

NEW BOOKS

THE PROBLEM OF PROOF, especially as exemplified in Disputed Document Trials. By Albert S. Osborn, Author of *Questioned Documents*. New York and Albany. Matthew Bender & Company, 1922.

This is a very interesting and important work by a man who is undoubtedly competent to deal with the subject.

Mr. Osborn has enjoyed for many years the highest reputation in the United States and Canada as an examiner of disputed documents. His opinions may not always be right (I have never found them wrong), but his integrity is undoubted. We are all familiar with the classification of liars:—"the liar, the infernal liar, and the expert witness." In this book it is shown that expert evidence of the best kind in cases of disputed documents is not really opinion-evidence depending on the capacity and integrity of the witness, but is a demonstration that every judge and jurymen can and should understand.

The author is not too severe on the idiotic rule in our law that anyone who has ever seen another write, no matter how long before, is allowed to give evidence of his opinion as to whether that other did or did not write a document in dispute. This, however, is a small part of his theme. Mr. Osborn's advice should be read and studied by all young barristers. He makes no pretence to assist to win a case in the teeth of the facts; his purpose is "to help the just cause towards success, and to make it more difficult for the evil cause to win."

The book from beginning to end teems with truths which should be self-evident, but which are too often disregarded, even if they are known: "Many lawyers are unaware how thoroughly other lawyers prepare their cases." "Success with the trial lawyer (i. e. the barrister) depends not only on his knowledge of laws but on his knowledge of men and of facts." "Some of the most useful cross-examination in the practice of the law is that of a lawyer's own witnesses before trial in the seclusion of his own office." (Of course, this must not degenerate into the dishonest practice of "ripening the witnesses.") "Cases are not won by tepid and uncertain testimony, presented in a mild and apologetic manner." "In addition to giving testimony fully and accurately, it is important that a witness give it in such a manner that it will be believed." "It is of course not proper for the lawyer to instruct the witness as to the facts of the evidence he is to give, but it is not only proper but highly important that as far as possible he assist the witness in securing the most desirable tone, emphasis and order of presentation of testimony." (I have sometimes said that not only should a witness try to tell the truth, but he should also try to make the truth tell.) "The highest qualification of a witness is, of course, the ability to convince those who listen to his testimony." "There need be no fear of cross-examination if the truth is told, and the witness knows what he says: one may dread the ordeal but not the result."

All cross-examination is not useful (it has often been said that some counsel imagine that to cross-examine means to examine crossly). "The skilful cross-examiner keeps an examination confined to a definite line of enquiry. By following the Socratic method, cross-examination can be conducted so that nearly every question must be answered 'Yes' or 'No' . . . If a lawyer has never read the Dialogues of Plato, he will do well to discontinue reading law reports and everything else until he has read some of them. A thorough study of these immortal dialogues will help a trial attorney in every case he tries."

"The first requirements of the great lawyer are a good working conscience and a strong personality." (How often is it supposed that the first requirement of the lawyer is an easy-going conscience—and how utterly wrong is this supposition!) "There is no doubt that one of the qualities of the great lawyer is that of being a gentleman." "Industry and thoroughness are in many instances more than a match for brilliant but careless and lazy genius."

"It is hardly necessary to call attention to the fact that one of the most forceful influences in the process of persuading is the known character and reputation of the one who seeks to persuade." (Nay, I would say that it is necessary to call the attention of the law student and young practitioner again and again to the fact that character tells in advocacy as in all things else).

The chapter on Advocacy is one of the most valuable contributions to legal literature. I agree with Dean Wigmore that "It should be read aloud every year before every law class." The summary at the end is excellent. "The great trial lawyer . . . must have sympathy, tact and courtesy, and must know men and their ways. He must be able to control his temper and maintain his poise under trying circumstances; and it will steady him and keep him sane if he has a sense of humor, which, however, he can hold in proper subjection. Finally, he must know the law."

