

## BOOKS AND PERIODICALS.

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*The Old Yellow Book.* Source of Browning's "The Ring and the Book." A New Translation with Explanatory Notes and Critical Chapters upon the Poem and Its Source. By John Marshall Gest. Boston: Chipman Law Publishing Company, 1925. Pp. 699 + XVI. Price \$7.00.

To reading men at the Bar Robert Browning's remarkable tissue of monologues, expressed in poetic form and more or less breathing the spirit of poesy, known as "The Ring and the Book" is weakest where it attempts to present the arguments of the lawyers, both for the prosecution and the defence, in the celebrated trial around which the poem is written. Browning took small pains to acquaint himself with criminal law and procedure as it obtained in Rome at the close of the seventeenth century when Guido Franchesini and his four accomplices were put on trial for the murder of his wife Pompilia and her reputed parents Pietro and Violante Comparini. And yet the poet, notwithstanding his failure to put forth adequate effort to understand the purport and force of the arguments in the case, and his possible failure to apprehend them even if he had honestly studied them, does not scruple to predicate upon the report of this trial, as he found it in "*The Old Yellow Book*," the ineluctable quality of speciousness in all forensic advocacy. Probably the legal profession might effectually dismiss this arraignment of its ethics by quoting the poet's assertion that he had read the book as he walked from San Lorenzo Square to Casa Guidi in Florence,

"One day still fierce, 'mid many a day struck calm."

The knowledge so gained could only be said to be pedestrian in the literal as well as in the literary sense.

Judge Gest has performed a most learned piece of work in defending his thesis that Browning misunderstood the arguments of the advocates at the trial. More than that he shows how seriously the poet disregarded the truth of history in delineating for us the characters in the drama, particularly Caponsacchi, the lover of Pompilia, and Pompilia herself. In order to be sure that his lucubrations would not result merely in adding Pelion to Ossa in the mass of error encompassing the question of Browning's debt to "*The Old Yellow Book*" he undertook and finished a translation of it for himself.

The work, being as it is the product of the leisure hours of the Judge of the Orphans' Court of Philadelphia and published by the Chipman Law Publishing Company, establishes its right to be reviewed by us at greater length than we have space for at the moment.

C. M.

*The Life of William Dummer Powell*, First Judge at Detroit and Fifth Chief Justice of Upper Canada. By the Honourable William Renwick Riddell, LL.D., F.R.S.C., etc., Justice of the Supreme Court of Ontario. Lansing: Michigan Historical Commission.

In this biography the Honourable Mr. Justice Riddell carries on his work on the History of Upper Canada, and particularly in relation to the Judiciary and the legal profession. Mr. Justice Riddell's other books, "The Legal Profession in Upper Canada," "The First Law Reporter in Upper Canada," "Upper Canada Sketches," etc., are already well known to students of Canadian History.

William Dummer Powell was born at Boston on November 5th, 1755, and sprang from an old Welsh family, at Howel, which had its seat in Caer Howel, in Montgomeryshire, Wales. His education took place in America, England and Holland and in fact seems to have been rather itinerant than regular. When speaking of his own youth, Powell carries out Gibbon's autobiographical precept of "Truth, naked, unblushing truth," in the following description:—"At sixteen I returned to England and during twelve months of unsettled life I cultivated the good graces of the ladies more than any other pursuit. Fortunately for me I fell into good hands and was free from any sort of mesalliance."

Upon his return to Boston in April, 1775, he took the lead in the Declaration of Loyal Citizens against the Revolutionary party. He later returned to England and entered his name upon the books of the Middle Temple. After a sojourn in England, he sailed for Quebec in August, 1779, to practice law in the new and promised land, leaving behind him in England his wife and family. He soon became prominent at the Bar in Montreal, chiefly through the defence of Du Calvet, and a little later in defending the grain profiteers. In 1789, after a strenuous career at the Bar, he was elevated to the Bench, to preside in the Court of Common Pleas for the District of Hesse, with headquarters at Detroit. Powell and his family left Montreal for Detroit on May 11th, 1789, arriving on June 9th—a journey of thirty-nine days. There is an excellent description of the trip from the pen of Anne Powell, the Judge's sister. In 1794 he was appointed a Puisne Judge of the Court of King's Bench for the Province of Upper Canada and took up residence at Newark. During Russell's regime as Lieutenant-Governor, the capital was changed from Newark to York and Powell moved there to the well known property in Toronto, west of University Avenue and south of College Street. On October 1st, 1816, at the age of 61, he was appointed Chief Justice of Upper Canada.

