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Book Reviews

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BOOK REVIEWS

My Philosophy of Law. By Sixteen American Scholars. Boston: Boston Law Book Co. 1941. Pp. xii, 321. $5.00.

This book consists of sixteen essays in each of which an eminent American legal thinker presents his philosophy of law. The majority of the essays are from ten to fifteen pages in length. Despite the lamentations of the more verbose over being limited to such small space, most of the writers succeeded in picturing in miniature their own points of view.

The writers chosen[1] are men who have been in the lead in shaping the legal thought of this country. No doubt many men of eminence in this field went uninvited, but none of those who do not appear in this symposium are more distinguished than some of those who do appear. The book is well designed to show what our foremost jurists think about law.

Of course the dice are loaded in favor of this book, for it would be worth while even if it were very bad. If the ideas contained in it were wholly worthless it would be a significant book; indeed in that case it would be uncommonly significant. If the men who have done most to shape the modern juristic thought of this country had no ideas of value that would be a fact of gravest importance. However, the book owes its distinction to no such melancholy revelation. On the contrary a variety of points of view worthy of attention are set forth.

What a person's philosophy is depends on the direction of his gaze. If a man looks upward to the sky, beyond question the sky is there to be seen; if he searches the earth for worms, there are worms to be found. Our own generation of Realists has been digging worms without an upward glance, occasionally muttering that there is nothing up there to look at anyway. Samples of the now familiar, garden variety worms from the Realists' plot of ground are presented in this symposium. They may be juicy and nourishing, as well as sweet to some tastes. Professor Bingham, avowedly a Realist, assures us that the lawyer's business is to forecast governmental action with respect to his client's affairs; that what courts do is more important than what they say; that legislation gains force through directing the action of officials and not through acting as commands to ordinary people, etc. The strong bent of Realists in the direction of a behavioristic view appears in Professor Bingham's essay. He concludes by taking the usual whack at systems

[1] Joseph W. Bingham, Morris R. Cohen, Walter W. Cook, John Dewey, John Dickinson, Lon L. Fuller, Leon Green, Walter B. Kennedy, Albert Kocourek, K. N. Llewellyn, Underhill Moore, Edwin W. Patterson, Roscoe Pound, Thomas R. Powell, Max Radin, and John H. Wigmore.

of philosophy which seek eternal truth, and tells us (p. 25) that "as influences in the practical world of affairs, they are not only illusory, but on occasion distinctly pernicious." Not all readers may understand how such philosophies can be pernicious in the world of affairs without being influences.

The honor of slaying the natural law system of philosophy which sets up laws of eternal right as measures of existing law does not belong to the Realists. Many succeeding schools of juristic thinkers each in turn slew and laid at rest this system of philosophy. It died at the hands of Bentham and the utilitarians, the historical jurists, the pragmatists, and others, as well as the Realists. No doubt a millennium or so in the future new varieties of jurists will be busy pronouncing it dead. Meanwhile it appears in this symposium in apparent health. Professor Kennedy names the natural law having God as its author as the chief antagonist of the positivist and materialistic theories of law current in our time. His assault on Realism is barehanded, and he is by no means intimidated by the charge that his own views are medieval.[2] Perhaps he takes comfort in reflecting that the doctrine that two and two are four is medieval too.

Bingham and Kennedy are not the only scholars in this assembly whose views clash. Professor Cook would subject jurisprudence to the unrestricted use of the scientific method; he thinks that the same "logic of inquiry" used in physics and chemistry will yield useful results if applied in all fields where inquiry can be carried on, including law. He does not flinch from the extreme consequence of exclusive resort to the scientific method, namely the use of such a method even in the field of values, that is, in determining what is good or bad, desirable or undesirable. He would do this by taking any idea of what is good or bad and testing it by observing the results of carrying it out with the means at hand. Professor Dewey likewise holds to such a view. To the reviewer there seems to be a curious blind spot in this thinking. How are the results in their turn to be valued? The results must be pronounced desirable or undesirable according to whether the results are more happiness, more justice, more virtue, or more of some other objectives which no scientific inquiry can prove to anyone that he really ought to want. Or is the test of results to be satisfaction of human desires, whatever they are? If so, someone may retort, "That is a subjective standard of value, and a poor one at that. Modern experience shows that men become inferior human beings when they consciously adopt as their goal the satisfaction of their own desires, without regard to whether they are good or bad."

