REVIEWS AND NOTICES.

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INTERNATIONAL LAW.[1]

In his introduction Dr. Baty states:

International Law has been too much regarded in the recent past as a mass of details to be settled partly by precedent and partly by the taste of commentators. In this book, the object of the author is not to embark on questions of detail and the discussion of particular cases. It is to ascertain and to reinforce certain guiding principles, the recognition of which appears to be necessary if the Law of Nations is not to degenerate into *a morass of conflicting opinions or of ukases dictated from Geneva.*

In line with this statement he goes on to explain what he believes to be the basis of International Law: It rests upon the universal conviction of what is right (and) its rules must be *simple, certain, objective* and *elastic.* In other words, Dr. Baty's Canons of International Law are (1) Simplicity (2) Certainty (3) Objectivity and (4) Elasticity, and the plan of his book is to take each one of these canons and illustrate it by appropriate examples. The book, on the whole, is well written, stimulating and indicates an attitude or approach to International Law that other writers in that field might well follow. For in place of giving us a text-book which is a rehash of the older texts brought up to date, Dr. Baty attempts to get at the fundamentals of the Law of Nations and tries to work out for it a satisfactory and reasonable philosophy or jurisprudence.

Having said that, there are a number of criticisms that one must make. Dr. Baty is too conservative, is not always consistent, and has been too far away from Western Europe in the post-war period to appreciate the contribution that international organizations are making to the development of an organized international society,—the lack of which has been the chief source of weakness in International Law in the past. In explanation of this statement a few passages or statements from the book itself seem to be in order. In the opening pages among the "Sovereign States" enumerated there, is the *"United Kingdom of Great Britain and Northern Ireland"*

[1] *The Canons of International Law.* By T. Baty, D.C.L., LL.D. London: John Murray. 1930. Pp. XII, 518. *International Law.* By Ellery C. Stowell. New York: Henry Holt & Co. 1931. Pp. XXVI, 829. *Pitt Cobbett's Cases on International Law.* Fifth edition. Vol. I—"Peace." By Francis Temple Grey. London: Sweet and Maxwell Ltd. 1931. XX, 372.

with a population of *377,000,000*. While the use of this term may have been correct in 1914 (though even this is questionable) it is not a satisfactory substitute for either "British Empire" or "British Commonwealth of Nations" in 1930.

In the introductory passage quoted above, the desire to reconcile conflicting opinions coupled with criticism or condemnation of "Geneva" indicates a lamentable lack of understanding of the "Société des Nations," of its methods and of what it is striving to achieve in furtherance of Dr. Baty's four canons of simplicity, certainty, objectivity and elasticity. And here it might be pointed out that "League of Nations" is a perfectly good English phrase and that there is no apparent reason, legal or otherwise, for the use of the French equivalent "Société des Nations" in an English text by an English writer. The discussion of sovereignty (p. 14 *et seq.*) is interesting and the statement that "the coercive theory of sovereignty . . . . ran its course and came to an inglorious end in the dreary pages of Austin," will meet with sympathetic applause from most of his readers. The comments on Federal States shows an appreciation of the possibilities of that idea and method of reconciling conflicting views, but is another indication of Dr. Baty's failure to understand "Geneva," for "Geneva" is essentially an idea and a method and only incidentally an organization having its secretariat and its meeting-place in the city of that name.

The attitude toward codification and the position taken with regard to "Bays" is typically English and in line with English post-war policy, but in the matter of "Bays" at least, the ten-mile rule and the exception of certain "historical" or "territorial" bays seems much more likely to be generally accepted than strict adherence to the three-mile limit.

The comments on nationality are valuable, and the suggestion that permanent residence in the sense of English domicile should become the sole criterion of nationality is interesting and might well prove a solution of the difficulty of reconciling the conflicting principles of *jus sanguinis* and *jus soli*.

The view that nationality dates from the 10th century rather than from comparatively modern times is highly debatable and is certainly not in accordance with generally accepted views.

Canadian nationality and its relation to British nationality is discussed (p. 271) but is treated rather sketchily and no satisfactory conclusions are reached.

