

which, while giving the existing law in considerable detail, should at the same time be devoted mainly to a consideration of those general principles, a knowledge of which is necessary to a comprehension of our municipal institutions. The practicing lawyer has for many years had his Dillon; and now the student of municipal government has the satisfaction of knowing that he, too, has been provided for.

Judge Elliott's work is characterized both by thorough legal knowledge — an acquaintance with all the important decisions — and by the ability to see that what may be the actual law in this country is not in all cases the proper basis for a sound municipal system. He has also made more of a study of the history of English and American local institutions than is usually the case with American authors writing books to be bound in sheep, and hence to occupy a place on the shelves of distinctively law libraries. Judge Elliott has chosen as his subject "public," rather than "municipal," corporations, and on that account has treated not merely of cities, but also of all other public corporations. Inasmuch as almost all our local areas are at the present time incorporated, his work really deals with the law of American local government, so far as that is found in the reported decisions of the courts.

The arrangement of the material is, as a rule, happy; although it may be doubted whether Book III, on "The Mode and Agencies of Corporate Action," might not more logically have preceded than followed Book II, on "The Powers of Public Corporations." It is also to be regretted that comparatively little attention has been given to the problems of municipal organization, considered from the theoretical point of view. Perhaps, however, such a complaint is ungracious, inasmuch as the purpose of the work is distinctly and avowedly legal.

F. J. GOODNOW.

*La Conception juridique de l'état.* Par X. S. COMBOTHECRA.  
Paris, Librairie de la Société du Recueil Général des Lois (L. Larose, Directeur), 1899. — 185 pp.

This is a clean-cut, closely reasoned presentation of the idea of the state from the juristic point of view. It is a work of science, in the purest sense of the word, and for the most part of exact science. No effort is wasted in appeals to the æsthetic faculty of the reader; the intellect alone is called into play by the book, and in some parts the play has to be of an extremely active type, in order to follow the author. The general style of the work suggests that of Hobbes in the *Leviathan*, where chapter after chapter of sheer definition car-

ries the reader in spite of himself to the author's goal. M. Combothecra's field is, however, very limited; and this fact, together with the juristic and legal trend of all his thoughts, gives to his treatment in many places the general character of a lawyer's brief.

After an analysis of all the various concepts related to his purpose, the author formulates his definition of the state as follows:

L'état est une collectivité d'êtres humains établis pour une certaine durée dans un territoire déterminé, avec des ressources (capital ou budget) plus ou moins importantes, unis volontairement en activité coopérative constante, sous une direction médiate ou immédiate (gouvernement), en vue d'un but multiple et soutenus contre les récalcitrants du dedans le mieux du monde, conformément à la volonté de leur ensemble (volonté générale), par une force suprême matérielle émergeant de leur milieu et les rendant un tout, capable de droits et d'obligations, qui n'est vis-à-vis du dehors qu'une simple entité plus ou moins puissante.

Summed up in technical terms, all this means merely, the author says, that the state is "a sovereign collective person (*une personne collective souveraine*)."

 The long sequence of clauses above constitute the explication of the three terms in this condensed phrase.

In narrowing down, by a process of exclusion, the essence of the state to this purely juristic conception the author touches critically upon various points in the general philosophy of the subject. He displays little sympathy with the tendency manifested by some thinkers to differentiate state from society and to assign to the latter, with a capital S, the ultimate dignity in the philosophy of humanity. The state, he lays down, is not only a society, but the most perfect society. The state is, therefore, the highest subject of thought, and other forms of society are only incidental (pp. 48, 49).

The familiar question, as to whether the state is an organism, is also discussed by M. Combothecra, and with some degree of warmth. A lawyer's views on this point are always entertaining, for they are generally determined at the outset by a feeling of repulsion in the legal mind for the rather hazy and analogical character of the argument by which the theory of organism is sustained. M. Combothecra attacks the subject with the precision of a mathematical demonstration and has no difficulty in concluding that in neither a literal nor a metaphorical sense can the term "organism" be applied to the state. His summary of the arguments for what he calls the theory of hybrid organism is characteristic:

L'état nous apparaît comme un organisme vivant tantôt spontané, tantôt instinctif et tantôt conscient. Une volonté générale quoiqu' indivisible loge

ses parcelles non détachées dans les individus qui restent tels tout en fusionnant en communauté étatique organique. Quoiqu' inhérente à l'organisme étatique la volonté générale se manifeste concurremment avec les volontés individuelles qui subsistent tout de même et ne disparaissent pas. Forces d'individualité et de sociabilité se rencontrent, se choquent sans s'annuler. État et individu sont, selon tel ou tel point de vue, tantôt des pluralités, tantôt des unités ou les deux à la fois. Et l'intussusception [a doctrine of Gareis] ou pénétration achève la confusion.

