BOOK REVIEWS

British Nationality. By CLIVE PARRY. (Stevens & Sons Ltd., London. 1951. xix and 216 pp. Our copy from Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. £A2 2s.).

A considerable debt of gratitude is owing to Mr. Parry for this publication. The British Nationality Act, 1948, effected many fundamental changes in the law, so many indeed that a completely new textbook was clearly called for. Further, the justice of Mr. Parry's observation in his preface, that the provisions of the new Act are "extraordinarily difficult", is only too apparent, and it is therefore a cause for some congratulation that he has been able to produce his book in a reasonable time after the passing of the Act.

An account is given of the law before and after 1st January 1949, on which date the new Act came into operation. A knowledge of the earlier law is of course still necessary, and Mervyn Jones's *British Nationality Law and Practice* (which is a fuller treatment), published in 1947, remains therefore a valuable reference book and will not for some time at least be superseded.

It is well known that Mr. Parry's book is an offshoot of Dicey's *Conflict of Laws,* born rather in the fashion of Athena from the forehead of Zeus. It seems thoroughly reasonable that the law of nationality should be dealt with thus separately, apart from the conflict of laws, and it is accordingly difficult to understand why some of the editors of Dicey, while recognising that "the subject has little to do with the Conflict of Laws" (*op. cit.,* 6th ed., xiv), were nevertheless prepared to include it in their work for the convenience of practitioners who would still continue, it was said, to look to Dicey for the law on the subject.

The break, however, was successfully made, though honour appears to have been saved by calling Mr. Parry's book an appendix or supplement to the parent production—a rather unnecessary and disparaging description, one would have thought, of a book which has the air of a completely independent work, and which is moreover a sound and comprehensive piece of scholarship in its own right. It is nevertheless to be regretted that Dicey's method of Rule, Comment, and Illustration has been retained. Mr. Parry refers without comment to his acceptance of this technique. But the arguments raised against it in the Preface to Dicey (*loc. cit.*) which were accept-

able to some of the editors of that work, appear sufficiently convincing. The statement of the law by way of dogmatic Rule can be quite misleading—and perhaps dangerously so for students who might too easily be encouraged to accept the pontifical utterances of the textbook uncritically and as a complete and final exposition of the law. And it is difficult to know why the editors of Dicey considered that it would in any case have been beyond their province to have abandoned his method; they might rather be under a duty to alter the plan of the textbook where the interests of scholarship demanded it, a plan, furthermore, selected for use in 1896.

Mr. Parry's task in expounding the law in a completely new set of Rules could not have been easy, and one must admire the result achieved. Even so, there are one or two matters which cannot pass without comment. Rule 32 (page 120) is in these terms:—

> "A male person who becomes a citizen of the United Kingdom and Colonies in virtue of the application to him of either of Cases (5) and (7) of Rule 27 or of Rules 29 and 30 is deemed for the purpose of Rule 34 to be a British subject by descent only."

A Rule which requires reference to five other places in the book before sense can be made of it seems hardly worth stating in such a curious form. And Rule 23 (page 75) is expressed in very much the same way, though here Mr. Parry admits that this particular statement is purely mechanical. In short, there seems much to be said for proceeding by way of ordinary textbook commentary, dispensing henceforth with the propounding of Rules, the burden of which could quite easily be incorporated in a straightforward text. Finally, it might be said that though some of the Illustrations are instructive, on the whole their retention seems hardly necessary as they are little more than statements of what has already been said in the Comment.

Mr. Parry refers in several places to the fact that the development of Dominion self-government has been largely responsible for the introduction of separate citizenship of Commonwealth countries. But his frequent assertion that the perpetuation of the common status of British subject was quite incompatible with the existence of the Dominions as independent international persons is rather too emphatic. Many difficulties did arise in the past, but were not incapable of solution. Mr. Parry gives as an illustration the position of British Commonwealth representatives in international bodies functioning within the United Kingdom. Although, he says, the United Kingdom is bound by treaty to grant immunity to these bodies, there is no

common law rule giving immunity to any Commonwealth representative who is a British subject. And he cites the Diplomatic Privileges (Extension) Act, 1946, as an instance of the kind of legislation which the common status made necessary. His argument, however, is not convincing. Legislation was in any case necessary in order to extend diplomatic immunity to foreign representatives, and the Diplomatic Privileges (Extension) Act, 1944, went too far in excluding "British subjects" from the enjoyment of that immunity. The later Act amended this to make it clear that it was intended to exclude only British subjects being representatives of His Majesty's Government in the United Kingdom; it was necessitated by the faulty draftsmanship of the 1944 Act. Any similar Act passed after 1948 would still need to exclude specifically citizens of the United Kingdom and Colonies; the new nationality legislation has simply made it easier to indicate the classes of persons to whom legal provisions are intended to apply—or not to apply.

Much the same might be said about the reference to the National Service (Armed Forces) Act, 1939. It is hard to see how "the fiction of common allegiance" can be said in this case to have "necessitated" statutory regulation (page 66). The statute imposed military service on British subjects generally, and then exempted those not ordinarily resident in Great Britain and born and domiciled in one of the Dominions. It would now (i.e., after 1948) be possible to apply the provisions of the Act to United Kingdom citizens only in the first place, and then to include specifically within the terms of the Act other British subjects ordinarily resident in the United Kingdom. Much the same result would in this way be achieved, and the same amount of statutory regulation would be required. Mr. Parry criticized this with regard to the pre-1949 position. How then, in this respect, is the new legislation an improvement?

It is also not wholly true that the new nationality legislation "sets out to destroy the former 'common status' of British nationals" (page 123). What it does is to recognise several species of citizenship within the genus "British subject" or "Commonwealth citizen." The United Kingdom then may legislate with specific reference only to United Kingdom citizens, and this is not only convenient but also accords with the constitutional development of the members of the British Commonwealth. But, on the other hand, it is equally possible for it to legislate with respect to British subjects resident within the United Kingdom; for example, to confer voting rights, or to impose obligations of military service; and this too is clearly

convenient. One cannot therefore agree with Mr. Parry's comment (page 66), "for reasons which are obvious enough though perhaps irrelevant, the new Act attempts still to preserve the facade of the common status of all subjects of the Crown." The common status has its advantages, as has also the establishment of separate citizenships, and the two are not incompatible. Mr. Parry is on safer ground in criticising the maintenance of the idea of common allegiance, at a time when the divisibility of the Crown has been established. And in any case he himself indicates (page 141) that the abolition of the common status might well have disadvantages for the individual, disadvantages which the Act itself remedies in part by providing a fairly easy method by which the citizens of a Commonwealth country may obtain United Kingdom citizenship.

