

BOOKS AND PERIODICALS

~~For~~ Publishers desiring reviews or notices of Books and Periodicals must send copies of the same to the Editor, care of THE CARSWELL COMPANY, LIMITED, 145 Adelaide Street West, Toronto, Canada.

ENGLISH LAND LAW.—It is an old saying that no one but an expert ought to write a short book on a highly difficult and technically complicated subject. The statement is emphatically true, but it does not mean that every expert can successfully do so. Professor Holdsworth¹ has successfully written a short book on the English land law which will at once take its place among those few small books in legal literature which are in reality great in learning, conception, and accomplishment. In four comparatively short chapters the developments are viewed in their historical processes and are linked throughout with the recent Property Acts. Thus the present and the past are connected in a manner delightful to those jurists who find in law something more than the daily loaves and fishes. Indeed, this connection is, in the case of the English land law, more than a juristic delight. Whatever the future may hold for simplification, it remains true, as Dr. Holdsworth has pointed out, of the Property Acts, that teachers and students must continue more than ever to follow historical lines. Questions of title, the general principles and contents of the Property Acts, the residuum of the old law which survives, all require sound training in, and knowledge of legal history.

In the past few of us honestly worried about all this. Real property was a mystery, a cult. We passed examinations in it; but its meaning and import were hidden from those of us to whom no call had come to practice in the field. We thought "land" lawyers a peculiar people, set aside by the laying on of strange hands to minister to folk whose creed embodied the traditions of medievalism, whose worship reflected the obscurantism of our barbaric ancestors. We hated the tribe, their books, their subject, and above all their lectures. And alas, we had no decent guide. In the future this need not be. Dr. Holdsworth has provided in this book a work of

¹ *An Historical Introduction to the Land Law*. By W. S. Holdsworth, K.C., D.C.L., Vinerian Professor of English Law in the University of Oxford. Pp. xxiv 339. 1927. Oxford: The Clarendon Press.

fascination, and above all he has provided *inter alia* detailed references to his monumental *History* which will make the subject infinitely easier of approach.

We have delayed our review in order to see how the book could best be used, and if experience provided any guide for suggestions. As it is intended for students, we found it a successful method to have them read it through somewhat uncritically at first, and then to follow discussions based on its various divisions and subdivisions. In this connection we found that the treatment of the Real Actions might reasonably be expanded, that the discussion of alienation had to be taken up earlier than in the book, that the survey of Uses and Trusts is much too cursory, and above all that we missed an appendix of important statutes and of such leading cases as these beginners might reasonably understand. Many such cases I provide; but it would be a great help for us if we had Dr. Holdsworth's own selection. These are small points but they may suggest some changes in a new edition. Even as it is the book remains the best text on which lectures and case-discussions on the history of the land law can be based.

I do not however, wish to give the impression that the book is merely one for beginners. It is one which will charm—and I use the word deliberately—any one to whom law is more than meat and raiment. Here are centuries of history, here is a fine style, here is learning lightly worn, here is sound criticism, here are maturity and wisdom. A great small book by a great master.

W. P. M. KENNEDY.

University of Toronto.

* * * *

CONDENSING THE LAW.—Among the many problems occasioned by the increased cost of all commodities in recent years, not at all the least important is that which has faced the Governing Bodies of the legal profession in the different Provinces of Canada because of the very high cost of legal literature. Everything has become more expensive, but there has been very little addition to tariffs of costs, and the income of the average lawyer has not increased in proportion to the demands which are made upon him. As a result, he finds it necessary to practise strict economy, and in so doing, he finds it much more easy to dispense with the purchase of a new law-book than to do without something for which there is a family

demand. This has become rather a serious matter of recent years, so much so that it was found upon inquiry that a very large number of practising lawyers were not even having their current Reports bound.

In thinking over a solution for this difficulty, one's mind was naturally directed to the different Encyclopedias which had come into very common use, and the very conspicuous success of "Halsbury" probably suggested the propriety of a somewhat similar publication for Canada. Here again, however, one had to consider the fact that each of the Provinces of Canada has its own Reports, and that to be really useful in any one Province, it would be necessary to give prominence to the decisions of that particular Province. This would appear to have been the view of the Publishers of the Canadian Encyclopedic Digest,¹ for they first brought out a Western Edition, which was received with great favour by the lawyers of the Western Province, and then commenced the Ontario Edition.

