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BOOK REVIEWS

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Science du Droit et Romantisme. By Julien Bonnecase. Paris, Recueil Sirey, 1928. pp. lv, 745.

This is an interesting and a valuable work. Professor Bonnecase has taken as his subject-matter the development of theories as to the nature and interpretation of law in France from approximately 1880 to the present day. As the romantic movement in law, which Professor Bonnecase has taken as his major theme, is not to be understood save as a revolt from the older classical theories, this volume tends by consequence to be a continuation of the various studies which the author has made of the classic nineteenth century schools of legal thought, particularly of his L'École de l'Exégèse en Droit Civil (2d ed. 1924).

There is in the preface some indication of the flavor and the framework governing the survey. In 1911, the author notes, Dean Hauriou of Toulouse remarked that no jurist, since the appearance of Duguit's work on the State ten years before, had been prompted to subject the theories which Duguit had there enunciated to direct criticism or to ascertain whether they were of anarchic tendency or not. In essence, the present volume responds to the suggestion on a larger scale than Hauriou essayed; it places the work of Duguit in the setting of the stream of French legal theory during the last half century; regards that stream as basically romantic in its outlook; and undertakes a critical examination of its significance.

The author's theme is thus the influence of the romantic movement upon legal science. The method employed to develop the theme, ostensibly chosen to avoid misconstruction, is to permit the authors who have played a part in the movement to speak for themselves. This device is pursued to anthological extremes, which, while enhancing the usefulness of the work, at times becomes quite tiresome. The chief parts in the skeleton which support the extensive mass of quotations are these: first, a preliminary section in which the factors in the shift from "Exegesis" to "Romanticism" in the field of law are traced and the symptoms of the shift illustrated; second, an analysis of the various earlier philosophical forms assumed by juridical romanticism and the affiliated mysticism; third, an exposition of Geny's threefold distinction of science, technique, and method, suggesting the intimate relations between romanticism and legal science in Geny's sense; fourth, an elaborate description of the various contemporary manifestations of the "mal du siècle,"—the confusion of law and morals, the emphasis on jural "psychologism," the reception of German mystical notions as to legal evolution, the appearance of sociological theories of law. Throughout, the discussion is fortified by interesting and often illuminating excursions into allied fields, literary criticism, philosophy, and science, to expose and enforce points at issue.

The most important matter involved in all this is the thesis, for thesis there is despite the appearance of impartiality, which prevents the author from being other than implicitly clear as to where he stands. If we may attempt to formulate the point of view, it is that the inner secret of law should be found in a rational order which imposes itself upon individuals; the rules involved in this order should be declared by the officers of the

administration of justice, and should not have a content variable according to the prejudices of an individual conscience—in short, a government of laws and not of men. Though it is not expressly stated, in seeking the basis of such an order, M. Bonnecase takes the right fork: the essence of law is the rational application to life of ideas of justice, conformable to the time and place. The alternative aspiration of social science that the legal order should be provided with an observational basis is only obliquely considered. The point of view adopted is obviously traditional in its emotion and, like most traditional theses, is not defended on grounds of equity or convenience but rather serves as a basis of criticism.

In this point of vantage, the author has provided himself with a principle of negative analysis which not only enables him to criticise the romantic movement in law but even to use it as the common denominator for the treatment of systems of legal thought which might otherwise be thought distinct. A primary question which the author may reasonably be asked is, What indeed is this romantic common denominator? There is some indication of the author's reply on page 717 of the analytical tables:

"1° le romantisme juridique, à l'instar du romantisme littéraire, rejette l'existence d'une règle s'imposant du dehors, et plus particulièrement d'une règle à caractère métaphysique, qui serait l'expression, socialment, de l'idée d'ordre inhérente à l'organisation même du monde; 2° le romantisme juridique fonde la règle de Droit sur le sentiment et rejette les concepts de la raison, preétendant saisir directement la réalité; 3° le romantisme juridique délaisse la conception historique du Droit dans sa portée exclusive au profit d'un culte très accentué pour les directives venues de l'etranger; 4° le romantisme juridique poursuit, en vertu d'idées trop preéconçues, une lutte impitoyable contre les notions traditionnelles; il est animé du même esprit révolutionnaire que le romantisme littéraire."

