

Book Reviews

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Book Reviews

RICHARD H. BROWN, *Editor-in-Charge*

Joseph H. Choate. By Theron G. Strong. Dodd, Mead & Company, New York. 1917. pp. xvii, 390.

The circumstances attending Mr. Choate's death were such as to insure the success of any biography that promptly appeared. As chairman of the Mayor's Committee of citizens to receive the French and English Commissions, he had filled the public eye for many days. Although in his eighty-sixth year, he had addressed large audiences with his old-time eloquence, attended numerous banquets, displayed wonderful mental and physical vigor, greeted the Commissions with flawless tact, withdrawn former criticisms of President Wilson, inspired boundless enthusiasm, born himself as the conspicuous leader throughout that period of public festivities. And then, almost without warning came the sudden end.

Mr. Strong found a public waiting eagerly for this book. Fortunately it was not prepared hastily to meet such a demand. It had been carefully written, and was substantially finished before that fatal May 13th, 1917, arrived. The earlier part of the narrative, we are assured by the biographer, is almost a reproduction of Mr. Choate's language from a sketch which he had prepared for his immediate family. During the two years which Mr. Strong devoted to this volume, he was in frequent communication with Mr. Choate, who put at his disposal a series of scrap books containing a great mass of material relating to public affairs. While Mr. Strong does not claim to present an "authorized biography," he does seek to give to the reader an accurate representation of Mr. Choate as a citizen, a lawyer, and a diplomat.

The chapter entitled "Joseph H. Choate. The New Englander", is the shortest, and naturally so, for most of his life was passed in New York, and there his public fame was won. Mr. Strong calls him a typical New Englander. He was indeed nurtured under New England influences, educated in her schools, and gloried in her history. But his philosophy of life had no trace of transcendentalism, his wit had no Yankee Biglowism, and his literary style was not that of Hawthorne or Thoreau. "One of the most marked features of his post-prandial oratory," remarks Mr. Strong, "was his audacity"—a characteristic which led Rev. Dr. Bellows to ask, "Who is that impudent young man?" and the biographer quotes Mr. Carter as confessing that there was lacking in his life-long friend's make-up capacity for moral indignation. Yes, Mr. Choate was the cosmopolitan New Yorker rather than the Plymouth puritan.

Full justice is done to Mr. Choate's reputation as an orator, and every reader will thank the author for rescuing from newspaper column oblivion parts of the famous St. Patrick's Day speech, in which, as he later declared, he "advocated Home Rule in the most sensible and practical manner in which it was ever presented." His scheme was for "all the Irishmen of America from the Atlantic to the

Pacific to shoulder their muskets and march to the relief of their native land. Then indeed would Ireland be for Irishmen, and America for Americans." Curiously enough most of his hearers went wild with laughter at the banquet, only to be filled with rage when they read in cold type the next morning this most audacious of all Mr. Choate's public utterances.

The chapter devoted to "Mr. Choate. The Lawyer", contains a very full account of his forensic successes, is rich in anecdote, and is written in a most sympathetic spirit. Perhaps the biographer's professional pride in his subject has led him to over-emphasize Mr. Choate's mastery of the tricks of the trade. Indeed a distinguished layman expressed to me the opinion that this chapter did not show Mr. Choate at his best. It is easier, undoubtedly, to arouse interest in the merciless cross-examination of Mr. Sage, and the legal practitioner finds more piquancy in this, than in the argument of what the biographer refers to as "important questions of law involved" in the famous case of *Laidlaw v. Sage*. Moreover Mr. Choate was successful with the jury, but was defeated by the court on the question of law.

Mr. Choate's career as an ambassador fills nearly one-third of the volume, and is replete with interest. While no questions of great diplomatic importance came up for settlement during his term, he rendered invaluable service in bringing about a better understanding, and in arousing a friendlier feeling between Great Britain and the United States. While audacity was still a feature of his public addresses, he was always tactful, and witty, and versatile beyond belief. At the close of his ambassadorship, he had established his claim to Mr. Strong's description as "the unique personality, the unsurpassed wit, the eloquent and instructive orator, the distinguished lawyer, the great citizen, the thoroughbred American, the man of genius."

Francis M. Burdick.

The Petition of Right. By Frances Helen Relf. The University of Minnesota Studies in the Social Sciences, Minneapolis. 1917. pp. 74.

