

REVIEWS AND NOTICES.

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BYLES ON BILLS.*—The appearance of a new edition of this standard work so well-known to the profession comes one hundred and two years after the date of the first edition. The present edition is noteworthy in that, owing to the death of Mr. W. J. Barnard Byles, a joint editor of the last three editions, the continuous connection of the family of the author with the book has been broken. Mr. Welford, the present editor, who collaborated in the last edition, has continued alone the work of revision.

The extent of the changes in the present edition may be gathered from the preface where Mr. Welford states that he has "made no attempt to change its general character or scope, though the work of revision, which was begun with the seventeenth edition, has been continued, and certain parts—particularly the part dealing with crossed cheques—have been rewritten." Reference to the book itself bears this out. A search of the table of cases also reveals that approximately eighty cases, of which about thirty are Canadian, decided since the date of the last edition, have been added.

Though Byles on Bills has long been known to be substantially accurate, the reviewer is not prepared to assent unreservedly to a statement made by a commentator a third of a century ago that "Byles on Bills belongs to that small class of text-books which are so good as to be almost beyond the range of criticism." No book can go through the process of continual revision and not suffer, as to form, like a patched suit. The last edition prepared by the author was in 1866, sixteen years before the Bills of Exchange Act, and scrupulous care must therefore be exercised by subsequent editors to merge the new material with what is still useful in the old, so as to make a connected whole. If it were not for the name of the learned and distinguished author, and the excellent reputation which his work bore in his lifetime, the writer would be inclined to suggest that the work of revision should never have been begun and that the

* *A Treatise on the Law of Bills of Exchange, Promissory Notes, Bank-Notes and Cheques.* By the Right Honourable Sir John Barnard Byles, late one of the judges of Her Majesty's Court of Common Pleas. 19th Edition with Colonial Notes by A. W. Baker Welford, of Lincoln's Inn, Barrister-at-Law, London: Sweet and Maxwell, Limited, 1931. Price £1 15s. net.

text should have been left as a statement of the law as it then was, and that if subsequent editors insisted on writing on the subject, they should produce an independent work of their own, passing on its own merits. The editors, however, have preferred to revise; in this case, happily, with comparative success. On the whole, they have produced a connected and readable treatise, but there are a few features which are open to criticism.

The present edition, like its predecessors, is arranged in topical form, and the relevant sections of the statute are collected and printed under the appropriate chapter heading, with explanatory comment. Though many lawyers will object to this arrangement, preferring the subject-matter to be dealt with in the order to be found in the Act, this is a debatable point, and it must be admitted that, properly done, a topical arrangement makes for easy and connected reading. One criticism that may be made is that, apart from side notes, there is no internal breaking down of a chapter into sub-headings, and it is suggested that this, even though a radical departure, would improve the form. This edition still has a considerable number of foot notes, which have been aptly described as "like little dogs barking at the text," and there is some matter in them which might usefully be incorporated into the text, particularly any critical comment on cases. These things are small in themselves, but it is disconcerting to a reader to have to keep one eye on the side notes to see when he is passing from one topic to another and the other eye on the foot notes to see that a bold statement in the text is not qualified in the notes. These faults, of course, are not peculiar to Byles.

The insertion of colonial notes, just recently begun, has been continued. The comparatively recent introduction of this practice is perhaps experimental, but it will be watched with interest. So long as it does not develop into a mere selling point on the part of English publishers in an attempt to displace Canadian texts, probably no quarrel will be made. Byles does not purport to deal with the Canadian cases exhaustively, and the value to a Canadian practitioner of fractional law may well be doubted. Testing the Canadian material at random, one would like to see, for instance, some comment on *Robinson v. Mann*, 31 Can. S.C.R. 484, and *Grant v. Scott*, 59 S.C.R. 227 in the light of *Jones v. Waring*, [1926], A.C. 670. One misses also, among others, such familiar cases as *McKenty v. Vanhorenback*, 19 W.L.R. 184; *Souther v. Wallace*, 20 N.S.R. 509, 16 Can. S.C.R. 717; *Bank of Montreal v. Thomas*, 16 O.R. 503;

La Forest v. Babineau, 37 Can. S.C.R. 521; and *Elliott v. Beech*, 3 Man. R. 213.

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LAWYERS AS NATION BUILDERS.*—A Reading given in the Middle Temple Hall in the autumn of last year now makes appeal to a wider constituency of learners in book form. In its small compass of 122 pages it tells many interesting things to those who are glad to know about the contribution of the Inns of Court to the rare qualities of the English nation—qualities which, we venture to think, functioned to raise the character of that nation to its apogee during the last century.