The comments on the Monroe doctrine (p. 378) are much fuller and show a thorough grasp of what that doctrine was intended to

imply and of how it has been altered by the views and actions of subsequent Presidents and Secretaries of State.

Mandates (p. 403) are dismissed very summarily with the statement that "the institution of mandates has drifted into complete chaos" and more importance seems to be attached to keeping the spelling of "mandatory" in its old form ("mandatary") than to understanding why mandates were created and how they function.

In addition to these comments of a particular nature there is the general criticism that on the whole the examples used to illustrate his statements are not as recent as one would desire, which is probably responsible for the feeling of this reader that Dr. Baty was too dependent on the views and writings of a rather limited number of authorities and too far removed from the forum in which most of the developments in International Law are taking place at present.

* * Professor Stowell's book is the usual rather general treatise on International Law brought up to date and published in convenient form. As he himself states it aims at "presenting the system of rules which actually govern international relations." The whole field of International Law, including the law of war, and the post-war development in international organization is dealt with and in general, the only criticism (of this kind of a work) is that the American view of what is the law in any specified case is too consistently maintained, *e.g.*, "although there can be no doubt of the right to seize vessels which lie outside the three-mile limit for the express purpose of violating the laws of the United States, nevertheless the United States evinced good judgment in not pushing the exercise of this right to an unreasonable extent. In consequence of this conciliatory attitude and policy, treaties have been effected with Great Britain and other States which permit of seizures within one hour's sailing beyond the three-mile limit" (p. 325). The attitude expressed toward war, and the laws of war, throughout is academic, and indicates clearly that the author has not given much subjective thought to the seriousness of further wars.

* * The fifth edition of Pitt Cobbett's Cases does not require any introduction to students of International Law. Mr. Gray has brought this volume on "Peace" up-to-date but has retained most of the materials and all of the method that make Pitt Cobbett so valuable in introducing students to International Law.

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The Law of Canadian Companies.*

A legal text-book should be something more than a mere collection of cases, with head-notes strung together in the form of a running commentary. It is the function of a digest to collect and state decisions. A text-book should be concerned with clarifying and explaining a given subject. The latter involves the same, if not greater collection of cases than the digest, but in addition it demands: (1) the most careful analysis of those decisions; (2) the reconciliation where possible of apparently inconsistent lines of decisions, or the pointing out by clearly developed argument the irreconcilable inconsistencies and errors of the courts; (3) working out the implications which the writer sees in any line of cases, and (4) attempting to suggest by analogy or otherwise, solutions for the gaps and lacunae left by statute and the reported decisions.

There have in the past been all too few texts which got much beyond the mere collecting and stating of judicial decisions. Indeed one sometimes hears of members of the profession who desire books of this nature, containing, as they put it, "only what is the law." In the reviewer's opinion such "texts" add little if anything to the digest. Every text-book should to some extent at least, be individualistic. Every legal writer who is bold enough to bring out a new book should have something to offer in the way of instruction, criticism or new point of view, in addition to the mere word of the court. Whether one agrees with the writer is not of paramount importance. If his opinions are well reasoned, his deductions or prophecies based on some evidence, he will have fulfilled the purpose of a good text by making comprehensible and homogeneous the isolated and disjointed judicial utterances, which, under our system of jurisprudence, are supposed to represent the law.

Mr. Wegenast has endeavoured to give the profession a text-book in the sense above referred to. In the reviewer's opinion he has been remarkably successful, and is deserving the thanks and congratulations of the entire Canadian bar. His industry in collecting some 4,000 cases, giving in each case all possible citations, is indicative of the thoroughness which characterizes the book. The reviewer is particularly interested to note the inclusion of some American cases, in addition to what appears to be a most complete collection of all the Canadian and English authorities. On a commercial subject such as corporations, one would expect much assistance from this

*By F. W. Wegenast, LL.B., of the Ontario and Manitoba Bars. Toronto: Burroughs and Company (Eastern), Limited. 1931. Price, $20.00.

field, even as the English courts have in the past received assistance on the subject of Agency. While Mr. Wegenast's use of American authorities is very scanty, it is at least a breaking away from the provincialism that has been prone to characterize our text-books It is noteworthy that in his short chapter dealing with the "business trust" or "Massachusetts trust," a subject heretofore but little known in this country, he should rely almost entirely on American authority. The scope of Mr. Wegenast's book does not include problems of corporate financing and reorganization. When the time comes for a treatise on such matters in Canada, it will be strange if a great deal more American experience is not called upon.