One last point, in this particular context, should not be overlooked. One of the important features of the British Commonwealth is that the citizens of the self-governing members are not foreigners to each other. Political tensions, differences of opinion, and opposing interests are, it is true, to be found; but in a world which is plagued with international feud and suspicion, the successful establishment of the Commonwealth as a co-operating and peaceful assembly of nations of differing characters—a unity in diversity—is one of the few healthy achievements. The existence of a common nationality is an obvious and desirable expression of this relationship, and in turn is itself bound to encourage and foster it. And this is a matter of real political significance, not mere sentiment.

Mr. Parry draws attention (page 160) to the fact that since 1949 naturalisation in a foreign country does not deprive a person of his status as a British subject or as a citizen of the United Kingdom and Colonies. Because then of the provisions for registration of births outside the United Kingdom at a United Kingdom consulate, it is possible for the descendants of such a person to an infinite degree, though continuing to live in the foreign country, to retain dual nationality. Mr. Parry describes this as startling, though it is difficult to see why. Duality of citizenship was also possible under the 1914 legislation, as amended in 1922 and 1943, subject to registration—though not (with some few exceptions) where a foreign nationality had been acquired by naturalisation. The principle of duality was in existence before 1949, and the Act of 1948 merely added to the class of persons who might acquire it. And it might be asked whether in general double nationality is really undesirable. Some difficulties, indeed, may well arise, but internationally it may have considerable advantages.

The book is not always easy to follow, but in fairness it must be conceded that the subject is not easy, and Mr. Parry leads the way through this complicated branch of the law skilfully and successfully. One might express the wish, however, that some badly worded passages be re-written. For example, this involved sentence appears on pages 119-120:— "The circumstance that she married an alien, and, had she then been a British subject would be (*read* by) reason of her marriage have ceased to be such, is, in the case of a woman to whom the Rule would otherwise apply, to be disregarded." The same meaning could surely be conveyed by the following:— "The marriage of a woman to an alien, by which she lost her British nationality, is for the purposes of this Rule to be disregarded."

The sources of Rules and statements are very fully given in footnotes, and the cross-references are more than adequate. In a work so painstakingly done it may be unkind to draw attention to misprints—which in any case are few—but some are rather confusing and should be attended to. On page 144, note 57 should read, "service of the Crown under His Majesty's government in the United Kingdom"; the text has a dash in place of the words "in the." The word "proviso" on page 145, note 63, should read "province." And on page 174, note 5, "United Kingdom and Colonies" should read "United Kingdom Trust Territory."

Mr. Parry's book is a patient and expert production; it is to be recommended as indispensable for the study of British nationality law.

L.J.D.

Power Politics. By G. SCHWARZENBERGER. (Stevens & Sons Ltd., London. Second edition, 1951. xxii and 898 pp. Our copy from Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. £A4 17s. 6d.).

The hardiest reviewer could be excused for growing pale on being handed this book. Approximately 900 pages on such a subject would appear formidable on any count. But it is soon apparent that it is not such a terrifying production, and Dr. Schwarzenberger's name should itself be a sufficient guarantee of the standard of its contents. His aim—and it is hoped that this brief statement does not understate nor do violence to it—is to examine international society and reveal the operation of power politics within that delightful concourse. He is, fortunately, an international lawyer with no idealistic

illusions about his subject, and one therefore expects, and receives, a reliable and acute account of the international scene.

One cannot help being impressed by the vast field covered. Scarcely an event of any significance in international relations in recent years fails to receive mention as part of the scheme; Dr. Schwarzenberger has evidently believed that his subject should be illustrated as extensively as possible, in this way helping to demonstrate his thesis as to the significance of power in the dealings of nations. And this of course, if only from what one might call the documentary point of view, has much to recommend it. At the same time, one must confess to a certain amount of uneasiness. Might not the canvas be a little too large? Does not the author attempt to cover too much in establishing his argument? It is true that his handling of the material is most impressive, and some very fine accounts, in brief, are given of certain institutions or sequences of events—as one instance among many, the survey of the trusteeship system of the United Nations. The author clearly has a sound grasp of his subject. Nevertheless it is equally true to say that there are many matters which perforce are dealt with in summary, if not scrappy, fashion, such as the Anglo-Egyptian Treaty dispute. And one would have welcomed more of Dr. Schwarzenberger's observations on the Korean conflict. A book even as long as this is not able to do justice to the multitude of subjects which are brought forward. Insofar as they are relevant to the argument of power politics, they of course serve their purpose. But one is left wondering whether Dr. Schwarzenberger might not have done better to have selected rather fewer illustrations and developed his argument more fully and with more point with their support alone. In that way he might have dispensed with a mass of varying material which is too briefly reported to be, in the end, of very much value.

There is no doubt, however, that he has given us a survey of the international scene which displays much learning and much wisdom. He is not for instance to be deceived by what he calls the mockery of much of the Declaration of Human Rights, and repeats what he has said often enough before—that strong social forces having an interest in the protection of guaranteed rights are a prerequisite of the success of such affirmations, that there must be a sense of community. Thus in another connection, he says (at page 723):—"It would be fatal to think that the flaws in the Covenant and the Charter are merely technical deficiencies, which could easily be remedied. The reason why, in 1919 and 1945, neither of the inter-

national peace organisations was endowed with the necessary competence lies deeper. World society is not an international community."

Dr. Schwarzenberger is not slow to seize upon other follies of the statesmen, and many of his caustic observations could be well taken to heart. Thus he says (page 381), "If anyone could have thought of devising a German problem, he could not have done better than the Allies of the Second World War", and (page 710), "It was a triumph of United Nations parlance to call 'unconventional' the means of mass extermination which West and East prepare for their mutual self-destruction." And his model grammar of power politics (page 716), though a somewhat bitter compilation, is all the more enjoyable for being unexpected in a work of this kind.

One particular delight is the almost complete absence of footnotes. Dr. Schwarzenberger has convincingly demonstrated that it is possible to write a long and learned book without confusing the printer and offending the reader with a jungle of disfiguring commentary at the foot of the page. This is a refreshing change in an age when it has become the practice—or so it seems—to develop one's arguments in the footnotes and use an odd line of text to keep them tied together like beads on a string. In view of this it may seem unkind to add a note of criticism; but it is unfortunate that Dr. Schwarzenberger has nearly always failed to give full references to quoted sources, an omission which to the scholar can be more than irritating.

