clothed with majesty and loaded as to his pockets with innumerable sovereignties, hurled right and left, in rotation, at crying needs or evils which are neglected by the Constitution, congress and courts" (p. 59), although it must be admitted that "occasions inevitably supervene when a physical and nervous necessity demands a vent for the automatic initiative by way of a referendum to the Colorado *felidæ* or a pursuit of the bear through the wind-falls of the Rockies" (p. 80).

"Is," he goes on to ask, "Jefferson's word of warning that the tyranny of the executive will arrive in its turn, coming true? Is this the age of executive usurpation? No. Our president is confessedly a magistrate. This is a generic term. The medieval battles between nominalists and realists left the world convinced that a genus is nothing, and must be reduced to a species before we have a recognizable entity. Hence by virtue of the retention of the magisterial functions of the Plantagenet and Norman rulers, all American governors, senators, judges, president, and sultan of Sulu enjoy in common a mild preëminence which no thoughtful and benevolent mind will begrudge them" (p. 75). "Nevertheless," says the author, with an eye on Macaulay's New Zealander in the wastes of buried London, "the prophecy of Jefferson will be fulfilled in that late age when the future antiquarian, in latitude 40° 42′ 43″ N., longitude 74° 0′ 3″ W., delving deep in the lava bed of Storm King, turned volcano, shall lift from her crumbling, upstretched arm, the lightless torch of the Statue of Liberty" (p. 88).

It is superfluous to add that this book merits no place among works of political science.

The American Lawyer: As He Was, as He Is, as He Can Be. By JOHN R. DOS PASSOS. (New York: Banks Law Publishing Company. 1907. Pp. 185.)

This book is a violent attack upon the American lawyer. To the author our bar seems far inferior to that of the era closing with the Civil War (pp. 12, 33, 46); given over, in the argument of causes, to an ignoble hunt for ruling precedents instead of a search for determining principles; besotted by idolatry of codification (p. 51); ignorant of its obligations to the State; solicitous mainly to make money, and to make it with little regard to what may be the rules of professional ethics. To write in this vein upon any subject, is an easy way to challenge public attention. It is what helps so much to carry the ten cent monthlies and

the yellow journal. But it is hardly worthy of one whose declared aim is to elevate the standards of an important profession.

The author's criticisms of American methods of legal education indicate a want of familiarity with what they are. He assumes that generally little or no instruction is given in the elements of law and the science of jurisprudence, the attention of the students being bound down to books of reported cases (p. 167). As a matter of fact, the great majority of American law schools during the early part of their course give most of the time to elementary instruction in the outlines and principles of law, and throughout it make references to cases a subordinate part of the instruction offered. But a handful of schools (though comprehending several of the more important ones) are exclusively committed to what is known as the "case system." So, too, the author is in error in assuming that hardly any of the instructors in our law schools have any practical knowledge of the profession, and are mere theorists (p. 55). In fact, the vast majority of them either are or have been practicing lawyers, or judges.

The lawyer who writes of law fails, says Mr. Dos Passos, to grasp its more comprehensive relations (pp. 4, 5), and to give any adequate distinctive treatment of what these are, as respects society at large. One is inclined to wonder how much he has ever read of such books as Pollock on *Jurisprudence* or George H. Smith on *Right and Law*.

The courts fare no better. It is hardly to be imagined, he declares, what "a mass of bad reasoning, illogical conclusions, disregard of the rule of *stare decisis*, contradictory statements, and an ignorance or contempt of the history and spirit of the Constitution of the United States and of the several States, such a lack of knowledge of elementary law and of the principles of jurisprudence" is presented in the decisions of our courts of last resort during the last twenty-five years (p. 18). On the contrary, most of those who have compared with any care the reported judgments of American courts with those of other countries, will be found in agreement that the better American judicial opinions are, on the whole, superior to the better foreign opinions. They are more carefully composed than those of England; more consistent and better reasoned than those of continental Europe.

The truth is that the point of view taken by Mr. Dos Passos is provincial. It is that of the lawyer of New York city. It is that of one who practices before courts so overburdened with business, that briefs have largely taken the place of oral argument, and the rapid accumulation of decisions obscures the recollection of some that ought to be respected as ruling precedents (p. 17).

Among the remedies which Mr. Dos Passos suggests for the evils which he depicts, are that seven years should be required for a legal education, of which three should be spent in a lawyer's office (p. 166); that such books as Paley's *Moral and Political Philosophy*, Burlamaqui on *Natural Law*, Montesquieu on the *Spirit of Laws*, and Puffendorf, *De Officio Hominis et Civis juxta Legem Naturalem* should be read by every student; that attorneys should be a class distinct from counselors or barristers; and that all lawyers should wear gowns (p. 183).

These recommendations have rather an archaic aspect. Is Paley, with all his limitations, to be forced down the throats of the children of an age in which evolution has put all philosophy upon a new basis? Are we to revert to a practice only kept alive by tradition in England, under which a client in every considerable law suit must pay for two lawyers and see but one of them? Is three years in a lawyer's office, with its weary routine of copying papers and running errands to be demanded of every law student when, if the lawyer be a busy one, he will have no time to instruct his clerks, and, if he be not a busy one, he will, except for a few details of practice to be learned in a month, be not so well equipped for that service as the instructors in the law school where the previous four years were spent?

Mr. Dos Passos has put into this treatise a good deal from which foreign critics of American institutions will quote with satisfaction, but very little which those really familiar with those institutions will find of value.

The Grand Jury. By GEORGE J. EDWARDS, JR., of the Philadelphia Bar. Philadelphia: (George T. Bissel Company. 1906. Pp. 219.)

The author has divided his book into four parts with no subdivisions into chapters. Part one deals with the origin, history and development of the grand jury. The account follows texts and commentaries on law, some special essays on the subject mostly. The great works on constitutional history and recent monographic literature were apparently not very extensively used. In a note on p. 44 there is a statement to this effect: "In Minnesota the people by a large majority vote, have adopted a constitutional amendment abolishing the grand jury." The author was evidently misled by inaccurate press reports which did some violence to the facts. What Minnesota has done is not to abolish the grand jury, for the institution exists today just as it did before the recent amendment, but to make it a creature of the legislature subject to alteration by statute. So far no essential changes have been made.