Another feature of Mr. Wegenast's book which calls for commendation, is that he has had frequent recourse not only to the standard English and Canadian company law texts, but also to the well-known American works of Morawetz and Machen. This makes for a broader outline than the generality of Canadian books. While the author has to some extent utilized Law Review material, he has by no means made as extensive use of the wealth of material in the English and American reviews as he might. In the reviewer's opinion, Canadians generally have as yet to discover the mine of information contained in the reviews. The last edition of Salmond's Torts (by Professor Stallybrass) is an example of a vast improvement of a good text by a more comprehensive study of Law Review material.

One of the greatest services rendered by Mr. Wegenast, is his warning on every possible occasion against the indiscriminate application of English authorities relative to company law, to situations in Canada, inasmuch as they are based on a system and theory of incorporation quite different than our own. His enthusiasm for the Canadian letters patent system (which is by no means universally concurred in), as opposed to the "memorandum" system of England and some of the provinces, seems largely based on the *Bonanza Creek* decision,[1] which he cites no less than sixty-five times throughout the book, and which he credits with the most sweeping effects; sometimes with little more in support than his enthusiasm. Naturally, the chief item of differentiation between England and Canada, lies in that *bête noire* of company law, the doctrine of *ultra vires*, which the author has treated ably and exhaustively. But a problem on which much more light must yet be shed, is raised by Mr. Wegenast[2] in connection with the application of the rule of *Royal British Bank* v. *Turquand*[3]

[1] [1916] 1 A.C. 566.
[2] At p. 240.
[3] (1886), 6 E. & B. 327.

to Canadian companies. Admitting that a Canadian company may be capable of doing acts which are not authorized by its charter, how much may an outsider dealing with the company in respect thereof assume? As Mr. Wegenast suggests, should he look at the charter first, as he would the memorandum of association of an English company, and "assume that the officers and agents have been authorized to do only the things which the charter authorize or should he start on the assumption that the officers and agents have been authorized to do anything that is not forbidden by statute?" The latter view seems to be favoured by Mr. Wegenast but such a sweeping effect seems improbable if we bear in mind that the question raised is really as to when a corporation should be bound by contracts entered into on its behalf by persons who are acting outside the scope of their agency. The problem is the same as in all agency situations, namely, how far must third persons go in ascertaining the authority of an agent? It seems not unreasonable to say that with knowledge of the charter, the outsider cannot hold the company to a contract outside the enumerated powers unless he can produce proof of proper authorization of the negotiating officer. In other words he is put on his guard by the minimum expressed in the letters patent.

A variation of the same problem arises in questions of the vicarious liability of a company for its servants' torts. This subject has caused no little heartburning in England with respect to "*ultra vires* torts,"[4] and in the reviewer's opinion it receives altogether too scant treatment in the book under review. To take one illustration, the famous (or infamous) case of *Poulton* v. *L. & S.W. Railway Co.*,[5] concerned the liability of the defendant company for the wrongful arrest of the plaintiff by a stationmaster of the defendant, for failure to pay for the carriage of a horse. The company was empowered by statute to arrest passengers for non-payment of fares, but was not empowered to arrest for non-payment for the carriage of goods. In freeing the company from any liability, Blackburn, J., said that "having no power themselves, they cannot give the stationmaster any power to do the act." While this decision for a time seemed likely to impede the development of liability for *ultra vires* torts altogether, it is to-day treated as holding merely that the *implied authority* of an agent or servant does not extend to *ultra vires* acts, but that express authorization is necessary to involve the company in liability.[6]

[4] See for example, Warren, Torts by Corporations in Ultra Vires Undertakings (1926), 2 Camb. L.J. 180; Goodhart, Corporate Liability in Tort and the Doctrine of Ultra Vires (1926), 2 Camb. L.J. 350.

[5] L.R. 2 Q.B. 534.

[6] Salmond, Torts, 7th ed. (Stallybrass), p. 77.