The forms which the romantic tendency, as thus defined, have taken are varied and numerous. The consummate type is furnished by those theories which identify law with or subsume it under ethics. With this type Professor Bonnecase has especial difficulty: such views tend to destroy law as an autonomous science, to open wide the doors to judicial legislation and subjectivism, to confuse the nature of the two disciplines, law being a science and ethics, as the author supports on authority, being concerned with human character and the ultimate destiny of the individual. That a counter to this view is possible, namely, that the identification of law with a science of ethics will not deprive legal study of scientific character, the author is well aware; however, he sticks by his authorities.

A second principal type assumed by legal romanticism is found in those theories which place the basis of law in what Bonnecase terms "les données sentimentales de la masse des consciences individulles." Externally, these psychological interpretations of law are strongly reminiscent of the theory of Savigny, which located the roots of law in the popular conscience; in Duguit the doctrine leads to the well-known distinction between the law of the jurists and the law of the people. The paradox in the working out of this doctrine is that the jurists are thus given a wide power of interpreting the law which finds its basis in popular sentiment in order to create a system of rules which shall control the individual. The product of individual consciousness is its control. Internally, the psychological theories, according to Bonnecase, are in the embarrassment (a) of relying upon an empirical uniformity which cannot be experimentally ascertained, (b) of identifying legal principles with vague and fluctuating movements in popular opinion, (c) of expressing the irrational source of knowledge, which legal romanticism involves, in a mystical refusal. The author's view is that these doctrines are the result of mystical notions of progress denying

the legal absolute, conjoined with an *a priori* scientific conception which will have nothing to do with metaphysics. In a sense, these doctrines are congenial to the doctrines of Salcilles, which reject the rational ideal, and even to the doctrines of sociological theory which tend to deny the individual in the emphasis upon somewhat undefined social values.

In conclusion, the following remarks may be ventured. First, the author has suggested an interesting approach to the history of legal theory by his use of analyses developed in the fields of literary criticism and what may be termed scientific philosophy. Second, his criticisms of intuitional, socio-psychological or sociological theories of law are such as to raise the question as to whether these doctrines have really satisfied the need for theories which will lay the basis for effective control of human conduct. Certainly, the point that in some way or other these theories must take account of the rational mechanics of analysis can scarcely be gainsaid. Third, the impression remains, nevertheless, that the argument, valuable as it is in marking out the field of battle, has yet failed to lay low the enemy. Its effort is to meet the chief drive of the romantic movement by ensuring a conjunction between legal science and metaphysics: this, however, tends to avoid the real point of attack, which concentrates on the question, How the conventions of law can be made appropriate and effective in dealing with an extremely complicated mass of social problems, varying in time and place. Ultimately, the argument puts the opprobrious term, "anarchic," upon non-traditional efforts to render law flexible to the problems of life. But that, of course, is no more than to start the issue.

Baltimore, Md. HESSEL E. YNTEMA.

Federal Income and Estate Tax Laws. By Walter E. Barton and Carroll W. Browning. (4th Edition) Washington, John Byrne & Co., 1929. pp. xlv, 766. $15.

Federal Tax Practice. By Robert H. Montgomery. New York, The Ronald Press, 1929. pp. vi, 757. $10.

Federal Income Taxation. By Joseph J. Klein. New York, John Wiley & Sons, Inc., 1929. pp. xxv, 1749. $10.

These recent works are indispensable to the income tax practitioner as essential tools in his working library. Each of these books has been prepared by practitioners who have incorporated in their works the most modern devices of indexes, appendices, and annotations. Those of us who have worked during the last fifteen years with the more or less unscientific materials available in this technical field find ourselves under great obligations to the authors who have prepared these works.

