

it chiefly to English local customs; the shop-book rule at least was well known at common law in England in the 1600's.<sup>5</sup> A reminder, too, should perhaps be given that the Connecticut intestacy law<sup>6</sup> was declared null and void by the Privy Council in 1728 in the case of *Winthrop v. Lechmere*.<sup>7</sup>

In general, however, the editing has been competently done,<sup>8</sup> and the volume is one for which historians and lawyers alike should be grateful. It will be a long time before the history of American law can be written; the publication of diaries and unofficial papers, as well as of court records, must come first, if the stage of accurate generalization is to be reached. In editing Johnson's Diary, Mr. Farrell has made a significant contribution to this effort.

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**Constitutional and Legal History of England.** By Marshall M. Knappen.\* New York: Harcourt, Brace & Co., 1942. Pp. x, 607. \$3.25.

This book is apparently the outcome of a feeling, caused in great part by the recent lawlessness of Nazism and Fascism, that past historians of our common heritage of constitutional liberty in England and America may have failed to give due weight in their accounts of the growth of the constitution to the influence of the private law upon the public, and to the historic role of the former as probably the chief obstacle to the development of a royal absolutism. That impression is undoubtedly sound, and it is one that no previous generation could possibly feel as vividly as we do, face to face as we are with the suppression of all private right and the emphasis on "reason of state" which constitute so large a part of contemporary totalitarianism.

It is strictly true that our constitutional history must be rewritten with the common law more in mind than has been usual in the past. Before the sixteenth century there was little clear recognition of our modern distinction between public and private law, and even the prerogative of the king was discussed in the same terms as the right of the subject: both were but parts of the ancient customary common law the bulk of which was treated as the law of property. It is obvious, therefore, that a true grasp of the growth even of "the law of the constitution" is absolutely dependent upon an understanding of the history of what we now call the private law, and upon some mastery even of the technicalities of the English land law. This is true primarily of the medieval development, but it remains true in great though diminishing measure down to a very late period of our constitutional history, and is not negligible even now. The notion of legislative sovereignty had little practical application in England before the Reformation Parliament, and later conservative upholders of the law against the will of the king, such as Sir Edward Coke, were merely harking back to an earlier period and an ancient

<sup>5</sup> Wigmore, *op. cit.* supra note 3, at § 1518.

<sup>6</sup> P. xxxii.

<sup>7</sup> 5 Mass. Hist. Soc. Coll. (6th series) 496 (1892). See also 5 Conn. Hist. Soc. Coll. 418 et seq. (1896).

<sup>8</sup> It may be noted, however, that the Assize of Clarendon is not spelled "Clarendon" (pp. xl, 279), and that Maitland and Ames do not spell "seisin" with a *s* (p. xxxiii).

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custom of which the memory of man runneth not to the contrary. Proprietary rights, personal rights, the privileges of the Commons, and even the rights of the Crown, all were regarded as an ancient heritage, and can be understood only as such.

It was some such considerations as these, no doubt, that led Dr. Knappen to attempt to combine under one cover "the constitutional and legal history of England" as he does in this volume.

In his treatment of this subject, the author divides the history of England into six parts: the Anglo-Saxon period from about the year 450 to the Norman Conquest; what he calls "the height of the middle ages," from 1066 to 1307, the year of the death of Edward I; "the late middle ages," from 1307 to 1485 and the accession of the Tudors; "the Tudor-Stuart Absolutism," 1485 to 1714; "oligarchic liberalism," 1714 to 1822; and "the trend to democratic liberalism," 1822 to 1941. In each of these periods there is a sketch of the general history, followed by a chapter entitled "the distribution of power," then a description of "the machinery of government," and finally an account of the development of law subdivided into sections dealing successively with the courts, procedure, the legal profession, legal literature, and the substantive law, criminal and civil, in its various branches.

Throughout the discussion of these topics the author shows a familiarity with the whole subject and with its extensive literature. Aside from some points of detail and matters still under debate, there are few specific statements in the volume to which a reviewer could rightfully take exception.