This same problem of ascertaining the authority or scope of employment of agents or servants, by reference to the constating instruments, would appear still to exist in Canada and it cannot be tossed aside by a reference to the *Bonanza Creek* case, which if anything, merely adds to the existing confusion on this point. It is unfortunate that the author has not attempted a solution of these difficulties from the more substantial grounds of general agency law.

Although Mr. Wegenast has gone further into the problem of the ostensible authority of a company's agents[7] than any other writer, and certainly more deeply than the courts, the reviewer is a little disappointed in not finding a more detailed and concentrated study of the rule in *Royal British Bank* v. *Turquand* in this connection. On the one hand, the difference between the Articles of English companies, which are public documents, and the By-laws of Canadian companies which are not, would seem at first blush to render the rule of much wider import in Canada than England. On the other hand, the limiting effect of the doctrine in *Houghton & Co.* v. *Northard, Lowe and Wills*[8] to the effect that "although there is a power of delegation contained in the articles of association, and although a person dealing with a company is deemed to know it [*Royal British Bank* v. *Turquand*] he cannot be heard to say: 'I am deemed to have known of the power to delegate and I acted upon it,' unless it is proved that he had knowledge of the power,"[9] would seem to render the rule of practically no value here, insofar as outsiders have no means of ascertaining what the by-laws may contain. This problem still awaits further elucidation than is given in the volume under review.

Incidentally, on the general question of ostensible authority, the reviewer wishes that more might have been done than referring again and again[10] to the misleading maxim of *Lickbarrow* v. *Mason*,[11] that "when one of two innocent persons must suffer by the fraud of a third, he who enabled that third person to commit the fraud should be the sufferer." The reviewer in his teaching work has invariably found that this doctrine is always the last resort of the lazy student, and that by its application, a result quite inconsistent with the case law is usually reached. The judgment of the House of Lords in

[7] Pp. 422-426.

[8] [1927] 1 K.B. 246, followed by Garrow, J., in *Fred T. Brooks Ltd.* v. *Claude Neon etc. Ltd.*, [1931] O.R. 92 at 107.

[9] Scrutton, L.J., in *Kreditbank Cassel* v. *Shenkers, Limited,* [1927] 1 K.B. 826 at 840.

[10] Pp. 427, 564, 640.

[11] (1787), 2 T.R. 63.

Farquharson Bros. v. *King*,[12] shows clearly that the maxim as a working rule is useless. To clear up the inconsistencies which the author indicates between fraudulent issues of stock and debentures[13] a more detailed study of the representations made by a company which a third person is entitled to rely on must be made.

It is impossible in reviewing a book the size of Mr. Wegenast's to do more than single out one or two items for comment. In the skilful handling of the most conflicting and incomplete authorities relative to the alienation of stock and in particular the effect of blank endorsements the author is to be congratulated. The comprehensive attack on the troublesome question of rescission of the contract to take shares for misrepresentation[13] is also worthy of note. We must admit to something of a shock however in finding that the author courageously denied that *restitutio in integrum* was essential and that he insisted in the teeth of the reasoning of the House of Lords in *Oakes* v. *Turquand*,[14] and of Duff, J., in *McAskill* v. *The Northwestern Trust Co.*[15] and the emphatic language of *Re National Stadium*,[16] that a power of avoiding a voidable contract could be exercised after winding-up proceedings had been commenced.[16a] While the author merely states without further comment the doctrine of *Seddon* v. *North Eastern Salt Co.*[17] to the effect that innocent misrepresentation has no effect on an executed contract, it is worth noting that McCardie, J., in *First National Reinsurance Co. Ltd.* v. *Greenfield*,[18] stated that the rule in *Seddon's* case, followed in *Angel* v. *Jay*,[19] was not applicable to contracts to take shares.[20] In view of the obiter of Scrutton, L.J., in the recent case of *Lever Bros. Ltd.* v. *Bell*,[21] in which he reserved the liberty to reconsider the decision in the *Seddon* case itself, so far as it decided that executed contracts could not be rescinded for an innocent misrepresentation, it would