There is of necessity a considerable duplication of materials. Each work contains the Revenue Act of 1928 and the Revenue Act of 1926 with parallel references. Messrs. Barton and Browning present the Revenue Acts of 1928, 1926, 1924, 1921, 1918, and 1917 in parallel column form with annotations at the bottom of each page and the whole preceded by an alphabetical table of cases. The work of Messrs. Barton and Browning will be especially appreciated in the briefing of cases where it is desired to make parallel comparisons between specific provisions of the revenue acts in order to illustrate the development of a specific tax theory as expressed in its growth in the tax law itself. The parallel form adopted by Messrs. Barton and Browning offers the constant difficulty that the authors must break the sequences of paragraphs in the various acts in order to afford physical comparison as between paragraphs of similar import. This detracts from the usefulness of their book at the counsellor's table at hear-

ings unless, indeed, the counsellor can project upon his own memory the sequence of parallel citations. One is also impressed by the meagre character of the annotations. Despite the several thousand cases already cited by the Board of Tax Appeals which are used by Messrs. Barton and Browning in their annotations, there remains a very considerable amount of statutory language in the Revenue Acts which has not as yet been passed upon by the Board of Tax Appeals. A striking illustration of this is found in the annotations as to the various clauses relating to statutory reorganizations.

Dr. Klein includes as Appendix A of his work a "Comparison of the Revenue Acts of 1926 and 1928 with Index" prepared by Clayton F. Moore for the use of the Committee on Ways and Means, House of Representatives. This appendix is reprinted in Dr. Klein's work without annotations of Board of Tax Appeals decisions.

Professor Montgomery includes as Appendices C, D, and E of his work the Revenue Act of 1928, the Revenue Act of 1926 and a table of parallel references. It will be seen that the text of law as given in the works of Dr. Klein and Professor Montgomery is in both cases a duplication of material already in hand in the office of every practitioner and is without the benefit of either the exhaustive parallel physical presentation or the annotations which characterize the work of Messrs. Barton and Browning. In the opinion of this reviewer, the work of Messrs. Barton and Browning is indispensable and the similar material in the appendices of the other two works is superfluous, if not open to the objection of padding.

Professor Montgomery has given us a useful treatise, written in popular style, of the administrative organization within the Treasury Department concerned with administration, assessment, and collection of deficiencies, credits, refunds, and penalties. This is the most useful part of the work of Professor Montgomery, as it gives in synoptic form the story of the Treasury Department's administrative organization as it existed in 1928. Doubtless much of this material will soon be outdated and the Bar must continually rely upon Professor Montgomery and his associates in the annual revision of this statement of treasury practice. The materials with reference to practice before the United States Board of Tax Appeals given in Part II of Professor Montgomery's work will probably prove of less value to the practitioner. Much of the substance of Part II consists of comment by Professor Montgomery on the rules of the Board. Most practitioners will prefer to rely upon their own experience with court procedure and the law of evidence. Certified public accountants who attempt to practice before the Board will do very well indeed to pay careful attention to the cautionary comments of Professor Montgomery. Lawyers familiar with the monumental treatises on evidence by Wigmore, Jones and the other classical legal authors must need find the comments of Professor Montgomery rather startling in their brevity. Witness the eleven lines at the top of page 366 in which Professor Montgomery disposes of the parol evidence rule. It cannot be said that Professor Montgomery has made good on the claim of the preface that his work "is designed as a comprehensive commentary of the practice in such cases, from the time of the first hearing before the Treasury, to the final argument before a court of last resort," unless the stress is put upon commentary and the sense restricted to commentary of use to novices. Having said this much, it must be said that Professor Montgomery has given us the best work we now have on the general subject matter of federal tax practice. It is to be hoped that there may be an annual revision of the work with an increasing use of annotations so that "comment" may finally rest upon the official expressions of the Board of Tax Appeals and of the courts.