Squarely opposed to Dewey and Cook is Professor Fuller, who

[2] *Cf.*, p. 73.

makes the flat statement (p. 118), "I do not believe that the basic problems of our social order can be solved by what the adherents of this point of view call 'the scientific method'." Fuller holds that there is much of significance in life which has not been reduced to any organized scientific scheme of thought. A clue to his position is found in an example he gives. "I don't believe that the methods of natural science will ever tell us how the artist, the recording engineer, and the retailer, should share in the proceeds of the sale of a phonograph record."

Far from the beaten paths familiar to most lawyers is the essay of Professor Moore who sets out to investigate the effect of law on behavior. The principal accomplishment seems to have been to state some fairly simple matters in the other-worldly language of behavioristic psychology. Little prospect of fruit from such exertions appears in this dissertation; to a lay observer, some downright error seems to be the prospective harvest. For example, the hypothesis is advanced (p. 206) "that the degree of pain or reward by which responses to signs are learned varies directly with the ratio which obtains, before the reward or the pain is applied, between the frequency of the behavior which does not correspond to the response being reinforced (taught) and the frequency of the behavior which does so correspond." The substance of this majestic verbiage, so far as it is applicable to law, seems to be that it takes more punishment in a law to change common conduct than to change uncommon conduct. For example, a law prohibiting use of alcoholic liquor would contain heavier penalties if drinking were common than if it were rare. Such an hypothesis looks untrue on the face of it. If heavy penalties are visited on common conduct the result is likely to be revolt.

The antithesis of Moore, who sees law from the single viewpoint of behavioristic psychology is to be found in Powell, who thinks that no one point of view or approach is likely to reveal all there is to law. Powell begins by disclaiming any legal philosophy, and then proceeds with a discussion in which a very vital philosophy vividly appears. It is the philosophy of one who refuses to be a creedist of any sort, but looks for the substance in the law and in the creeds about it. In jurisprudence Powell is non-denominational.

This brief sampling is not well calculated to do justice to the distinguished men whose work has been handled in this hit-and-run fashion. The purpose has been to show that the book contains a great diversity of views too provocative for indifference, all likely to incite disagreement or command approval. If any reader, in common with this reviewer, fumes with a desire to answer some of the contentions with which he disagrees, let him take heart; an answer is usually to be found in the contentions of one of the other writers.

What about the excellence of the book as a whole? The reviewer found it far the most interesting book he has read in the field of jurisprudence in years. Some of the zest of the discussion will be missed by any lawyer who has no previous acquaintance with current juristic philosophy, but he should be able to strike up such an acquaintance by reading the book. Even the practical fellow who wants to stick to the law and has no patience with legal philosophy will find the book good for something. It will show him where some of the nonsense about law he encounters from time to time, particularly in the neighborhood of law schools, is coming from. Further, such a practical lawyer will find much to his own taste in the essays of Dickinson and Powell.

One general parting comment; those authors in this book who hold to a pragmatic viewpoint still lay down their pragmatism too much in the abstract, as if they were unaware that a revolutionary national administration is animated by their viewpoint; as if the brave new world which surrounds us (or engulfs us) were no part of their handiwork. Certainly *"a priori"* notions of justice, honor, and truth have been discarded in the world today to an extent which should make some of these philosophers dance with glee at an accomplished fact, instead of continuing to advocate its accomplishment. Is it not time for the prophets of our present "order" to point with pride, instead of talking as if they were advocating an unrealized objective?

FRANK HANFT.

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Justice in Grey: A History of the Judicial System of the Confederate States of America. By William M. Robinson, Jr. Cambridge: Harvard University Press. 1941. Pp. xxi, 713. $7.50.

