

REVIEWS AND NOTICES

Publishers desiring reviews or notices of Books or Periodicals must send copies of same to the Editor, Cecil A. Wright, Osgoode Hall Law School, Toronto 2, Ontario.

Without Prejudice. Impressions of Life and Law. By SIR CHARTRES BIRON. London: Faber and Faber. 1936. Pp. 368. (15 s.)

Dr. Morse in a recent review pointed out that, at the present time, the printing-press is working over-time in the production of autobiographies, many of which seemed to him to be trivial and few of them sufficiently accurate to qualify as history. There is probably slight justification for the autobiography of one whose achievements have been so obscure that he has little if anything to say; and yet for the man who has lived at the centre of important events and taken active part in them, the story of his life may take on the quality of special pleading and import into the narrative, the clamour and personal bias of current controversies. For historical purposes, it may well be that the field of autobiography should be reserved for those few public men whose achievements have been by no means inconsiderable, but who have lived sufficiently near the fringe of important events of the day to be able to see them and the men who participate in them without a feeling of personal rancour or the need of personal apology. Of such a book, this is a well-nigh perfect example.

Sir Chartres Biron has lived a life of active achievement but he has managed to preserve an interest in many things far beyond the immediate interests of this profession. No man could be a London Metropolitan Magistrate for nearly thirty years without having very much to say of interest to lawyers. But it is not so much that the practice of law has given him the material for a very interesting book as that legal practice has made possible a close contact with the events of his time, which he portrays with rare accuracy and charm..

The early chapters of the book give a picture of Victorian England which is comparable only to that given by Sir Frederick Pollock in *For my Grandson*. He stoutly defends the Victorian era, and sees in the current fashion of criticism of it the inferiority complex of a disgruntled generation. And no one can deny that he makes out a very strong case for his charge. We see here a picture of a prosperous and distinguished age when "water was regarded as a very dangerous beverage, drunk only at the risk of one's life," and yet people comfortably well-to-do indulged in the odd economy of hiring the Times newspaper instead of buying it.

Born of a family for some generations associated with the law, Biron early decided to be called to the Bar, although he confesses that "Law as a subject never appealed to me." Perhaps for this reason, he went to the criminal bar and tells of a number of important cases in which he took a part. To the lawyer, however, the book is chiefly interesting for the short but unusually vivid pictures of his contemporaries at the Bar. Birkenhead, Carson, Avory, Sir Charles Russell, Marshall-Hall, and many others were known personally to the author, and their methods of advocacy are described. Biron himself worked steadily and built up a considerable

criminal practice which led him ultimately to the Magistrate's bench. In the story of his own work it is quite apparent that he enjoyed it with rare zest. "Work," he says, "is a curious problem, it is in a way very like drink. Once you have done an honest day's work you are lost, you cannot do without it. The only chance is to be a total abstainer. . . . I realized my mistake too late." But for all his work, he enjoyed life immensely and travelled as extensively and as frequently as he could. His theory of a holiday was to go always as far as he could in the time available and never to be put off by the fact that his stay at his destination would be a short one. This theory led him around the world once in forty-one days and sent him on a six weeks' holiday to the North-West Provinces of India or to Rio de Janeiro. Yachting was his principal interest in sport, which he enjoyed frequently with Sir Thomas Lipton, and on at least one occasion accompanied Sir Thomas to the America Cup Races. Golf alone seemed to leave him cold; he refers to it once as "that dreary Scottish exercise" and explains that in his youth "that dismal Scottish exercise, golf, was unknown in England, except at Blackheath where a few old gentlemen, in general regarded as mentally deficient, used to walk about on the Common in red coats with their clubs and caddies." The author in his concluding chapter puts forward a claim for himself which may equally be applied to his book. "One has lived one's life, and if perhaps too often in the audience, rather than on the stage, one may have seen more of life as a whole." To this breadth of vision he has added charm and urbanity in telling the story of his life.

R. M. FOWLER.

Toronto.

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Handbook on the Formation, Management and Winding Up of Joint Stock Companies. By the late SIR FRANCIS GORE-BROWNE. Thirty-ninth edition by HIS HONOUR JUDGE HAYDON and STANLEY BORRIE. London: Jordan and Sons. 1936. Pp. c, 916. (20 s.)

The thirty-ninth edition of a work which has earlier been translated into French and adapted to the laws of South Africa and British Columbia is not called upon to justify its appearance. Legal literature, like the organic world, responds to the rule that only the fittest shall survive, and many editions of a work are a sufficient sign of its vitality and the best possible guarantee of its true worth.

As in the case of the three previous editions of the Handbook, His Honour Judge Haydon has assumed the responsibility which formerly rested upon the late Sir Francis Gore-Browne in relation to the legal portion of the work, and to Mr. Stanley Borrie has fallen the duty, previously undertaken by Mr. Herbert W. Jordan, of ensuring the accurate presentation of the practice of the Registrar of Companies. The editing has been skilful and quite in the spirit of the earlier editions, leaving no trace of that conflict between the opinions of succeeding editors which mars the uniformity of so many texts and opens the way to nothing but confusion.

The recent and principal decisions of the courts have been incorporated into the new edition, and the text has been altered, where necessary, to conform with the present practice of the Registrar.

