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Book Reviews

Charles Phillips

Clarence J. Ruddy

Frank A. McKinley

BOOK REVIEWS

CHURCH AND STATE IN MEXICO: 1822-1857. By Wilfrid Hardy Callcott, Associate Professor of History in the University of South Carolina. 1926. Durham, North Carolina: Duke University Press.

Manifestly, a vast amount of work has gone into the writing of this book. It is well planned, well written, and voluminously documented. As for its plan, it tells the story of the thirty-five years covered by its theme, directly, fluently and clearly; and it tells it in a pleasing and interesting manner. Its documentation testifies to laborious research not alone in published texts, but in original manuscripts.

The matter of the book is, of course, controversial. But on the whole the author appears to have attempted an impartial report—that is, within his limitations. Those limitations are at once regrettable, and common to non-Catholic historians treating of questions concerning the Church. They are limitations based in simple ignorance. Perhaps no better illustration of this ignorance can be given than that revealed in the following passage of Professor Callcott's work: "As in the case of the Spaniards, so the Indians were held in line through the collection of fees, the maintenance of schools and charitable institutions, *and the use of the confessional. The last named agency was especially effective in dealing with the ignorant and the illiterate. When it did not elicit the information desired. . .*" And again *"The fact that every good Catholic attended the confessional once a year and frequently oftener gave to the priest whip hand in many a difficult situation."* The italics are mine; but they are hardly necessary to call attention to the gross misapprehension of the confessional of which these words reveal our author to be guilty. Such blunders are, as I say, regrettable; regrettable in any case, and doubly so in the case of a writer who shows, generally, a disposition to be fair as well as an ability for thoroughness.

Given an author with such misconceptions as this, a certain amount of misrepresentation is inevitable. Of a Church that is believed to wield such a vicious power as a passage like that

implies, almost anything may be believed: such a Church is bound to be considered "an opponent of democracy", an enemy of progress, and so on. And as long as such beliefs are held by historians, the full true story of the Church in Mexico, or in any other land, cannot be told.

Nevertheless, Professor Callcott's work is a valuable one, and if the Catholic student must take exception to some of his dicta, the fact remains that we have here a clear and succinct account of certain matters that must be related in sequence to be at all understood. Some interesting points stand out when the story is told; the part played by the Freemasons, for example. In no other monograph on the problem of Church and State in Mexico have I found the history of the Masonic lodge in Mexico so clearly set forth in brief as here. Here we see how wholly and entirely political, and how at all times anti-Catholic, were the activities of the lodges in Mexico's early republican days. We see, too, alas, how faithless to their Faith were many Catholics, even at times in high Ecclesiastical place. There was more than one Judas in the Church there!

The part played by economic conditions is likewise made clear by Prof. Callcott. Revolutionaries ruin a country, and, instinctively it would seem, replenish their exhausted resources with stolen goods. The spoliation of the Church in Mexico has been, through the years, as it is today, a mere matter of robbery and banditry. Revolutionary conditions likewise produce a vast army of hungry office seekers. They very readily sell out.

Still another interesting point made by Prof. Callcott relates to the attitude and behaviour of the Americans in Mexico after the victory of General Scott. The United States government protected Church property where the native government would pillage it. The brief stay of the American forces in Mexico gave the Church at least a breathing spell.

Reading a book like this raises an old question in the mind of the Catholic critic: how truly Catholic is Mexico, anyway? It is a Catholic country, of course, and nothing else; and today there are signs, such as were never seen in Mexico before, of a real Catholic life; of a laity willing to suffer any loss but the loss of his Faith; an intelligent laity that knows why the Faith must be preserved; a laity that realizes that there can be no progress,

but on the contrary only ruin, moral and material, if the democratic philosophy of Catholicism be abrogated in favor of the crushing stateolatry of secretarianism. Mexico has at least the beginning of such a Catholic life and such a Catholic laity today. But when we look back in the records of a country which, for instance, had at one time six dioceses without bishops (Chiapas was once without a bishop for nine years); vast areas without priest or teacher or leader of any kind: then we can understand why many strange things happened. Also, we can understand what will happen again if rulers like Calles are to prevail, wiping the Church completely out of existence.