This monumental study of Mr. Robinson's, apart from any other consideration, is interesting evidence of how much of history may disappear into the mists of the past and be utterly forgotten within a relatively short span of years. It is fairly safe to express the belief that until the manuscript of this book left its author's hands, no other living person was aware of facts which make up more than half the volume.

The chief reason for such forgetfulness is, in this case, reasonably obvious. The Confederacy became in 1865 a Lost Cause. But when we recall the passionate loyalty to that cause which developed in the South in the post-war years, the flood of reminiscence, argument, and discussion which followed, and the growing interest in Southern history for a generation past, it does seem remarkable that so little has been known, not only about the judicial history of the Confederacy, but also of its whole civil structure.

The explanation for this neglect lies presumably in the fact that the military history of the Confederacy seemed to historically-minded Southern people to be far more vital and interesting. Deeds of valor attract always a larger audience than do problems of statecraft or the details of administration. Those deeds achieve a measure of immortality; the functioning of a dead government, on the other hand, is dead indeed.

Mr. Robinson's preface contains an excellent statement of what he has undertaken to do and, on the whole, has successfully accomplished:

> "In this work I have endeavored to outline broadly the legal system in the Confederate States: to describe the courts—State and Federal, military and judicial—and their operation; to follow the efforts made to establish the Supreme Court and the Court of Claims; to show the several commissions and quasi-judicial agencies; and to present the Department of Justice not only as the chief law office of the central government but also as administrator of the Patent Office, the Bureau of Public Printing, and territorial and other affairs committed to its charge. Under the limitations of space, cases and questions are presented here only in so far as necessary to illustrate the working of the legal system in the ordinary course of law and equity, in the settlement of civil disputes and in the punishment of crime, and in the many matters arising out of a state of war, such as the sequestration of alien-enemy property, the enforcement of the conscription law, and the adjudication of prize causes."

The book of thirty chapters is divided into seven parts, six of which deal with Confederate matters. Part One describes and discusses the transition of one federal judiciary to another, the first American department of justice, and the judicial power of the Confederate States. Part Two deals with the structure and operation of the state courts. Part Three takes up the Confederate district courts, their organization, operation, dockets and business, and the story of the district court of Georgia. Part Four treats of the courts, state and Confederate, in East Tennessee; the courts of admiralty; territorial affairs and courts in Arizona and the Indian country; courts martial and military courts; and martial law and the suspension of the writ of habeas corpus. Part Five gives an extended and elaborate account of the futile attempt to establish a Supreme Court. Part Six describes the court of claims and the board of sequestration commissioners, the office of attorney general, the patent office, the bureau of public printing, the publication of the laws and journals, and the cost of Confederate justice. Part Seven—which may be dismissed with the statement that it forms no part of the Confederate story—describes, sketchily and inadequately, the restoration

of United States courts and the reconstruction of the State Courts in the lately seceded states. An appendix lists sources and contains certain specimen documents.

As the size of the volume indicates, the matters enumerated are dealt with in great detail, too much so from the standpoint of a reader who is anxious for a clear picture of the system and for a full understanding of fundamental matters involved in its operation. The foliage hopelessly obscures the outline of the trees. As a result the study will always be a reference book, of great importance to be sure, and a veritable storehouse of information as to detail, but it will not attract readers in general.

It will not, I am sure, have the interest for the legal reader that such a book should have, for there is but scanty discussion of the important questions that came before the courts and the resulting decisions. Part of this is due to the small attention paid to the state supreme courts outside of the mere matter of their sessions. Because of the failure of the Confederate Congress to establish a Supreme Court, the state supreme courts had concurrent jurisdiction with the Confederate district courts, and, from the very nature of things, became quickly their superiors in authority and influence. Their decisions, therefore, are of fundamental importance and without an understanding of them, no real conception of the legal system prevailing in the Confederacy is possible. That such was the case does not appear in this study.

The most valuable parts of the volume, as it seems to me, are Part One, dealing with the organization and powers of the Confederate judiciary, Part Two, which treats similarly the state systems, Part Five, treating fully the attempt to establish a Supreme Court, and the chapter in Part Six on the office of the Attorney General. Much of the rest contains a flood of detail of small importance or interest. The territorial affairs of Arizona and the Indian country, the patent office, the bureau of public printing, and the publication of the laws and journals, it would seem to me, might have been dismissed with little beyond mention.