[12] [1902] A.C. 325.
[13] P. 729 *et seq.*
[14] (1867), L.R. 2 H.L. 325.
[15] [1926] S.C.R. 412 at 419.
[16] (1924), 54 O.L.R. 199.
[16a] For the distinction between "void" and "voidable" with respect to stock transactions, see the recent case of *American Seamless Tube Corp.* v. *Goward*, [1931] 1 D.L.R. 878 (B.C.).
[17] [1905] 1 Ch. 326.
[18] [1921] 2 K.B. 260 at 270.
[19] [1911] 1 K.B. 666.
[20] "The effect, however, of the company decisions is to show that contracts for the taking of shares, even though followed by allotment and the placing of the applicant upon the register, are not contracts which fall within the principle of *Seddon's* case." The rule in *Seddon's* case was followed however, as Mr. Wegenast points out in *Abrey* v. *Victoria Printing Co. Ltd.* (1912), 21 O.W.R. 444.
[21] [1931] 1 K.B. 557 at 588.

seem that the origin, rationale and scope of this obscure doctrine[22] should be further investigated.

Mr. Wegenast's book should appeal not only to those experienced in company work, for the wealth of material he has collected and analysed, but equally to the young practitioner faced with his first incorporation. The chapters on *Organization* and *Meetings* have the advantage of giving not only "the law" relative to these topics, but of explaining the significance and purposes of the various steps involved in incorporation proceedings. The 93 forms, covering over 100 pages of text, further enhance the value of the book for this purpose. An exceptionally full index of some 145 pages which the reviewer has tested and found quite adequate will also assist the profession in finding their law.

Throughout Mr. Wegenast has apparently endeavoured to link the practical with the underlying theory of a corporation. Even though he makes no mention of any theory of corporate personality, save that of "legal fiction" by concession of the State, (which we had understood from the learned studies of Dr. Hallis on Corporate Personality[23] was but an echo from the past), and is thus unable to give more than a passing reference to "De Facto Corporations," we cannot believe that the book has lost much more than a few additional pages, and the profession an increased price.

The reviewer has been able to find the author in what he believes to be serious or misleading error in only one connection. In various places[24] Mr. Wegenast states that licenses to hold land in Ontario are not issued to Dominion Companies under the Mortmain and Charitable Uses Act, but under the Extra-Provincial Corporation Act, and that "the practice is to intimate to applicants for licenses in mortmain that for the same fee they might have, instead of a mere license to hold land, a full license to carry on business."[25] A cursory review of the Ontario Gazette for the current year indicates however, that since January first, some thirty-one licenses in mortmain were granted to Canadian companies, as opposed to five licenses under the Extra-Provincial Corporation Act. In view of the fact that the fees for the two types of licenses are not now, as stated in the text, the same, that for the license in mortmain being based on the value of land authorized to be held in Ontario, while that for the Extra-Provincial license is based on the amount of authorized capital,

[22] See Anglin, J., in *Redican* v. *Nesbitt*, [1924] S.C.R. 135.
[23] A Study in Jurisprudence by Fred. Hallis, Oxford University Press.
[24] Pp. 841, 857, 879.
[25] P. 857.

this would seem only natural. Considering the care manifested generally throughout the book, an error of this kind is surprising.

On the whole, Mr. Wegenast's book is, in the reviewer's opinion, by far the most exhaustive and penetrating text-book on Corporations, in Canada. The writer has not shirked the many complex problems of his subject, and he has the courage, which many text-writers lack, of attacking decisions whose import seems contrary to fundamental principle. Whether his conclusions will ultimately be accepted or rejected by the courts is of less importance than the fact that he has unearthed a wealth of material and argument that places Canadian corporations in their rightful position as being neither English nor American, but Canadian.

To the publishers credit must be given for solving the problem of bulkiness, by adopting a larger page than is usual and by the use of thin opaque paper. In so doing they have reduced to compact form a book that might well have run to two volumes. The double column style of footnote, while used extensively in the United States, is little known here, but has been employed in this instance to advantage. An attractive limp binding in maroon imitation leather completes the book.