One is rather surprised to find the author stating (page 344), with reference to war crimes and the Nuremburg trials, that "the principle that superior orders are at the most a circumstance which justifies the attenuation of the sentence was in accordance with established principles of international law." In fact it is difficult to say that there was in 1939 any settled practice, and the British view, as expressed in Article 443 of the Manual of Military Law, was the opposite of Dr. Schwarzenberger's proposition, until it was altered in 1944.

It is interesting to learn (on page 288) that W. M. Hughes is the name of an American senator. It is possible, of course, that the allusion is to Charles Evans Hughes, but if so it is impossible for the reader to find out because of the absence, already criticised, of the necessary references.

Altogether, the book is pleasantly free from the jargon and turgid writing to which jurists are too often prone. But the discussion of "permanent interests" of the powers (page 44 ff.) seems confusingly worded. To say (on page 49) that "the permanent interests of greater powers change according to circumstances" is a contra-

diction in terms. What Dr. Schwarzenberger is really trying to say is that the methods of realising the permanent interests will change from time to time, or that *some* national aims will, in appropriate circumstances, be modified.

The climax of the book is the author's suggestion of an Atlantic Union consisting of the British Commonwealth, the United States of America, and an European Union. Indeed he suggests that it may be already in the making. It must be confessed that, as briefly discussed by him, the proposal is an interesting and tempting one, and the more confidence can be felt in it because of the author's understanding of the difficulties and foolishness of international society. In this respect it would seem fitting to close with one of his own observations (page 715):—

> "We are told that the United Nations is the world's only hope! If this were true, the only possible reply would be: what a hope! We are assured that half a loaf is better than no bread at all. But no analysis whether the demi-loaf is stone or bread appears to precede this profound proposition. We are warned against plausible pessimistic interpretations of current international relations and admonished to join the bandwagon of naive optimism. Yet do those who tender such sage advice remember how often in the past they have proved wrong? Do they recall that their counsels regarding the United Nations are only freshly dished up hotchpots of pre-war left-overs?"

L.J.D.

International Review of Criminal Policy. UNITED NATIONS DEPARTMENT OF SOCIAL AFFAIRS. Published half-yearly; $2.00 per copy.

This new Review dealing with criminology and penology was published for the first time in January 1952 by the Department of Social Affairs of the United Nations. The Department has taken over the work formerly done by the International Penal and Penitentiary Commission, which has now been dissolved. The Commission had for some years published the well known *Recueil de documents en matière penale et penitentiaire;* but publication of this has ceased with the dissolution of the Commission, and the new Review is intended, as far as possible, to replace it.

The first number of the Review is concerned largely with setting out the work of the United Nations in the field of the prevention of

crime and the treatment of offenders, and with listing the various non-government organisations concerned with these matters. It contains, however, two excellent short articles—one on the international comparison of criminal statistics, and the other on work colonies in the Union of South Africa. If articles published in the future are up to the high standard of these two, the Review will be most valuable. A further useful feature is the large bibliography of current periodical literature in this field; it is to be hoped that this will be kept up to date in future numbers. Altogether this publication is to be welcomed as a valuable addition to the work already being published in this field.

P.B.

An Introduction to Evidence. By G. D. NOKES, LL.D. (Sweet & Maxwell Ltd., London. 1952. xxxii and 415 and (index) 12 pp. Our copy from Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. £A2 9s. 6d.).

Over fifty years ago the late J. B. Thayer wrote of the law of evidence (in his *Preliminary Treatise*) that "it is not at all to be admired, nor easily to be found intelligible." Since those words were written the situation, so far as Anglo-Australian law is concerned, has been exacerbated by the addition of numerous precedents extending illogical and often inconsistent rules. The greater part of the rulings on evidence are given hurriedly during the course of a trial, and have consequently not benefited from the careful analysis which other branches of the law usually receive; nor have the excursions of the Court of Appeal and the House of Lords into this field always had happy results—as witness, for example, *Lloyd v. Powell Duffryn Steam Coal Co., Ltd.,* [1914] A.C. 733, and *R. v. Christie,* [1914] A.C. 545.

The plight of the student of this branch of the law has hitherto been hard. The standard English texts were all originally written before 1895; since then there have appeared two major American works, Thayer's *Preliminary Treatise* and Wigmore's *Treatise,* as well as numerous articles on special topics (notably in the Harvard Law Review), which have re-examined the historical and theoretical basis of the law. This learning has not found its way into modern editions of the English texts; rather have the editors preferred to expunge those references to American sources which were made by the original authors. As a result, the English (or Australian) student

has had to use textbooks which are hardly better than handy guides to the cases, with little or no attempt at analysis.

In this situation, it seemed to Dr. Nokes that "there was room for a book" which provided some historical and theoretical background, and he set out to fill the gap. His qualifications are experience over many years, first at the Bar in England and then on the Bench in India, followed by some years of lecturing and examining in Evidence (he is at present Reader in English Law in the University of London); and in his task he has admirably succeeded.

Detailed comment on particular passages in a book of this kind would be out of place. Inevitably there are many statements which cannot receive unqualified assent, as, for example, the statement on page 385 of the effect of *R. v. Schama and Abramovitch,* (1914) 11 Cr. App. R. 45. The subject is a vast one, and Dr. Nokes has given a good introduction to it. Where appropriate, he discusses conflicting views and theories and directs his readers to the sources; one cannot reasonably expect more. The main criticism which can be made is that Part I, a preliminary (mainly theoretical) discussion, is not as satisfactory as the remainder of the book; particularly is this true of the section on presumptions which would, it is suggested, be better placed in company with that on burden of proof. One feels, however, that on such topics as these Dr. Nokes is hampered by the fact that the theoretical discussions of the past half-century have received little or no recognition by English courts.

The book is well produced, adequately indexed, and easy to handle; the style is clear and pleasant, and spiced with wit. This reviewer has no doubt that Dr. Nokes has provided for an urgent need, and written a text which will be in demand for many years to come.

P.B.

The Technique of Advocacy. By JOHN H. MUNKMAN, LL.B., Barrister-at-Law. (Stevens & Sons Ltd.: London. 1951. xiv and 173 pp. Our copy from Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. £A1 4s. 6d.).

The aim of this little book is to discuss, chiefly for the assistance of the beginner, the technique of advocacy—a matter which, the author claims, has hitherto received scant attention. Mr. Munkman does not, of course, contend that a knowledge of technique will make a man a good advocate; but he considers that such a know-

ledge will carry him a good way to that goal, although constant practice and an initial aptitude will still be needed. In order to discover the main principles of the technique, Mr. Munkman has examined a large mass of material, formulated his hypotheses and verified them, and here set down those principles with such illustrations of their use in practice as he deems appropriate. It will be seen, therefore, that the book is much more than a collection of passages from famous trials.