These criticisms have to do with the author's plan of the study. They do not relate to the execution of his plan. In that regard he is due high praise for exhaustive research and boundless industry.

J. G. DE ROULHAC HAMILTON.

University of North Carolina.

Police Systems in the United States. By Bruce Smith. New York and London: Harper and Brothers. 1940. Pp. xv, 384. $4.00.

"Police Systems in the United States" was written by Bruce Smith of the Institute of Public Administration against a background of

twenty-four years of practical experience with police systems of all sorts and sizes in all sections of the United States and Europe. Mr. Smith brings a wealth of research to test and to supplement his wealth of experience and presents his results in a style which makes the reading of his book a pleasurable as well as a profitable experience.

In this book he outlines the European backgrounds and American developments of existing police agencies in the United States: the village, town and city police; the township constable, rural policeman and county sheriff; state organizations ranging from those endowed with the full powers of police to those restricted to a single function such as the enforcement of motor vehicle laws, and to those further restricted to the status of a "State Highway Courtesy Patrol"; and federal agencies ranging from the F. B. I. exercising full police jurisdiction over all crimes which are not the immediate and special concern of other federal agencies, to those auxiliary to the regular administrative activity of specific federal departments or commissions, adding up to forty or more in number. He discusses the relationships of these police agencies separately on city, county, state and federal levels, and he analyzes their interrelationships in operation both on the horizontal plane provided by the United States and on the vertical levels provided by the ascending scale of governmental units. He winds up in a picture with no rhyme and little reason but perfectly understandable in terms of American Political History.

Police problems enough spring unbidden from this welter of interlocking, overlapping and conflicting relationships; but these are only the beginnings, growing out of the machinery for dealing with crime, and are incidental to the crucial problems of crime itself. In his analysis of this crime problem which has called police agencies into being he discusses the volume of crime and its differentiation into types; the geography of crime as between city and county and sections of the country; the time of crime by seasons, months, weeks, days, and hours; the age, race, sex, social characteristics, and previous police records of offenders.

To what extent are existing police agencies organized to cope with existing crime problems? In the effort to answer this question Mr. Smith discusses (1) the organization of police departments, their evolution from small nonspecialized forces, to the point where specialization of police functions can properly begin, to the point where specialization becomes a practical necessity, to the point where specialization itself becomes a problem calling for co-ordination of specialized units; (2) the twin problems of police and politics and politics in police, abuses of authority and the third degree, the dumping of miscellaneous regulation enforcements in the lap of the police and related problems affecting the

public confidence in police agencies and the problem of popular support; and (3) the policies of selection, promotion, training and discipline of personnel; the central services by national clearing houses for state and local agencies, including criminal identification and police science, criminal investigation, uniform crime reporting, training, state and regional communication systems.

In forecasting future developments he discusses the relative advantages of centralization and decentralization in different facets of the problem; the issue of local autonomy and the impending revision of police problems already charted by a century of developments and discoveries and now hastening under the impervious demands of national defense; the mobilization of police resources of personnel, equipment and techniques; the dangers arising from volunteer police in great emergencies, the recruiting of police administrators, the application of police science, the changing rules of the game and the price of greater efficiency.

"We pay high for our law enforcement," he concludes, "more in cash per capita than does any other part of the world, and our police enjoy compensation scales, disability benefits, and retirement pensions having no parallels elsewhere. In return for such costly standards in the conditions of employment, there is a natural expectation of more and more police efficiency. . . There is ground for hope in the fact that police of all ranks show an increasing concern with the trend of public opinion, and are more and more disposed to re-examine some of the basic assumptions concerning exercise of their authority. If this attitude of self-criticism continues unabated, we may yet effect a close approach to a police régime which is vigorous without being oppressive, and scrupulous in its observance of civil rights without losing its effectiveness in law enforcement."

ALBERT COATES.

