will make that task easier. The topical method does not apply quite as well to this history of legislation or administration, but the transitions from one period to another are suitably indicated.

The volume may be described as a great arsenal of established facts fortified behind an enormous amount of literature. The textbook plan of short sections and frequent subheads does not contribute to the ease of reading, but as a work of reference, both for compact statements and for citations from the authors and sources, this volume is a treasure. The notes occupy more than one-third of the space and consist chiefly of solid authorities rather than discussions left over from the text. The labors of the translator in this part of the work must have been exacting, hence one is disinclined to comment that the constant use of the numerals instead of the century, as "in the 1700's," is a convenient mode of speech, but one which has hardly become naturalized in English print. Teachers of European history and institutions have been laid under obligation by all concerned in the publication of this series.

J. M. VINCENT.

War: Its Conduct and Legal Results. By T. BATY AND J. H. MORGAN. (New York: E. P. Dutton and Company. 1915. Pp. xxviii, 578.)

Manual of Emergency Legislation . . . Passed and Made in Consequence of the War. Edited by ALEXANDER PULLING. (London: H. M. Stationery Office. 1914. Pp. xi. 572.)

Until the publication of this work of joint authorship there was no adequate consideration of the full effect of war on the laws of England. Volumes on war in international law were, of course, legion, and the outbreak of the present conflict brought forth a flood of books concerned with the effect of the war on commercial transactions. But in the present volume, with a consistent division of subject matter, Dr. Baty reconsiders the effect of the war on private law, as well, if not better than has been done by anyone else, and Professor Morgan has written an admirable treatise on a hitherto untouched subject—war measures and the English constitution. Chief interest will probably attach to this portion of the volume.

Professor Morgan deals first with the relations between the Crown and the subject. "Whether a state of war exists within British terri-

tory," he declares, "is always a matter for judicial determination, and a mere proclamation to that effect has no authority." The military authorities must in every instance justify superseding the civil power in order to meet what they consider to be an emergency. Professor Morgan inclines to favor the old test (which he does not think discarded in English law by the *Marais* case), that the fact of the courts being able to sit is conclusive evidence that a state of war does not exist—a doctrine accepted by the supreme court of the United States in *Ex parte Milligan*.

After a clear outline of already existing laws designed to secure the defence of the realm, and the powers of the Crown at common law and under statute as to such subjects as treason, sedition, espionage, control of railways, aerial navigation, customs, requisitions, and the like, Professor Morgan takes up the new emergency legislation. Under authority from Parliament regulations have been made by order in council for temporarily limiting the sale of intoxicating liquor; for forbidding the exportation of commodities; for taking possession of any foodstuffs, compensation to be determined by arbitration; for the restriction of aliens, and for many other purposes. But the Englishman is chiefly affected by the defence of the realm act which gave his Majesty the authority, during the continuance of the war, "to issue regulations for securing the public safety and defence of the nation." These regulations meticulously forbid any act which may inure to the advantage of the enemy or hamper England in the conduct of the war. The naval and military authorities are given broad powers to take measures for defence regardless of personal or property rights. Provision was made for trial by court martial, the offender to be proceeded against as if he were a person subject to military law and had on active service committed an offence under section 5 of the army act—and this despite the fact, as Viscount Bryce declared, that the British subject is entitled, "as he always has been in times past, to have the constitutional protection of being tried by a civil court when there is a civil court there to try him."