Dr. Klein has comprehended in one treatise a text statement of the major features of federal income taxation law followed by a text statement of procedure both in the Bureau and before the Board of Tax Appeals. Dr. Klein illustrates his work with extensive references to settled cases. In the actual use in practice of Dr. Klein's book it must be stated that the reviewer has discovered no errors in such annotations and references. The tables of cases and the index which conclude Dr. Klein's work have been prepared with great care and are exceedingly useful. It is not too much to say that an attorney who can afford to own but one book on federal income taxation should own this 1929 work of Dr. Klein. Dr. Klein bases his statements in a scholarly manner upon the statutes and decided cases. Beyond this he confines his comment in larger part to an indication of undecided or new points. This makes the work useful in that the reader does not need to struggle between the mere opinion of the author and what may be taken to be the present state of the law on any particular point. It is rather a triumph for Dr. Klein that he has accomplished this without making the style of his text unattractive.

The publication of the three important works cited above now makes it possible for the preparation of a casebook on federal income tax law and practice. The preparation of such a casebook will of course be of great consequence to the law school teacher who has the problem of teaching this subject. More than that, the preparation of such a book will be of incalculable benefit to income tax authors who may be incited thereby to *distinguish* cases.

This review would be ungenerous if it did not conclude, as it began, with the frank admission that these three books are of superior order as compared with the general literature in the field. The work of Messrs. Barton and Browning paves the way for definite annotations such as are the first requisite in the preparation of briefs. The work of Professor Montgomery tends to indicate the flow of sequences in tax matters and unquestionably this work will become of first authority when each sentence of opinion can have substituted for it a direct annotation to a settled case. The work of Dr. Klein is a masterly summary of the entire field in compact form. Here, then, are three reference works which the tax practitioner may well have in his hand. Of course, the tax practitioner will continue to win his cases on briefs based on statutory language and selected cases. Probably there is no need here to warn the practitioner that Treasury Department practices are in a state of flux and are dominated by personalities, or that these authors cannot be implicitly followed. The authors make no such claim and we need not make it for them.

The general format of each of these works is excellent. The principal criticism to be made of each of them is that cases are cited as supporting general rules when without much legal dexterity most of the decided cases, particularly those of the Board of Tax Appeals, can be distinguished as settling only very narrow aspects of statutory interpretations in quite restricted fields of fact.

Chicago, Ill. GEORGE E. FRAZER.

Corporate Advantages without Incorporation. By Edward H. Warren. New York, Baker, Voorhis & Co., 1929. pp. x, 1012. $15.

With the publication in modern times of carefully prepared digests and elaborate encyclopædias of law, the practicing lawyer resorts for aid less frequently than in former days to textbooks or treatises. There are, to be sure, certain textbooks—I have in mind particularly Professor Williston's

—in which are to be found authorities and reasonings which are of real assistance in solving problems which arise in practice. But Professor Warren's book, *Corporate Advantages without Incorporation*, is not in that class. It was written apparently with no such thing in mind.

The primary purpose of the treatise, as the author himself states, is "to inquire whether today it is proper for the courts to treat a body of men who have united to further their financial interests as a legal unit, when there is no *legislative* authority for so doing." In other words, the inquiry is as to the state of the common law on this subject.

It must be obvious, I think, that such an inquiry is of comparatively little importance to the profession, for even if the courts lack authority at common law to treat as a legal unit a body of men united to further their financial interests, it is so easy to secure such authority by legislation that the question would not seem to warrant such energy and diligence as Professor Warren has devoted to it. Moreover, the fact that corporations are now in such general vogue as instrumentalities for the transaction of business, and that the statutes and decisions regarding them are such familiar knowledge, diminishes interest in the question as to how one may secure these advantages in another way than by incorporation.

It is true, however, that there are certain business activities which it is still impossible or impracticable to carry on through the instrumentality of a corporation. Notable among these is the business of stock exchange houses, since the rules of various stock exchanges require that members shall not incorporate, but must conduct their business as partners. Labor unions afford another illustration of those uniting to further their interest where incorporation is considered by their leaders or members impracticable or undesirable. If Professor Warren in his treatise had offered concrete suggestions as to methods for securing corporate advantages without incorporation in such cases, his book, in a limited way, would have been of practical assistance as a handbook for such of the profession as might have to deal with these situations.

