

Book Reviews

OUTLINE OF LEGAL HISTORY, by *Franklin Ferriss Russell*. New York, 1929. Pp. 152.

A CONCISE HISTORY OF THE COMMON LAW, by *Theodore F. T. Plucknett*. Rochester. The Lawyers Co-operative Publishing Company, 1929. Pp. xviii, 458.

Mr. Russell's handbook of 152 pages, including a complete and useful index, presents a synopsis of English legal history from Anglo-Saxon times to the present. The volume is based upon lectures by Sir William S. Holdsworth, Vinerian professor of English law at Oxford, under whom the author was a student some years ago, and is published with Sir William's special permission. The topics and their arrangement correspond in a general way with various topics as treated in that monumental work, Holdsworth's *History of English Law*. Throughout the Outline there are copious references to pertinent chapters in the History. The Outline presents in its first part a general survey of the development of the English law with particular attention paid to what may be called the tribunalistic history of England, the history of the tribunals and courts in which rules of law were applied and made effective. The various conflicts between the common law courts on the one hand and on the other hand baronial courts, Church, Parliament, Chancery, Council, Star Chamber, and Admiralty, are succinctly described. The final status in Blackstone's time is made plain. All this is done from the viewpoint of a lawyer and, of course, the treatment is quite different from the treatment presented in the ordinary political and constitutional histories of England with which college students are familiar. Parenthetically it may be observed that Russell, following Holdsworth, treats Blackstone with far more respect than many other American law school professors do. In the second part of the Outline there is a brief but detailed treatment of the gradual development of three branches of English substantive law, namely, the law of contract, the law of torts, and land law.

Mr. Plucknett's book is three times as large as Mr. Russell's Outline of Legal History, referred to above, and manifests a wider grasp. The scope is substantially the same—a survey of English legal history from Anglo-Saxon times to the present. In his preface Mr. Plucknett admits his "immense debt" to the writings of Pollock and Maitland and to the writings of Holdsworth. The book is offered frankly as a companion volume to Pound's *Readings on the History and System of the Common Law*. Mr. Plucknett shows a thorough familiarity with all recent literature, American and English, in the field of English legal history. While not overburdened with footnotes, there are ample and serviceable references to historic cases and statutes, as well as to standard textbooks and valuable monographs in recent periodicals. The first part of the book traces the evolution of the modern English state from the medieval institution of kingship. This part of the book is designated "The Crown and the State," and consists of 75 pages. The treatment is not exclusively legalistic. Political and economic factors are clearly recognized. The second part of the book treats of "The Courts and the Profession," and in 130 pages presents a survey of the entire his-

tory of England from the particular viewpoint of judges and lawyers as a special class in society. The chapter on professional literature is a fascinating sketch. This is followed by a comprehensive essay on "External Forces," listed as civil law, canon law, law merchant, equity. Perhaps the most valuable portion of the book is the part entitled "The Methods of Progress," which treats of custom, forms of action, legislation, and precedent. This part consists of only 45 pages. Perhaps because of its brevity, it gives an excellent idea of the changing nature of legal institutions in England and their gradual but eventual adjustment to the needs of society. The general survey of English legal history is followed by almost 100 pages of detailed treatment of the law of real property and a briefer treatment of the law of contracts. There is no special treatment of the law of tort or the law of crime.

Both of these books are valuable to students as collateral reading. Either one could well be used as required reading in connection with a course intended as an introduction to law. Perhaps it is to be regretted that professors in American universities, including the authors, do not consider more sensitively the actual needs of American law students. Will it always be necessary to devote so much time to the study of the substantive side of the English land law before Coke's time? In a history of English law should not some exposition be presented of the revolutionary property act of 1922? Should not some attention be paid to the custom of London and its effect upon the attachment law of the United States? Should not some attention be paid to the custom of Kent and its effect upon the special assessment law of the United States? Is it advisable to ignore so completely the modern history of criminal law in England? Must we in America forever repeat the orthodox English formula that the period of the Commonwealth was a fruitless period in English legal history, in spite of the apparent connection between the legal thinking of that period and what we now know as American constitutional law?

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THE ANTI-TRUST LAWS OF THE UNITED STATES. Philadelphia: The American Academy of Political and Social Science (v. 147 of THE ANNALS), 1930. Pp. v, 236. Price, \$2.00.

In a symposium such as the volume under review, intended for quasi-popular consumption, there almost necessarily is included quite a bit of writing which does not penetrate very deep, as well as some that is thoroughly worth while. A reading of the present volume is not rewarded by the discovery of any original contributions to the store of thought or information upon its subject. But general thought and opinion are no less important than the researches of scholars. It is as an index to current attitudes toward the anti-trust laws that this collection of the views of lawyers, business men, public officials, and executive secretaries of organizations is significant and worth while. A few men in academic life have contributed, but they have contented themselves largely with supplying summarized information.

Important among the views expressed are those which reveal the present-day attitude of business toward the anti-trust laws. One gets the impression that many business men and the lawyers and economists who are associated with them are satisfied with the existing situation, to which they