tween the relations at General Motors and U.S. Steel are not emphasized at the expense of the differences. Moreover, the factors listed in this chapter as characteristics of relations in a power center seem to apply much more to size than to leadership. Perhaps there is need for sharper differentiation between the concepts of "bigness," "power center" and "pattern-setter." After all, it may well be that Studebaker itself does a good deal of pattern-setting for other companies in South Bend, though there is no reference to this in the book.

If a main purpose of the volume was to determine the nature of constructive labor-management relations, the conclusions would be more convincing if some other companies had been included in the study or even if some of the more successful aspects of relations at some General Motors plants had been drawn upon for this purpose. It would be very useful to analyze a number of instances of constructive relations in order to see what are the common causal factors. It would be necessary to use some criteria in selecting the instances. The authors suggest that constructive relations exist ". . . . when a union and a company harmonize divergent goals into an effective working agreement."[4] This definition needs more elaboration than it receives in the final chapter. For example, is not labor efficiency an essential element in an effective working agreement? The authors, however, give only slight attention to labor productivity in either company.

In summary, it seems doubtful that some of the conclusions are adequately supported by the material set forth in this book or could possibly be supported by a study of this necessarily limited scope. In formulating their conclusions, the authors have inevitably drawn upon their wide knowledge of labor relations throughout American industry. To suggest that some of the conclusions are insufficiently supported is not to say that they are necessarily invalid. It is suggested, rather, that they are at least premature. This is only the first of a series of publications planned by the authors and their immediate associates. When more of these studies have appeared, the present conclusions may be much more thoroughly substantiated.

In view of the current extensive research activity in this field, it is to be hoped that the authors will give in their future publications a more complete description of their methodology than is contained in the single footnote on this subject in the present volume.

Lawyers who serve as consultants on labor-management relations should find in this book many suggestions regarding methods that are conducive to the achievement of good relations.

WILLIAM H. MCPHERSON*

Men of Law. By William Seagle. New York: The Macmillan Co., 1947. Pp. 391. $5.00.

This volume, in a literary style which is delightful, crams into 355 pages a wealth of information concerning the lives and achievements of fourteen illustrious men who enriched jurisprudence.

[4] P. 202.

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The writer did not content himself by beginning with the age of courts, trials, and lawyers, but ran back centuries of time into the prelegal period when primitive man managed to get along without law. The book deems the blood feud as "the matrix of all law" and shows how its use eventually developed a means of buying off vengeance in the form of a composition. Rushing through the centuries, the author brings his readers to the epoch when the state was formed and courts were created. The operation of the latter, so this book shows, caused people to seek control over judicial discretion, and thereby law-making was ushered in. At this point the author introduces the first of his Men of Law.

The author, William Seagle, is an attorney who began his practice in 1923. He is now an Assistant Solicitor in the Department of the Interior. Mr. Seagle obviously is well read, and it is evident that he has done fruitful reflecting in the field of jurisprudence. Apparently he has selected as a part of his life's companions the great jurists of bygone days and has made himself so familiar with them that he is able to make his readers see them, not merely as historic figures, but as human beings.

Mr. Seagle does not term his fourteen jurists as the greatest that the law has produced; hence there is no occasion for a reviewer to compare these men with others. In one respect at least the author's selection of these fourteen was fortunate. No two of them labored in the same field of jurisprudence, but each helped shape some phase of mankind's legal systems. Those circumstances enable Mr. Seagle's review of their lives to trace, step by step, the growth and development of our legal institutions. For instance, one of the fourteen codified the laws of his people; another, 1,500 years later, used legislation as the means of effecting a bloodless revolution; another assisted in the creation of the Roman law; still another helped to mold the form of equity jurisprudence; and one was the fountainhead of international law.

The first of the fourteen Men of Law is Hammurabi, who is described as the first codifier whose work survived. The review of that enlightened monarch's life enables the author to show the manner in which written law, when placed directly before the people, supplanted the ancient customs. That forward-looking monarch was "the first great merchant-king." In commenting upon the nations of antiquity which based their jurisprudence upon Hammurabi's Code, the author dwells upon the phenomenon that the laws of an empire often lived on long after the empire itself perished.