The greater part of the book is devoted to the art of cross-examination, though the other aspects of a trial—examination in chief, re-examination, and the opening and closing speeches—are by no means neglected. Mr. Munkman breaks down the technique of cross-examination into four subsidiary techniques—those of confrontation, of probing, of insinuation, and of undermining—and shows, both by precept and example, how these techniques may be used in practice. I must confess to only a very limited experience in this field, but it seems to me that this analysis cannot fail to be helpful to the budding advocate who does not wish to handicap himself in his career by making obvious (when made) errors. If I may offer a small criticism of this discussion, I would suggest that what Mr. Munkman calls the technique of undermining goes far beyond cross-examination as to credit (pages 69, 105).

In his preface Mr. Munkman points out that he is not writing a legal text but that he has been compelled to refer at times to rules of law; he accordingly warns his readers that the statements of law are not intended to replace orthodox texts on the subjects concerned, but merely to act as reminders. There are, in fact, surprisingly few inaccuracies (I say "surprisingly" merely because of Mr. Munkman's own warning), but it might be advisable in a later edition to recast the passage on page 56 which seems to suggest that the so-called *res gesta* rule is an exception to the hearsay rule. Again, it is doubtful whether the statement on page 59 that "nothing in the Criminal Evidence Act, 1898, makes a question admissible where it would not have been admissible before", is accurate; it has been contended with much force by Professor Julius Stone (in (1935) 51 Law Q. Rev. 443 *et seq.*) that cross-examination under the provisions of that Act may go far beyond what would have been permitted at common law on the subject of character.

Mr. Munkman brings forward in his preface the interesting suggestion that advocacy might be taught as a separate subject in law schools and universities. This point is well worth considering,

though the subject would require very delicate handling. This book might prove a useful text if the idea were adopted; apart from this I feel that it will be a source of pleasure and profit to all students. There is, however, one serious defect in the book which ought to receive the author's attention in the next edition. This is his handling of the subject of logic. On page 7 we are told that an *elementary* knowledge of the subject, though it can be helpful to the advocate, will go a long way, and that the value of logic to a lawyer must not be overrated. It would appear that Mr. Munkman understands the subject of logic to be restricted to a study of Aristotle on the syllogism; for if one understands by logic the art of reasoning correctly (and this, I suggest, is its scope), a knowledge of it is indispensable not only to the lawyer but to any worker who wishes to persuade by argument rather than by an appeal to passion. Mr. Munkman's restricted view of logic appears very clearly in the first section of Chapter 8, on Legal Proof and the Formulation of Arguments; for instance, on page 134 he tells us (in developing a line of proof in a specimen case) that "by strict deduction, it is established that the knife wound was inflicted by another person, because the deceased person could not have reached round to stab himself." With all respect, the point may well be established, but not by strict deduction; there is merely a probable inference, albeit that the degree of probability is very high. The whole of this section needs careful reconsideration, and the sneer in footnote 78 on page 136 at "writers with Germanic names on the so-called 'philosophy of law'" should be deleted. Blemishes of this kind merely mar a good text.

The book is well produced but in later editions an index would be welcome.

P.B.

Justice and Administrative Law. By WILLIAM A. ROBSON, Ph.D., LL.M., B.Sc. (Econ.), Barrister-at-Law; Professor of Public Administration in the University of London. (Stevens & Sons, Ltd.: London. Third edition, 1951. xxxiii and 641 and (index) 30 pp. Our copy from Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. £A2 2s. 0d.).

Between the first and second editions of this book some nineteen years elapsed; between the second and third editions there has been an interval of four years. This reflects the growing interest of the modern lawyer in the subject, an interest which is in no small

part due to Professor Robson's untiring and devoted work. The book must by now be regarded as a classic. In 1928 the author set out to demonstrate that, contrary to Dicey's thesis, there was a system of administrative law at work in England; that that system was for the most part unrecognised; and that as a result the development of English administrative law had taken place in a higgledy-piggledy fashion, with unfortunate results for both the cohesion of the legal system and the citizen who expected to receive protection against the sometimes excessive demands of the State. In this task he succeeded admirably, and the existence of a body of English administrative law is now fully recognised.

Shortly after the book first appeared, Lord Hewart wrote his well known attack on the administrative tribunals, *The New Despotism*. This led to the setting up of the Donoughmore Committee to investigate the problems of safeguards in delegated legislation and of the extent of Ministers' powers generally. The author appeared before the Committee and strongly urged the systematic organisation of administrative tribunals and the establishment of an administrative court of appeal; but his suggestions did not meet with the Committee's approval—perhaps not surprisingly, for the Committee's terms of reference almost precluded it from recommending anything of that kind.

However, time has seen Professor Robson emerge victorious. The importance of administrative law in modern England is now everywhere recognised; the Courts have come to adopt a more tolerant attitude to the administrative tribunals; and the need for the establishment of some better method of review than that available in the Courts has come to be admitted by many of those who only a short while ago opposed bitterly any interference with the present processes.

It would be impertinent to attempt to criticise the main thesis of this book, which, as I have said, has become a classic in this field. In any event, criticism of work of this nature depends on one's attitude to modern social problems, and I share the author's view that the Courts are incapable of understanding, or at any rate are unwilling to try to understand, the modern administrative process and the aims of modern social welfare legislation. In such a situation the only course for a government which intends to govern is to bypass the Courts by setting up its own tribunals. The only question which then arises is that of harmonising and supervising the work of the different tribunals, and here there are few students of the subject who would to-day differ from Professor Robson save on matters of

detail. The main attack on the author's thesis has been in truth a disguised attack on social welfare legislation by those who believe in *laissez faire* economics; and as those believers have become fewer, so has the attack died down.

The only point on which I would join issue with the author is that of the grouping of tribunals. Professor Robson distinguishes the administrative tribunals which deal with citizens organised compulsorily on a geographical basis from the domestic tribunals which deal with voluntary associations of citizens on a functional basis. This division has much to commend it, but we find many tribunals, established by legislation and exercising compulsory powers, classed as domestic tribunals. Here the author is in a difficulty; in his initial classification he distinguishes between the geographical and compulsory on the one hand, and the functional and voluntary on the other. Such a division leaves no place for a tribunal whose jurisdiction is either functional and compulsory, or geographical and voluntary; it is the former class of tribunal which is frequently encountered in practice. As this book treats of administrative law, which has to deal with this situation, it would seem preferable to make the division one between tribunals which have legislative backing and those whose authority rests solely on the agreement of parties.