But the book offers no such suggestions. Indeed, it does not appear to have been written with any such purpose in mind. While the author devotes an entire chapter to the labor union decision in the *Coronado* case, his object there is to show merely that in that case the decision of the Supreme Court that the labor union did constitute a legal unit was not a decision to the effect that the Court could treat the union as a legal unit under the authority of the common law, but rather to show that the Court felt that Congress had given legislative authority so to treat the union.

It is a notable and rather surprising feature of the book that Professor Warren does not appear to have tried to state what the law is upon the decided cases, rather than to point out what the law ought to be, to cite errors which courts have sometimes made in their recorded decisions, and to reconcile other decisions with the legal proposition which he attempts to establish.

I have spoken of this feature as surprising. It is surprising because it is so inconsistent with Professor Warren's well-known reputation as a teacher; for a fundamental characteristic of Professor Warren in his teaching has always been that his students should learn from decided cases what the law is, rather than to philosophize as to what the law ought to be.

On more than one occasion recently, law school students in the course of their study have expressed to me a feeling of discouragement. As one said, "I cannot understand what this is all about, or how the things we are being taught and told to learn can ever be of much use to us in practice of law. If they do represent the things that a successful prac-

titioner must know, I despair of ever being a success, for I can make neither head nor tail out of the business."

As I have read Professor Warren's book I have been reminded of these remarks of discouraged and rather befogged law students. I have been led to wonder whether the perusal by law students of such a book, dealing with such questions, might not result in discouragement rather than in benefit. The inquiry is so remote from any practical problem that any student is likely to be called upon to deal with in a lawyer's office that I should expect that he would receive little if any benefit from the study. I have been led to wonder, too, whether law schools in general may not be directing their students too much toward the discussion of abstract and rather unimportant, theoretical questions, to the sacrifice of such instruction as will give them proper preparation to deal with practical problems which will arise in the pursuit of their profession.

It ought to be said, however, with reference to this book, that Professor Warren's inquiry on the subject with which he deals presents an exhaustive and painstaking research and a rarely acute analysis of certain judicial decisions. His style of expression throughout the book is admirable. His statements are clear, his logic is persuasive, and his conclusions are convincing.

A perusal of the book is distinctly an intellectual pleasure.

Boston, Mass. SHERMAN L. WHIPPLE.

Economic Foreign Policy of the United States. By Benjamin H. Williams. New York, McGraw Hill Co., 1929. pp. viii, 426. $5.

There is perhaps no phase of activity in which the United States has developed, reversed its previous policies, or taken a more positive stand in international affairs since the war than the field of foreign economic relations. The change from agriculture to industry, the increase of financial interest in other countries, the search for foreign markets, that have marked the last twenty years, and other departures from long-established national habit, are all reflected in the record of government action by the executive, Congress, or the various departments, in particular the Department of State. It is not enough, however, for the student or the statesman, or even the merchant or manufacturer, to know of isolated cases where the government has taken an active part in international economic questions; the historical background, the precedents established, are of the greatest importance, and must always be considered.

Professor Williams has produced a book that is characterized by painstaking research, by exhaustive consideration of each topic, and by a clear, direct style of writing. Each subject is presented separately, first as a historical record, and then as a study of policies, with a minimum of repetition where this is unavoidable. Past events have been placed in their proper setting as guides for future action, and the favorable or unfavorable effect of different policies clearly indicated. The author has spared no effort to show how in his own words, "the time-honored policy (of the United States) has been forced to give way before changing conditions and ideals." While in this sentence he refers particularly to the policy of "neutrality and non-intervention" in Mexico and South America, the phrase may be taken as the key-note to the whole book.