Solon, the lawgiver of Athens, is the second jurist whose life Mr. Seagle reviews. Social unrest and class conflict preceded Solon's inauguration into office as archon. The author reviews the legislation effecting economic and social changes which Solon wrote and declares that it brought about mankind's first bloodless revolution. Solon, according to this book, declared that he gave the Athenians the best laws "they could receive," and although "he hoped that by giving the people a share in the administration of justice they would be able to help themselves," he came in later years to realize the ingratitude of the people. The book pays him the tribute of saying that he "created the Athenian democracy of the Great Age of Pericles."

From Solon the author goes to Gaius, a Roman jurist, for his third great man of law. The review of Gaius' life enables the author to show the origin and development of the Roman law. He comments upon its dual nature and points out how it happened that, although other nations of bygone times employed courts, only the Roman law produced

lawyers. The bizarre manner in which a copy of Gaius' *Institutes* was discovered in 1816 and restored to legible form is dramatically told.

Mr. Seagle's fourth jurist also labored with the Roman law. He is Justinian, who, through his chancellor, Tribonian, gave us *Corpus juris*. An analysis of *Corpus juris*, Justinian's purpose in compiling it, and the shortcomings of that great work are set forth. Justinian's wife, Theodora, and others who contributed to his remarkable successes are described. Concerning *Corpus juris*, the author says: "Only in theology did a book exercise a comparable influence. Indeed, the compilation by Justinian was the secular Bible of Christendom."

The next whose life is reviewed is Hugo Grotius, a Dutch jurist, who was born in 1583. Grotius enriched our libraries with many volumes, but the one upon which his fame rests is *The Law of War and Peace*, published in 1625 when Grotius was an exile in Paris. This volume, more than any other, brought forth the underlying principles of international law and caused Grotius to be deemed its founder. The manner in which Grotius, after being convicted of treason in his native land, escaped from prison through the intelligence of his devoted wife is told in a manner which would do credit to a writer of fiction.

The sixth of the Men of Law is one of royal blood, Edward I, King of England. Mr. Seagle shows the course by which that intelligent ruler, who made England the first of the modern states, laid the foundation upon which the rising English Common Law was based. After his review of the life of Edward I, the author moves forward three hundred years to the reign of Queen Elizabeth and pictures her delivery of the Great Seal into the hands of Thomas Egerton who, upon being knighted, became Baron Ellesmere, Lord Chancellor of England. The sketch of Egerton's life traces the origin and growth of equity jurisprudence. It points out: "Equity, in the sense of a moderating legal force, was familiar to the Babylonians, as well as to the Greeks and Romans." The book mentions the successful defense by Egerton of the Chancery Court against the determined attacks of Sir Edward Coke. Mr. Seagle does not confine himself to dry legal dogma; he is concerned primarily with the men themselves and recites interesting facts concerning each. For instance, he mentions that Egerton was the son of unwed parents, that as a student he was diligent, that he was handsome, and that early in his practice he came to the attention of Queen Elizabeth. Concerning Egerton's good fortune in the latter detail, the book declares that the Queen chanced one day to enter a courtroom where her future Lord Chancellor was arguing effectively against a revenue measure in which she had a vital interest. The Queen was so impressed with the young attorney's ability that she was determined that he should never oppose her again—she appointed him her counsel.

Naturally, the next chapter of the book is devoted to Sir Edward Coke. It begins: "Sir Edward Coke is the greatest name in the history of the Common Law." The sketch of Coke mentions his arrogance, his savage prosecution of the treason cases, his unimpeachable integrity, his unbelievable industry, his unhappy second marriage, his fidelity to duty, and his unmatched knowledge of the law. Coke's rapid climb in the profession from his first year when he represented successfully the posthumous nephew in the cause célèbre known as Shelley's Case, is portrayed. The author also traces Coke's equally rapid rise in office-holding from the time when he served as Speaker of the House of Commons in Elizabeth's reign to the day when James I appointed him

Lord Chief Justice of England. The remarkable independence which Coke displayed as a judge and which caused him to attack courageously the jurisdiction of the Court of High Commission, and even the royal prerogatives of James himself, receives mention. Finally, the author reviews the great service which Coke performed in the later years of his life in Parliament. There he developed some of the fundamentals of constitutional law.