My own chief criticism is of a different kind, if mere queries may be called a criticism. I remain unconvinced mainly of two things after reading this volume: first, that the author has succeeded in weaving together the strands of the history of the private and the public law—the all-important thing most in need of doing; or that he has really accomplished much more in this book than include for the first time within two covers independent and little integrated accounts of subjects which have hitherto been treated in separate works. Secondly, I am left wondering whether it is ever possible to convey a true or a worth-while idea of the progress of a system as intricate as that of our common law in words of one syllable. A reader who has to be told that Jennie Geddes' "lug" means her ear is hardly one to understand the "mystery of seisin," the succession of the forms of action, the niceties of springing uses, or the significance of *Taltarum's Case*. In short, I question the feasibility of the watering-down of the history of English law to the point where a student of twelve can be expected to understand it, and I doubt whether this is the best method to be followed in a book avowedly "intended particularly for legal and prelegal students." The author's preface indicates that he has made this attempt to meet a "'new plan' law curriculum," and it is not clear that he likes the order of studies in that curriculum any better than I do. The main objections that I think might legitimately be made to this book, therefore, imply no question of its author's competence, but rather the wisdom or even the possibility of writing any book on such lines that could be of much use to "legal and prelegal students." Complicated things may be and should be made clear, but only by distortion can they be made simple. The history of English law should be postponed in any curriculum, however abridged, till students are mature enough to grasp the character and significance of our common law, and to appreciate its unique importance in the development and the maintenance of our constitutional safeguards.

This book, therefore, seems to me to be an attempt to do the impossible, and I think

it is made so by the prescriptions the author feels bound to follow, rather than by any incompetence or failure of his own in complying with them.

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*Elements of Police Science.* By Rollin M. Perkins.\* Chicago: Foundation Press, 1942. Pp. xxii, 651. \$4.75.

It is a safe statement to make, that there is general agreement that our American police machinery is on the whole far—very far—from the efficiency at which it ought to be. Various factors have been pointed out as responsible, all of them unfortunately only too real. One of them, political interference or even control, is widely known and appreciated—the problem there is what to do about it. Others, unhappily, are scarcely even recognized by the man in the street. For example, the inevitable breakdown of effective work so long as our police efforts are crumbled up and dispersed into thousands upon thousands of separate, independent and largely non-cooperating little forces. But a factor of inefficiency that ranks only below the two just mentioned consists in the inadequate training (if not the complete lack of it) given, by and large, to police recruits. In the face of a change that has made the one-time police job into a genuine profession, if it is to be handled adequately, the training program to make a real police officer out of the recruit (or even out of the veteran) has largely been at a standstill, or has advanced only by fits and starts in a few favored communities. Of course there are exceptions—the municipal schools of New York and Cincinnati, the regional schools of New York State, and the various school projects of the Federal Bureau of Investigation, to name only a few, prove that. But in the main the area of police training shows only a history of little or no progress. To an overwhelming extent, though we demand prior training before we give licenses to our beauticians and hairdressers, our morticians, barbers and horseshoers, we are completely ready to turn a man out on the street as an “officer,” armed with a revolver and with life and death power over his fellow citizens, with only the single safeguard that he must be politically acceptable to the local bosses.

What is to account for this utterly illogical complacency? First and foremost unquestionably is general apathy, and even hostility, to training. The veteran police officer resents the idea that there are things to be learned that he does not know about. What was good enough for him when he was a young fellow and toughs were tough, is good enough for the young fellows of today. Perhaps subconsciously there is even a dim fear of the “showing-up” that the new methods might mean for him if they were to gain this entering wedge. Whether or not these are the correct explanations of the veteran’s hostility, there is little room for doubt that this hostility by the police themselves is the major hindrance to improvement. Where the police themselves refuse to recognize their calling as a profession, the general public can hardly be blamed for taking them at their own low estimate. Public apathy will show little change until police opinion itself is changed by a new generation of more enlightened police officers. That is the sort of truly constructive, long-range work that is being carried on by such intra-professional groups as the International Association of Chiefs of Police, with its pro-

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