There are a few textual errors in Prof. Callcott's book; Jalisco, for example, (p. 77) is not "the State of Guadalajara". And the author's bibliography might have been extended to the reading of a modern Catholic authority like Cuevas. But on the whole, with such faults as I have indicated, faults which the discriminating reader cannot pass over, the work is interesting, valuable and timely.

CHARLES PHILLIPS

Department of English,
University of Notre Dame.

THE VANISHING RIGHTS OF THE STATES. By James M. Beck, LL. D., Former Solicitor General of the United States. New York: George H. Doran Company. pp. 132.

To those Americans whose most paraded virtue is patriotism, but whose most conspicuous trait is apathy, Mr. Beck's little book must come as a distinct shock. For a number of years American citizens, secure in the belief that governments cannot err, have condoned subtle infringements on State's Rights by Federal Power. The pretty phrase "the greatest good for the greatest number" has been adopted as a motto by zealots for reform, who have by its artful use defended what otherwise would be considered unjustifiable extensions of centralized authority. Citizens, busy with personal affairs, do not understand that each arrogation of the Federal Government is an undermining of the Constitution, do not realize that there are some things which even legislators can not do. It remained for Mr. Beck to point out the consequences of what we are permitting, the implications of what we have condoned.

"The Vanishing Rights of the States"—an apt title, by the way—was prompted by the recent Senatorial investigations of campaign expenditures made by Messrs. Vare and Smith, Senators-elect of Pennsylvania and Illinois, respectively. Both men had been elected after disclosures had been made; the electorate had voted with a knowledge of all the premises. All of the Constitutional qualifications had been complied with, the elections had been due and proper, and the majority obtained by each was undisputed. Yet the Senate was not satisfied. An investigation was begun, is in fact still pending. The question now is, simply, is this investigation justified? Public opinion seems to indicate that it is, that huge campaign expenditures are sufficient to vitiate elections otherwise valid. The Constitution, on the other hand, expressly limits investigations to inquiries based upon evidence of nonage, insufficient residence, or lack of citizenship. Which is to prevail—public opinion or the Constitution?

Mr. Beck demonstrates with a lucid style, pertinent citations, convincing language and irrefutable logic, that a permission of such investigations is an absolute negation of principles hitherto considered sacred to worshippers of the American system of government. If the Senate is to be the final judge of the qualifications of its members, irrespective of Constitutional restraints, why go to the bother of having elections at all? Why allow the people to vote for their choice, if their decision is to be subject to Senatorial veto? Now men are barred by the Senate because money has been spent in campaigns; later they will be barred because their ideas do not correspond with those held by a majority of the legislators. Heretofore the Constitution has restrained the Senate from tampering with problems properly belonging to the electorate; now restrictive clauses are to be swept aside to permit remarkable extensions of legislative power. Although the Constitution declares that the electorate is the proper judge of political qualifications, the Senate says no. Query: of what use is a written Constitution if it can be abrogated at pleasure? Here is a grave problem indeed, adequately discussed by Mr. Beck.

Every political demagogue and every political scientist should read this volume. It is an object-lesson for the former, an encouragement to the latter. C. J. R.

COMMERCIAL ARBITRATION. Compiled and edited by Daniel Bloomfield. New York: The H. W. Wilson Company. 1927.

This is a very comprehensive handbook on commercial arbitration. It promulgates the idea that arbitration is a necessary expedient, arising from the incompetency of our courts and the complexities of modern business.

Incompetency of our courts is attributable to their sluggish condition and ineptness of the jury system. As soon as litigation is fired it becomes a 'watched pot', which in months or years to come finally boils out a decision. Important cases are invariably appealed, thus furthering delay and adding to the bombastic ritual. The most patent defect of our courts in settling commercial disputes is the jury system. The average juror's mentality is notoriously low; he has little or no conception of commercial customs, consequently must be instructed on the trade itself, its vernacular and practices. He must thoroughly digest this knowledge and be prepared to disentangle a maze of facts and arrive at a logical conclusion. The futility of this procedure is realized and an appeal is made not to his reason, but to his emotions. The complexities of modern business have rendered the judicial system inadequate. It can do justice to neither itself nor the disputants. Arbitration, on the other hand, presents itself as the legal panacea of commerce; its efficacy is based on being able to settle controversies, quickly and wisely.

