**Book Reviews**

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


Justice Holmes in his "Common Law" says of Chief Justice Shaw, "the strength of that great judge lay in an accurate appreciation of the requirements of the community whose officer he was. Some, indeed many, English judges could be named who have surpassed him in accurate technical knowledge, but few have lived who were his equals in their understanding of the grounds of public policy to which all laws must ultimately be referred. It was this which made him, in the language of the late Judge Curtis, the greatest magistrate which this country has produced." Daniel Webster said of him that he was "unsurpassed in everything that constitutes an upright, learned and intelligent judge; * * * * there is not in the world a more upright, conscientious judge than Chief Justice Shaw." Rufus Choate remarked on one occasion, "When you consider for how many years and with what strength and wisdom he has administered the law,—how steady he has kept everything,—how much we owe to his strength of character,—I confess I regard him as the Indian does his wooden log curiously carved; I acknowledge he is ugly but I bow before a superior intelligence." Senator Hoar testifies that throughout Massachusetts the Chief Justice was venerated as if he were a demi-god, and in his native county as a god.

It is strange that that one to whom such homage was paid by his eminent contemporaries and who won so exalted a place in the history of a great commonwealth should have waited nearly sixty years for recognition of his fame by an adequate biography.

Lemuel Shaw was born in Barnstable, Mass., in 1781. His father and his father's father were ministers, and like the ministers of early New England were at the top of the social ladder, a lofty position to which their parishioners sometimes found it difficult to hand up a sufficient part of the products of the reluctant soil. Remuneration by the flock lagged behind their veneration. Of Lemuel's boyhood there is little record beyond the facts that he worked on the farm attached to the parsonage and was, in the absence of preparatory schools, fitted for Harvard college by his father, and for a few months by another tutor. He entered Harvard in 1796 and graduated in 1800. His standing appears to have been good, though not distinguished, and his student life was marked by nothing unusual. During the winter vacations of ten weeks, he taught school for his board, transportation, and sixteen dollars per month. Toward the end of his college course he had not chosen his profession, although inclined toward the law, while he knew that his parents intended him for the ministry.
The future chief justice stepped from college out into the world in the first year of the nineteenth century, an era in which the discoveries of science and its useful applications were to revolutionize the beliefs of men and their methods of carrying on their daily business. The old order and instrumentalities of social and economic contact were to undergo a great transformation. The law will have to yield to the exigencies of the new time. Massachusetts was destined to be the earliest of the great industrial states, with its marine adventures glorified in the memories of old Salem, its water power driving the roaring looms of many factories, and the development of interior transportation to carry the product of its mills. The state needed the great magisterial mind to modify and adapt the common law to the readjustments caused by the changed activities of its people. And as other states followed in the social and industrial shift, whatever Massachusetts did was bound to be observed as an example to be considered. That dominant magisterial mind was found in Lemuel Shaw.

He began his law study the year following his graduation from college. He started his practice at Amherst, N. H., and after two years went to Plymouth, Mass., where he practiced for a short time. In 1806 he moved to Boston, where he followed his profession until 1830, when Governor Lincoln commissioned him directly from the bar to the Chief Justiceship of the Commonwealth. Shaw at first peremptorily declined. The Governor then enlisted the persuasive power of Daniel Webster, who called upon Shaw and gives a graphic account of his solicitation: "I approached him upon the subject. He was almost offended at the suggestion. 'Do you suppose,' said he, 'that I am going at my time of life to take an office that has so much responsibility attached to it for the paltry sum of three thousand dollars a year?' 'You have some property,' I replied, 'and can afford to take it.' 'I shall not take it under any circumstances,' was his answer. I used every argument I could think of. I plied him in every possible way, and had interview after interview with him. He smoked and smoked, and, as I entreated and begged and expostulated, the smoke would come thicker and faster. Sometimes he would make a cloud of smoke so thick that I could not see him. I guess he smoked a thousand cigars while he was settling the point. He declared by all that was sacred he would resist the tempter. I appealed to his patriotism. I said he was a young man, and should take it for that reason. A long judicial life was the only useful one to the State. His decisions would give stability to the government, and I made him believe it was his duty,—as I think it was under the circumstances."

Shaw yielded and remained Chief Justice until his resignation thirty years later, a few months before his death. His labors as a judge are represented by his opinions in fifty-six volumes of the Massachusetts reports. His name has become almost a fetish in his native state, and his fame has extended to the informed members of the bar throughout the country. In difficult or novel cases his mind was a great, ponderous, slowly-working milling machine, crushing the ingredients fed into it, separating the dross from a treasure which has become a part of the legal possession of perhaps all of our states.
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Judge Chase's biography is written with all available knowledge of its subject and with a restraint and impartiality that would, one feels sure, have won the commendation of the great man whose life he has studied with reverence and sympathy. Not the least important feature of the book is a hitherto unpublished likeness of the Chief Justice taken in 1853 at the age of seventy-two. So powerful, striking, and free from self-consciousness is the physiognomy of the frontispiece portrait that it seems to the reader to be limned in the background of all the succeeding pages, and to be itself a running comment on the author's text.

E. H. W.

American City Progress and the Law. By Howard Lee McBain.

The preface tells us that this volume contains the substance of a series of lectures given upon the Hewitt Foundation at Cooper Union in the city of New York during the months of February and March, 1917.

The book confines itself exclusively to the legal aspect of the problems that confront every urban community. While not primarily concerned with the advocacy of city betterment, it is quite evident throughout the book as well as from the title that the author does not merely take an academic interest in whether the law as it now stands facilitates or obstructs the city in its endeavor to apply new policies to the solution of its problems.

The problems discussed are indicated by the chapter headings: Home Rule by Legislative Grant; Breaking Down the Rule of Strict Construction of Municipal Powers; Expanding the Police Power-Smoke and Billboards; City Planning- Building Heights and Zoning; City Planning-Excess Condemnation; Municipal Ownership of Public Utilities; Control over Living Costs; Municipal Recreation; Promotion of Commerce and Industry.

The lectures cover a wide range of subject matter in a very satisfactory manner. The layman is not overwhelmed with technical terms and obscure allusions; the specialist will appreciate its keen analysis of the legal problems in the light of the most recent court decisions. Its table of cases is necessarily limited, but is well-balanced.

R. S. Saby.


The law pertaining to that varied collection of objects termed "personal property" does not readily lend itself to classification, and although there are many textbooks dealing with one or another branch of the subject, treatises on the law of Personal Property as a whole are comparatively rare. The limitations of a one-volume work dealing with such a wide variety of subjects is easily recognizable, but in spite of these limitations, the purpose of the book is a valuable one.

The present work was produced almost a half century ago, the first edition being published in 1873, with the express intent of filling