Sir William Blackstone, author of the *Commentaries*, is the ninth legal scholar who appears in this interesting volume. Lord Mansfield's friendship for Blackstone receives attention, and the author does not fail to mention Blackstone's poetry, his seven children, his love of port and rich food, and his resulting affliction with gout. After an explanation has been made of why the *Commentaries* became a classic, it is said: "While the Commentaries soon ceased to be an exposition of existing English law, it was itself, despite Blackstone, responsible for ushering in the era of legal reform. For the first time the Common Law had been so clearly delineated and exposed to public gaze that an irresistible pressure for reform was created."

Cesare Bonesano, Marchise di Beccaria, who was born in 1735, is the subject of the book's next chapter. When Beccaria was 27 years of age he published a volume of less than two hundred pages which marked an epoch in the criminal law. A commentator declared: "Never before did so small a book produce so great an effect." The author adds that Beccaria "did not reform the criminal law: he created it."

Jeremy Bentham is the subject of the next biographical sketch. As has been indicated, the author believes that Blackstone was unwittingly responsible for ushering in the era of legal reform. He attributes to Sir Henry Maine the remark that Blackstone made Bentham a jurist "by virtue of sheer repulsion." Bentham's aversion to the common law and to the practice of law are traced. As the book points out, Bentham studied law under Blackstone and described his teacher as "the dupe of every prejudice and the abettor of every abuse. No sound principle can be expected from that writer whose first object is to defend a system." Bentham is pictured as the greatest law reformer of all time, and his tireless efforts in behalf of codification, improvement of penal institutions, and simplicity of judicial structure are reviewed. The book alludes to Bentham's inability to win a bride, notwithstanding his remarkable capacity for attracting to himself disciples.

The next thirty-seven pages recount the life of John Marshall and, of course, declare that his outstanding contribution to jurisprudence was the doctrine of judicial supremacy. Many of the pages are sharply critical—critical of Marshall's partiality and of the legal principles which he employed. In describing the law practice of the future Chief Justice, the book says that Marshall was "a property lawyer" and adds that he eventually acquired much of the Fairfax estate. "The ownership of the Fairfax estate," so the author says, "is a leitmotif of John Marshall's career, and it is a far more revealing guide to his conduct in both public and private life than any vision of nationalism. It dominated his attitude as a judge." Every man on the bench who has leaned over backward in order to escape slurs of that kind based on purported self-interest will resent that observation. The author reviews critically *Marbury v. Madison*, *Fletcher v. Peck*, *Cohens v. Virginia*, and others of Marshall's opinions which decided issues of public law. It is plainly evident that he disapproves the doctrine of judicial supremacy. In fact, he says, ". . . . the whole story of judicial review may perhaps be

summed up by describing it as a legal device for safeguarding the interests of the wealthy and the privileged, which was sold to the American people in the fair name of nationalism." It is unfortunate that a book which contains much that is excellent includes that misstatement. The author goes on: "It may seem strange that judicial review has survived the ordeal of the Civil War and all the political and economic vicissitudes of the American Republic before and since. The 'nine old men' have frequently moved the nation to anger, but never to the point of ridding itself of judicial supremacy." Mr. Seagle acknowledges: "The institution of judicial review has long acted as the shock absorber of the whole American governmental system. . . . . It seems a great, if not an ultimate, conquest for the realm of law and the peaceable ordering of social relationships that even governments should be subjected to the hallowed judicial process by which the rights of individuals are determined." The book pays Marshall the tribute of saying that his "is the greatest name in the history of American law."

Rudolf von Jhering, a German jurist, who was born in 1818, is the next who won a place in this book. Jhering, as pictured by Mr. Seagle, was an interesting teacher of the law who "might appropriately be called the Mark Twain of German jurisprudence. . . . Jhering has been called the German Bentham, but the comparison is not apt, for Jhering's creed was a social utilitarianism. He did not share Bentham's passion for codification." Jhering was versatile. He was the author of a comic novel and "was not only the literary artist but the accomplished musician." According to Mr. Seagle, Jhering succeeded Savigny as the predominant figure in European legal thinking. He wrote extensively and the "magnum opus of his later years has been translated into English under the title of *Law As a Means to an End.*" Seemingly, he believed that law should permit the widest possible latitude to individual freedom and deemed that experience, as distinguished from reason, unfolds legal principles.

