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Book Reviews

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BOOK REVIEWS

THE LAW OF PROPERTY IN SHAKESPEARE AND THE ELIZABETHAN DRAMA.

Some of that frankness which accompanies a modern issue of securities, generated no doubt by the influence of a Securities Exchange Commission, seems lately to have penetrated the publishing field. The typical jacket "blurb" of a few years ago has now assumed the more honest function of indicating briefly the contents of the work it enfolds. To this, it should be added, the author's preface now begins to throw clearer light on the reasons for composition; information which may save the reader many hours of time and dollars of money determining whether the investment of either or both is likely to yield adequate return. The happy combination of these factors in the case of this book, however, may have an adverse effect, for the prospective reader is immediately warned that there is "little, if any, justification for a relatively large part of the avalanche of books about Shakespeare which still continues to roll from the presses of the world." When linked with the prefatory statement that it, the book in question, represents "a sort of legal bus- man's holiday," the average reader may, without further thought, assume that there is little here to warrant further attention and abandon any idea of purchase. In so doing, he would make an unfortunate mistake.

Almost as bitter as the controversy that was raged, and is still raging, over the true authorship of the Shakespearean plays is the sub-controversy as to whether or not Shakespeare was a lawyer or was at least legally-trained. In the past, critical analysts of his productions, searching for ammunition to support either side of the debate, have overlooked one significant fact which the authors of this work now make clear: he and his contemporaries, none of whom could possibly be regarded as lawyers, display much the same knowledge of legal matters. In fact, some excel the Bard of Avon by using, as correctly or as incorrectly, even more legalisms than does he. For having made this much of a comparison of the works of the Elizabethan dramatists in the single field of property law, the authors should be thanked. They have provided an extinguisher for use in case of such conflagrations. They promise, however, that the investigation has not ceased, as comparable volumes on such subjects as Criminal Law, Equity, Evidence, Marriage and Divorce are projected and should soon appear. If these, when issued, serve to bear out the promise of the current work, the evidence should be devastating. Proof beyond conviction will then exist that playwrights in a litigious age can be familiar with legal principles—nay even be able to adopt them to dramatic uses, without being admitted to the bar.

Let it be said, however, that this book is no mere catalog of legal references by play, act, and scene. It is, instead, a systematic treatment
of a whole body of law presented in such fashion as will appeal to lawyer and layman alike. Exposition of lines from scattered plays would make little sense unless projected against the legal system of the times. Realizing this, the authors have gone to the length of digesting and simplifying an intricate maze of doctrines which should alone prove helpful both to the student of law and the lay reader. When refreshed by dramatic passages, even the complications of seisin and feoffment become more understandable.

The brief treatment given to the law of personal property, as compared to that of real property, or of wills and administration, is, perhaps, to be regretted. The fault probably lies not at the door of the authors, for perhaps the trivia of pots and pans had little appeal for the Elizabethan dramatists. In this respect, though, one criticism is justified. The authors infer that since none of them make reference to such legal problems as arise from the revocation of wills by operation of law, as by marriage of the testator after execution, by birth of issue, etc., the playwrights were ignorant of the pertinent doctrines. Might it not be the fact that, though knowing of them, no opportunity presented itself for the use thereof in the plays they wrote? If the scope of a man's knowledge was to be judged solely by what he prepared for print, most of us could be regarded as veritable dullards indeed.

W. F. Zacharias


The number of books about Mr. Justice Holmes that have appeared or are in preparation indicates the extent to which he has captured the imagination of the American people. This volume contains a selection from the opinions of Holmes written during his twenty years of service on the bench of the Supreme Judicial Court of Massachusetts. Mr. Shriver, who edited a collection of Holmes' book notices, uncollected letters and papers1 in 1936, has made a careful selection of the Massachusetts opinions dealing with public questions. A lawyer may miss some of the opinions which have had a considerable influence on the development of legal doctrines in the field of torts and elsewhere, but the collection was not intended primarily for lawyers.

The Massachusetts opinions do not, for the most part, have the extraordinary literary quality which characterized so many of those written in Washington. They are generally longer and give more attention to facts and procedural details than was Holmes' custom when writing as a member of the Supreme Court of the United States. But these earlier opinions reveal many of his attitudes and habits of thought even more completely than do the great constitutional opinions. The reader can gain

more of Holmes' method in deciding cases from these opinions than from those which he wrote later in the full maturity of his thinking.

Francis Biddle remarks in the foreword to this book, and again in his recently published sketch of Mr. Justice Holmes, that the figure of a "witty and liberal man of the world" emerges too readily in the minds of most people and tends to obscure the importance of his life to law and government. This book is a useful source to the reader who wishes to appraise the work of the man who has been called the greatest American judge since John Marshall. It is a necessary companion to the two earlier collections—The Dissenting Opinions of Mr. Justice Holmes, and Representative Opinions of Mr. Justice Holmes.²

R. L. SEVERNS

BOOKS RECEIVED


² Edited by Alfred Lief (The Vanguard Press, New York, 1929 and 1931).