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THE ECONOMIC USES OF INTERNATIONAL RIVERS.*

The economic uses of great river systems are manifold and in the twentieth century have increased both in number and intensity. Even in the simple economic use of water for bathing purposes this increased intensity is apparent when we compare the rule enunciated by St. Benedict in the Middle Ages that his monks might take a bath once a year with the advertisements of a modern hotel advising the travelling public to take three shower baths a day. To-day water is an extremely valuable commodity and an extensive river system is an asset of the utmost importance. In addition to the simple uses of water for bathing and drinking, competing economic uses of rivers include navgiation, irrigation and the development of hydro-electric power. If the river system lies wholly within one state it is a problem for the lawyer to determine how the competing interests of various riparian owners may be properly adjusted. In most countries this difficult problem has been more or less successfully

*By Professor H. A. Smith, M.A. London: P. S. King and Son, Ltd. 221 pages.

solved by the development of a body of law, the rules of which have been moulded by the economic necessities of the particular country. The English common law rules as to the rights of riparian owners in the waters of rivers were developed to suit the economic requirements of an agricultural community. As the economic conditions of a community change the law as to riparian rights ought to keep pace with such changes either by legislation or by intelligent judicial adaptation of old principles to new situations. But that is a problem of municipal law which concerns a single sovereign body and hence is a moderately simple one.

When the river is international, flowing through or between two or more independent sovereign states, the problem of the adjustment of rights in that river becomes a much more complex one. It is now a problem of international concern but it is not a problem solely for the lawyer; the economist, the engineer and the statesman must be interested and consulted. This is the problem with which Professor H. A. Smith deals in this most opportune volume. The first part of the volume is a sort of case book of international disputes concerning river systems. He sets forth the history, negotiation and solution of fourteen such disputes including the Rio Grande Irrigation problem, the Chicago diversion, the apportionment of the waters of the Nile between Egypt, the Sudan and Abyssinia, the Boulder Dam project and the Boston Waterworks diversion. In addition, although it can hardly be said to have reached the proportions of a dispute, he discusses the steps that have been taken by Canada and the United States for the development of a deep St. Lawrence waterway.

A study of these cases illustrates the difficulty and complexity of the problems that arise. Is an upper riparian state justified in withdrawing water to supply pure drinking water to its inhabitants if such withdrawal will interfere with actual or potential navigation in a lower riparian state? Can an upper riparian state withdraw water with which to irrigate parched fields if the withdrawal will prejudice the development of hydro-electric power by a lower riparian state?

What principles should be invoked for the settlement of such problems? In 1895, the United States Attorney-General Mr. Harmon, in the dispute with Mexico as to the use of the waters of the Rio Grande, contended that the United States, on the principle of absolute sovereignty could do as it pleased with that part of the river within its boundaries. Such an extreme view is absolutely untenable and the thesis of Professor Smith's treatise is that the

guiding principles for the settlement of disputes over the use of international waters must be found in the economic and geographical conditions of the particular river system concerned, apart altogether from any dogmatic conception as to sovereign rights or universal freedom of navigation.

As he points out:

> It is no use trying to make our formulæ more simple than the facts themselves. In actual fact a great river system is an extremely complex thing, in which many states, riparian and non-riparian, may have many and varied interests. These interests may be political, strategic, or economic, and it is obvious that in many cases they may conflict. The function of law is to provide rules for regulating the possible conflict of interests, and in practice it always achieves this end by trying to strike an equitable balance between them. In order to do this it must take them all into account. It cannot arbitrarily select one particular interest, such as territorial sovereignty or the rights of navigation, and then declare that all other interests must be subordinated to this.

If the river flows through more than one country that imposed political circumstance "should not result in a less beneficial administration of the river than would be effected if it lay entirely within one jurisdiction" provided that statesmanship inspired by good-will and common sense and using the proper technique afforded by experience is able to overcome the dogmas of political independence and sovereign rights.

In fact, as Professor Smith observes, the United States and Canada have led the way both in fundamental attitude and practical technique by the manner in which they have solved the administrative problems that have arisen in connection with the Great Lakes and the St. Lawrence River. The International Joint Commission set up by the Boundary Waters Treaty of 1909 has functioned efficiently and to the satisfaction of both countries. It is to be hoped that the same spirit of good-will and intelligent application of technique will be adequate to overcome narrow and selfish sectional and commercial interests in each country and afford a statesmanlike solution to the problem of the development of a greater St. Lawrence seaway. This volume is a most timely contribution as to the practical details and methods that should be followed in the settlement of controversies between nations where the spirit of good-will and the desire to solve the problems in fact exist.

