

## RECENT LITERATURE.

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*Rules and Forms of the House of Commons of Canada.* By Arthur Beauchesne, B.A., K.C., Clerk Assistant of the House of Commons of Canada. Canada Law Book Company, Limited, Toronto, 1922.

This work serves to remind us that while the sage has said that a great book is a great evil it is equally true that a small book prepared with reasonable care and knowledge cannot fail of appreciation on the part of those who come to use it. Mr. Beauchesne has exercised excellent judgment in the preparation of this compendium of Canadian Parliamentary Practice. The format is small but the contents are so admirably condensed that the work fully realizes the hope of its author that it "can be used on short notice whenever questions of procedure arise in the course of debate." The annotations to the Rules are necessarily brief but they are lucid and reliable. One is not afraid to prophesy that the book will become indispensable to all who are interested in the proceedings of Parliament.

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*The American Journal of International Law.* Vol. 17, No. 1. Published by the American Society of International Law. The Rumford Press, Concord, N.H.

In his *Suggestions as to Changes in the International Law for Maritime War*, Rear-Admiral Rodgers—whose ideas are avowedly those of a naval officer—expresses the opinion that the "world war has touched the foundations of international law as it has those of other great subjects. Instead of proceeding to develop details on the old accepted lines we should reconsider our principles and our broad concepts, and their application to present practice. . . . The hitherto accepted precedents of international law now need revision in view of the new conditions developed and brought into view by the world war."

When Rear-Admiral Rodgers says that "Wars in general are national efforts to establish economic international advantage"

he would seem to place himself in the ranks of those who find in economics the sole and only motivation for national conduct just as the Freudians see in sex-energy the chief causation of individual behaviour. Neither of these theories is sound although there are many plausible arguments to support them both. When we are next told that "The world war was a commercial and industrial war," and "was not primarily a political war," we cannot but recall many opinions of publicists to the contrary—and then wonder who is right.

Raymond Leslie Buell prefaces his paper on *Some Legal Aspects of the Japanese Question* with the remark that "It would be difficult to find a better illustration of the dependence of politics upon law than in America's Japanese problem." After an exhaustive review of legislation and case-law affecting the question, Mr. Buell arrives at the following summary of the decisions:—

A State may legally prohibit aliens ineligible to citizenship from owning real property or leasing it for agricultural purposes, since such a power in their hands might conceivably endanger the State; but a State cannot, because of the fourteenth amendment, prohibit aliens from making croppage contracts, which do not give them any control over the land, but under which they may continue to till agricultural land; nor can a State prohibit Japanese guardianships whereby land may be acquired by Japanese minors born in the United States."

Those who are interested in the League of Nations will find much to interest and inform them in the paper by Professor M. C. Mills on *The Mandatory System*.

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*Michigan Law Review.* Vol. XXI, No. 4. February, 1923. This is an excellent number, and not the least valuable feature is its survey of important recent decisions. The annotations are very carefully done. In view of our present coal famine the discussion of *Eastern Coal & Export Corp. v. Norfolk & W. Ry. Co.* (Va., 1922), 113 S.E. 857, is most instructive. There coal, delivered to and accepted by a carrier for transportation, was converted by the carrier for fuel purposes under claim of necessity. The shipper sued for damages for the conversion, and the court held that the measure of recovery was the fair market value of the coal at destination, less the cost of transportation

and the expenses of sale there. It is pointed out in the annotation to the case that a carrier in need of fuel cannot exercise a right of self-help, savouring of a right of *angary*, in respect of public utilities. Professor Fairlie, of the University of Illinois, contributes an instructive article on *The Separation of Powers*, in which he traces the historical development of the legislative executive and judicial departments of government—not forgetting to remind us of the error of Montesquieu in relying upon the English constitution as a model of the independence of each unit in this trial of political categories.

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*La Revue du Notariat*. Vol. XXV, No. 7. Quebec, February, 1923. Dr. Sirois tells us in this number that for many years he has indulged the hope of presenting us with an exhaustive work (un Dictionnaire ou Encyclopédie) on the Notarial profession in Canada, but that as this cherished intention is not likely to be realised in the near future he has resolved to make immediate use of some of his material in the form of annotations on the Quebec *Code du Notariat*, and publish the same from time to time in the columns of our contemporary. Judging from the character of the first instalment of these annotations the series will be of great value and interest to the legal profession in the Province of Quebec.

