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officers could take cognizance of, and seize, the evidence of crime before them. *State v. McKindel*, 48 Wash. Dec. 148, 268 Pac. 593 (1928).

This is the first Washington case where this point has arisen. The court states that the federal cases are to the contrary, but it is believed that they are distinguishable on their facts. The requirements that search warrants shall particularly describe the things to be seized, make general searches under them impossible and prevent the seizure of one thing under a warrant describing another. *Marron v. United States*, 275 U. S. 192, 48 Sup. Ct. 74, 72 L. ed. —— (1927), where under a search warrant for liquor a ledger was seized. Papers and documents cannot be seized under a search warrant for liquor *United States v. Olmsted*, 7 Fed (2nd) 760 (1925). While the language of these cases indicates a contrary view, they deal with a totally different problem, namely, the seizure, under a search warrant for other things, of books, papers and documents which are not on their face contraband. The papers and documents of themselves are not subject to seizure, and admittedly the right to search and seize under a search warrant is limited to the things described therein. A warrant to search for smuggled goods cannot be used to *search for* evidence of violation of the prohibition act. *United States v. Moore*, 4 Fed (2nd) 600 (1925). But this does not mean that if an officer in searching for things under a warrant, sees contraband or articles being used in the commission of a crime, he may not seize them. He does not do this by virtue of his warrant but in performance of his general duty to prevent the commission of crime. *State v. Muetzel*, 121 Ore. 561, 254 Pac. 1010 (1927) *United States v. Camaorta et al.* (D. C.), 278 Fed. 388 (1922). *Contra, People v. Preuss*, 225 Mich. 115, 195 N. W 684 (1923) holding that an officer executing a search warrant for stolen beans may not seize intoxicating liquors found on the premises. The Michigan court cites only TIFFANY, CRIM. LAW 362, and RULING CASE LAW. "If the warrant directs the seizure of a certain kind of property, a seizure of an entirely different kind, constitutes the officer a trespasser." 24 R. C. L. 709. This statement is based on *State v. Slamon*, 73 Vt. 212, 50 Atl. 1097, 87 A. S. R. 711 (1901), which merely held that under a warrant for stolen goods, a letter could not be seized. This is a different case. The letter, not being contraband on its face, if subject to seizure, was only so by virtue of the warrant, and the warrant did not include the letter. The contraband, however, is subject to seizure because of its nature, and this right on the part of the officer is independent of the search warrant, except that the latter gives him a lawful right to be on the premises. It will be conceded that the officer can only *make a search* for the things designated in his search warrant; but if in making this search he incidentally sees contraband, there is no valid objection to his seizing it. It might be difficult to show, as in the principal case, that the officer was searching for liquor, and was not searching for stolen goods, (merely happening upon them in the course of his search for liquor), but that is a question of proof and does not militate against the principle laid down. M. A. M.

BOOK REVIEWS

LECTURES ON LEGAL TOPICS, Vol. IV, 1922-23. By various authors. New York: The Macmillan Co., 1928. pp. viii, 393.

As appears from the title page, this book is a series of seventeen lectures delivered before the Association of the Bar of the City of New York in the winter of 1922-23 by thirteen lawyers, judges and law teachers from New York City and elsewhere. The subjects vary greatly and also the manner of treatment, ranging from reminiscences of practice, with hints to young lawyers, through closely reasoned lectures on the history of the law and the development of the theories on which it is based, to prophecies as to its future development.

Through all the lectures runs the thought that while the law should be stable and so far as possible certain, yet it is a living and growing science,

and that gradual but constant change is necessary to fit old precepts to new conditions.

The most closely reasoned lectures, and the ones deserving the most careful reading are the series of three by Dean Roscoe Pound on the "Theory of Judicial Decision." In the first one, Dean Pound points out that we are on the eve of a period of creative activity in the law following a more stable period of working out in detail the ideals which had been established in the preceding creative period which followd the Revolution, during which period English legal institutions and doctrines were made over to conform to an ideal of American society by the criterion of applicability to American conditions. Ordinarily creation is not making something out of nothing, it is making something new out of old materials. In the same way, legal creation is the reshaping of traditional legal materials, the bringing in of other materials from without and the adaptation of these materials as a whole to the securing of human claims and the satisfaction of human wants under new conditions of life in civilized society thus approaching the ideals toward which we are striving. As these ideals change, the interpretation naturally changes. There is always the conflict between the old which considers that whatever is, is right, and the new which is trying to modify the old precepts of the law to fit the new conditions of life. These might be typified by the rule requiring strict interpretation of statutes in derogation of the common law and the fact that a statute is passed to remedy a defect in the common law or to meet a need which developing civilization has shown to exist. This constant process of conflict and change is developed at length in the first two lectures while in the third Dean Pound gives suggestions as to the method of reasoning that should be used in future to attain justice according to law. As he says: "The judges have been doing their work well. The real responsibility is upon our jurists and teachers to rationalize the process of judicial decision for the purposes of today and not rest content with the rationalizings for the purpose of the past that have come down to them, to substitute a larger and more varied picture of the end of law and a better and more critically drawn idealization of the legal and social order of the present for the simple picture of the past with its broad lines and impressionistic details." If our teachers, lawyers and judges will read, mark, learn and inwardly digest these three articles, and apply their principles in the teaching in law schools, in the presentation of cases before the courts, and in the decisions of the cases presented, they will make a forward step in the attainment of justice according to law