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Foreign Relations of the Federal State.*

Students of law are inclined more and more to get away from theoretical discussions of a philosophic nature to a consideration of the concrete problems with which we are faced in the present century. Theories of sovereignty, of the nature of law, of its sanctions give way to the more intimate considerations of every day life. We are not surprised, then, to find that the author of this book has avoided theoretical discussions of the nature of federalism except where such discussions were necessary to elucidate the constitutional instruments of a federal State and their effect upon the external relations of such State, and these discussions are largely confined to the earlier chapters. Avoiding the tendency to limit the term *federal* to States which follow closely the model provided by the United States of America, he deals comprehensively with the foreign relations of every State that has any claim to be called federal. Thus, it includes such States as Germany, although doubt has been cast on its right to classification as a Federal State. A distinction which the author makes is along more practical lines. He points out that some federal States have been created by the union of a number of previously independent units; in this group are included the United States, Canada, Australia, Switzerland and Germany. On the other hand, the Central and South American republics were formerly unitary States subsequently subdivided into provinces for administrative purposes. The member-states of federations of the first group are less inclined to view with equanimity the surrender to or acquisition by the national government of any powers, even if they be for the national welfare. Whatever rights and powers have been entrusted to the central government represent the result of a compromise. The effect of this appears clearly throughout the volume, especially in chapter IX where the author discusses the influence of member-states upon the foreign policy of a federation. The "States' Rights" doctrine is particularly strong where the member-states formerly enjoyed some measure of freedom. In the States which comprise the second group there was no need of seeking to retain the good-will of any member-state; no compromise was necessary and so sufficient safeguards were introduced to preserve intact the power of the federal government in the realm of foreign relations.

As is stated in the preface "the experience of the United States occupies the central position" in the discussion; the justification

*By Harold W. Stoke, Ph.D., Assistant Professor of Political Science, University of Nebraska. Baltimore: The Johns Hopkins Press. 1931. Price, $2.25.

being that it is the most important federal State, its experience has been longer and it displays "the characteristic advantages and weaknesses of federalism" in international affairs. The first three chapters of the book deal with matters which are peculiar to federal governments; thus Professor Stoke discusses the constitutional nature of the federal state, the control of foreign relations and the position of member-states in international law. In the fourth chapter he deals with the relation between international law and the constitutional law of a State. The problems that arise here are not confined to federal States; they may arise equally in a unitary State, but the difficulties which appear are greatly enhanced by federal organization as it is in federal States that we find the highest development of written rigid constitutions. A consideration of the results of the limitations and incapacities to which the federal State is subject in its external relations forms the remaining and most important part of the volume. The chapter headings are indicative of these difficulties. The power which the federal State possesses over the territory within the boundaries of its member-states, the capacity to contract international agreements and to implement its obligations raise problems which are often of a political rather than a constitutional nature. The constitutional handicaps which a federal State takes occasion to plead, whenever it considers it politically inadvisable to obtain compliance on the part of the member-states with international understandings, are largely excuses which provide a convenient and more or less graceful avenue of escape. That constitutional incapacities exist is beyond question, but even a cursory perusal of this interesting volume leaves the reader with the impression that federal States are shirking their international responsibilities. The indirect, political influences of the member-states plays a larger part in international affairs than we generally assume to be the case. It also seems that those States which are not afflicted with these difficulties tolerate federations good-naturedly, thus encouraging them in their faults. The mere fact that a federal State makes reservations in its international agreements creates a desire on the part of other members of the society of nations to limit their obligations. If constitutional difficulties exist which make it difficult for a federal State to participate fully in international intercourse that is a situation which must be recognized and allowances must be made. But to permit federations to take undue advantage of the privileges accorded them is subversive of the whole system of international law. Too many of the limitations to which federal States are subject are self-imposed incapacities. We owe a debt of gratitude to the author for

the careful way in which he has called attention to these problems.

