

1937

## Books Received

Follow this and additional works at: <https://ir.lawnet.fordham.edu/flr>



Part of the [Law Commons](#)

---

### Recommended Citation

*Books Received*, 6 Fordham L. Rev. 354 (1937).

Available at: <https://ir.lawnet.fordham.edu/flr/vol6/iss2/11>

This Article is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Fordham Law Review by an authorized editor of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact [tmelnick@law.fordham.edu](mailto:tmelnick@law.fordham.edu).

## BOOK NOTES

JUSTICE OLIVER WENDELL HOLMES. *His Book Notices and Uncollected Papers*. By Henry C. Shriver. New York: Central Book Co. 1936. pp. xiii, 280. \$3.00.

This book, which is very fittingly introduced by Mr. Justice Stone, constitutes an invaluable addition to the extant works of the late Mr. Justice Holmes which have already appeared in collected form.

It is composed of "the old master's" book notices which he prepared as a young lawyer and as editor of the *American Law Review*, and a few of the "fugitive pieces" which he liked to refer to as "little fragments of my fleece that I have left upon the hedges of life" and which have not been heretofore collectively grouped within the covers of one book. Finally, his letters to Dr. John C. H. Wu. The first of this series was written when Dr. Wu was a young law student; the last, in 1932, when his reputation as a legal philosopher and scholar was more universally established.

In all these writings the vigor and spark of Justice Holmes' intellect are evidenced—his critical powers of analysis, his refreshing sense of humor and his kindness and understanding in advising the eager and competent mind of the young student which had been so thoroughly captivated by him. The form and style of expression is sufficient justification for reading much of what Justice Holmes wrote. It occasions wonderment that a mind so keen, so well advised and so thoroughly developed should conclude that, "our ultimates such as good and bad . . . bear marks of the human and finite;" and that "a century ago Malthus ran his sword through fallacies that one would have thought must die then and there." But one need not always agree with Justice Holmes to love him. The simplicity of his "bow to the inevitable"<sup>1</sup> is truly characteristic. He must indeed feel, though perhaps selfishly, a pang of regret that one so tried and proven should be called from our midst. But the grief is tempered by the realization that we are the beneficiaries of his vigorous philosophy and that it is a potent and living influence in the shaping of new legal and social concepts. We need do no more, to appreciate the significance of this statement, than to contrast the powerful dissenting opinion of Mr. Justice Holmes in *Adkins v. Children's Hospital*<sup>2</sup> with the majority opinion of the United States Supreme Court in *West Coast Hotel Co. v. Parish*.<sup>3</sup> His admonition that "Life is a roar of bargain and battle; but in the very heart of it there rises a mystic spiritual tone that gives meaning to the whole and transmutes the dull details into romance" remains and inspires us to live and do.

The editor has not spared effort to make the subject matter of the notices (often the texts of political and legal philosophers) intelligible to the student and conducive to the development of his interest and powers of research by means of well developed footnotes and an adequate bibliography. In the light of this a sketchy index is forgiveable.

THE FORMS OF ACTION AT COMMON LAW. A Course of Lectures by F. W. Maitland. Edited by A. H. Chaytor and W. J. Whittaker. Cambridge: At the University Press; New York: The Macmillan Co. pp. xi, 92. 1936. \$1.25.

The subject of this little book is not new to either lawyer or student. It is composed of a series of lectures by the late Professor Maitland which were

---

1. P. 146.

2. 261 U. S. 524, 567 (1923).

3. U. S. L. WEEK, Mar. 30, 1937, p. 8, col. 3.

published posthumously and for the first time in 1909 as a part of the well known "Maitland's Equity." The editors have deemed it advisable to publish these lectures in this separate and inexpensive volume in order that they may be more readily available to students. The idea is splendid. One must look far indeed to find a greater master in this all too neglected and very important fundamental field than Professor Maitland. The task of annotating the volume has been intentionally avoided and no index has been prepared. The presence of both these elements would constitute a valuable additional aid to the student despite an aptly arranged and adequate Table of Contents.

THE SUPREME COURT AND POLITICAL QUESTIONS. By Charles Gordon Post, Jr. Baltimore: The Johns Hopkins Press. 1936. pp. 145. \$1.25.

This booklet is one of a series of the Johns Hopkins University Studies in Historical and Political Science. Under two headings, to wit: "Classification and Analysis of Some Cases Involving 'Political Questions'" and "'Political Questions' as a Category" the author wrestles in quite thorough fashion with cases from which he seeks to derive an answer to the two questions which he propounds in his "Introduction," namely: (1) What causes a jurist to place a particular problem in the category of "political question"?, (2) What are the consequences resulting from the United States Supreme Court's placing a particular problem in this category? In his conclusion, Dr. Post presents, as part of the fruit of his labor and as his answer to the first question mentioned above, that it is "more *expedient* (italics supplied) to leave the decision of certain questions (arising in the field of constitutional law) to governmental bodies more appropriately adapted to decide them," and ". . . where *necessity* (italics supplied) requires the concentration of a decision in the political departments, the court will find a useful category in the doctrine of political questions." The author's answer to the second question also is best stated in his own words, ". . . it (the court) disclaims all jurisdiction and authority over the question and accepts the decision of the political departments. . . ." The text is supplemented by a bibliography of primary and secondary sources, a table of cases and an index.

#### BOOKS RECEIVED

*A number of the books listed below will be reviewed in the November issue of the FORDHAM LAW REVIEW.*

ART AND PRUDENCE. By Mortimer J. Adler. New York: Longmans, Green and Co. 1937. pp. xiv, 686. \$5.00.

CASES ON TRADE REGULATION. By S. Chesterfield Oppenheim. St. Paul: West Publishing Co. 1936. pp. lii, 1518. \$6.50.

EUGENICAL STERILIZATION. By the Committee of the American Neurological Association for the Investigation of Eugenical Sterilization. New York: The Macmillan Co. 1936. pp. 211. \$3.00.

HANDBOOK OF THE LAW OF WILLS. By Thomas E. Atkinson. St. Paul: West Publishing Co. 1937. pp. xiii, 916. \$5.00.

PRINCIPLES OF CONFLICT OF LAWS. By George W. Stumberg. Chicago: The Foundation Press, Inc. 1937. pp. xl, 441. \$5.00.

REDUCING REALTY TAXES. By Henry M. Powell. New York: Boyd Press. pp. v, 442; 1937 Supplement. pp. iii, 132. \$7.00.

SEPARATION AGREEMENTS AND ANTE-NUPTIAL CONTRACTS. By Alexander Lindey. Albany: Matthew Bender & Co. 1937. pp. xv, 764. \$10.00.

TRADE MARK PROTECTION AND UNFAIR TRADING. By Walter J. Derenberg. Albany: Matthew Bender & Co., 1936. pp. xiii, 1162. \$20.00.