Most of the principles enumerated by Mr. Osborn I have learned by experience. Many an hour of perplexity, disappointment, regret and heart-break would have been obviated had I had such a book half a century ago, and I hope that many of my fellow lawyers will save themselves from a like experience by availing themselves of the experience and wisdom of this author.

WILLIAM RENWICK RIDDELL.

TOWARD THE SUNRISING, and Other Sermons. By Thomas Stewart, D. D. With a Biographical Sketch by George S. Carson, D. D. McClelland and Stewart. Toronto. 1923.

This volume, so attractive in appearance, will be welcomed as a precious memorial by all who came under the spell of Dr. Stewart's lovable personality. Others, who have not been so fortunate, will prize the sermons for their intrinsic merit. The greatness of the themes, the clear, terse, forceful style, the wealth of apt illustrations including many choice poetic gems, combine to interest and instruct and inspire. The sermons were written in the course of ordinary pulpit work. In

selecting these, the editors' task must have been uncommonly difficult. They are to be congratulated on the happy issue of their labours, and every reader will hasten to acknowledge his indebtedness to them. Nevertheless, it must be confessed that all whose privilege it was to hear the preacher from time to time miss many a sermon they fain would see included. In the nature of things, selection has its limits.

Dr. Stewart's thought dwelt habitually upon the highlands. The first sermon is entitled "Toward the Sunrising." It spreads the broad pinions of a strong Christian imagination, and soars grandly upward. As one turns the pages, one perceives no weakening, for the preacher chose high themes and dealt with them worthily. Among other titles are: "Heart Searching"; "The Guarantee of Victory"; "Temptation"; "Easter"; "Consecration"; "The Breaking of the Light." The sermons grip the throbbing facts of everyday life firmly. They are robustly theological, but this is theology with its strong arm under the needs and struggles and aspirations of men.

Dr. Stewart's sympathies go out toward youth through its stressful time. Take this from "Trafalgar Day":

Christianity has no word of condemnation for athletics. It would consecrate them. The football field, the tennis lawn, the quoit court, the lake, the golf links, may all have their place in the fitting of the instrument, and therefore in the service of God.

Then, illustrated by a well selected poetical quotation, follows the statement of the principle which should guide; and, later, this:

I am well aware that the statement of this principle might greatly change the common idea and practice of athletics. Is there not need? When athletics consists of a few men, distinguished for speed or muscle, going into a field and being made a show for a crowd of others who sit on a fence or a grand-stand looking on, is there not need for a change?

Directness adorns the sentences. There is scarcely a possibility at any time of mistaking the preacher's meaning. Near the beginning of "An Old Story Re-interpreted," occur these words:

If you insist on a literal interpretation of the story, you must believe—or persuade yourself that you believe—some things nobody really believes.

The sermon on "The Return of the Ransomed" closes thus:

Two ways, right hand and left. Two sides at the Judgment, right hand and left. Two sides to the door, inside and out. And to all eternity it shall be well or ill with us according as we accept and acknowledge Jesus, or ignore and deny Him. The only way of deliverance is through ransom.

As the apt title, "Toward the Sunrising," indicates, the whole volume is radiant with Christian optimism. From "The Guarantee of Victory" take this:

This world has been wet with the blood of Incarnate God.

The very life of the Eternal is pledged to man's redemption. We might imagine that in some dark day, when faith fell dim, when the hosts of hell had won real though transient success, God might withdraw from the conflict, and—loosing—let rebellious mankind perish, *before* He made the great sacrifice. . . . but never since. The earthly life of humiliation, the death of sorrow and shame endured by Jesus, made it for ever impossible that evil should permanently triumph.

Here, doubtless, is one source of Dr. Stewart's enthusiasm for Missions. Missionary facts and figures seemed to be his dearest hobby. And, most fittingly, the book closes with a noble missionary sermon entitled "The Breaking of the Light."