Speaking of the value to the nation of the Inns of Court in the Middle Ages, the author says with epigrammatic force: "An Inn of Court was not so much a School of Law as a School for Englishmen." Nor did Shakespeare's 'scepter'd isle' alone benefit by the culture of patriotism as pursued by the Inns; for many of their members emigrated to the colonies while the outposts of empire were being set up and did much in the way of adapting the norms of English political order to the conditions and needs of the new communities. In this connection the author does not fail to point out the particular honours that are due to the Middle Temple. Jonathan Belcher, a native of Massachusetts, who became the first Chief Justice of Nova Scotia, was a Middle Templar, and so were the first Chief Justices of Quebec, Upper Canada and New Brunswick. Then it is to be remembered that Middle Templars were much to the fore in the affairs of New England, and the American colonies to the south, both before and at the time of the family quarrel in the latter part of the eighteenth century. Sir Edwin Sandys had drafted the Virginia Charter of 1606, and later on George Percy became a Governor of Virginia. Peyton Randolph was the president of the First Continental Congress, held in 1774. Then we find five Middle Templars signing the Declaration of Independence. So far as the complicity of Middle Templars in the gestures of revolution is shown, our author is not disturbed by it. He rejoices that liberty, as they had learned it from Englishmen like Coke, was their objective in the strife.

* *The Middle Temple's Contribution to the National Life*. By Sir Lynden L. Macassey, K.B.E., K.C., LL.D., London: The Solicitor's Stationery Society Ltd. 1931.

The part played by Middle Templars in the army and navy, in politics, in social reform, and in literature and art is set before us as the history proceeds under Sir Lynden Macassey's hand.

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MAGNA CARTA PUTS ON THE BUSKIN.*—The American Bar Association celebrated its semi-centennial at Seattle, Washington, in July, 1928, and a notable feature on the programme of the event was the presentation of a pageant drama based upon the granting of Magna Carta by King John in the year 1215. The drama was written by Thomas Wood Stevens, Director of the Goodman Theatre in Chicago, and Mr. Whitford Kane and Mr. Albert Lovejoy had the chief responsibility of its actual production. The pageant was performed in the Seattle Civic Auditorium before an audience of some 4,000 people, and was a complete success. Mr. Silas Strawn, President of the American Bar Association at the time, assumed the expense of the production. The booklet containing the pageant drama, with a foreword by Dean Roscoe Pound of Harvard University Law School, and appendices containing the English text of the Charter and certain explanatory notes, together with the cast of players at its original performance, was printed at the Yale University Press. The letterpress and illustrations are so finely done that the little volume will strongly appeal to collectors on the score of its beauty alone.

Dean Pound, while admitting in his foreword that the mythical interpretation of certain provisions of the Charter by Coke in the seventeenth century had been accepted as sound constitutional doctrine by the founders of the American nation, yet declares that:

The method of the Great Charter is the method of English law in all ages. The frame of mind in which it was drawn was nothing less than the frame of mind of the common law lawyer. . . . Exactly because it is an example of the sure-footed Anglo-Saxon's habit of dealing with things as they arise and in the light of experience it has been able to maintain itself as the fountain and source of English and American public law for seven centuries.

Dean Pound is undoubtedly right. People who read Shakespeare's *King John* wonder why the great dramatist never mentions Magna Carta there; the reason may be found in the fact that it was the tendency of the time when that play was written to forget the distinction between the interests of the prince and the people which

* *Magna Carta: A Pageant Drama.* By Thomas Wood Stevens. With a Foreword by Roscoe Pound, Chicago: The American Bar Association, 1930.

the Charter recognized. Henry VIII and his daughter Elizabeth were clever enough to identify these interests. But, sad to say, political history has no fixity in values. It was when the Stuarts foolishly sought to revive the distinction that Coke voiced the slogan of popular freedom: "Magna Carta is such a fellow that he will have no sovereign."

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SOURCES OF ENGLISH LAW.*—Last year the International Academy of Comparative Law published as a first instalment of its "Studies of the Sources of Positive Law" a series of monographs on the laws of Egypt, Palestine, China and Japan. The second instalment will consist of a study of the laws of Great Britain and the British Dominions, and the first part of it comes to hand in the form of a monograph by Professor Edward Jenks on the "Sources and Judicial Organization of English Law." Those who know the gifts and authority of Professor Jenks as an expounder of the common law need not be told that within the compass of 64 pages he is able to present to his readers a luminous and reliable *aperçu* of his intricate and varied subject.

Professor Jenks thinks that at the present time English law may be said to have four sources, viz.: Statutory, Judiciary, Customary and Literary—the first two falling within a major, and the last two within a minor, category. But he points out that owing to the un-systematic development of English law the boundaries between these categories are less sharply defined than in most other systems of positive law.

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LAWYERS ON HOLIDAY.—Under this title the Solicitors' Law Stationery Society, Limited, have published in pamphlet form Mr. Tilney Barton's interesting diary of the visit of the English, Scottish, Irish and French lawyers to Canada and the United States last year, as it appeared from week to week in *The Solicitors' Journal*. In a pleasant foreword Mr. J. Leonard Crouch anticipates further hospitalities being extended to the American Bar at no very distant day by the English Bar, assisted by the Bars of the Dominions of the British Commonwealth of Nations.

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* *Sources and Judicial Organization of English Law*. By Edward Jenks, D.C.L., F.B.A., with an Appendix containing a Bibliography of Current Statute Law, etc., by Arthur R. Hewitt, Assistant Librarian of the Middle Temple. Halle (Saale) Sack & Montanus, 1931.