Deutsches Reichsstaatsrecht. By PAUL LABAND. Tübingen, J. C. B. Mohr (Paul Siebeck), 1909.—viii, 464 pp.

Das Verfassungsrecht der französischen Republik. By ANDRÉ LEBON. Same publishers, 1909.—vi, 205 pp.

Das österreichische Staatsrecht. By JOSEF ULBRICH. Same publishers, 1909.—viii, 378 pp.

Das Staatsrecht des Königreichs Belgien. By PAUL ERRERA. Same publishers, 1909.—xx, 460 pp.

Das Staatsrecht des Grossherzogtums Luxemburg. By PAUL EYSCHEN. Same publishers, 1910.—vi, 231 pp.

The scholars of England and the United States have been unable or unwilling to produce any really great handbooks of political economy and public law; and the student who would take a comparative survey of the constitutional systems of the world must still rely upon the monumental treatises of the prodigiously industrious German savants. Under the circumstances, a cordial welcome will undoubtedly be extended to the publication of a thorough revision of Marquardsen's *Handbuch des öffentlichen Rechts*, under the title, *Das öffentliche Recht der Gegenwart*. The stamp of authority is set upon it by the names of Professors Jellinek, Laband and Piloty, who have undertaken the editorial supervision of the work; and the original plan has been improved, at least to the extent of curtailing several lengthy historical disquisitions and confining the treatises to the concrete exposition of current public law. The scheme in general is, however, the same; and in some instances the authors who contributed to the original Marquardsen collection have merely brought their books up to date without extensive modification. For example, Laband's *Deutsches Reichsstaatsrecht* is simply the fifth edition of his little treatise published first in 1876, and Ulbrich's *Das österreichische Staatsrecht* is a revision of the third edition of his volume in the original *Handbuch*. In only a few instances are entirely new works promised. Nevertheless the new edition, taken in conjunction with the *Jahrbuch des öffentlichen Rechts* and the *Archiv*, will enable scholars everywhere to keep abreast of the constitutional developments of the civilized world with relatively little effort.

In turning over the pages of these new volumes, one cannot but be impressed with the fact that little of importance has occurred in the field of public law since the latest Marquardsen revisions. There is, of

course, the separation of church and state in France; but Lebon dismisses this theme in four pages, with the conclusion that the revolution has made more secure the foundations of public law and has in no way endangered freedom of conscience (page 192). The new electoral law in Austria is fully discussed by Ulbrich (pages 210 *et seq.*), but the interesting feature of compulsory voting receives scant notice. Indeed, Ulbrich simply states that it has not met the expectations of those who devised it. In the annexation of Bosnia and Herzegovina, he sees only the clear legal expression of an undoubted legal condition (*die wahrhafte Rechtsgrundlage*, page 136). The recent readjustments in Austro-Hungarian relations Ulbrich discusses at length, and he succeeds in making clear a tangle that has been puzzling western students for a decade or more.

In the method of treatment there is practically no departure from the model set in the original Marquardsen edition. Each of the volumes under review is dry and legal; each wears an aspect of remoteness from politics—the very warp on which constitutional law is woven. The written constitution has lulled each author, with the possible exception of Lebon, into a false sense of security. Only Hatschek's volume on England (recently reviewed in this journal) takes much account of the working mechanism created by the constitution; and this fortunate exception is probably due to the fact that one cannot take a copy of this constitution and a set of commentaries into his stdy and evolve a treatise on the public law of England.

Furthermore, relative values have not been considered by the editors with sufficient care. There is no good reason why the French Republic (the pattern for much continental public law) should be dismissed with 205 pages while the kingdom of Belgium receives 460 pages. This discrimination is assuredly due to oversight alone: forty years have now elapsed since Sedan. Contiguity must be responsible for giving 231 pages to the petty duchy of Luxemburg and ignoring the existence of the commonwealth of New York. No rigidly consistent plan has controlled the internal construction of the various volumes. For instance, Errera's Belgium devotes some 50 pages to local government—almost twice the space which Lebon (who omits provincial administration altogether) gives to the French legislature. The index in each case is wholly inadequate. Perhaps, however, it is ungracious to quarrel over details when the authors and editors of this excellent survey have rendered so marked a service.

C. A. BEARD.

Das Gesammtinteresse als Grundlage des Staats- und Völkerrechts. Prolegomena eines Systems. By HEINRICH GEFFCKEN. Leipzig, Georg Böhme, 1908.—vii, 56 pp.

Professor Geffcken's little pamphlet is written, as he himself says, in "lapidary" style, and it contains material that might easily have been expanded into a formidable treatise. The title and preface indicate the author's purpose to carry into the field of public law the social-utility theory formulated in Jhering's *Zweck im Recht*, and therewith to outline a new and more satisfactory system of constitutional, administrative and international law. The results, it must be said at the outset, are rather disappointing. In the field of national public law the author suggests a somewhat novel grouping of the functions of the state, but his analysis is open to quite as many criticisms as any of the older efforts. In international law, his theories are extremely conservative, not to say old-fashioned.

In the essentially philosophical part of his work, Geffcken's theories, as compared with Jhering's, mark regression rather than advance. To him, as to the English utilitarians, collective interests are primarily coincident and accordant individual interests, and permanent coöperation in the realization of such interests produces social organization. From the start, moreover, he treats conscious recognition (*Vorstellung*) of these accordant interests as the basis for the development of rules of conduct. All this suggests a reversion to the contract theory; and yet the author does not profess any such theory; on the contrary, he says that the beginnings of the state are to be found in "a purely *de facto*, mass-psychological process" (page 9). Such a process, however, is not commonly controlled by anything so definite as a *Vorstellung;* its driving force is feeling.

Interesting, however, and in the reviewer's opinion wholly justifiable, is the author's classification of social organisms into those which control their members by psychical pressure alone and those which actively enforce a collective will by "administration" (*Verwaltung*). The latter are "action-organisms" — not a bad phrase — and of these action-organisms the state is the most highly developed (pages 6, 7). The state, however, is only a species of this broader genus; and it is not essential to the concept of the state that it should be "sovereign." There are, indeed, no "half-sovereign" states, but there can be and are "non-sovereign" states (page 33). From this last statement many will dissent; but controversy on this point is pure logomachy.

Far-reaching expectations are aroused by a distinction which the