This study, undertaken as a doctoral dissertation at the University of Minnesota, may best be described as a learned footnote to Gardiner's monumental history of the early Stuarts. With that, indeed, a familiarity on the part of the reader is assumed. As Miss Relf justly points out, some forty years have passed since Gardiner wrote: in that time a great deal of valuable material has been brought to light; his work "is but the starting point for the student who wishes to find out the why and wherefore of some particular problem;" and there is still ample room for students in the field which Gardiner made his own.

The place and importance of the Petition of Right in English constitutional history are well established: it belongs to the documentary series which Magna Carta opens and which includes the documents of 1258, the Ordinances of 1310-11, and the Petition of 31 Articles of 1406—to give only those antedating 1628. The present writer does not feel that Miss Relf is well-advised in taking issue with

Professor Dicey for maintaining that the Habeas Corpus Acts were of greater importance than the Petition of Right.

It is to the student of parliamentary procedure that this monograph will be of especial interest. To be sure, we are told in the preface, "In the history of parliamentary procedure, the Petition of Right is unique; it has no precedent, it has never served as one;" yet that does not decrease its interest. Miss Relf's contribution to our knowledge is contained in her explanation why the Commons went by petition instead of by bill, rather than in her estimate of the historical importance of the Petition.

A. H. Sweet.

Cases on Future Interests and Illegal Conditions and Restraints.

By Albert M. Kales. West Publishing Company, St. Paul.

1917. pp. xxvi, 1456.

Professor Kales has very modestly described his case-book as a revision of parts of Mr. Gray's collection. But it is much more than a revision. It is in a sense a completion of the task which Mr. Gray began—a rounding-out of his analysis and a development of his historical presentation. The additions make it distinctively Mr. Kales' own case-book, and they insure its ready acceptance by both law-teachers and future interests practitioners. The new arrangement of the cases on contingent remainders, for instance, affords an excellent basis for getting behind some of the legalistic conceptions which have long stood in the way of growth in the law of that subject. The new chapters on such troublesome topics as the alienability of contingent remainders and powers in life tenants to dispose of the fee, are invaluable as guides through some of the neglected "soft spots" of future interests. The suggestions of needed legislation on various subjects should stimulate students' interest. They indicate Mr. Kales' appreciation of the need of a thorough-going functional survey to bring the law of future interests into line with recent developments in other branches of law.

The more recent cases are taken for the most part from Illinois reports, and some of the more important of them are the handiwork of Mr. Kales's own advocacy. If any criticism is to be made of the collection, it would be of its localization. But in many respects this is a merit and not a defect. Illinois has recently had a more interesting development of the law of future interests than any other state. And no other branch of the law lends itself more readily to the local case-book, compiled for such a course in the law of a single jurisdiction as Mr. Kales has long advocated. Local editions of this case-book dealing with the law in various states would make it possible for Mr. Kales' idea to be tried out in our law schools, and it is to be hoped that they will be forthcoming.

Manley O. Hudson.

Handbook of Criminal Procedure. By Wm. L. Clark, Jr. Second edition by William E. Mikell, B.S., L.L.M., Professor of Law in the University of Pennsylvania. Hornbook Series. West Publishing Company, St. Paul. 1918. pp. xi, 748.

During the time since 1895, when the first edition of this work was published, there have been innumerable statutory revisions of the Criminal practice and many adjudications upon the subject in the

various States of the United States. This has made it essential to bring the book down to date, that it may be, at the present time, of practical value as a text book upon the subject. Professor Mikell has accomplished this result in an admirable manner by changes in the text, by additions to and amplifications of the text and by numerous citations of the recent cases in different jurisdictions.

This work is not a comprehensive practice book of Criminal Procedure for any one jurisdiction, nor can it be used as a digest of the subject. It is rather a general compilation of the principles, both statutory and as enunciated by adjudicated cases, of this highly technical branch of the law. That is to say, it is a work of more practical value to a student of the law than to the practitioner, as it gives in clear language the elementary principles upon this subject, rather than the details and intricacies of the statutory procedure of each particular jurisdiction.

An idea of the completeness with which the book covers its field may be shown by a rough outline of the topics, viz: jurisdiction, apprehension of the person and property, preliminary examination, bail, commitment, mode of accusation, time of prosecution, pleading, proof, arraignment, pleas of the defendant, trial and verdict, proceedings after verdict and evidence.

