

Book Reviews

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Book Reviews

Law And Authority In Early Massachusetts. A Study in Tradition and Design. George Lee Haskins. The Macmillan Company, New York, 1960. 231 pages, with appendices and notes. \$5.00.

"In a small quarter of the Western World, in the year 1630, a small Puritan community was established along the shores and tidewater in the general vicinity of what is today Boston Harbor. This was the colony of Massachusetts Bay, which within a short time became one of the most renowned of the British settlements in North America. Founded by men dedicated to ideals as exalted as any that have ever inspired those of the Christian faith, the colony began a record of accomplishments which the passing of time has never obliterated. Few others equaled its contributions to theology, letters, and education; none paralleled its early achievements in government and law. Building upon and purifying its English heritage, the colony constructed within less than two decades a commonwealth in which the religious and social goals that had inspired its founding were achieved. * * *"¹

With this volume Professor Haskins, of the University of Pennsylvania, has attempted to begin a new approach to American legal history. His purpose is to relate legal growth to the social and economic conditions within which that development had evolved. To make such an investigation meaningful it must be limited in scope, and accordingly the present volume is modestly described as an introduction to the history of Massachusetts' law in the colonial period. In explaining why his analysis is restricted to the twenty year period from 1630 to 1650, the author explains that it is during this short period of time that the structure of the civil government was completed and the laws of the colony were shaped and compiled into the Code of 1648 which was to become the basis of all subsequent seventeenth century legislation. After this period the economic structure of the colony changed, and the political-legal problems shifted from the resolution of problems by legislation to enforcement of the laws embodied in the Code through court decision.

¹ Ch. 1, "Their Highest Inheritance" p. 1.

As is to be expected in any study of Massachusetts, Mr. Haskins first explains the religious and social ethics of the Puritans and Winthrop's view of the "social compact" as a covenant by which men renounce their absolute liberty and bind themselves not to do anything but that which had been agreed to, and that this duty obtained not only in the field of moral law but was also the basis of the political authority in the state. It was this thesis that served as the foundation upon which the paternalistic government of the colonial magistrates was built.

He relates the means by which traditional English political ideas continued to be important in the emerging government, showing how the treatment afforded Roger Williams and Anne Hutchinson was no more harsh than would have been afforded them in England. The development of township government is shown to be the logical consequence of geography, the land allotment system, and the memory of the English parish and the manors. The townships were sustained by the cohesiveness of the family for the promotion of which the colony's leader was particularly solicitous; numerous laws governed the relationships among the members of the family, those of primary importance relating to husband and wife, children, and servants and apprentices. Even these laws, however were only modifications of those of England.

The relationship of the church to the government is particularly important to an intelligent understanding of the Massachusetts colony and this important subject is comprehensively treated.

Having prepared the reader by a full study of the religious and social theories underlying the colony, and the extent to which English opinions were altered by them, he is well prepared to follow the path of the legal evolution. The remainder of the book is devoted to an exposition of particular laws regulating the important aspects of colonial life.

The most important compilation of laws was issued in 1648. Taken out of context many of these laws have seemed medieval and crude, but when read as the culmination of eighteen years of colonial experience, and as statutory embodiments of Biblical precepts, the Code of 1648 is seen to be an extremely important historical document. Far from being the mere compilation of English common-law or unthinking enactment of Old Testament customs as it so often has been painted by less thoughtful or accurate authors, it was a new and carefully prepared attempt to

establish principles suitable to the conditions of a new civilization. It mirrors clearly those problems which the colonists believed solvable through legal rules, defining not only civil liberties but civil responsibilities as well. The Puritan's belief that man's conduct could be persuaded or enjoined in accordance with exacting moral and ethical standards is discernable throughout. It was the desire to reform — not merely church doctrine, but every human activity — which is so clearly manifested in the Code. The idealistic element in the colonial law is shown, with examples, and explanations, in the number of enactments the aim of which was to give positive guidance rather than the English methods of prohibition and punishment.

This is a rewarding, readable book, which should be of interest to legal historians, lawyers, and anyone wishing to know more facts about the beginning of American law. It is to be hoped that this type of broad analysis of the legal infancy of one of the colonies is only the first in a series of such works. The scholarly effort which made the problems of the Puritans come to life on these pages might well and profitably be devoted to each of the colonies; for, in each, the religious and social forces which shape and are reflected in statutory law differed. Each such study could make an equally fascinating book.

NELSON REED KERR, JR.

From Tin Foil To Stereo: Evolution Of The Phonograph. Oliver Read and Walter L. Welch. Howard W. Sams & Co., Inc. Indianapolis and Bobbs-Merrill Company, Inc., New York, 1959. 438 pages plus appendix. Illustrated. \$9.95.

At first blush this seems scarcely an appropriate volume for review in the pages of a legal journal, and yet there is much within its pages to interest not only the high-fidelity enthusiast but the attorney as well.

This book is a comprehensive history of an industry, from its invention by Thomas A. Edison (accompanied by a copy of the Edison patent and some of his laboratory notebooks) to a description of the latest RCA Victor magazine-loading cartridge offering twin-trick stereo at 3¾ i.p.s. However, the book is not devoted solely to mechanical artistry, for however interesting that might be, four hundred pages would be rather tedious. This is a history of an industry in the fullest sense and the reader is led swiftly

through its pages by such interesting matters as the great patent litigation between Edison and Bell and Tainter (telling the tactics of opposing counsel and revealing errors on the part of the courts), of the local distributing companies and the mergers which led to the formation of the companies so well-known today. The reader will learn that the recent problems of compatability (monaural-stereophonic) were encountered as long ago as 1908 (disc and cylinder records), of the development of the coin-operated phonograph, and a most interesting chapter is devoted to the post war competition in record speeds.

This is a book in which all interested in music, phonographs, industrial history and patent litigation will find something entertaining, something informing.

NELSON REED KERR, JR.