

One final query, however, should be raised. This book is distinctly modern in its recognition of the unassimilated character of our foreign population, and the heterogeneity of the American people. (Anti-restrictionists used to base their arguments on the claim that immigrants were all quickly assimilated.) Its author is continually telling what "we" must do to meet this complicated situation. The question is, who are "we"? Who is to take all this thought, and make all this sacrifice, and devise and put into operation all these intricate measures of social amelioration? Is it the remnant of the genuine old American stock? That is, after all, only a minor element, and in a democracy minorities have very limited powers. Or does "we" refer to the entire American body politic, that composite and heterogeneous aggregation which Miss Abbott so clearly recognizes. If so, how can it be expected that such a body can possibly initiate and keep in efficient operation a social program which could hope for success only on the basis of a closely unified and harmonious electorate? The more the situation is complicated and the more the evils are aggravated by continued immigration, the more impossible will it become to apply the remedies which Miss Abbott prescribes.

HENRY PRATT FAIRCHILD.

Yale University.



STANDARDS OF AMERICAN LEGISLATION.

By Ernst Freund. Chicago: University of Chicago Press. Pp. 327. \$1.50.

In this volume the author undertakes a search for a "system of positive principles that should guide and control the making of statutes, and give a more definite meaning and content to the concept of due process of law." On the approach to his main task he reviews the notions of public policy that have influenced the development of the common law, he follows "the main currents of state constitutional provisions" to determine to what extent "our constitutional law performs the function of controlling statutory

legislation" (chapter IV), and he considers the judicial doctrines which have influenced or controlled the interpretation and application of these constitutional provisions. Chapter I is entitled "Historic Changes of Policy and the Modern Concept of Social Legislation." Its subdivisions have the captions (1) the right of personality, (2) freedom of thought, (3) the repression of unthrift and dissipation, (4) the promotion of public health and safety, and (5) the growth of social legislation. Chapter III on "The Tasks and Hazards of Legislation" considers "legislation and the vagueness of common law standards," "the problem of dealing with apprehended tendencies and conjectural dangers," and "the problem of contested and unmaturing standards." As the author states in his preface, the book is "an essay of constructive criticism, and not a systematic treatise." The chapters referred to, however, are replete with information on the historical development of social control of individual action through common law and legislation, and the difficulties which have attended the process by reason both of inevitable practical considerations and of the American expedient of subjecting legislation to judicial control.

In the two final chapters of the book, the author outlines his conception of sound principles of legislation. What he means by principle is thus set forth:

"Principle as applied to legislation, in the jurisprudential sense of the term, thus does not form a sharp contrast to either constitutional requirement or policy, for it may be found in both; but it rises above both as being an ideal attribute demanded by the claim of statute law to be respected as a rational ordering of human affairs; it may be a proposition of logic, of justice or of compelling expediency; in any event it is something that in the long run will tend to enforce itself by reason of its inherent fitness, or, if ignored, will produce irritation, disturbance and failure of policy" (page 218).

What Mr. Freund really does is to give a lot of horse-sense suggestions about the best way to make good law by legislation. But he is not content to let his suggestions

appear in their naked horse sense. He clothes them in such phrases as "standardization of juristic data," "correlation of provisions," and "conformity to scientific laws." Many readers may wish that the author had put his suggestions in the form of a practical primer and not sought to be philosophical. But the form cannot detract from the merits of the substance. Mr. Freund has given us a wealth of wise observations on the subject with which he deals.

THOMAS REED POWELL.

Columbia University.



THE PUBLIC DEFENDER. By Mayer C. Goldman, of the New York Bar. New York: G. P. Putnam's Sons. Pp. 96. \$1.

The author of this short text succinctly and aptly states the point of his case in the secondary title, "A Necessary Factor in the Administration of Justice." Mr. Goldman's present contribution is essentially an argument. Were it not for possible resulting prejudice it could well be described as "propaganda" in its nature. Because of this public connotation it is better to put the aim of the book in the author's own words, "to spread the gospel of this idea." This is more fair, for the cause is meritorious and its presentation is most forceful. The subject matter and its treatment presents a clear-cut issue, its history, nature and necessity.

The author's development of his theme is an illustration of all roads leading to Rome. First the idea itself of a public defender is affirmatively explained and analyzed. The present system is next weighed and found wanting, particularly the "assigned counsel" procedure and the desire-for-conviction-spirit which so often pervades the district attorney's office. The panacea suggested is a public defender. Then attention is given to those opposed to the idea, their objections taken in turn and convincingly answered; their suggested remedies analyzed and shown to be inadequate. Again the argument calls for the adoption of the public defender plan. With particular clearness and

strength of appeal the author shows the necessity for safeguarding the rights of the poor in cases other than murder and manslaughter. Though these other crimes are less heinous in degree, the principles of justice and desire for accuracy should run fully as strong. Herein does it seem that those opposed to the proposed office fail to make satisfactory refutation.

An excellent foreword is contributed by Justice Howard of the New York supreme court and a former district attorney. He well sums up the book as containing arguments that are "convincing and unanswered."

This work is claimed as the first book on the subject. Articles, however, can be referred to, the practical operation being particularly set forth by the present public defender of Los Angeles county, California; "Necessity for Public Defender Established by Statistics," W. J. Wood; *Journal of Criminal Law and Criminology*, July, 1916, p. 230; *Id.*, p. 274, a short layman contribution by Francis Savona of New York City. See also "Public Defender," a partial report for the period from February 15 to May 15, 1916 (*City Bulletin* of Columbus, May 20, 1916, p. 281).

EDWIN A. LUCAS.

University of Pennsylvania.



LANDSCAPE GARDENING. By Prince von Pückler-Muskau. Translated by Bernhard Sickert and edited by Samuel Parsons. Boston and New York: The Houghton Mifflin Company. Pp. 196. \$3.50.

A German prince must have made very good in his chosen field to have his professional note book selected for translation and publication in America at this time; his comments on gardening introduced with the highest praise by American landscape architects of the standing of John Nolen and Samuel Parsons; and his book, in fact, brought out at the suggestion of the American Society of Landscape Architects, while we are at war with his country. To the landscape fraternity, Prince Pückler is known to deserve this unusual honor.