We may also perhaps inquire whether this edition adequately fulfils its functions of being the third edition of a classic. It has grown by over 100 pages since the previous edition, and most of this new material is devoted to a study of administrative tribunals, their organisation, powers, and functions. I would suggest that this part of the book is far too long. As a sample it is too big and correspondingly disproportionate; as a full study (which it is not intended to be) it is manifestly too small. What is needed is an outline of a few selected tribunals in order to make the author's main thesis clear. Other parts of the book, notably the discussion of the evidence given before the Donoughmore Committee, could do with a little pruning.

This book is an essential work for the student of administrative law. There will be many more editions as time goes on; and because of the high esteem which the book has won, we are entitled to ask the author, in preparing future editions, to remember his duty to readers overseas and to present them with his thesis relieved from the detailed description of English institutions which form so large a part of the present edition.

P.B.

The Habitual Criminal. By NORVAL MORRIS, LL.M., Ph.D. (Longmans, Green & Co. Ltd.: London. 1951. vii and 391 and (index) 3 pp. £A2 5s. 9d.).

The text of this book forms the substance of a thesis accepted for the degree of Ph.D. by the University of London in October 1949. But it is far more than an ordinary doctoral thesis, for in the following year it was awarded the Hutchinson Silver Medal; and it has been hailed by a number of leading criminologists as a study of major importance. The work has a twofold purpose—firstly, to study the laws applicable in a number of countries to the habitual criminal and the working of those laws; secondly, to analyse a number of habitual criminals and confirmed recidivists in custody, in order to arrive at an understanding of the individuals who are likely to be so classed. The two purposes are dealt with in successive parts of the work, the whole being preceded by a short introductory chapter in which Dr. Morris discusses the concept of the habitual criminal and the recidivist, and outlines the major problems of punishment both in theory and in practice.

Let me first do a little carping, such as is expected of the reviewer (who has to find something to say). The book is well produced, easy to handle and read, and the standard of proof-reading is high. There are of course a number of minor errors, the most serious being the omission of any reference for *Summers' Case* (on page 44) and a jumbling of the final sentence of the second paragraph on page 46; the addition of tables of cases and statutes would be welcome in the next edition. Dr. Morris's style is a little heavy, which is perhaps inevitable in a work originally submitted as a thesis, but it is a welcome relief when he 'relapses' into plain, vigorous English, as he does when his feelings are aroused. My most serious criticism is of the tendency, in his statistical work, to what have been recently described (in *Facts from Figures,* a Pelican book by M. J. Moroney) as delusions of accuracy. Throughout the work we find statistics of what are essentially unities calculated to at least one place of decimals; thus, at the outset, we are told (on page 27) that "an average of no more than 12.9 men were declared habitual criminals"; it would have been most interesting to watch the declaration of the 0.9 man. Other instances of this may be found on pages 61 (where the first column is wrongly calculated), 103, 106, 113, 137; there is no reason why the figures should not be stated to the nearest whole number, for the decimal place adds nothing.

But now that I have stated my criticisms, let me add at once that this is a study for which everyone interested in criminology must be profoundly indebted to Dr. Morris. Only too often theories of criminality and the best methods of treating it are based on *a priori* assertions; the author has resolutely set his face against temptations of that kind, and set out to study facts, so far as they can be ascertained. The amount of detailed work on criminal records and statistics (and on many other matters as well) is evident throughout and is prodigious. The 'habitual criminal' laws of some 27 different States are carefully studied and compared on the basis of a questionnaire containing eight questions. There is a study of Part II of the (United Kingdom) Prevention of Crime Act, 1908 (now repealed), in an endeavour to find out the reasons for its complete failure as an effective means of dealing with habitual criminals. At the end of all this, Dr. Morris outlines the salient points which have emerged from his discussion, and makes some interesting suggestions as to the proper methods of attempting to treat these men. As if this were not enough, it is followed by a study of 32 habitual criminals and 270 confirmed recidivists, including detailed statistical analyses of their records which included over 15,000 offences. The value of this study as showing the characteristics of the men who make up these classes cannot be overestimated.

It would be futile, within the limits of a necessarily brief review, to attempt even an outline of the conclusions to be drawn from Dr. Morris's work. Both in its results and as an example of method it is of the utmost importance. There is in this comparatively small volume a mine of information which will, one may be sure, be of great value in constructing penal programmes in the future. And yet it is a mark of the worth of the book that it raises many questions which Dr. Morris does not attempt to answer, because they lie outside the bounds of his study as originally conceived. We may, however, hope that in future editions Dr. Morris will try to expand his book so as to include answers to some of the more obvious questions. Why, for instance, does the attitude of New Zealand judges differ so greatly from that of English judges on the matter of the habitual criminal laws? Could the legislators of 1908 have foreseen the difficulties that would arise under their law? If so, could they have prevented them, and how? Will the preventive detention provisions of the Criminal Justice Act, 1948, prove more successful—will they strike down the confirmed recidivists studied by Dr. Morris, or will they merely catch a larger number of the sick and stupid men who

were dealt with as habitual criminals under the earlier Act? Can we be told more of reformative detention in New Zealand, and of the Finnish Penitentiary Tribunal?

These and many more questions spring to mind as one reads the book. It is to be hoped that Dr. Morris will find time to give us later editions with answers to some of these problems; it is to be hoped even more that he is engaged on further studies, in this and other related fields, which will throw more light on the problems of criminal conduct and treatment. In awaiting his future work, we can only congratulate him on what he has already done and here presented, and strongly recommend his book to all who wish to play an intelligent part in the ordering of public affairs; for the prevention and treatment of crime are matters which concern us all.

P.B.

Cases on Commercial Law. By J. CHARLESWORTH, LL.D., Barrister-at-Law, Recorder of Middlesborough. (Stevens & Sons Ltd.: London. 1951. xxxii and 324 and (index) 4 pp. Our copy from Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. £A1 9s. 6d.).

A Digest of the Law of Agency. By WILLIAM BOWSTEAD; eleventh edition by Peter Allsop, M.A., Barrister-at-Law. (Sweet & Maxwell Ltd.: London. 1951. lxxxiv and 302 and (index) 49 pp. Our copy from Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. £A3 10s.).