All readers, and especially Dr. Stewart's personal friends, will be deeply grateful to Dr. G. S. Carson for the brief but comprehensive memoir with which the volume is prefaced. None other could have done this so well. It is the loving tribute of over forty years' intimate friendship. The insertion of a fine likeness was a thoughtful act on the part of the publishers. For this, as well as for the very attractive dress in which they have been careful to present these excellent sermons, we must all thank them. As a memorial of a beloved Christian leader, as an example of preaching that grips the modern mind, as a revelation of a rarely beautiful soul, this is a book to own.

DONALD MACODRUM.

PLAYS OF NEAR AND FAR (including IF). By Lord Dunsany. G. F. Putman: Putman's Sons, London and New York. 1923.

In this, his most recent volume of plays, Lord Dunsany exhibits all those characteristics which have rendered his previous work so rare and so fascinating. There is no lack at present of story-writers and dramatists who can deal skilfully with the complex and often dangerous problems of our modern civilization; but few indeed can wield the magic wand that shall usher us into fairy-land, or show us the fantastic or ironic aspects of our everyday world. And Lord Dunsany is none the less a truthful artist in that he is a writer of imagination all compact. In his preface, while protesting against the idea that his dramas are allegorical, he says in relation to one of them, "Though there is no such land as the Golden Isles and was never any such king as Hamaran, yet all we write with sincerity is true, for we can reflect nothing that we have not seen, and this we interpret with our idiosyncracies when we attempt any form of art."

Of the plays in the present volume the first and longest, "If," has already appeared both on the stage and in book form. "The Flight of the Queen" is a wonderfully vivid dramatization of the life of the bees. "A Good Bargain"—the story of a saint who finds his halo "too heavy"—is very pretty, and full of a kindly though somewhat mischievous humour. But perhaps the most charming of this group of plays is "If Shakespeare Lived To-day:" short and slight though it is, it reaches perfection in its brilliant wit and biting though delicate satire.

E. R.

THE INTERPRETERS. By "A. E." Macmillan and Co. London. 1922.

For many years the writer who signs himself "A. E." has been known to all lovers of poetry as the author of lyrics possessing rare beauty and inspired by a highly imaginative mysticism. That the poet has figured prominently in the stormy drama of Irish politics is an interesting and significant fact. The volume before us explains to some extent this conjunction. It is his mystical idealism which forms the bond between the poet and the politician, and this it is which informs alike his verse and his conception of statecraft.

The scheme of the book is exceedingly simple. Under the thinnest of veils we detect a picture of the ideals and persons, as the author views them, of Sinn Fein at the earlier stages of its activity. A group of young men, fighting for a nation which is asserting its right to freedom against a great world Empire, are taken prisoners, and spend the last night of their lives conversing on their beliefs and ideals and the way these should influence political and social action. In the words of the author;—"Those who take part in the symposium suppose of the universe that it is a spiritual being, and they enquire what relation the politics of Time may have to the politics of Eternity." There is much that is beautiful, and not a little that is thought-provoking, in this imagined conversation. It is natural to compare any philosophical dialogues of real value with those of Plato, but if A. E. gives us something of the lofty diction and beauty of thought of the *Phaedrus* and the *Symposium*, we miss the dramatic characterization and still more the saving touches of humour of the great Athenian. A. E.'s interlocutors, though probably suggested by actual figures; are all stamped with the image of their maker, and they remain somewhat dreamlike and unreal. Though St. Paul is quoted on the title-page, the mysticism which dominates the philosophy of the book is not Christian; rather it is akin to the pantheism of the Neo-Platonists, and to the present writer it is not quite clear how political science can be brought into fruitful relation with this. None the less we have here an interesting and suggestive book.

E. R.

THE BRITISH EMPIRE AND WORLD PEACE. Being the Burwash Memorial Lectures delivered in Convocation Hall, University of Toronto, November, 1921, by the Hon. Newton W. Rowell. Victoria College Press, Toronto. 1922.