"Some Aspects of the Problem of Law Simplification," in which Mr. Justice Stone makes a suggestion as to the best manner of utilizing the work of the American Law Institute when that shall have progressed far enough for publication, and "The Tyranny of Judicial Precedure," by Mr. Sherman Whipple of the Boston Bar, are related to the matters discussed in Dean Pound's articles and should be read and considered with them as giving a somewhat different approach to what is really the same problem.

The address by Mr. Banton, District Attorney of New York County is particularly illuminating, both in his suggestions for the improvement in the methods of enforcing criminal law and the speeding up of criminal trials and also in his statement of what his office has actually been able to accomplish even under the present cumbersome system of New York, and the effect that the more speedy administration of justice has had in inducing certain former residents of New York to live elsewhere.

The article by Judge Manton on the International Court of Justice and the article by Mr. Terry on the Judicial Settlement of Industrial Disputes under the Kansas Law, are both interesting as prophecies of what should come to pass. The actual results which have been attained the five years since their delivery have not been as great as were hoped by the speakers, but one may still hope that in spite of the limitations placed upon the Kansas Industrial Court, the idea which it embodies will in time

be worked out on a practical basis, giving industrial peace and security to the general consuming public.

The analysis of the Uniform Conditional Sales Law, by Dean Bogert of the Cornell Law School, is of interest because it traces the development in different states of the varying rules in regard to conditional sales and the reasons for the choice of those adopted by the commissioners on uniform laws. In this connection it is interesting to note that the act was drafted with the aid of leading business men engaged in selling on conditional sale, and that the act "embodies the opinions and views of a body of business men more than it does the views of a body of teachers of law." This act has been adopted in many states and as it will probably come up before the Washington Legislature in the near future, a careful study of this article will give a good idea of the changes which its adoption will bring. The most important change from the theory now in force in Washington is the recognition of the fact that in spite of the difference in phraseology, a conditional sale is, like a bill of sale with a chattel mortgage back, really a method of security to a seller on credit.

The address by Solicitor General Beck on the Supreme Court gives a vivid picture of the early days when that court was "a court of leisure, deliberation and dignity, where men had the time and took the pains to exhaust the possibilities of reasoning and where the clash of mind with mind attracted attention in the public mind to which only a world's champion baseball match is today comparable." The present court does not attract the crowds and cannot give the time for argument, but as Mr. Beck points out, the questions before it are no less important and far-reaching, the arguments and opinions are as able and lawyers often come ten times as far and get less than one-tenth the time for argument.

The concluding address on the "Need of the Right of Local Self Government," by Mr. Marbury of Baltimore, sounds a warning against the tendency toward centralization, and while it will meet with disagreement on the part of many a reader, deserves consideration. While there is, of course, a difference in the weight of the various addresses, every one is interesting and worth reading, and the weightier ones are worth careful study.

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HANDBOOK ON INTERNATIONAL LAW. By George Grafton Wilson. 2nd edition. St. Paul: West Publishing Co. 1927. pp. xxi, 567.

Dr. Wilson of Harvard University has, in the present revision, brought down to date his volume on international law. This is one of the useful manuals of the Hornbook series, which includes elementary treatises on all the principal subjects of the law. The book follows the other Hornbooks in its essential features, with a statement of leading principles in headnotes, a brief but thorough commentary, and references to authorities in the form of notes. It provides today, as it did when first published in 1910, a most authoritative brief elucidation of the general principles of international law. It is, indeed, as comprehensive as the ordinary text on international law used in the department of political science and the colleges of liberal arts.

In this revision the author has wisely followed a sane middle course. Much time is wasted by many writers in taking up the old debate as to whether international law is really law. The answer to such a question begins and ends with the definition of law. No time is lost debating such a question. Moreover, some writers have advocated the general revision of the substance of international law, on the theory that much of what was deemed to be the old law has been swept aside, and a new law has come into being. The author has wisely taken the view that these changes are far less revolutionary than many have assumed. He has therefore retained substantially the method and content of the first edition, with revisions and additions which make it a complete statement of the law as it is today.

Dr. Wilson has also refrained from a tendency which is manifested in