Professor Williams begins with a synopsis of the "dollars and cents realities of world politics," and a study of the background and general principles of American economic foreign policy, in which the present situation of the United States as a creditor nation, with vast capital invested abroad, with industrial overproduction seeking a market, and a government

machine earnestly endeavoring to further the legitimate desire for expansion are clearly delineated. Against this background he places the various methods used by government to achieve the ends desired: aid to American foreign investment, protection of capital invested abroad, search for foreign markets, assurance of supplies of imported raw materials, even the development of shipping; in all these moves the American government has taken a decisive part, adapting its policies to the individual case, but pursuing, as the author presents the case, a reasonably logical, if often aggressive course. There is little attempt to criticize these policies; Professor Williams usually contents himself with describing them, though occasionally he permits himself a caustic comment, as "The sale of American recognition for a price to factions that are willing to pay for it is not exactly in accord with the orthodox notions of international law but is, nevertheless, a potent means of dictating the policies of weaker governments without the necessity of force." This reference is to the various "interferences" by the United States in the Central and South American countries, to which the author devotes a number of chapters or paragraphs describing different forms of "big brotherly" action. He maintains, however, a neutral attitude in this controversial situation, although he suggests that in all probability "the injury to American prestige (of the policies pursued) has exceeded any resultant gains."

In Professor Williams' opinion, "financial control is the American adaptation of imperialism," and he gives a number of instances of this new imperialism, as applied to South America, Liberia, and even, as he shows in a remarkably clear summary of the inter-allied debt question, in Europe. But his belief that "there seems to be no sentiment for further territorial expansion as an aid in the race for foreign markets" should be consoling to those who fear that loans to a country merely pave the way, as in history they often have done, for seizure of foreign territory.

To tariffs and tariff policies the author devotes a good deal of attention, as an element in our foreign policy of great and far-reaching importance. His discussion covers the "infant industry" stage in the United States, bargaining and reciprocal tariffs, the most-favored-nation clause and its peculiar complications, and finally the "open and closed door" policy. In this ticklish subject, he has again limited himself to presenting historical facts rather than arguments for or against protective tariffs. But he cannot resist pointing out the truth that the "open door" is for the United States to enter foreign countries, while to these same countries the door into the dependencies of the United States is closed: a dualism of policy that "is an evidence of the power of the business lobby."

In the discussion of government aid to shipping, Professor Williams begins with "the cold gray dawn of post-war reconstruction," and traces the development and implications of such doctrines as the freedom of the seas, rights of neutrals, blockades, paper and actual, etc. This chapter, while short, is worthy of more extended discussion than space permits.

Two chapters on "Raw Materials" must be summed up briefly. "The United States is today waging a fight for freedom in the commerce of raw materials," and incidentally trying to assure supplies of these materials for itself by every available means. Here it naturally conflicts with those countries possessed of a monopoly, more or less, of the materials in question; and the resultant struggle has brought into play all the methods by which a government can further the interests of its own nationals. The contest, however, cannot be won by diplomatic complaints; only economic forces can be of final avail.

Professor Williams' suggestions in his last chapter, "The Economic Diplomacy of the Future," emphasize the necessity of a far-sighted, states-

man-like consideration of all the questions involved, and of avoidance of local or temporary influences. The United States is at present "clearly backward in the development of machinery for the friendly settlement of international difficulties," and it must therefore ally itself with the existing machinery of this kind, the League of Nations, the World Court and other agencies. With this conclusion no person capable of thinking internationally will disagree.

Washington, D. C. E. C. ROPES.

Cases on New York Pleading and Practice. By Harold R. Medina. Chicago, Callaghan & Co., 1928. pp. xxxviii, 1005.

This is a competent and workmanlike product, done by an experienced hand, which well attains at least a part of its stated objective. Professor Medina says in his preface: "It is believed that a proper treatment of the subject should include every phase of the ordinary actions and special proceedings, including trial and appellate practice, so that the student shall not approach his duties as a practitioner with a knowledge which extends to only a few phases of the subject." And there is here presented a complete and adequate picture in case form of the New York Civil Practice Act from the summons on down through the trial to appellate procedure and special proceedings. Mechanically it is presented in attractive form with an excellent index. To all those interested in this kind of illustrative practice material the book should be extremely valuable.