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*La Revue du Droit*. Vol. I, No. 6. Librairie Garneau, Limitée, Quebec. February, 1923. Our contemporary's contents are steadily growing in excellence. In the present issue Mr. Justice Dorion gives us an appreciation of the late Chief Justice Lamothe, instinct with high regard for the fine personal and official qualities of the lamented judge. Mr. Justice Rivard presents a further instalment of his valuable monograph *De la technique législative*; and Mr. J. A. Mireault contributes a practical article under the title *La hernie en matière d'accidents du travail*. The entire number is most readable.

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*The Law Quarterly Review*. January, 1923. Stevens & Sons, Limited, London: The Carswell Company, Limited, Toronto. In His Honour Judge Dowdall's contribution to this number (*The Word "State"*) we have one of those typical articles produced by busy men in England evincing scholarship

so wide and so exact as to cause us to despair of securing anything of like quality from the profession in this country at the present time. Possibly, in view of our national juvenescence and its concomitant limitations, we would do well not to expect so high an achievement. But literature, such as this, is written for our learning and also for our encouragement in discharging the debt that each of us owes to his profession. If we absorb the former and have the spirit of service quickened within us we shall not fail of endeavour to maintain the traditions of the Bar as one of the learned professions.

Dr. Holdsworth's inaugural lecture as Vinerian Professor of English Law at Oxford, delivered November 25th, 1922, is published in this number under the title of *Charles Viner and the Abridgments of English Law*. Those who are familiar with the work of this eminent historian of the law will find the lecture replete with the scholarship that he unfailingly brings to his undertakings. The lecture is divided into three parts: I, Charles Viner and the Foundation of the Vinerian Chair. II, The Abridgments of English Law. III, The Alphabet as a Method of Legal Arrangement.

The number as a whole maintains the high standard of the publication.

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*American Bar Association Journal*. February, 1923. Published by the American Bar Association, Chicago, Illinois.

Among the varied contents of this number, we found the Address on *Law and Lawlessness*, recently delivered by the President of Columbia University before the Ohio Bar Association, of absorbing interest. Dr. Butler's opinion is that the lack of intellectual and moral adjustment of the greater portion of the people to the material progress of the times, the changes that have come over the system of popular education, and the passion for law amendment, are among the principal factors making for lawlessness in American national life. Concerning the latter he says, "Our legislatures both State and National, and our various administrative boards and bureaus, are largely made up of those whom Thomas Jefferson wittily described as 'demi-lawyers.' Their ruling passion is a statute or an administrative order. Their constant appeal is to force, to what has come to be known as the police power of the State, and they exercise it with a ruthlessness and a ferocity from which kings and emperors have been accustomed to draw back."

*Harvard Law Review*, February, 1923. The Harvard Law Review Association, Norwood, Mass., U.S.A.

In Mr. Pillsbury's *Administrative Tribunals* we have the first instalment of an instructive and comprehensive enquiry into the nature and operation of boards and commissions—which are really part of the machinery of executive government although exercising quasi-judicial powers. They serve to illustrate not only the complexity of modern social life but the impossibility nowadays of holding to any sharp line of demarcation between the executive, legislative and judicial powers of government. As Mr. Pillsbury says: "Such bodies are anomalous in that they do not fall wholly within any of the three branches of government. The courts have had much difficulty in classifying them so as to uphold their existence in the face of current constitutional provisions."

Mr. J. M. Maguire's paper on *Poverty and Civil Litigation* surveys the path of the poor litigant throughout legal history. *Les pauvres* seem to have had freer access to the ear of Astræa in ancient and mediæval times than they had half a century ago. In England the Judicature reforms of the seventies and eighties of last century helped them somewhat by the *in forma pauperis* rules; but Mr. Maguire would have the Federal and State jurisdictions in the United States do better by the poor than was done by the English rules of 1914, regulating legal proceedings by poor persons.

C. M.

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. . . BOOKS RECEIVED.—*The Problem of Proof*, by Albert S. Osborn. Matthew Bender & Company, Albany, N.Y., 1922.

*The Canada Year Book, 1921*. Published by authority of the Honourable J. A. Robb, M.P., Minister of Trade and Commerce. The King's Printer, Ottawa, 1922.