

The Skeptic and the Scholar

HOLMES-POLLOCK LETTERS: *The Correspondence of Mr. Justice Holmes and Sir Frederick Pollock. 1874-1932. Cambridge: Harvard University Press. 1941. 2 vols. 580 pp., with index. \$7.50.*

FOR fifty-eight years two of the greatest minds of our time exchanged letters. Now that these are published, enriching the literature of America and England with something instantly recognizable as fine and permanent, we are admitted to the companionship of Oliver Holmes the younger, and Frederick Pollock, and a welcome event it is. It is to be hoped that a newly-announced Holmes biographer, the highly reliable Catherine Drinker Bowen, will have access to much additional Holmesiana now in the possession of John Gorham Palfrey, the Justice's executor and legatee; but undoubtedly it is in the amazing correspondence between the English scholar and the American skeptic that we shall find Holmes at his magnificent best, writing of life, law, and literature, the three themes he found endlessly engaging.

His brother across the Atlantic was a very different man. To Pollock, books, especially the heritage from Athens and Rome, were perhaps more absorbing than people, in contradistinction to Holmes's tastes, for the American frankly declared that he considered the classics dead. He kept reading them, of course, but at ninety he still persisted in his opinion that the world of the moment and of the future mattered more. None of this precluded a friendship between two men who essentially were brothers, and who loved the law and each other.

Scholar though Pollock was, it is Holmes's part of the correspondence that wins the greater glory. For Holmes had more vitality; more—to use a word O. W. H. himself liked—more *fist*. More sensitiveness, too, and Pollock had his share of this quality. Together they give us five hundred and eighty pages, every one of which abounds in lines that deserve to be quoted. They will be, too. Future court opinions will borrow luster from them, and books of literary criticism will be the better for Holmes-Pollock fragments interspersed here and there. Certainly the one line from Holmes's pen that our children can be counted on to treasure above anything else he ever said or wrote is the one that appears in a letter written after his wife died, in 1929: "For sixty years she made life poetry for me."

Admittedly the first volume will be

of primary interest to lawyers, and the second volume of primary interest to the layman. The first chances to be chiefly an interchange of opinion on vexing points of law, and polishes many of the rough facets of debatable cases. But the lawyer and the layman will find their paths crossing. The first book says much about life and letters quite removed from the law, and the second is crowded with juridical memoranda and comment.

Holmes, the champion of civil liberties, is particularly interesting when he writes of social change. His great dissent in the *Gitlow* case is illuminated here with the line to Pollock: "My last performance . . . (a dissent in which Brandeis joined) in favor of the rights of an anarchist (so-called) to talk drool in favor of the proletarian dictatorship." For Holmes himself, nothing was less to his taste "than Hegel and political economy." Repeatedly he took care to make his position in these matters clear to Pollock.

If I didn't believe that socialism rested on dramatic contrasts and not on a consideration of what changes it could be expected to make in the the nature or distribution of the stream of products, I should listen to it with more respect. But the argument never gets much farther than look at the big house and the little one. It never becomes quantitative, asking how much does the tax levied by the rich for the pleasures of the few amount to. . . .

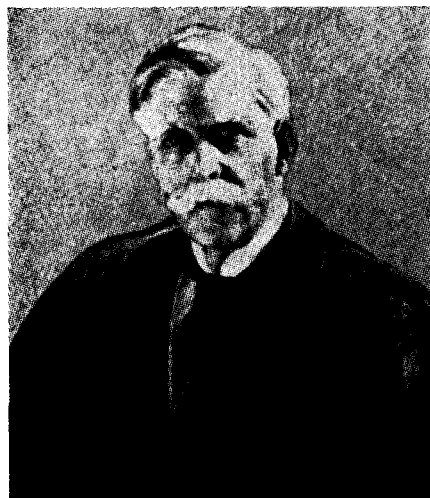
But this is a man who was a friend to the oppressed, especially when they were victims of the economy that Holmes felt could never be renovated with success, except, as he said, by taking life itself in hand. Pollock, concurring, admitted that the wealth of the few struck him as being merely

glittering shavings from a huge machine, and not the machine itself. Both men regretted the deceptive quality of the glitter, and its effect upon amateurs of economics.