While the author rejects categorically the conception of the state as an organism, he as precisely maintains that the state is a person — and a real, not a fictitious, person. “L'état est une personne réelle et non fictive” (p. 89). This conclusion is deduced logically from the definition of person, which is in the narrowest sense juristic: “La personne, c'est une être capable de droits et d'obligations” (p. 68). On the basis of this definition, the demonstration is not difficult; but to the supporters of the organic conception M. Combothecra's argument will furnish quite as much amazement and amusement as he derives from theirs. A few of the attributes which he ascribes to the state as person are indicated in these adjectives: humaine, mi-naturelle, morale, publique. It has a will that is “soit objective, simple ou collective, soit mi-subjective collective.” The will is of the last type when it has its source “dans un corps maître-sujet + organe qui est une multitude. L'état alors est démocratique.” And we are told later that “le maître-sujet + destinataire-destinateur peut s'appeler peuple,” while “le maître-sujet + organe peut s'appeler gouvernement populaire ou peuple autogouverné.”

It is only just to say that the formidable terminology of the author is quite intelligible to one who studies long enough on his preliminary definitions. But it is questionable whether the advantage of being able to refer to the state as a person is worth the trouble of learning all the formulas which he devises to describe the essence of personality.

M. Combothecra's theory as to sovereignty and his doctrine as to the federal state are, on the whole, clear and satisfactory. Divided sovereignty he will not hear of; and hence he admits no conception of a state halfway between a unitary state and a confederation of states. The essential element of sovereignty he places in the will, and is Austinian in his analysis on this point. But he will not allow himself to be led into Rousseau's conception of “*volonté générale*” as distinct from the “*volonté de tous*.” The state, he

says, is not a unity distinct from the sum of the individuals that compose it, and the will of the state is always, in fact, the "ensemble" of the individual wills. To an act of the individual will the very existence of the state must be traced. He has no patience with the assertion, "reiterated to satiety," that history affords no example of a state constituted by formal agreement. "Yet Athens, under Theseus, and Rome, under Romulus, were established in no other way," and in our days a conspicuous case is that of Pennsylvania under William Penn! The citation of these examples throws a queer light upon M. Combothecra's conception of history.

WM. A. DUNNING.

*The Lesson of Popular Government.* By GAMALIEL BRADFORD.

New York and London, The Macmillan Company, 1899.—2 vols., 520, 590 pp.

When Mr. Gamaliel Bradford writes about "The Lesson of Popular Government," whether in a letter to *The Nation* or in two volumes of 1110 pages in all, it needs no microscopic search to discover what the lesson is. Mr. Bradford is that most estimable and most useful of citizens, a man with a hobby. His hobby is the development of the influence of personality in government, through the participation of executive officials in the work of legislation. This, he thinks, would purify our politics and substitute intelligent system for chaos in the conduct of government.

There are two classes of writers on the alleged failure of democracy in this country: those who have no sympathy with the democratic ideal and who believe that the evils which have become manifest are inherent in popular government itself; and those who believe that democracy has never had a fair trial and that the evils laid to its charge are the results of defective institutions for which democratic principles are in no way responsible. Mr. Bradford belongs to the latter class; and his purpose is, not to devise means of checking popular rule, but to find a method by which the desires of the people may be intelligently formulated and effectively carried out.

Before speaking of the very decided merits of this book, it may be well to mention some of its defects. In construction it is by no means a work of art. Too prolonged study of the *Congressional Record* has accustomed Mr. Bradford to that style of composition which consists in inserting huge blocks of scissored material from other writers into his text and then commenting upon them. At a