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The Law in Shakespeare. By Cushman K. Davis. Washington: Washington Law Book Company. 1941 (reprint). Pp. 303. $2.50.

This is an exceedingly valuable book for scholars and students of Shakespeare and a treasure-house for lawyers who may wish to appreciate Shakespeare or to use him in pleading, writing, or speaking. The writer undertakes to explain virtually every line and passage in Shakespeare which employs legal terminology and to show that in almost every instance Shakespeare used these words with the right legal applications. He deduces from this fact the conclusion that Shakespeare was learned in the law and was at one time a lawyer.

Shakespeareans will derive pleasure and profit from consulting this book. They will here learn the real meaning of the legal terminology used by Shakespeare with extraordinary artistic effect. Hundreds of terms which we read without understanding, such as "taken with the manner," meaning "caught with stolen goods still in your hands," come to mean something to readers who may get the music but not the sense out of Shakespeare's lines. Lawyers coming out from John Gielgud's, Leslie Howard's, and Maurice Evans' acting of *Hamlet* have felt a hundred thrills which we the laymen, without this book, would not have experienced at all.

But the author's conclusions as to Shakespeare cannot, all of them, be accepted. For example, that Shakespeare was a lawyer or that he was a conservative aristocrat in his views. Anyone who wishes to consult the Furness *Variorum* of *Hamlet* or *Lear* will find plenty of books listed at the end of each showing Shakespeare's extraordinary familiarity with medical terms, a familiarity which leads some to conclude that Shakespeare must have been a doctor. His familiarity with terms connected with clothing might lead one to suppose that he was at one time apprenticed to a tailor. His knowledge of butchery might make one believe he had been apprenticed to a butcher; which, indeed, is one of the earliest traditions. The writer of this review, having raised stock for fifteen years between teaching Shakespeare at the University of Colorado and the University of North Carolina sometimes has been tempted while reading *The Taming of the Shrew* to believe that Shakespeare was a veterinarian, for his familiarity with the diseases of horses is most extraordinary. Then too the immense number of articles piling up every year[1] dealing with the psycho-analytic aspects of *Hamlet, et al.,* might lead one to believe that Shakespeare was extremely interested in psychiatry, which, of course, he could not have been. His use of technical military terms makes it very difficult for us to believe that he was not at one time a soldier. The truth of the matter is that there were little handbooks on almost all these subjects which would enable a man whose mind moved with the rapidity and extensiveness of Shakespeare's to pick up almost all these matters without a great deal of effort. Thus, for example, in regard to military terms, notice the way in which columnists who never smelled powder now employ in figurative language "black-out," and "panzer movements" in connection with the rapid progress of Rotary Clubs and Y.M.C.A. movements in different towns.

One extremely important matter which apparently is not considered in this book is the great number of lawsuits in which Shakespeare became more and more involved as he acquired various sorts of property

[1] See "Shakespeare", *Renaissance Bibliography,* STUDIES IN PHILOLOGY (1938-1940).

in Stratford-on-Avon. Apparently, he grew more irritable and would sue at the drop of a hat. Those of us involved in lawsuits over land certainly know how to use the term "fee simple."

Perhaps the most dangerous matter emphasized by the author is found on pp. 34-35:

> "There is no pity for common suffering, no lash for the great man's contumely towards the lowly; only a languid murmur against the insolence of office, contemptuous pity for the whipped and carted strumpet, and nothing which would have hindered his promotion had he entered the debasing scramble of favoritism which disgraced his time. He pleased Elizabeth, he pleased James, he would have pleased Napoleon."