The purpose of these lectures is so laudable, and they are written with such enthusiasm and in such good spirit that they win the reader even when on particular points he is not convinced. To an American the book containing these lectures comes as an ambassador. It performs just that function—to interpret the real Briton and the real Canadian to the real American—which Mr. Rowell urges as a purpose of a Canadian Minister at Washington. This is the effect of Parts II

and III, which deal respectively with the relation to world peace of the British Empire in general and of Canada in particular. The British Commonwealth, still officially an Empire, is of so recent birth that it needs to be explained in almost as great detail for a Canadian as for an American audience. Thus the book appropriately leaps the national boundaries.

From the thesis that "the greatest force making for stability and security throughout the world is the Britannic Commonwealth" there can be no dissent. This we admit, not because the peoples under British dominion are more enlightened, more able, or more disinterested than those of other great States. They do not subscribe to the doctrines of international peace more sincerely than do many others. But the thesis is true, first, because of the extent and geographical distribution of the component parts of the Empire; second, because the respective governments have hit upon a plan of Commonwealth organization which—flying in the face of political theory—seems to work in practice; and third, because (and this is why the commonwealth plan "works") it has thus far been thought to be the interest of the respective dominions to seek stability and security within the Commonwealth.

Mr. Rowell, in Part I, dealing with international co-operation and world peace, briefly summarizes a few former proposals for world organization, describes the present League of Nations, and recounts its achievements. This material, as well as Chapter I, is introductory to the body of the book (Parts II and III) on the British Empire and Canada. The present reviewer, believing in the League of Nations, and being convinced also of the great rôle which the British Empire has played and is destined to play, nevertheless laid down the book when he had finished Part III with the feeling that the League of Nations had been unfavourably compared with the "British League of Nations" (the Britannic Commonwealth). This the author did not mean to do, for he sincerely believes in both these Leagues. The world, he knows, is in fact confronted with a problem more difficult than that which confronts the British Empire, and the plan of the British Commonwealth could not be applied to it. While it is true that "the inhabitants of the Britannic Commonwealth enjoy all the blessings of peace which the *imperium* of Rome conferred upon an unsettled world", it must be remembered that Rome was followed by a Holy Roman Empire which succumbed to the growth of Nationalism. The British Commonwealth plan, applied to the world, would create another Holy Empire.

Nothing is clearer than that the Commonwealth plan came into being by the growth of national spirit in the dominions of the Empire. Nationalism throughout the world has been increased rather than diminished by the World War. And so, without the British Empire even more than within it, this fact must be taken into account in plans for world peace. Mr. Rowell begins with the statement that "the Nation-State is no longer an adequate form of political organization to meet the needs of human society." He would have better prepared for his main thesis by saying that the war and post-war history show how only by full recognition of the Nation-State both within and without the British Commonwealth can international organization and international co-operation be realized. He says that "force is no longer

a sane or practicable method of permanently settling disputes between nations"; but he might have added that force is still the *ultimate* sanction for all national governments, federated States, and international organizations.

The reviewer does not wish to be captious in presenting this point, but he does so because it appears that the real lesson of the recent history of the British Empire in relation to world peace is otherwise lost. There can be international co-operation only when the Nation-State is fully recognized. Herein lies the significance of Part IV of this book, dealing with The Church and World Peace. Much of this part belongs logically to Part I, on International Co-operation, but the author is undoubtedly right when he seeks the basis in morality and an ethical sense. If to these can be added the knowledge that true self-seeking in national interests will ultimately coincide with international morality, then all other Nation-States as well as those developed within the Empire will forego insistence on national rights and become observant of international duties.

It should be added that Mr. Rowell's book is exceedingly well written, that it shows a statesmanlike grasp of Empire affairs, and that in regard to world matters it is consistently touched by an attractive idealism.

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