

torian high life in London, a picture of Penedo emerges that is engaging and well done. If the reader wishes these and other details and if he wishes some insight into the life of a man who typified much of the best of the Empire, Dr. Mendonça's book is where he should go to find them.

ALEXANDER MARCHANT.

Washington, D. C.

*Apuntes para la historia del derecho en México.* By TORIBIO ESQUIVEL OBREGÓN. [Trabajos Jurídicos de Homenaje a la Escuela Libre de Derecho en su XXV Aniversario, Vols. 1, 5, and 7.] (Mexico: Editorial Polis, 1937-43. 3 vols. Pp. 511, 703, 768.)

On July 24, 1937, the Escuela Libre de Derecho, of Mexico, celebrated its twenty-fifth anniversary. In commemoration of the occasion the first of an admirable series of treatises in the fields of law and the social sciences was submitted by distinguished Mexican jurists. Outstanding among these contributions was the first volume of the extensive work on the history of Mexican law by Dr. Toribio Esquivel Obregón. A second volume made its appearance the following year, and the year 1943 saw the publication of the third volume of this ambitious undertaking by a master in the field. Each volume is bulkier than its predecessor, the third containing 768 pages. This is only the beginning, since in the last published volume the author has covered only the historical background and the colonial period up to the year 1821, on which date Mexico established her independence from Spain. Since the source material on the more recent history of law will no doubt be more voluminous and more accessible, it is to be expected that Dr. Esquivel's work, if continued in the same minute detail, will result in a collection of such great magnitude that it fills the reader with admiration for the splendid courage shown by the author in undertaking it.

The author is preëminently qualified for the work of editing this material by his long-time interest in and intimate knowledge of the subject matter, and by his legal training and ability. In his varied career, Dr. Esquivel Obregón has been statesman, jurist, writer, and professor of Greek, philosophy, political science, and law. Since 1935 he has occupied the chair of Professor of the History of Law at the Escuela Libre de Derecho and at the Faculty of Law of the National University of Mexico. He also spent some time in the United States where he was professor of Latin-American commercial law at the universities of Columbia and New York during the years 1915 to 1923. Americans with interests in the Latin-American field are famil-

iar with his comprehensive work in English on Latin-American commercial law, written and published during his stay in this country.

The work here under review bears evidence of the author's great erudition, scholarship, and endless patience. Clearly, it is too lengthy for detailed examination or description. It constitutes a thorough and comprehensive treatment of the entire field of the history of the law of Mexico from the most remote origins of Spanish legal history, as well as of the other less well-known branch of Mexico's dual background—the Aztec. It is not an interpretative work; in fact the author modestly claims it to be merely "notes" on the history of law which research workers may use as reference, and upon which successive writers in the field may draw for information and inspiration. There are numerous narrative passages that are particularly readable.

Dr. Esquivel's work has no real rival in the field. Except for partial histories of law, or those limited to some particular field, such as commercial or labor law, no other author has covered the vast general field as brilliantly and completely as in the present work. Special mention may be made of the early work (1889) of Jacinto Pallares, which, however, would not be considered in exactly the same category as Dr. Esquivel's contribution. The latter has recognized the evident desirability of collecting and making available in one single compilation the wealth of material scattered throughout the archives, libraries, and private collections in Spain and Mexico. He admits having encountered some difficulty in obtaining necessary information in connection with Aztec legislation, and also in connection with the Spanish material, which was an arduous task because of the thousands of uncompiled royal and administrative orders, edicts, laws, and decrees. In the former, his difficulty consisted mainly in the fact that the Aztec tribes in pre-Cortés times did not have a phonetic system of writing, and that there existed a lack of unification of institutions or legal customs among the great number of Indian villages. His main source material was based on the oral traditions handed down through generations which had been noted and compiled by the first Conquistadores and Spanish missionaries. Much of the Spanish material is available only in individual leaflets and broadsides, many of which are almost illegible.

The first volume of Dr. Esquivel's work bears the subtitle "Los orígenes," and is divided into three books, dealing, respectively, with (1) the general history and legal institutions of the very earliest Spanish origins, beginning with the invasion of the Iberian peninsula by the Celts and bringing it up to the period of the Conquest of Mexico by Cortés; (2) the sources, as far as ascertainable, of the

legislation of the Aztec villages; and (3) the Spanish rule in the Caribbean islands from the time of their discovery by Columbus up to the year 1520.