In his neat little book of *Cases on Commercial Law* Dr. Charlesworth provides students with a companion volume to his well known and well established *Principles of Mercantile Law.* The object of this new publication is, as the author tells us in the preface, "to give a selection of cases illustrating the principles of mercantile law which are likely to be useful to students of the subject." Maintaining a sequence similar to his textbook he has brought together abridged reports of 150 cases. The preface also informs us that the cases included are not necessarily to be regarded as leading cases, but as convenient illustrations of the principle involved. It is perhaps unfortunate, if unavoidable, that some of the cases chosen as illustrations must themselves be the subject of further explanation by way of notes following the report of the case; on the other hand such notes do much to preserve a proper perspective.

There is danger in stressing the importance of case law as illustrating the principles of mercantile law; for the majority of those principles are either statutory or of such long standing as to be independent of any particular judicial decisions. What the cases illustrate is very often not so much the principle as the limits to be placed upon the application of the principle. It is imperative that the student should maintain a proper perspective in his study of the subject and resist the temptation to regard the case book as any more than a useful adjunct to the main materials of his study. But these remarks are not intended to derogate in any way from Dr. Charlesworth's latest publication.

Within the limits set by the author this is a worthwhile publication and one that will no doubt be welcomed by all students and particularly by those who cannot find the time (or the opportunity) in which to digest the full reports.

For more than half a century *Bowstead on Agency* has provided the busy practitioner with a ready reference book on this branch of the law; however much critics from time to time may declaim against the digest form of stating the law, the fact remains that this particular work has stood the test of time remarkably well and retains a high place in the estimation of the profession. Consequently the work in general requires no commendation; it suffices simply to draw the attention of readers to the latest edition, prepared on this occasion by Mr. Peter Allsop. The original style—of stating each principle as an Article followed by illustrations—is retained. Such a framework has been described by at least one reviewer of an earlier edition of the same work as "adequate but uninspiring"; but can one imagine an "inspiring" digest of any sort? Furthermore, the practitioner relies on a book such as this for immediate reference on any point, not for inspiration on the subject as a whole. In other words, it is the utility value of the work which recommends it so highly to the profession, and we are therefore grateful to Mr. Allsop for providing us with an up-to-date edition of an old friend.

R.D.W.

The Australian Constitution. By H. S. NICHOLAS, M.A. (Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. 2nd edition, 1952. xxxvii and 444 and (index) 14 pp. £A3 10s.).

Essays on the Australian Constitution. Edited by R. Else Mitchell, LL.B., Barrister-at-Law. (Law Book Co. of Australasia Pty. Ltd.:

Sydney, Melbourne, and Brisbane. 1952. xxiv and 313 and (index) 5 pp. £A2 2s.).

Federalism: An Australian Jubilee Study. Edited by Geoffrey Sawer, B.A., LL.M. (Published for the Australian National University by F. W. Cheshire, Melbourne. 1952. xii and 279 and (index) 4 pp. £A1 19s. 6d.).

After the publication in 1936 of W. A. Wynes' *Legislative and Executive Powers in Australia* there came a lean period in the systematic exposition of the constitution of the Commonwealth of Australia, at least from the lawyers' point of view. For more than a decade the historians and the political scientists monopolised this field; G. Greenwood's *The Future of Australian Federalism* was published in 1946, L. F. Crisp's *The Parliamentary Government of the Commonwealth of Australia* appeared in 1949, and in the latter year the Australian Institute of Political Science made another of its valuable contributions to the subject with the publication of a symposium, *Federalism in Australia.* Without belittling any of these books, all of which contained material of much significance for the teacher and student of constitutional law, it is not unfair to say that none of them gave a comprehensive account of the Constitution as it stood at the time of writing.

For constitutional lawyers the drought broke in 1948. Sawer's *Australian Constitutional Cases* made history in legal literature when it first appeared; published with the blessing of the Australian Universities Law Schools' Association (which needless to say was unable to meet any part of the cost or even to guarantee that its member Law Schools would ordain the use of the book), it was not a mere reprint of selected passages from leading cases but contained—on the pattern of the casebook in which the United States is so rich and prolific—useful comment and stimulating criticism by the editor. 1948 also saw the appearance of *The Australian Constitution* by Mr. Justice Nicholas, who had returned to his first love (he was counsel assisting the Royal Commission on the Constitution in 1927-28) as soon as his retirement from the office of Chief Judge in Equity in New South Wales gave him the necessary leisure and opportunity. It is a tribute to his work that within four years a second edition has appeared.

The first edition of *The Australian Constitution* contained internal evidence of having been prepared and published a little too quickly; some topics received too much attention, others too little; and there were far too many misprints and inaccuracies, not all of

which were discovered and included in a printed list of corrigenda and addenda. These blemishes have been removed from the second edition, and the balance between the various topics has been restored by the addition of nearly 100 more pages to the text. Both editions contain, in appendices, the Constitution itself, the Financial Agreement 1927-44, and the Statute of Westminster Adoption Act 1942; the State Grants (Tax Reimbursement) Act 1946-47 and the Balfour Report of 1926 appeared in the first edition but have been dropped from the second, which contains—a welcome addition—the constitution of the United States. It would have been better to relegate the Trusteeship Agreement for New Guinea to an appendix; it still appears somewhat incongruously in the text— incongruously because there is no comment upon the terms of the Agreement nor upon the nature of the obligations incurred by the Commonwealth in submitting the administration of the Territory to trusteeship. The chapter on the status of the Commonwealth has been enlarged to include a short and perhaps uncritical note on the Nationality and Citizenship Act; the author lightly dismisses the problems to which the creation of an Australian citizenship may well give birth by saying (on page 22) that "There is nothing in either the *Immigration Act* 1912-1949 or the *Nationality and Citizenship Act* 1948-1950 of Australia which shows that the inclusion of a person within the class of Australian citizen affects the application of the *Immigration Act* to that person . . . " It is true that the sentence is an almost verbatim extract from the judgment of Sir John Latham in *O'Keefe v. Calwell,* (1949) 77 C.L.R. 261; but, with all respect to that very distinguished judge, I find it difficult to accept that dogmatic assertion at its face value. Is it certain that Parliament intended that persons upon whom the Act confers Australian citizenship may still be excluded under the immigration power from the country which claims them as its own? If so, the extraordinary result may well be reached that a person who is an Australian citizen by birth (under sec. 25 of the Act) but who has not lived here for many years can be debarred from entering the country because he is not returning to an Australian home; but that a British subject born elsewhere who receives Australian citizenship under the same section (by virtue of residence here for the five years immediately prior to the Act) and who has been absorbed into the Australian community under the doctrine in *Ex parte Walsh and Johnson,* (1925) 37 C.L.R. 36, cannot be prevented from returning to the home of his adoption.

