

REVIEWS AND NOTICES

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Organization of Courts. By ROSCOE POUND. (Published under the auspices of The National Conference of Judicial Councils). Boston: Little, Brown and Company. 1940. Pp. xiii, 322. (\$5.00).

This is the second volume to appear in the Judicial Administration series, published under the auspices of the National Conference of Judicial Councils, the first, dealing with Criminal Appeals in America, having been reviewed in the April issue of this REVIEW. From the point of view of the Canadian reader the present volume lacks perhaps the appeal of the former. Professor Pound has approached his subject from the historical standpoint and has given in great detail and with much learning the history of the American development of the judicial system from the 17th century on. There can be no doubt that as a piece of historical research the volume is important, but viewed as a study designed to enlist support for the improvement of the existing judicial system, the volume seems to add little to the paper presented by Dean Pound almost thirty-five years ago before the American Bar Association, entitled "*The Causes of Popular Dissatisfaction with the Administration of Justice*" (29 Am. Bar Ass. Rep. 395). The views which he there expressed are again repeated at the conclusion of the present volume. Dean Pound believes that the American system of courts is wasteful of judicial power, time and money, of both litigants and public, because of a multiplicity of courts whose jurisdiction is ill-defined and which results in a general want of co-operation between the various courts themselves. He believes that there should be a unification of the judicial system to avoid these evils and some method by which judicial work could be allotted with a view to saving time and money.

Some of the defects in the American system are no doubt prevalent in the set-up which exists in the Canadian provinces. The recent survey made in Ontario by Mr. F. H. Barlow, K.C., Master of the Supreme Court, covers some of the ground dealt with here, and in particular makes reference to the problem of equalizing the work of the county court judges. It is the reviewer's opinion that our system of probate courts leaves much to be desired, inasmuch as the decentralization which there exists leads in practice to each county developing a procedure, and in many instances a jurisprudence, quite distinct from that of the other counties. The fact that there are practically no reported decisions on the work of the various surrogate courts does not assist the profession and, in addition, the lack of equitable powers in surrogate courts produces anomalies regarding jurisdiction to settle questions of interpretation which of necessity arise in many cases of passing accounts.

Whether it would be feasible to adopt a unified judicial system in which all these courts become but branches or departments of our provincial court, as recommended by Dean Pound, may be open to doubt. In any event the present volume presents the historical background of

development in the American states and furnishes material for a comparative study which should furnish the background for any tinkering or tampering with our own system.

C. A. W.

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Judicial Opinions of Oliver Wendell Holmes. By HARRY C. SHRIVER. Buffalo: Dennis & Co., Inc. 1940. Pp. xvi, 360.

Mr. Justice Oliver Wendell Holmes of the Supreme Court of the United States is probably better known in the United States (in Canada, certainly) than is Mr. Justice, later Chief Justice, Oliver Wendell Holmes of the Supreme Judicial Court of Massachusetts. But just as we must study the boy to understand the man, so part of the explanation of Mr. Justice Holmes' prestige as a member of the United States Supreme Court must be sought in his earlier judicial opinions as a member of an important state court. Mr. Shriver has performed a useful task in collecting Holmes' Massachusetts constitutional opinions. The excerpts and epigrams from other opinions delivered in Massachusetts, which comprise the second part of Mr. Shriver's volume, should prove a happy hunting ground for those in search of the apt remark who cannot themselves fit words to an occasion. Holmes was not so handicapped. A few examples are sufficiently illustrative: "All values are anticipations of the future"; "A boy who is dull at fifteen probably was dull at fourteen"; "If it is a bad rule, that is no reason for making a bad exception to it"; "Civil proceedings in court are not scientific investigations the end of which always must be objective truth".

B. L.

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