The work is well arranged in a usable book containing a complete table of cases and a carefully prepared index.

E. M. St. John.

The Law and Practise in Bankruptcy. By Wm. Miller Collier. Eleventh Edition by Frank B. Gilbert. Matthew Bender & Company, Albany. 1917. pp. cxxvi, 1671.

A new edition of a standard work is always welcomed, especially by those who have the good fortune not to have a preceding edition. The latest decisions are cited, and, in a work based on a statute, the latest amendments also.

These remarks are apropos of Collier on Bankruptcy because it is a book of both law and practice. The fact that it is now in its eleventh edition in twenty years is at least presumptive evidence that its publication has been worth while, and that it has been and is the standard authority on the subject, especially for practitioners in the state of New York.

It is worthy of note that the Bankruptcy Law was not amended from June 25, 1910, until March 21, 1917, and on the latter date only in one respect, in section seventeen, by inserting an additional class of liabilities not affected by a discharge in bankruptcy, namely, liabilities "for breach of promise of marriage accompanied by seduction." This amendment seemed necessary because of decisions that a liability for breach of promise of marriage, even when accompanied by seduction, was canceled by a discharge in bankruptcy, most liabilities based on moral obliquity having been theretofore excepted from the application of the statute.

It is also noted that section 25b is in effect superseded by acts of Congress of 1915 and 1916, further limiting, in bankruptcy cases,

appeals to the Supreme Court. The two changes mentioned seem to be the only ones since the edition of 1914.

But the eleventh edition has distinctive value. The incorporation in the text and notes of over two thousand decisions rendered by the courts, and reported, since 1914, was accomplished by much rewriting and necessary amplification.

The table of cases cited is made of increased value and convenience by showing the book and page of the report of each case in addition to the page reference in Collier; a feature not in the previous edition.

The synopsis or index to the text following each section of the statute has in numerous instances been much amplified and subdivided. The text also has been correspondingly arranged in more paragraphs, with subject titles to each.

These changes and improvements are all time-savers to the busy lawyer having occasion to use the book.

In these days of great multiplication of books it is gratifying to see co-operation of editor and publisher in keeping down the thickness of the book and the number of pages. The result is a volume of much greater contents and comparatively few more pages than in the tenth edition. This has been accomplished by slightly closer lines and type, which ordinarily would not be noticed and which has not impaired legibility.

The whole work is an example of good printing and good editing.

A Treatise on the Law of Conversion. By Renzo D. Bowers. Little, Brown, and Co., Boston. 1917. pp. lx, 583.

Mr. Bowers tells us that no work on conversion exists, "further than short cyclopaedic discussion." His volume, bulkwise, is more than cyclopedic: it cites a multitude of cases, and is several times as long as the article on Trover and Conversion in Cyc. It misses being cyclopedic in quality through containing not more but less of analysis and conclusion than the typical article in a law encyclopedia. One begins by wondering how a work which cites more than 6,000 cases can spend so little space on footnotes. The explanation is that the notes consist almost wholly of citations, while the text is filled with quotations and abstracts most of which a writer with something of his own to say would have relegated to footnotes or omitted. There is insufficient analysis and practically no criticism. "It is contended", "the proposition has been espoused", "it has been held", except for occasional positive statements of what the law is, Mr. Bowers seldom predicates anything more violent or more helpful. As a digest, the book is probably adequate, but it is no treatise. It is a pity that it is permitted to sail as such under the colors of Little, Brown, and Co.

Workmen's Compensation Law Journal, Vol. I, No. 1. Edited by William Otis Badger, Jr. C. C. Hine's Sons Company, New York. 1918.

Under the above title a new publication has made its appearance with the year 1918. This Journal will bring together in each issue the reports of all decisions rendered in workmen's compensation cases

in the federal courts and in the appellate courts of the states. Workmen's compensation statutes have been enacted now in so many states that a very important body of case law is bound to develop in this field. Particularly is this true since the decisions last year of the Federal Supreme Court, declaring constitutional the various forms of workmen's compensation acts adopted in New York, Iowa and Washington. It will undoubtedly be very convenient for employers, employes, commissions, legislators and students to have available in one publication all of the decisions interpretive of the various forms of compensation acts, and the publishers and editor should find ready support for their new Journal.