The author seems to come to the conclusion that Shakespeare was a conservative aristocrat and was strong always on the strongest side. We all seem to forget in talking about this matter that a great number of Shakespeare's scoundrels (see *Richard III* and *Macbeth*) are high in rank and that his finest people are often of the lower ranks, witness the doctor in *Macbeth*. The author of the book himself quotes from *Lear* on p. 247 a passage which denounces in the fiercest and boldest terms corruption and tyranny in all high places. If he had quoted the rest of this passage from *Lear* he would have found that Shakespeare as in many other passages in his plays seems at times to be in keen sympathy with the underdog and the oppressed of all kinds. In the *Lear* passage as in many others Shakespeare very frequently goes far beyond what the author calls on p. 35 a "languid murmur against the insolence of office." If the *Lear* passage is a languid murmur then the writer of this review does not know the meaning of the term. Shakespeare in regard to the matters taken up by the author of this book, as in regard to almost all other matters, is never a fanatical advocate of an extreme point of view, however much his characters, such as Coriolanus on one hand and Lear on the other may with dramatic appropriateness express these extremes. Who would be so bold as to say which of the two diametrically opposed attitudes toward the people expressed in the two passages following stands for Shakespeare's fixed rather than his fluctuating personal opinion?

CORIOLANUS	LEAR
"You common cry of curs! whose breath I hate	"Poor naked wretches, wheresoe'er you are,
As reek o' th' rotten fens, whose loves I prize	That bide the pelting of this pitiless storm,
As the dead carcasses of unburied men	How shall your houseless heads and unfed sides,

That do corrupt my air, I banish you!
. . . . . .
Despising
For you the city, thus I turn my back;
There is a world elsewhere."
—Act IV, iii, 120-123; 133-135

Your loop'd window'd raggedness, defend you
For seasons such as these? O, I have ta'en
Too little care of this! Take physic, pomp;
Expose thyself to feel what wretches feel,
That thou mayst shake the superflux to them,
And show the heavens more just.
III, iii, 28-36

". . . that I am wretched
Makes thee the happier; heavens, deal so still!
Let the superfluous and lust-dieted man,
That slaves your ordinance, that will not see
Because he does not feel, feel your power quickly;
So distribution should undo excess,
And each man have enough."
IV, i, 68-74

It would be unfair for the reviewer to leave this work without emphasizing very decidedly that it is an impressive book, valuable indeed to both layman and lawyer. Attorneys and judges will find in it the statements with which they are familiar expressed by one who can say almost anything that comes into his head better than others can say it. The lawyer can go to it for aid and inspiration and the judge can secure from it renewed faith in that virtue of fair play which should always be a condition precedent to an opinion handed down by any judge worthy of the name. Shakespeare better even than the lawyer himself has expressed, for example, the importance of avoiding the kind of haste and impulse which can wreck any judicial system of any age. Says Gratiano at the trial of Shylock:

"And I beseech you,
Wrest once the law to your authority:
To do a great right, do a little wrong,
And curb this cruel devil of his will."

Replies Portia:

"'Twill be recorded for a precedent,
And many an error by the same example
Will rush into the state: it cannot be."

GEORGE COFFIN TAYLOR.

University of North Carolina.

William M. Evarts—Lawyer, Diplomat, Statesman. By Chester L. Barrows. Chapel Hill: University of North Carolina Press. 1941. Pp. 576. $4.00.

The emphasis in this work is placed upon Evarts the lawyer, and rightly so, because no other American attorney has ever participated in so many important cases. An account of his activities before the New York Court of Appeals and the Supreme Court of the United States between 1850 and 1885 reads like a summary of the outstanding American legal cases of that eventful period. The number, variety, and significance of the cases fill one with amazement. "All law was his field," though his preference was constitutional law. And, though rather early in his career, Evarts became connected with railroad and public utility litigations, he was never primarily a railroad lawyer, or even, mainly a corporation lawyer. "He was willing to undertake any type of case" (though he did not like criminal law) and his practice ranged through wills, contracts, insurance, patents, taxation, and other fields.

It is doubtful whether any other lawyer has ever appeared in so many conspicuous cases involving the organization, powers, and activities of our government. He began by winning the famous Lemmon Slave Case just before the Civil War. During that conflict he appeared in the Savannah Privateers Case and the Civil War Prize cases. And in 1863 the Government sent him to England as special counsel to help convince the British that they were violating international law in allowing Confederate privateers to be fitted out in English ports. After the war, he participated in the Legal Tender cases, and later bore the brunt of the defense of President Johnson before the Senate of the United States. He was involved rather unwillingly, first as chief counsel and then as Attorney General, in the Government's unfortunate attempts to try Jefferson Davis for treason. He was unpopular with Grant and most of his followers, but after considerable hesitation Grant sent him to Geneva as counsel before the International Arbitration Board which awarded to the United States damages against Great Britain in the privateers claims.

