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Book Review (reviewing Harry Pratt Judson, Our Federal Republic (1925))

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Langdell's teachings concerning the impotence of equity is not quite clear to the reviewer.

Material affording opportunity to examine various types of injunctive orders, the problem of ordering "affirmative acts" as distinguished from orders not to refrain from doing or not-doing, material illustrative of the "flexibility" of injunctive orders issued and outstanding and the possibilities of their ramifications are fully presented under "Relief in Equitable Proceedings Against Torts" in Chapter IV. Rules touching awards of damages in addition to or in substitution for specific relief are also covered in this chapter—these problems being carried over into the Code states where the distinctions between actions at law and suits in equity "are abolished," but where questions of choice of actions and jury trial still come to the top.

Cases putting meaning into such formula as "balancing convenience," "discretion," "laches" and "clean hands" are brought in under "Defenses to Specific Relief Although Other Remedies Are Inadequate" in the fourth chapter. An editorial note on the "Effect of Legislative Changes in the Law of Torts" paves the way for *Truax v. Corrigan* and the problems signalled by that case.

In the final chapters consideration is had of the power of the official of the political state to invoke equitable relief for "Protection of Public and Social Interests," *Georgia v. Tennessee Copper Co.* and *In re Debs* having received text space. A survey of some problems of contempt and imprisonment therefor constitutes the problems of the last chapter—"The Enforcement of Specific Relief."

The author is substantially indebted to Ames, as he acknowledges, for text materials and materials used in annotating the text cases. The author's original citations are extensive, however, and include a full citation of articles and notes from law school publications.

WESLEY A. STURGES

Yale University, School of Law.

Our Federal Republic. By Harry Pratt Judson. New York, The MacMillan Co., 1925. pp. xii, 277.

This is an interesting and timely book. It represents the frank but deliberately-formed views of the president emeritus of the University of Chicago upon some of the most fundamental problems in our national political life. It strongly argues that we have gone too far in giving to the federal government centralized control over matters that were formerly reserved to the states, that, in the interests of liberty, toleration, and a proper development of local responsibility, this tendency should be checked, and, if possible, reversed. One of the last paragraphs in the book reads: "There should be a Twentieth Amendment to the Federal Constitution. It should simply repeal all amendments following the Fourteenth." (p. 267). Nor are the views thus expressed merely the grumblings of a fearful or discontented conservative, as our younger school of radicals delights to picture them. President Judson's thesis is fairly presented and persuasively developed in an adequate setting of historical fact and political experience; and his conclusions, however debatable, cannot be dismissed to the satisfaction of any thoughtful mind by the use of a few of the large, vague adjectives, so common in the vocabulary of the *New Republic*.

The author first explains the basic idea of our government—which he happily calls "the federal equilibrium"—that certain powers shall be exercised by the national government for all, certain others by the state governments for their localities, and some are forbidden to the governments of both the nation and the states, being reserved to the people of the United States until such time (if ever) as, by constitutional amendment, their

exercise may be permitted to nation or states. The advantages of a federal government in giving free play to diversities of origin, culture, institutions, social and religious customs, modes of life, industries, and climate, and the wide-spread extension of the principle to municipal home rule within a state, are convincingly set forth; followed by a discussion of the federal bill of rights and of the function of the Supreme Court in maintaining it. The next two chapters deal in some detail with the operation of Amendments XV to XIX. The two suffrage amendments are disapproved, at least so far as concerns their application to voting for state offices, as violating the federal principle of home rule in matters chiefly of local concern, it being emphasized that the Fifteenth, particularly, could not have been adopted at any time subsequent to 1868. It is suggested with a good deal of force that the Seventeenth Amendment might better have *permitted* the states to choose senators by popular vote, instead of *requiring* it; and an entire chapter is devoted to a critical appraisal of the Eighteenth Amendment. Even the Income Tax Amendment is somewhat mildly disapproved, as facilitating congressional extravagance.

A chapter is devoted to the discussion and classification of the ninety-eight proposals for further amendment of the Constitution, introduced during the first Session of the 68th Congress, only one of which—the Child Labor Amendment—secured the necessary votes to be sent to the states. Although most of them will never travel far on this road, yet, as the author remarks: "They are of interest in showing what sort of measures relating to the organic law appeal to certain elements of our people." Chapters VII and VIII consider in an interesting way certain attacks upon the federal equilibrium by Civil War pension legislation and the more recently-sought federal control of state education by conditional subsidies. The final chapter briefly states the conclusion that further changes should be sparingly made, and that, in particular, there should be borne in mind the difference between those which can be readily enforced by private litigation in the courts, like the Thirteenth and section one of the Fourteenth Amendment, and those which require extensive administrative action depending for its success upon general local acquiescence, like the Eighteenth.

The permanent value of the book, however, lies, not so much in the validity of the author's specific judgments regarding the wisdom of the last five Amendments, as in the good sense of the general considerations which he suggests should control the decision of what matters are proper for a federal constitution in a country as large and diversified as the United States. These seem to the reviewer admirable, although, for instance, he would not agree that they were violated by the Sixteenth Amendment, however badly the Eighteenth might fare by such standards. It is unfortunate that in recent years there has been in this country so little effective discussion of the principles of government. In the mad scramble by all manner of special interests to secure legislation for their own ends, little but propaganda has received a hearing. More books like this one are needed, re-examining those theories and principles of government that experience has tested, and re-emphasizing those that have been found adequate. In this task President Judson's work will play a useful part.

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JAMES PARKER HALL

Mental Disorder and the Criminal Law. A Study in Medico-Sociological Jurisprudence. By S. Sheldon Glueck. Boston, Little, Brown & Co., 1925. pp. xxii, 693.

To begin with, this is by all odds the best book on the subject that has come to the reviewer's attention in many a day. Most books on this