Arbitration may be defined as: a hearing and determination of a cause between parties in controversy by a tribunal selected by them *(Dureen v. Getchell* 55 Mo. 241, 247) or in its broad sense it is a substitution by consent of parties, of another tribunal for the tribunals contradistinguished from a regularly organized court proceeding according to the course of the common law, depending upon the voluntary act of the parties disputant in the selection of judges. Its object is the final disposition, in a speedy and inexpensive way, of the matters involved, so that they may not become the subject of future litigation between the parties (5 C. J. 16).

Jurisprudence recognizes three kinds of arbitration: 1, where the mater in dispute is submitted by the parties to mutually chosen arbitrators, in the absence of, or in spite of, statutory provisions; 2, where a specific statute gives the parties to a dis-

pute authority to submit the case to arbitrators and have the submission entered as a rule of court and the award enforced ,or entered as a judgment of a designated court; 3, where a court sends a matter pending before it to arbitrators, with the consent of the parties, the arbitrators either being chosen by the court or by the parties.

There can be no arbitration of a dispute unless there is a submission of the matter to arbitration. By 'submission' is meant: a contract between two or more parties, whereby they agree to refer the subject in dispute to others, and to be bound by the award of the latter. The arbitrators are selected by the parties or, at their request, may be appointed by any organization designated by them or, upon proper application, by a court having competent jurisdiction. The time and place of the hearing are then set, with due regard to the convenience of the disputants and the arbitrators.

The arbitrators, before the hearing begins, must sign an oath to hear and examine faithfully and fairly the matters in controversy and to make an award that will be just, according to their understanding and interpretation of the evidence, unless the parties expressly waive this requirement in writing.

Each disputant submits at the hearing such evidence as may be deemed essential, with or without the assistance of counsel and without adhering to the rules of evidence or other procedural technicalities. The arbitrators may require all persons testifying to be sworn, but oath can be waived by mutual consent. The award is enforceable in courts, unless there is evident miscalculation of figures, mistake of person or any imperfection of form; such errors are corrected accordingly.

Those opposed to arbitration contend that law courts are the best tribunals for enforcement of rights, because they invite confidence and respect and the judges have the faculty of grasping facts rapidly, of appreciating their relative significance and of drawing correct inferences from them with logical precision. Furthermore, an important disadvantage of arbitration is that the cases are not reported and one decision is no precedent for another.

The book contains a foreword by Will H. Hays and an excellent bibliography.

F. A. McK.

LAW PROBLEMS AND SOLUTIONS. Henry Winthrop Ballantine, editor. pp. 1110. St. Paul: West Publishing Company. 1927.

The ambition of the majority of law students is to practice law. As a condition to admission to the bar, however, all States except Indiana require that applicants pass a State examination covering practically every branch of the law. The questions are technical, and are designed to test the candidates' knowledge of law and their ability to reason logically; they deal with specific problems and not with abstract generalities. Since a correct answer can be given to any question only by close reasoning, it is imperative that a candidate enter the examination room with a clear idea of every department of law. Since in all schools the law course extends over a period of three years, it is quite possible that the student has forgotten various rules learned during the first part of the course. To refresh his memory on obscure points a review is essential. And that his review may be of any benefit, it must be systematic. But how arrange a systematic review? Law quizzers with their categorical answers but no reasons, afford little help; and it is almost an impossible feat to read through all the texts and case books which have been used in class.

Ballantine's Law Problems with Solutions is an excellent book to use for a systematic review of the law. The volume considers thirty-five law topics in question and answer form. The questions are of such a nature as are asked on the bar examination, and the answers given are clear, concise, and proved by legal reasons. Annotations are appended to every problem, thus affording opportunity for further research on troublesome points. That a student may satisfy himself on the law of his own State, the Key-Number Method of Annotations is used throughout, enabling him to reach local cases with the Digests.

Law students nearing the end of their course, looking forward with trepidation to the inevitable bar examination, will bless Professor Ballantine.

C. J. R.

Announcement

The Notre Dame Lawyer will pay thirty five cents for each copy of the February, 1926 issue (Volume I, Number 4) available.