The bibliography is excellent. A minor word of criticism seems to be in place. A lawyer is so accustomed to look for a table of cases that it is annoying to find that this volume lacks such an index.

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A CANADIAN WAR MINISTER.

Lieutenant-General the Honourable Sir Sam Hughes, K.C.B., M.P., Canada's War Minister 1911-1916. Recollections of Service as Military Secretary at Headquarters, Canadian Militia, prior to and during the early stages of the Great War. By Brigadier-General Charles F. Winter, R.O. (Canada). Toronto: The Macmillan Company of Canada. 1931. $2.25.

This somewhat formidable title has the merit of defining the author's purpose and point of view. He has not attempted a complete life of the former Minister of Militia and Defence. His purpose is to tell the story of certain critical years, during which the control of Canada's war forces was largely in the hands of Sam Hughes, and particularly that part of the story of which he as Military Secretary had personal knowledge. The book is not therefore, except in a somewhat limited sense, a life of Sam Hughes. General Winter's task has not been that of the impersonal biographer, to analyse the character and achievements of his subject with the cold-blooded impartiality of a surgeon. He is quite frankly one whose close association with his chief for a period of years left him with a feeling of deep admiration for his qualities of heart and brain, and a determination to disprove the bitter criticisms brought against the Minister during his lifetime and since. One realizes at once that this attitude is in itself no mean tribute to the memory of Sam Hughes. Close association with any human being, and particularly with an aggressive and rather domineering character, is very likely to prove disillusioning, and if that is true under ordinary conditions it is doubly true under the trying circumstances of the war years. That General Winter's high estimate of the character of Sam Hughes came through this ordeal not only undiminished but strengthened, is something that must be taken into account by anyone attempting to judge the matter fairly.

As a background to the picture of the early war years, General Winter sketches briefly Sam Hughes' career in the Canadian Militia, his service in South Africa, and in public life, and the steps taken prior to 1914 to put the Militia upon a more efficient basis. With the declaration of war, we are taken behind the scenes at headquarters

and given most interesting pictures of what went on in and about the Minister's office—press conferences, wirepulling, inventors and their impracticable contraptions, German spies and secret agents, Valcartier, the munitions problem, the Ross rifle, aviation, the breaking up of Canadian units in England, the Flag incident, Chaplains, work of the Red Cross, wild prohibitionists, and a host of other incidents large and small, in which Sam Hughes was always one of the principal figures and generally in the centre of the stage. One is reminded, too, that the hard-working Minister must also spend much of his time in the House of Commons, defending his acts and policies, and often enough meeting criticism by carrying war into the enemy's camp. Also one is told something of his visits to the troops overseas, his resignation, the breakdown of his health, and the final passing of that valiant soul which, for good or ill, had had so much to do with Canada's effort in the Great War. Whether or not we agree with his conclusions, General Winter has made a most interesting contribution to Canadian biography.

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The Interstate Commerce Commission: A Study in Administrative Law and Procedure. By. I. L. Sharfman, Professor of Economics, University of Michigan. New York: The Commonwealth Fund, 1931.

This is the first of a series of four volumes presenting the results of an intensive study of the Interstate Commerce Commission. The study was made under the auspices of the Legal Research Committee of the Commission, of which Judge Cardozo, of the New York Court of Appeals, and Dean Pound, of the Law School of Harvard University were members. It is a study of administrative tribunals as instruments of public control of social and economic interests, pointing the contrast between their constitution and methods and traditional legal processes, hence it is of much value at the present time.

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Abstracting and Deducting Title. By A. H. Cosway. London: Effingham Wilson, 1931. Price $1.50.

While this small volume was written for the guidance and instruction of English solicitors, it has an interest for Canadian lawyers since it deals with the Law of Property Act, 1925, and its amendments, and illustrates what documents of title should be

abstracted and what should be properly omitted under the requirements of the new legislation. The author's observations interspersed throughout the work make a useful commentary on the present business of conveyancing in England. For the layman to undertake conveyancing work in that country now would be to invite trouble for his employer, and perhaps new property legislation throughout Canada might prove to be the best means of repelling the present invasion of the lawyer's domain by those inexpert in the art of reading mundane titles clear.

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