frequent reference to the law reviews. The articles should prove of value, representing, as they do, the result of much labor from an unbiased viewpoint. It is a pleasure also to note in the preface[9] to this edition that the act is conceded "to have made great advances upon the common law." Too little credit has been given to the draftsman, Mr. Crawford. With all of its shortcomings, real and imaginary, the act has proven to be a rather satisfactory piece of legislation.

ROSCOE TURNER

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[5] In 1922 proposed amendments of sections 32 and 38 of the Uniform Sales Act were approved and recommended for enactment by the Conference of Commissioners on Uniform State Laws. WILLISTON, SALES (2d ed. 1924) 1779.

[6] See (1926) 35 YALE LAW JOURNAL, 369.

[7] pp. 570 to 572.

[8] National City Bank v. Bank of the Republic, 300 Ill. 103, 132 N. E. 832 (1922).

[9] p. vii.

Jurisdiction and Procedure of the Federal Courts. By John C. Rose. Third Edition. Albany, Matthew Bender & Co., 1926. pp. xxxiv, 919.

This is a new edition of Judge Rose's well known book on federal procedure. Earlier editions appeared in 1915 and 1922, and were favorably received. (See reviews by Professors Sunderland and Dobie in (1923) 21 MICH. L. REV. 617, and (1923) 9 VA. L. REV. 476, respectively; also (1915) 13 MICH. L. REV. 715; (1915) 15 COL. L. REV. 644; (1915) 63 U. OF PA. L. REV. 583; (1923) 8 IA. L. BULL. 287). The work grew out of the author's lectures on the subject at the University of Maryland, prepared while he was United States District Judge for the District of Maryland; he is now Circuit Judge for the Fourth Circuit, and with a long experience of the practice of which he writes. His book has been distinguished for its brevity and conciseness and at the same time its clarity. The lecture style seems somewhat apparent; not many cases are cited, and when given are usually stated at some length as illustrative material.

Little need be added concerning the new edition, for it follows the general plan of the earlier editions. The occasion for it is stated to be the new federal acts and Supreme Court decisions and especially the Act of February 13, 1925. The method of preparing the new edition is that followed by most law writers, namely the incorporation of the former edition without variation except where absolutely necessary because of change of statute or judicial rule, and the addition here and there of new matter in text or notes. No considerable revision is attempted. One new chapter is added; chapter XVIII, "Enforcement of Arbitration Agreements," dealing with the new Federal Arbitration Act. The actual text still remains of fairly brief compass, considering the large type used. It comprises 609 pages. The remaining part of the book, amounting to over one-third, consists of reprints of the original Judiciary Act, the Judicial Code, the Equity rules, and the usual tables of contents and of cases and the index.

The book is designed for the busy lawyer or the student who desires a summary statement. No attempt is made at discussion and solution of knotty questions. The law review articles are ignored. Certain pleading and procedure ideas, current among federal practitioners, which, it is to be hoped, will soon be exploded, such as that the Constitution requires a separation of law and equity, are repeated without analysis or criticism. In using the work, its somewhat limited purpose must be kept in mind. That it seems to fulfill admirably.

C. E. C.

THE REVIEWERS IN THIS ISSUE

John B. Watson was for some time professor of experimental and comparative psychology and director of the psychological laboratory at Johns Hopkins University. Among his published works are *Psychology From the Standpoint of a Behaviorist* (1919) and *Behaviorism* (1925).

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