There has been some tendency on this continent to disparage English legal texts as uncritical, and it is not to be denied that they are remarkable for their absence of conscious philosophy and their antipathy to ordered systems of thought to an extent that would have been distressing had it not been so successful. It is true that English jurisprudence has proceeded upon experience rather than logic, and the consensus of her jurists has seldom served a higher purpose than to be the argument of defeated counsel. If this be doubted, it should not be necessary to do more than refer to a certain celebrated snail in a bottle that remains as an abiding memorial to the failure of scholastic thought in anticipating the House of Lords.

In the great tradition, the Handbook is eminently practical, and must be almost indispensable to the English lawyer. For the most part, it answers clearly questions clearly raised, and does not venture upon unprofitable speculation. The great body of the work is built upon a framework of The Companies Act (Imperial) of 1929, and the reader is never permitted to lose sight of the broad statutory basis of modern company law. It is designed to give, in successive divisions, a complete picture of the life-history of companies from their formation and constitution, by way of the management and conduct of their business, to their winding up. This practical approach, so valuable to those for whom the text is primarily written, has this necessary disadvantage, that its devotion to Imperial statutes and practice limits its usefulness in the Dominions. But when full allowance has been made for this, there is still such a basic similarity between English company law and our own that the work commands the attention of Canadian lawyers engaged in commercial practice.

In view of the recent controversies touching the doctrine of innocent misrepresentation, it is interesting to find the text stating simply that "a contract to take shares, like other contracts, is voidable if induced by misrepresentation, whether such misrepresentation is fraudulent or innocent." By equating innocent and fraudulent misrepresentation in the same rule, there has been a definite adherence to the orthodox view that, since the Judicature Act, rescission of a contract might be demanded by a party who as been induced by an innocent misrepresentation, even though it failed to go to the root and substance of the bargain. This view was at one time thought to be imperilled by the decision of the House of Lords in *Bell v. Lever*, [1932] A.C. 161, but it is submitted that the latter case has been much misunderstood and their lordships could never have intended to fuse both the doctrines of frustration and innocent misrepresentation into the larger doctrine of mistake with its inherent difficulties of application. In any event, the text, without mentioning it, is in agreement with the comparatively late judgment of the Privy Council in *MacKenzie v. Royal Bank of Canada*, [1934] A.C. 468, which must now be taken as concluding the question in this country in accordance with "a long course of professional understanding."

The book is marked, in the passages relevant to innocent misrepresentation and throughout, by that token of an orderly mind—the ability to summarize with facility. Complications are resolved by swift recapitulation, and the most intricate questions answered by a series of test questions searching out their vitals.

It is a melancholy acknowledgment of the vicissitudes of contemporary commercial enterprise that the concluding division of the Handbook is

devoted entirely to the termination of corporate existence by winding up under order of the court or voluntarily and the reconstruction of companies.

JOHN C. OSBORNE.

Ottawa.

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You May Cross-Examine! By LEWIS HERMAN and MAYER GOLDBERG. New York: The Macmillan Company. Toronto: The Macmillan Company of Canada. 1936. Pp. 194. (\$2.00)

While the authors of this small volume quite evidently wrote a book designed to appeal to the general public, it is not without interest to the legal profession. To the latter, cross-examination does not stand for that dramatic, fierce, finger-pointing ordeal with which the motion pictures have done their best—or worst—to acquaint the public. At the same time, there is no doubt that cross-examination has produced incidents and anecdotes which are both illuminating and entertaining. In the present book, the authors by a choice of interesting anecdotes and passages from cross-examination taken from actual trials, most of them quite modern, have endeavoured not merely to entertain, but to explain the purposes behind cross-examination and the preparation required for it. In addition, the problem of expert witnesses, perjury, and the various psychological factors that enter into successful cross-examination, are examined and copiously illustrated. To the lawyer, some of these stories may be familiar, but they will none the less provide entertaining, and in many instances highly instructive, reading for a leisure hour. The layman will probably still believe that cross-examination is a much more spectacular affair than it really is, but in addition to being amused he may appreciate that a cross-examining counsel is really performing some function other than insulting witnesses. It is unfortunate that the authors felt compelled to use so many anecdotes taken from the more lurid type of action. Surely the influence of the "tabloid" newspapers is not so great that a book on law for the general public must of necessity deal only with the "sensational".

C. A. W.

BOOKS RECEIVED

*The inclusion of a book in the following list does not preclude
a detailed review in a later issue*

- Cabinet Government.* By W. IVOR JENNINGS, M.A., LL.D. Cambridge: At the University Press. Toronto: The Macmillan Company of Canada. 1936. Pp. xii, 484. * (\$6.25)
- Outlines of Criminal Law.* By COURTNEY STANHOPE KENNY. Fifteenth edition by G. GODFREY PHILLIPS, M.A., LL.M. Cambridge: At the University Press. Toronto: The Macmillan Company of Canada. Pp. xlv, 625 and index. (\$4.50)
- Maitland's Lectures on Equity.* Revised by JOHN BRUNYATE. Cambridge: At the University Press. Toronto: The Macmillan Company of Canada. 1936. Pp. xxiv, 343. (\$4.50)
- Maitland's Lectures on The Forms of Action at Common Law.* Edited by A. H. CHAYTOR and W. J. WHITTAKER, Cambridge: At the University Press. Toronto: The Macmillan Company of Canada. 1936. Pp. xi, 92. (\$1.20)
- Fingerprints. The Numerical Index or Fingerprints Revolutionised.* By F. BREWESTER. With an Introduction by A. K. BASU. Calcutta: Eastern Law House. 1936. Pp. 242.
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