The second and third volumes have the subtitle "Nueva España," and cover colonial Mexico in her rôle as Viceroyalty of New Spain. Volume II goes into much detail as to the rule of Cortés, and his problems in the administrative, judicial, and legislative fields. It is descriptive of the Spanish institutions which administered colonial affairs, such as the King, from whom all power emanated, the Casa de Contratación in Seville, which had complete control over all commerce with the New World, and the Consejo de Indias, a body with mixed legislative and judicial power, which also kept an eagle eye on the profitable economic side of the government. A portion of this volume is devoted to the history of the duties, powers, and administration of local institutions in the Viceroyalty, such as the municipalities, the Indian pueblos, the audiencia, the viceroy and the church, giving in the latter an account of the Inquisition.

The material contained in the third volume is less of an historical nature and more of the legal, since it deals with the various subjects of private law in colonial Mexico. A general section covers very briefly the theories of law of Savigny, Hegel, Kelsen, and Stammler, and gives the author's own philosophy and his attempt to harmonize the better points of each. The same section includes a brief discussion of the famous old Spanish codes, such as the *Leyes de Toro* (1505) and *Recopilación de Leyes de Castilla* (1567), which have left a lasting impression on Latin-American legislation. Other sections of this volume on private law deal with (1) the rights of persons, including the native Indians; (2) property, real and personal, as regulated in the viceroyalty, with particular emphasis on ownership of the rich mines and the rights of the Aztecs to own land; (3) wills and succession; (4) obligations; (5) commerce, describing the influential Spanish *Ordenanzas de Bilbao*, a commercial compilation which has been considered as one of the most perfect bodies of legislation in this field, particularly for its times. This served independent Mexico as a commercial code intermittently, during her unsuccessful attempts to compile one of her own, until 1884. The last part of this third volume is entitled *Derecho de Transición*, and is descriptive of the antecedents and causes of the downfall of the powerful Spanish Empire, the enactment of her Constitution of 1812, and the effect both of the downfall and of the Constitution on Mexico. It also treats of the first movements in Mexico toward her ultimate independence in 1821.

Throughout the three volumes the documentation is extensive and thorough on all subjects covered. There can be no doubt but that this work represents a real and valuable contribution in the field of history of law, bringing into one convenient collection, with judicious selection and convenient grouping, the wealth of detail which will now facilitate tremendously the work of the researcher and others interested in this field.

HELEN L. CLAGETT.

Washington, D. C.

*Argentine Constitutional Law.* By SANTOS P. AMADEO. Foreword by L. S. ROWE. [Number IV of the Columbia Legal Studies, edited under the auspices of the Faculty of Law of Columbia University, Edwin W. Patterson, editor.] (New York: Columbia University Press, 1943. Pp. 243. \$3.00.)

The author of this volume is Professor of Political Science and Law at the University of Puerto Rico. This study had its origin in work done by the author while studying comparative constitutional law at Columbia under Professors Deák, Dowling, and Rogers. The many similarities between the constitutional law of the United States and of the Argentine system led the author to a further and intensive study of the federal systems of the two countries with special reference to the rôle of the judicial department in them. The analysis, therefore, centers about the judicial function in the maintenance of the federal system and the preservation of individual rights.

Many of the provisions of the Argentine constitution of 1853 were modeled on similar provisions of the constitution of the United States. With this inter-relationship in mind, Dr. Amadeo describes in his first three chapters the evolution of the constitutional process and the judicial function in constitutional cases. Here he traces with clarity the factors in favor of the federal principle over the unitary. Nevertheless he insists—and no doubt he is very right—that it was not a one-sided struggle. However the influence of the American constitution was great enough to influence the choice of federalism. The third chapter is an excellent comparison of the organization, structure, and functioning of the judicial systems of Argentina and of the United States.

The second part of the study is devoted to an analysis of the division of powers in the federal system. Here the federal-provincial and the inter-provincial relationships are examined. Dr. Amadeo then proceeds to summarize the powers of the national government with a study of inter-provincial and foreign commerce, civil, com-