Professor Morgan makes a careful examination of the language of the enabling acts and comes to the conclusion that in many instances the regulations are clearly in excess of the powers conferred by Parliament. Several of these objections have been obviated by the defence of the realm consolidation act, but this did not restore jealously revered constitutional safeguards or make more secure the liberty of the press. The civil courts could by writ of prohibition, in Professor Morgan's

opinion, restrain the courts martial from trying civilians for breaches of regulations that are *ultra vires*, or a writ of certiorari would issue. But in other cases the conviction would be subject to review only by the judge-advocate-general. The defence of the realm act, Professor Morgan declares, "silences the courts. It is more specious but far less restricted than martial law. Certainly never in our history has the executive assumed such arbitrary power over the life, liberty, and property of British subjects."[1]

The remaining sections contributed by Professor Morgan deal with the armed forces of the Crown, military law and courts martial, the laws of war on land, annexation and acts of state and the Crown and its treaty obligations. This last chapter is an especially able treatment of the neutrality of Belgium. Dr. Baty's portions of the volume consider the laws of war at sea, alien enemies and contracts with them, trading with the enemy, and the person and property of enemies. Part V on "The Crown and the Neutral" takes up the prize court procedure, contraband, blockade, and unneutral service. Miscellaneous chapters deal with the commencement and end of war; the Moratorium, and *force majeure*.

In their preface the authors express willingness to accept "a joint and several liability for the whole of the book." In spite of the haste necessary in its preparation, however, the work is scholarly, authoritative and in many respects brilliant. Dr. Baty's conclusions concerning the status of alien enemies as litigants do not seem in all cases correct; but he did not have access to some recent decisions. A footnote missing on page 376 would probably state that M. Renault's Memorandum on the Declaration of London is, by the order in council of October 29, no longer to be regarded as an aid in construing the Declaration.

[1] It should be added that since Professor Morgan wrote these words Parliament has passed a defence of the realm amendment act (No. 1, March 16), which gives a British citizen the right to demand a jury trial. But this safeguard may be abrogated by royal proclamation in the event of "invasion or other special military emergency arising out of the present war." Offending neutrals are still punished under military law, although such cases may be transferred to a civil court at the discretion of the prosecuting officer. The first prosecution of a newspaper for the publication of a report "likely to cause disaffection" (the London *Times*, May 31), did not, therefore, take place before a court martial. This denial of a jury trial from the outbreak of the war until the amendment, called forth very few objections in the press. (See *Law Magazine and Review*, February, 1915, and *Candid Quarterly*, February, 1915.) Subsequent amendments to the defence of the realm act, as is well known, give the executive broad powers regarding munitions of war.

A number of the laws and orders in council considered by the authors are set out in appendices to their volume. All are given in the *Manual of Emergency Legislation*, which, although only covering the period up to October, makes a sizable book. Supplements are now issued at intervals, and Mr. Pulling has prepared a careful check list of the great variety of subjects considered. The regulations furnish an excellent index of the abnormality of war and the dislocation that it causes in many fields. The method of enactment, by the executive under broad grants of power from Parliament, is a marked departure from the Anglo-Saxon ideal, generally asserted but not always conveniently adhered to, that the legislature should act as definitively as possible, particularly in criminal matters. As Professor Morgan says of the defence of the realm regulations, "they are the most remarkable example of delegated legislation that this country has yet witnessed."

LINDSAY ROGERS.

Les Principes Généraux du Droit Administratif. Deuxième édition. By GASTON JÈZE. (Paris: Giard et Brière. 1914. Pp. xlvii, 542.)

The first edition of this work appeared in 1904. The present edition is largely a new treatise, its size having grown from a volume of 167 pages to one of 542 pages. It differs from the conventional treatise on the French *Droit Administratif* in that it does not deal with the constitution of the administrative system or with the general principles of administrative organization. A knowledge of these matters is assumed by the author. It contains no description of any organ, court or institution of the state, department or commune. It is mainly a study of the juridical principles which dominate the institutions of French administrative law and is based largely on the decisions of the court of cassation, the council of state and the tribunal of conflicts. It contains copious footnotes and citations of cases in which the texts of essential passages are quoted in illustration of the principles discussed. The work bears the usual evidences of wide research and learning which characterize the numerous writings of the distinguished author and altogether it is one of the most substantial contributions to the literature of French administrative law that has been made. All students of the subject will welcome the announcement of the author that "more volumes are to follow."

Three great ideas, we are told, dominated French administrative law