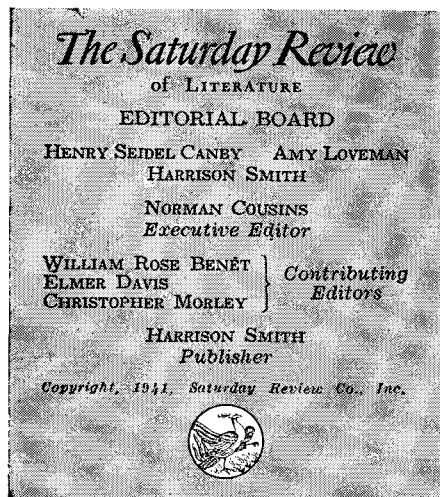
Regarding other matters: "I knew Henry Adams quite well," Holmes wrote. "He had two sides. He had distinction, great ability, and great kindness. When I happened to fall in with him on the street he could be delightful, but when I called at his house and he was posing to himself as the old cardinal he would turn everything to dust and ashes." Pose of every kind goes down before the rapier in these letters. Where Pollock dismissed it with weary contempt, Holmes happily fought it. "I was much amused," he wrote in 1924, "by a question of taste yesterday. In one of my opinions I give a short account of a statute and say that there are amplifications 'to stop rat holes' that need not be stated. . . . The C. J. criticised. I said our reports were dull because we had the notion that judicial dignity required solemn fluffy speech, as, when I grew up, everybody wore black frock coats and black cravats (I didn't say that to them.) I didn't care for the phrase but do for the principle." As to Shakespeare, Holmes marveled that a few golden words should float so much quibble. Plato reeked with platitudes. In short, take away your ancients. Over and over Holmes complained that they are limited by their times, by an awareness of little more than first principles. He insisted that their ideas were plain, objective, and basic, like the bark of a dog, and that we who live in a room that is all mirrors must not look back to antiquity for our courage and our faith.

But with the observation that each man has his different system, he did not war with Pollock. He warred with others, though, from the Bard and the Bible ("the two books that editorial stupidity, bad arrangement, and perverse tradition have made the hardest for the general reader to enjoy with understanding") to Bergson ("a humbug agreeably pinned to paper by Santayana"). When he sheathed his sword, and loved—when he was enjoying the pleasures of his home and his profession—his letters were equally graphic. He wrote about every conceivable aspect of life and work, and here is the compendium.

Unreserved praise must be accorded to Mark DeWolfe Howe, the editor, for his careful and loving work, and to Mr. Palfrey, for his most illuminating introduction.



From the painting by Charles S. Hopkinson
Mr. Justice Holmes



RESPONSIBILITY AND THE REVIEWER

A RECENT issue of the *London Times* reaching this country carries a report of a successful action for libel on February 10 growing out of a book review. The case, almost certain to establish something of a precedent in English law, involved the famous literary trio, Edith, Osbert, and Sacheverell Sitwell, and the publisher of the *Reynolds News*, British weekly. The Sitwells claimed damages—and collected approximately \$5,000—because of a review in that paper by Hamilton Fyfe of the book, "Edith Sitwell's Anthology." This is the portion of Mr. Fyfe's review to which the Sitwells objected:

Among the literary curiosities left by the nineteen-twenties will be the vogue of the Sitwells, sister and two brothers, whose energy and self-assurance pushed them into a position which their merits could not have won. One brother wrote amusing political verse. The sister produced a *Life of Alexander Pope*. Now oblivion has claimed them, and they are remembered with a kindly, if slightly cynical, smile.