The final chapter is devoted to Oliver Wendell Holmes. It is plainly evident that the author has an intense admiration for that jurist and for his toleration of legislative experiment. The chapter sets forth a brief but interesting sketch of Holmes' life which begins with his New England Brahmin aristocracy and concludes with his death in 1935, three years after he resigned at the age of ninety-one from the Supreme Court. The author alludes to many interesting facts concerning this great jurist, such as the three wounds which he sustained while serving with the Union Army in the Civil War, his appointment in 1882 to the Massachusetts bench, his appointment by President Theodore Roosevelt in 1902 to the Supreme Court, the fact that the *New York Evening Post* described him as "a literary feller" when announcement was made of his appointment to the Supreme Court, and the fact that, besides reading Latin and Greek literature, he could enjoy risqué French novels. His disregard of legal postulates and his new approach to legislative interpretation receives extensive attention. The author finds that Holmes deemed the law a means of achieving social ends and that there exists continuously a necessity for balancing conflicting interests. "Holmes was interested not in the rules, but in the reasons behind the rules; even in the ordinary and civil and criminal law, which dealt only with the small concerns of individuals, he always sought for the reasons of public policy which had been responsible for the origin or survival of a particular legal rule of doctrine. He always asked what social end was served by them."

The value of the volume is enhanced by a thorough index, thirty-four pages in ex-

tent. Here is a book worthy of reading. Although the layman can peruse this book with profit, it is primarily adapted to lawyers. However well read one may be he cannot go through this book without adding something to his sum total of knowledge.

GEORGE ROSSMAN*

Aviation Accident Law. By Charles S. Rhyne. Washington: Columbia Law Book Co., 1947. Pp. x, 315. $7.50.

According to the title page, this small volume covers all reported court decisions involving aircraft accidents. This comprehensive claim is justified. Such a short but still complete presentation was possible because aviation accident law, aside from the ancient balloon cases, covers a short period of time. The earliest airplane accident case cited by Mr. Rhyne arose out of the crash of a homemade biplane at Mineola in 1911.[1] The first decision on appeal was rendered on February 13, 1914. Our airplane accident law, therefore, covers a period of about thirty-four years. The great majority of the cases have been decided in the last twenty years.

The text deals with a narrow branch of law which is slowly changing and growing. The development of aviation accident law has been slow because airplanes are not numerous. The scheduled airlines of the United States in both domestic and international service operate less than a thousand planes, and the total number of all planes in the United States, other than military, is less than 100,000. Mr. Rhyne has adequately covered all reported aviation accident cases with only 239 pages of actual text. The automobile, with a history of only about fifty years, has produced an enormous number of decisions by federal and state courts. Blashfield's latest edition of the Cyclopedia of Automobile Law and Practice consists of nineteen large volumes with one volume of about a thousand pages devoted entirely to a table of cases. This disparity in the volume of law is not surprising in view of the operation of more than thirty million automobiles in the United States.

The lawyer in charge of an aviation accident case will find Mr. Rhyne's textbook very useful but he should not expect it to be complete. In the broad fields of the law of negligence and trespass there are well-established rules of law which have never been considered or applied in aviation accident cases merely because the issues have not come up under the facts of the limited number of cases which are reported. The author is fully aware of this, as is shown by his Introduction.

For a long time controversy has existed regarding the proper rule of liability to be applied to the owner or operator of aircraft for injury to persons or damage to property on the ground. The question was the subject of a good deal of debate when the American Law Institute was preparing its Restatement of the Law of Torts. It adopted the rule of liability irrespective of negligence.[2] The Uniform State Law for Aeronautics, adopted by some twenty states, contains a similar rule of liability.

Mr. Rhyne states: "Theories advanced by writers in the infant years of aviation that the owners and operators of airplanes should be absolutely liable for all injury to

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[1] Ridgley v. Aetna Life Insurance Company, 160 App. Div. 719, 145 N.Y. Supp. 1075 (1914), aff'd 217 N.Y. 720, 112 N.E. 1073 (1916).

[2] Rest., Torts §§ 159 (g), 165 (1934).