neglect their power of control, leaving injured individuals to address their complaints to the Council of State in the form of recourse for excess of power. This is why many persons insist that there can be no thorough going decentralization as long as the prefectoral office is maintained (p. 160).

J. W. GARNER.

*Traité du Pouvoir Judiciare, De Son Rôle Constitutionnel et De Sa Réforme Organique.* Deuxième Edition. By JULES COUMAUL. (Paris: Larose et Tenin. 1911. Pp. 500).

The first edition of this book appeared in 1895. The new revision brings the subject matter up to date and puts it abreast the recent literature relating to the Judiciary in France. The work is divided into two parts, the first of which deals with the general principles of the judicial power and the causes which, according to the author, have prevented the French judiciary from fulfilling its true mission. The second part treats of needed reforms in the organization, jurisdiction, and procedure of the courts, and contains a discussion of the various solutions which, it is claimed, are necessary to enable the judiciary to occupy its proper place in the constitutional system of France. The author deplores the fact that the judiciary in France is wholly ignored by the constitutional laws of the Republic and that its dependence on the executive power has reduced it to a position of inferiority. He is an outspoken adversary of the administrative jurisdiction which has constantly been extended by the decisions of the tribunal of Conflicts and to a less degree by the Council of State. Contrary to the opinions of most French writers, he maintains that the administrative jurisprudence is less liberal and less favorable to individual rights than that of the judicial tribunals, that its aim is to enlarge the power of the state, and that the judicial tribunals alone should be the guardians of individual liberty. Indeed, he argues, the penal code, as well as various provisions of the civil code, to say nothing of the most ancient traditions, show conclusively that individual rights were placed under the protection of the judicial power but that it has been deprived of this protection by an unwarranted extension of administrative jurisprudence. Thus the tribunal of conflicts has, not only by its decisions handed over to the administrative courts, a large class of cases involving controversies between individuals and the state, but also between

individuals on the one hand and the departments and communes on the other. All this was done under the name of the principle of the separation of powers, but in reality it has involved the violation of this sacrosanct principle. He discusses the arguments commonly advanced in support of the theory of administrative jurisdiction and the necessity of withdrawing from the judicial tribunals the determination of controversies between individuals and the administration, but those arguments do not appear to him to be sound and well justified. Incidentally he eulogizes the American system where no separation of administrative and judicial competence is recognized, and where the judicial tribunals exercise the power of declaring null and void acts of the legislature which are repugnant to the constitution. He devotes two chapters to the discussion of the relations between the judicial power and the executive power, and between the judicial power and the legislative power, his general thesis being that the judicial power occupies a position of too great dependence and inferiority.

In the second part of his treatise Monsieur Coumaul discusses the conditions essential to the independence of the judicial power, such as the mode of appointment, removability of the judges, etc.; reforms of organization; procedural reform; and the importance of judicial forms. He favors a modification of the principle of plurality of judges which has always been a fundamental principle of French judicial organization, and suggests that better results would be attained if the tribunals of first instance were constituted with a single judge instead of three, and the courts of appeal with three judges instead of five, as is now the practice. He also makes a plea for the extension of the jurisdiction of the justices of the peace and a general improvement of these much neglected though very important tribunals. It may be remarked here that a beginning in this direction was made in 1905 by the enactment of a law framed by the minister of justice Cruppi—a law which not only enlarged the jurisdiction of the justices of the peace, but provided certain guarantees concerning methods of appointment and advancement of the magistrates.

J. W. GARNER.

*Les Methodes Juridiques. Lecons faites au Collège Libre des Sciences Sociales.* By MM. F. LARNAUDE, H. BERTHÉLEMY, TISSIER, H. TRUCHY, E. THALLER, PILLET, E. GARÇON, Professeurs à la Faculté de droit de Paris; E. GÉNY, Professeur à la Faculté de droit de Nancy. (Paris: V. Giard et E. Brière, 1911. Pp. xxiv, 231.)

This is a collection of studies in juridical methods delivered in the form of lectures before the *Collège Libre des Sciences Sociales* of Paris in 1910, the initiative being due to Professor Raymond Saleilles, who organized the course. M. Paul Deschanel, a distinguished French publicist, formerly President of the Chamber of Deputies, contributes a preface in which he dwells upon the importance of the question of judicial methods in the social life of today. Three facts, he says, contribute to the importance of the question in France. First, the antiquity of the French codes and especially of the civil code. The method of literal interpretation, once so easy, no longer suffices, since a host of new questions now come before the tribunals for which the code makes no provision. Second, the peculiar character of French administrative legislation. Never having been codified it lacks the unity which is characteristic of the civil law. It has, therefore, been left to the jurisprudence of the Council of State to develop principles and juridical constructions, and this it has done in an admirable manner. Third, the introduction of the social and economic sciences into the law faculties has given a new character to judicial studies, so that the jurist today must preoccupy himself with a method of interpretation in harmony with actual needs and existing ideas. Professor Saleilles contributes an introductory paper in which he develops the idea of M. Deschanel that the French codes are out of date. The civil code, in particular, he remarks, was made for a society essentially individualistic, while the French society of today is moving more and more in the direction of collectivism.

Professor Larnaude's paper, perhaps the most important in the group deals with the conception and methods of public law; Professor Berthélemy treats of the method applicable to the study of administrative law, showing how an efficient administrative system may be consistent with a wide and well-protected individual liberty; Professor Truchy discusses methods in political economy; Professor Tissier, the social and economic rôle of civil procedure; Professor Thaller, method in commercial law; Professor Pillet, method in international law; Professor