My major criticism of the new edition is that it states problems but makes insufficient contribution to their solution. The "immigra-

tion-citizenship" difficulty is but one instance; another is the absence of any real analysis of the judgment of the Judicial Committee in the *Bank Nationalisation Case,* which in the opinion of many (including the judges of the High Court, if the differences of opinion in *McCarter v. Brodie,* (1950) 80 C.L.R. 432, are any guide) has not only added to the confusion surrounding sec. 92 of the Constitution but, in the desire not to shut the door on all forms of nationalisation, has suggested criteria which will not be easy to apply and which the High Court, in the past, has consistently rejected in its interpretation of the Constitution and of Acts of the Parliament. Minor criticisms are of the somewhat pedestrian style (perhaps inevitable in an author who has spent so many years in what has been irreverently described as the arid wastes of equity jurisdiction) which makes it at times a difficult work for the student to understand; and the deliberate avoidance of footnotes. The practice of including everything in the text has much to commend it where references can be reduced to the minimum and are so few and far between as not to interrupt the continuity of the text. But where there are a large number of case references printed in italics, it not only gives the page a very "spotted" and broken appearance but makes it more difficult for the reader to follow the argument.[1] I shall give only two examples (which unfortunately can be multiplied); the last paragraph on page 289 of the chapter dealing with the acquisition of property has six lines of text which are followed by eleven lines of references, all enclosed within brackets, before the text is resumed. The last paragraph on page 288 is even harder on the eye—and on the receptivity of the mind—where the three sentences of the text are interrupted by four parentheses and end with a fifth. My last criticism is of the occasional insertion of the ugly and unusual abbreviation (Cth.) after the titles of some federal Acts. There seems to be no rhyme nor reason in the selection of Acts which in the author's opinion require to be identified in this way; for example, page 30 refers to the *States Grants (Tax Reimbursement) Act* 1947 (Cth.) in a context where it could not be mistaken for anything but a federal Act; but page 161 refers to the *Surplus Revenue Act* 1908 *simpliciter* as modifying the constitutional provision for the pay-

1 Cf. the following passage (which was brought to my notice after the sentence was written) in Professor T. F. T. Plucknett's review of A. K. Kiralfy's *The Action on the Case,* in (1952) 15 Mod. Law Rev. 520—"No more effective way could be devised to render a book unreadable than to secrete the author's thought in the interstices of a crazy-paving of citations."

ment to the States of the surplus revenue of the Commonwealth. Others may regard these matters as superficial blemishes of no importance whatever; I can only say that in my opinion they do detract from what is otherwise a very valuable and informative commentary on the Constitution as it is, and a work which should, in its revised form, receive a very cordial welcome from those engaged in the teaching or practice of constitutional law not only in Australia but elsewhere, and from students approaching the subject for the first time.

The preparation of *Essays on the Australian Constitution* was inspired by the 1951 celebrations of fifty years of federalism which led to the assembling in Sydney of the most distinguished group of overseas judges and jurists that Australia has ever been privileged to entertain at the one time. The Legal Convention to which those guests were invited did not, in the opinion of many who attended it in a much humbler capacity, lay sufficient stress on the development of the Constitution itself; if that was a true bill, amends have been partly made by the publication of these *Essays*—but only partly, because it is unlikely that they will reach all of the visitors or even those who would have liked while here to hear Australian lawyers talking about what has happened in fifty years of federation in this country.

A group of essays to which ten different writers have contributed will inevitably show variations in method and approach, matters which are beyond the control of any editor unless he is prepared to be dictatorial and ruthless (which Mr. R. Else Mitchell, fortunately for the peace of mind of his collaborators if not for his own, never was). As Mr. Mitchell himself points out in the preface, which contains a condensed summary of the general trend of constitutional development, "This volume of essays . . . represents an endeavour to record some aspects of the progress of Australian federalism over the past half century." The attempt seems to have been highly successful—it being understood that this affirmation relates solely to the work of the other nine contributors. The opening essay, on "The Interpretation of the Constitution", could not have been in better hands than those of Sir John Latham; closely reasoned and dispassionate, it is illuminated by that clarity of expression which always made Sir John's judgments a pleasure to read—even on the infrequent occasions on which one completely disagreed with them! In the seventeen years in which he held with such distinction the office of Chief Justice of the High Court he always realised that it is not enough

to analyse and apply constitutional provisions, it is essential that there should be no doubt as to the significance and meaning of that analysis and application. Pronouncements made in 1950 may be quoted in 2000; what is now clear will so remain, but what is now obscure may easily cause endless—and dangerous—controversy in the future.

The most difficult tasks were given to Professor G. Sawer and to Mr. P. D. Phillips, Q.C., whose respective topics are "Judicial Power under the Constitution" and "Trade, Commerce and Intercourse." The tasks were difficult because of the maze of judicial decisions and dicta through which the authors had to wend their way; it would be surprising indeed if at times they did not appear to be completely lost. Both subjects suffer from the fact that some of the judicial pronouncements are so obscure as to be almost unintelligible. Perhaps it would be fairer to say that they are frequently unintelligible to those who are not endowed with sufficient native wit to be able to guess what is meant to be revealed by the pseudo-philosophical approach which appears to be regarded in certain parts of Australia as an adequate substitute for clear thinking and clear speaking. Professor Sawer, who for long lived in that rarefied intellectual atmosphere, now has his doubts; as, for example, when he declares (on page 89) in reference to the decision whether or not an *inter se* question is raised in a given case, that "although the body of rules thus established is reasonably clear, *the reasoning on which it is based is far from clear*" (my italics). His own attempt to clarify that reasoning has not carried conviction to my mind; I still remain unregenerately of the opinion that his statement should read that "the body of rules now established is still very obscure and inevitably so because the reasoning on which it is based is far from clear." Nor can I agree with his optimistic conclusion that "the practical effect . . . justifies the confidence of Alfred Deakin and his confreres that they had the better of Joseph Chamberlain during their historic joust in London in 1900." The original draft of sec. 74 certainly contained one ambiguous phrase, "unless the public interests of some part of Her Majesty's Dominions, other than the Commonwealth or a State, are involved." Apart from that, the section is crystal clear in prohibiting appeals on any constitutional issues whatever, and the delegates made no bones about it in their memorandum of 27th April 1900. The reply of the government of the United Kingdom of 4th May is, to put it bluntly, puerile; its bland assertion that "the excellent work which has been done by the Judicial Committee in deciding the

extremely difficult and delicate questions which arose between the Dominion and the Provinces of Canada is of itself a complete refutation of the idea that the Tribunal as at present constituted needs any defence" would not have been indorsed by many Canadian lawyers (or statesmen) even in 1900! If the delegates had succeeded in persuading Chamberlain to substitute "except by leave of the High Court" for the vague phrase about other interests, they could indeed have congratulated themselves on having got the better of him; they were obliged, however, by the Secretary of State for the Colonies and the law officers to accept a form of words which (a) has provoked "reasoning which is far from clear" as to what is and what is not an *inter se* question, and (b) has allowed the Judicial Committee to entertain appeals on other constitutional questions. The latter is probably the worst feature of the compromise; the Judicial Committee's contributions to the interpretation of the British North America Act and of the Commonwealth of Australia Constitution Act have rarely been such as to inspire gratitude or confidence. In any event, if errors of interpretation are inevitable, I prefer them to be made by a High Court which knows a very great deal about the working of a federal polity rather than by a distant Judicial Committee which all too patently and too frequently is seen to be floundering in strange waters.