About this time the Law Society of Upper Canada had under way the preparation of a new Ontario Digest, having in fact spent a very considerable sum of money in preparatory work. A school had grown up which felt the Encyclopedia to possess more practical advantage to the practising lawyer than the older form of Digest. It was not difficult to reach the conclusion that the average practising lawyer would not see his way clear to buy both the Encyclopedia and the Digest, and that the result would be that if the Digest were completed and put upon the market in competition to the privately published Encyclopedia, each would suffer lack of support and one or the other would probably result in failure. This situation received very careful consideration from those in authority in the Law Society, and in order that they might act in accordance with the best interests of the profession in Ontario, a very careful study was made of the merits of the new Encyclopedic Digest. It was then, of course, at its beginning, but the Committee had the Western Edition as a guide, and assuming that the Ontario Edition would be of equal caliber, the conclusion was reached that it should be given the right of way, and that the publication of a Digest by the Law Society should be indefinitely deferred. In fact, the Law Society went further and gave substantial financial support to the Encyclopedia, arranging that it should have a place upon the shelves of each County Library in the Province.

¹ *Canadian Encyclopedic Digest* (Ontario Edition)—Burroughs & Co. (Eastern) Ltd.

With this striking testimonial to the practical value of the work under review, it would seem that there is very little to add, except that the volumes which have been completed since the arrangement made with the Law Society have been quite up to expectation, and that there is a general feeling that the work is going to be a credit to the publishers and of very great practical advantage to the profession. No good purpose could be served by enumerating its advantages and comparing its usefulness with text books, for these things are all well known to lawyers. The point is that this is an excellent publication, that it has already received the support of the Law Society of Upper Canada, and that it deserves the support of the profession generally.

G. F. HENDERSON.

Ottawa.

* * * *

A STUDENTS' BOOK.—This book¹ will no doubt prove of service to the student preparing for Bar examinations in communities (now happily few in number) where there is no law school set up for the instruction of neophytes in the temple of the Common Law. It would be expecting too much of any man—or any two men—no matter how much their pens might be akin to that of a ready writer, to give a wholly satisfactory compendium of the law of contracts alone in the space of 155 octavo pages; but here we have an attempt to expound in that space the principles of the law relating both to contracts and torts. The necessarily brief definitions in the book are not as informing as they might be. Take the definition of Contract on page 1: "A contract is an agreement or promise creating an obligation. A contract is usually formed by agreement, but a mere promise, if under seal, may create an obligation of a contractual character." Contrast this with the following taken from the Restatement of the Law of Contracts recently published by the American Law Institute: "A contract is a promise or a set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty." Then, again, on page 10 the authors of the book under notice say: "An offer may be revoked at any time before it has been accepted, but the revocation is of no effect until it has been communicated to the other

¹ *Outline of the Law of Contracts and Torts for the Use of Students.* By A. M. Wilshere, M.A., LL.B., and Douglas Robb, B.A. 3rd edition. London: Sweet & Maxwell, Limited. Toronto: The Carswell Company Limited, 1928.

party." The only authority cited for this proposition is that of *Byrne v. Van Tienhoven*, 5 C.P.D. 344. No reference is made to the later case of *Henthorn v. Fraser*, [1892] 2 Ch. D. 27, where the rule laid down in the former was extended to the case of a written offer delivered by hand and accepted by post. In the latter case the judgments delivered by the members of the Court of Appeal review the chain of authorities which have moulded the doctrine of offer and acceptance as it stands, and afford much information to the student concerning the reason of the rule.

* * * *

PROPERTY OWNERS AND ACCIDENTS.—*The Law on the Liability of Property Owners and Occupiers for Accidents*. By William Findlay. London: Sweet & Maxwell, Ltd. Toronto: The Carswell Company Ltd. 1928.

This is avowedly an attempt to state the law governing the liability of owners and occupiers of real property for accidents occurring on or near such property. The author's researches have not been confined to cases decided in the British and Irish Courts but extend to reported decisions both in the dominions and the United States. The work appears to have been carefully prepared, and is well worth the attention of practitioners in Canada. In view, however, of the growth of government ownership of real property in Canada the author may fairly expect criticism in this country for his failure to include in his survey some of the important cases relating to governmental responsibility which are to be found in the Canadian reports.

Ottawa.

CHARLES MORSE.

CORRESPONDENCE

The Editorial Advisory Board of the Canadian Bar Association does not hold itself responsible for the opinions of Correspondents. Contributions to this department of the REVIEW must be accompanied by the genuine names of the writers, to be used in the discretion of the Editor.

MR. JUSTICE GIBSON AND THE CANADIAN BAR REVIEW.

To the Editor of the CANADIAN BAR REVIEW.

SIR,—Due to absence in Europe for some weeks, I have only just become aware of your editorial intitled "Concerning the Behaviour of Judges" in the November number of the REVIEW.

The occasion of your editorial is an item of Editorial Comment which appears in [1928] 3 D.L.R. Pt. 10, and in this latter is incorporated a letter which I wrote to the Attorney-General of the Province of Quebec.