When the Granger legislation came to a test before his intimate friend, Chief Justice Waite, Evarts was employed as leading counsel by the railroads. It might appear somewhat surprising to find him on the anti-regulation side of this controversy, because he had frequently and consistently pronounced his belief that readjustments must be made "when society has outgrown any institution." He was not, however, wholly in sympathy with the rising tide of public regulation. "His ingrained conservatism and his political and economic philosophy aligned him on the side of private rights." "He was a typical nineteenth-cen-

tury lawyer, believing in freedom of enterprise, in the rights of property, in due process of law, and in the American business man." But his friend Waite disagreed with him, and he lost the Granger cases. Nevertheless, his arguments with regard to the limitations of the powers of the States were upheld by the Supreme Court ten years later in the Wabash case; this decision, however, hastened federal regulation and such could scarcely have been the result that Evarts was seeking in the Granger cases.

Evarts closed his long series of appearances in super-public cases with the presentation of the argument for the election of Rutherford B. Hayes before the Electoral Commission. It was a most difficult task for an advocate like Evarts, who always sought some logical basis for his contentions. But he was now a veteran in practice before quasi-judicial and political tribunals, and Hayes was declared elected—though the outcome had probably been settled in advance.

When Evarts was selected by Hayes for Secretary of State, as lawyer-diplomat, he tackled a new set of problems that were rising into prominence. He brought about the first real settlement of the Chinese Immigration question. And, as American imperialism was beginning to reach into Mexico and the Caribbean, Pan American diplomacy occupied much of his attention.

The author describes and appraises Evarts, the lawyer, as follows: "The qualities that marked Evarts as a lawyer were the ability to make the clearest and most convincing presentation of a case; the power to gain victory by sheer intellectual force, courage, and energy, and ever-present resourcefulness to take advantage of the weak points of an opponent and of every neglected opportunity; a disposition to enter court, not with superior air or purpose of confusing judge or jury; anxiety to avoid unwise and unnecessary litigation; readiness to set an example of unselfishness and moderation, to overlook petty technicalities, and to reject opportunities of personal advantage at the expense of justice; frankness, sense of humor, and regard for the honor of the profession." And he concludes that Evarts "found in his profession ample scope for an intellectual and moral influence upon his generation."

Evarts' unusual abilities, the far-reaching influence of his work at the bar, the prominence of his adversaries, the significance of his period in the development of American history, and the importance and variety of the issues which he advocated, combine to offer a fertile range for study of the influence of the lawyer upon social organization and process. Such appears to be the main inquiry of the author's study.

Mr. Barrows deals, however, with all aspects and phases of Evarts' life: his accomplishments as orator, wit, diplomat, politician, reformer, and senator; his constant fraternal and social activities. In fact, it is a possible shortcoming of the study that it attempts to cover too much

within the limits set up. For it is frequently merely encyclopedic rather than interpretive. And certainly the best chapters are those that are devoted entirely to one subject—such as the ones on the Johnson and Beecher trials. Perhaps too the author allows the stirring events of the times to carry his narrative to too great an extent. But this will not be considered a drawback by the reader who wishes to re-survey this turbulent epoch against a fresh backdrop. One might also wish that the biographer had been somewhat more critical of Evarts. For he was the object of wide criticism during his life, but Mr. Barrows, though mentioning such adverse opinions, seldom examines their bases to any extent and rather covers them up by the somewhat laudatory tone which he maintains toward his hero throughout.

The book is to be recommended, however, to both the layman and the lawyer. It is based upon an extensive array of sources; and it is well and interestingly written. And Mr. Barrows is to be commended for portraying for us the life of a great lawyer. It is an ambitious and difficult, as well as a worthy, task.

MILTON S. HEATH.

University of North Carolina.