There are most illuminating contributions on "The States and their Relations with the Commonwealth", "The Defence Power", "The Compulsory Acquisition Power", "Industrial Relations", and "The Commonwealth in International Affairs." It is not possible to discuss them in detail; but it would be ungracious not to refer to the courage of Mr. A. J. Hannan, Q.C., who contends, in his article on "Finance and Taxation", that the founders of the Constitution made a grave error in not permanently reserving certain sources of revenue to the States; Mr. Hannan himself suggests that the States should have been given exclusive power to impose income tax, or should have been guaranteed the full proceeds of customs and excise duties. The latter would surely have prevented the federal experiment from being made since New South Wales would never have agreed to such a bloated Braddon blot; though income tax did not loom large in colonial finances before 1900, without it the Commonwealth would have found it extremely difficult to pay its way in two major wars—and the attitude of some of the States towards uniform taxation in 1942 indicates the strength of the opposition that would have been raised against a constitutional amendment to allow the Common-

wealth to impose an income tax even if limited to the duration of a war. It is possible that the founders, in not attempting to reserve permanently to the States any specific source of revenue, built better than they knew and better than Mr. Hannan, even after two financially crippling wars, is now prepared to concede.

Federalism: An Australian Jubilee Study is the record of two "jubilee" seminars arranged by the Australian National University in 1951. The first dealt with the financial problems of federations; the second with the theoretical basis of federalism and the actual record of judicial review of the Commonwealth Constitution. Professor J. L. Montrose, of the Queen's University at Belfast, opened the first seminar with a paper on "Legal Aspects of Taxation and Grant under the Northern Ireland System of Devolution"; that system does not present a *federal* problem in the acute form which it has taken in Australia, but it does provide a number of analogies and contrasts valuable for comparative purposes to the economist, the political scientist, and the lawyer. Mr. H. P. Brown, of the Australian National University, and Professor W. A. Mackintosh of the Queen's University at Toronto then presented papers on "Federal-State Financial Relations" and "Federal Finance" respectively; these two papers set the Australian and Canadian problems, between which there is much more than a superficial resemblance, in their historical perspective, both authors agreeing (a) that in the two countries the central government has inevitably gained a dominating position, and (b) that there is no easy way of striking a Commonwealth-State (or dominion-province) balance which will be either permanent or acceptable. The subsequent discussions create the impression that the battle for "States' rights" has been irretrievably lost; even the most diehard champion of those rights failed to suggest any formula or guarantee which would not have to be promptly jettisoned in time of war (cold or hot).

The second seminar gave the political scientists and the constitutional lawyers their opportunity. Led by Professor K. C. Wheare of Oxford, who opened on "When Federal Government is Justifiable", it continued with a paper by Sir Douglas Copland, Vice-Chancellor of the Australian National University, on "The Impact of Federalism on Public Administration." On the second day Professor P. N. Partridge, then of Sydney but now of the Australian National University, discussed "The Politics of Federalism", with Professor G. Sawer, also of the Australian National University, concluding with his version of "The Record of Judicial Review." This varied fare gave the mixed

audience another opportunity to show that the political scientists and the constitutional lawyers can rarely agree—or that there is ever harmony within each group. In all the discussions no one had the temerity to suggest that our federal system is perfect; a few thought that it has outlived its purpose and should be replaced by unification, coupled of course with the usual chimeras of decentralised administration and increased powers of local government. At the other extreme were those who wanted federation to continue but in an altered form; but they never seemed to have a clear idea as to what that form should be. As to the part played by the High Court in interpreting and moulding the Constitution there was more agreement that the Court has, within the framework of the rules of construction that it has set up and, with substantial consistency, tried to follow, it has done well. A few of the iconoclasts among the lawyers thought that it might have done even better had it adopted the broader approach of the Supreme Court of the United States, and advocated a more searching analysis of the judicial process than has hitherto been made in Australia; but on the whole it was regarded as being in doubtful taste to challenge the omniscience of the immortals. The seminar ended, as it should, in an informal agreement to go on disagreeing.

These three publications, covering as they do the most important aspects of the contemporary functioning of the Commonwealth constitution, should command a wide circle of readers, who will undoubtedly be much better informed after making a careful study of them. Whether they will feel any more optimistic about the future of federalism in Australia is an entirely different matter.

F.R.B.

PUBLICATIONS RECEIVED

(Inclusion in this list neither guarantees nor precludes subsequent review).

Practice in Divorce (New South Wales). By W. K. S. MACKENZIE; 6th edition by Frank B. Treatt. E. H. St. John, B.A., LL.B., and D. L. Mahoney, B.A., LL.B. (Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. 1952. lvi and 597 and (index) 101 pp.).

Australian Mercantile Law. By R. KEITH YORSTON, B. Com., F.C.A., and EDWARD E. FORTESCUE, F.C.A. (Law Book

Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. 7th edition, 1952. xx and 534 and (index) 12 pp. £A1 15s.).

Pollock on Contracts. Thirteenth edition, by Sir PERCY H. WINFIELD, Q.C., LL.D. (Stevens & Sons, Ltd.: London. 1950. xliv and 579 and (index) 30 pp. Our copy from Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. £A3 3s. od.).

The Sale of Goods. By CLIVE M. SCHMITTHOF, LL.M., LL.D., Barrister-at-Law. (Stevens & Sons, Ltd.: London. 1951. xxviii and 251 and (index) 21 pp. Our copy from Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. £A2 9s. 6d.).

The Principles of Agency. By Professor H. G. HANBURY, D.C.L. (Stevens & Sons, Ltd.: London. 1952. xviii and 231 and (index) 5 pp. Our copy from Law Book Co. of Australasia Pty. Ltd.: Sydney, Melbourne, and Brisbane. £A1 14s. 6d.).