In a review such as this one can, unfortunately, merely mention some of the most interesting portions of the work: "The Story of Du Calvet," "The Tragedy of the La Force Family," Powell's early struggles at the Bar; "The Episode of Jeremiah Powell," "The Story of Robert Gourlay," and the tragedy of Anne Powell.

Mr. Justice Riddell gives us a vivid and entertaining picture of early life in Canada both domestic and political: contemporary memoirs, letters, documents and statements, have been freely drawn upon, making a picture not only instructive and pleasing but sometimes amusing. This biography evidences an immense amount of labour and research, an erudition that is not stilted, and a love of subject that colours and heightens the style of the

whole work. It is a distinct addition to the annals of Upper Canada and should be read with interest by all members of the legal profession.

ARTHUR S. BOURINOT.

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Mr. J. D. Falconbridge, K.C., Dean of Osgoode Hall Law School, has prepared a Selection of cases on the Sale of Goods, which it is his intention to publish at an early date, and which he has been good enough to submit to the REVIEW in manuscript form for an advance opinion. In his preface, he frankly admits his indebtedness to Williston's Cases on Sales, but points out that he has adopted a fundamentally different arrangement of the subject from that of Williston, omitting very many of the older English cases, and naturally using more Canadian cases, although he has been obliged, for sheer lack of space, to entirely omit cases decided in the United States.

While this book is intended, primarily, for the use of students, every busy lawyer knows the practical advantage of a convenient collection of cases on a particular subject, and in view of the fact that the particular subject covered by this selection of cases is a fertile field for litigation, the convenience of the book in Court should be very great. Dean Falconbridge always does his work well, and, having examined the work with some care, our very frank opinion is that this book will be of real value to the practising lawyer as well as to the student.

G. F. H.

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*The Chief Sources of English Legal History.* By Percy H. Winfield, LL.D., Fellow and Lecturer of St. John's College, Cambridge, and of the Inner Temple, Barrister-at-Law. Cambridge: Harvard University Press, 1925. Pp. 374 + XVIII. Price \$4.00.

Dr. Winfield's book is based on a course of lectures delivered in the Law School of Harvard University during the year 1923. The main purpose of these lectures, we learn, was to facilitate research in the history of English law in the first place by a valuation of the groups of authorities which must be consulted, and secondly, by a discussion of the more important individual sources in each group. In working along these lines the author has succeeded in giving us both a catalogue and a critical estimate of the value of the early repositories of English law, which will not only serve the purposes of the student who desires to trace the sources and development of its doctrine and procedure but will aid the practising lawyer in estimating the authority of the "books." The period covered by the work begins, roughly speaking, with the twelfth century and ends with the publication of Blackstone's Commentaries in the latter part of the eighteenth. Take for instance the following evaluation of *Comyns Digest*—a book which this reviewer has frequent recourse to in the common round of his daily work. "Comyn's repute was well established. Lord Kenyon thought that his opinion alone was of great authority, since he was considered by his contemporaries to be the most able lawyer in Westminster Hall. Best, L.C.J., said that there could be no better authority. The *Digest* is constructed on the same scheme as the better part of *Bacon's Abridgment*. It is an exposition of the law and not merely a digest

of it, and Comyns was much better qualified than Bacon was." (P. 246). Dean Pound has contributed an interesting Introduction to the book, in which he points out in detail its valuable features.

C. M.

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*A Selection of Cases on Evidence at the Common Law.* By James Bradley Thayer, LL.D., Late Weld Professor of Law, in Harvard University. Revised Edition by John MacArthur Maguire, Professor of Law in Harvard University: Cambridge, Mass.: Harvard University Press, 1925.

"Thayer's Cases" is a work too well known to students and practitioners in this country to require anything more than an announcement that a new edition is out to keep the publishers busy in filling orders. It is some twenty-five years since the last edition of this useful work was published, and Professor Maguire explains that in the interval the teachers of Evidence at Harvard Law School have collected much material for revision purposes. The new edition makes certain changes in the structure and material of the work which experience has proved desirable. A number of cases that have become more or less obsolete have been dropped and over two hundred modern cases have been added by the editor. Quotations from text-books have been reduced to a minimum. The work is well indexed.

C. M.

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