Miss Edith Sitwell has been occupied in collecting her favorite pieces of poetical writing and has published 812 pages of them in "Edith Sitwell's Anthology" (Gollanoz, 7s 6d). It would be a delightful bedbook if it were not so heavy to hold. The 160 pages of "critical introduction" might well be omitted from future editions.

According to the *London Times*, the publisher of the *Reynolds News* was content to allow the review speak for itself and offered no additional evidence, claiming "fair comment"; neither did Mr. Fyfe take the stand. On the other hand, all three of the Sitwells took turns in the witness box, claiming they had been seriously injured in their character, credit, reputation, and occupation. The review, they declared, meant that they were persons of no literary ability whose arrogance and conceit constituted their sole claim to prominence.

The decision of the court resulted in a sweeping victory for the Sitwells. Mr. Justice Cassells pointed out that whatever the merits of Miss Sitwell's book, the fact remained that the reviewer had used her book as an opportunity for an attack not only on the author but on the other Sitwells as well. Sentence by sentence, the judge analyzed the review in relation to the evidence produced in court, finding that Mr. Fyfe had invited the reading public to believe that "the realm of oblivion had thrown open its doors to the plaintiffs, that they were in a kind of literary limbo," while the "facts proved that the three plaintiffs had been almost prolific in the literary activities right up to 1940." Moreover, said the judge, the passage could hardly be called a "review," since it contained only two observations about Miss Sitwell's book; first, that it was too heavy to hold as a bedbook, and, secondly, that the portion of the book written by Miss Sitwell might well have been omitted. All in all, concluded Judge Cassells, the review constituted defamation of character and ability. Addressing himself to the publisher of the *Reynolds News*, he pointed out that an apology in the columns of his paper might not be sufficient reparation, since it was possible that all readers who read the libel might not come across the retraction, and directed equal payment for damages to each of the Sitwells.

Not having seen Miss Sitwell's book, it is of course impossible to pass upon the merits of the work. Yet the case itself may not be without significance for American publishers, authors, and reviewers. Thus far the American book reviewer has operated on more or less privileged ground, allotting to himself

—and receiving—an immunity not shared by writers in other fields. A not inconsiderable portion of contemporary reviewing has been of an "everything-goes" nature. Frequently the appearance of a new book serves as a signal for a general attack not only on the book but on the author, his motives, and his background.

Even disregarding the possibility that some American authors, taking their cue from the Sitwells, may attempt to establish a similar precedent here in order to hold reviewers to account for their statements, this is as good a time as any to re-examine the function and techniques of reviewing with an eye toward setting up boundaries of fair play. This does not mean that reviewers should in any way modify their opinions of books, however severe those criticisms may be. Nor does it mean that reviews must be written without flavor. But the quality of a review is not improved if the reviewer uses it as a springboard for unwarranted or unjustified criticism beyond the book itself. The critic who is tempted to use vitriol instead of ink should do more than count ten before leaping to the attack; it behooves him to remember that he is setting out to demolish in a few minutes what may be the result of many months or years of work. As soon as he strays beyond material pertinent to the book at hand and into random criticism or abuse, he strays into literary irrelevancy where irresponsible, inaccurate, or unjust statements, if provable as such, should be open to the same instruments of retaliation as any other form of writing.

And even if it is legal, it isn't good reviewing.

N. C.

Home Is Where

By Louis Hasley

LIGHTS that have been on all day in offices begin to vanish, one by one. The bitter January has been forgotten since morning, with lunch in the house cafeteria.

The last typist scatters a few pit-a-pat-pats on the inert air

closes her desk, rushes to catch her girl friend in the washroom.

All over the city, men rise from their chairs, button their coats, and say:

"That other matter, Miss Brown, will have to wait till tomorrow."

At 5:05 stepping into the elevator goodbye to all that . . . With tired shoulders they go forth to live heart singing, body crying, rest.