But more doubt arises whether the editor has accomplished another stated purpose of stressing "matters of theoretical importance." This purpose is believed to be much more important than that of giving students the mechanics of practice which they can more easily acquire by actual experience or by bar preparation courses. It is, however, difficult, perhaps impossible, of achievement if the study is to be confined to the local practice of a single state. Unless the student considers the variations, even the aberrations, of one state against a background of scientific study of the subject as a whole, he will come to believe, as many lawyers do, that only the local rule is workable, and that the more convenient and efficient practice of an adjoining jurisdiction is to be summarily rejected as manifestly unsuitable. It is particularly unfortunate to study New York pleading in this way, for in this state there is now a distinct tendency, with only a few notable exceptions, towards a particularistic, meticulous and retrogressive construction of the code.

To this difficulty is here added the further one of attempting to give material dealing with substantially all the code. This leads to a selection of cases which serve more to illustrate particular statutes than to present problems for analysis and discussion. Thus Chapter X dealing with the statute of limitations contains nine cases under eight different subheads.

Necessarily with this form of presentation of the subject, no attempt is made to attack boldly the controversial problems of the subject. Thus one of the anomalies of New York practice today is the inconsistent and variable attitude of the several courts of that state towards the fundamental problems of the union of law and equity and the abolition of forms of action. To this problem Professor Medina devotes less than five per cent of his casebook with thirteen cases appearing under five different subheads of such misleading (as it is believed) form as "Equitable defenses in legal actions." Legal actions as such were abolished in New York eighty-one years ago. In line with this general plan is the omission of all reference to the many recent law review articles debating various aspects of New York practice. Thus we find *Susquehanna Steamship Co.*

v. Andersen & Co., 239 N. Y. 285 (dealing with "equitable defenses" and their trial) reprinted once in full and another time in part with no intimation of the serious questions which that case has raised and no reference to the critical literature concerning it.

Thus we conclude that as a lawyer's desk manual or as a student's practice assistant, the book has its important uses. As a casebook for critical study it is not so successful. In fact it is potentially dangerous, unless most skillfully handled.

New Haven, Conn. CHARLES E. CLARK.

The Law of Bills of Lading and Contracts of Shipment. By Ernest W. Hotchkiss. New York, The Ronald Press Co., 1928. pp. xviii, 287. $5.

This small volume was designed to treat of that "considerable body of law relating to bills of lading" which has come into prominence commercially in the last twenty-five years. With the adoption of uniform legislation by many states since 1910 and the passage of the Federal Bills of Lading Act in 1916, the subject has assumed new importance. This legislation created the order bill of lading as a "document of title" having certain aspects of negotiability. It is no longer merely a receipt for goods coupled with a contract of carriage. Because of the greater security afforded to purchasers and lenders by the order bill, it has served in a sense to unlock and make more readily available for commercial uses the enormous values represented by goods in transit, a matter of considerable economic significance.

The importance of the subject would justify a thorough, comprehensive analysis of the prior law, the changes effected by statute and the present position of bills of lading in the light of recent decisions. The present work falls far short of any such object. In the first place only 148 pages are devoted to discussion, the remaining 130 pages being taken up with forms, statutes and such matters. The Federal Bills of Lading Act, the Uniform Bills of Lading Act, the Interstate Commerce Act, the British Carriage of Goods by Sea Act and other lesser statutes are set out in full. Strangely enough, the Sales Act provisions relating to bills of lading are omitted although in many states they comprise the principal legislation on the subject.

But more serious even than the inadequacy of the space allowed for development of the subject is the manner of treatment. Much of the work appears to consist of one sentence digests of cases. This has not been well done, as often no distinction is made between order and straight bills. Many sentences are so long and fully packed with qualifying facts and phrases as to make them difficult of comprehension. This has resulted further in a jerky, disjointed sequence of ideas. There is very little independent analysis of the subject apart from cases, and almost no discussion of the implication of the cases cited. In many instances a single case is left to support a point on which there has been much conflict in decision.

Possibly an illustration may be permitted. On page 100 the following sentence appears supported by a Texas Civil Appeals case:

"Title has been held to pass under an order bill of lading where such a bill was sent to a bank with a draft attached and the shipment was delivered by the carrier without payment of the draft, and the shipment could not be recovered from the innocent purchaser because of a dealer's contract, tending to show that it was the intention that title should pass to the person to whom the shipment was delivered, when such shipment was delivered to the carrier."

The next sentence reads,