CHRONIQUE ANGLAISE.

THE LITERATURE OF LEGAL HISTORY SINCE THE WAR.

In England, as in most countries, the war not only paralyzed scholastic activity during the period of hostilities, but for a considerable time after the declaration of peace opposed formidable difficulties to the production of learned work. This was the more unfortunate because there were heavy arrears to be made up. The war had affected every department of law, innumerable precedents had been established; and since it is from these precedents that English law derives its life-blood, there was much work to be done in bringing the exposition of the law au jour. Consequently most of the energy of English lawyers has gone into the revision and synthesis of modern law, rather than enquiry into historical origins. British lawyers cannot exist without those standard “practice books” which possess almost a ius respondendi in the courts, and which constantly have to be adapted to changing conditions. Of these a large number of new editions have appeared in the last four years, and have absorbed the greater part of legal publication.

However, the output of historical work is by no means inconsiderable. Jurisprudence as such lies somewhat outside the scope of this notice, but no account of recent English legal literature would be complete without mention of Sir Paul Vinogradoff’s two volumes on Historical Jurisprudence. This is the first treatise of its kind in the English tongue. English lawyers are notoriously indifferent to jurisprudence as a branch of legal science. In the theory of sovereignty and law we have stood still for
more than a century; our tradition of jurisprudence comes from Austin, which means in effect that it comes from Hobbes. During the 19th century we remained almost entirely unaffected by the great juristic conflicts fought on continental battle-grounds; and to this day much of the doctrine of State and Law taught in our universities and law-schools is that of a bygone stage of social evolution. This seeming apathy is doubtless due in part to the fact that much of the theoretical discussion which in other countries is the subject of learned treatises, in England lies directly within the province of the courts themselves. Partly also it may be due to an absence of the speculative temperament. Whatever the cause, we have been singularly infruitful of notable work in the field of jurisprudence, even after a great stimulus was given to the study of its historical aspect by the remarkable talents of Maine and Maitland. Prof. Vinogradoff’s work is the first attempt to present a systematic view of the methods and results of historical jurisprudence. The subject is vast, and the author has been compelled to keep it within certain limits of plan. He has chosen the ideological in preference to the chronological method, and has selected three characteristic aspects of the growth of social and juristic ideas — the tribe, the city-state, and the mediaeval conception represented by feudal and canon law. Two volumes have now appeared, one on Tribal Law, the other on The Jurisprudence of the Greek City, and a third, on The Mediaeval Jurisprudence of Western Christendom will shortly be added. To these is prefaced, in the first volume, a brilliant introduction which sketches the relationship between law and the sciences, and gives a compendious view of the chief methods and schools of jurisprudence in Europe. This introduction has recently been published as a separate volume, and will be of particular value in opening the eyes of English lawyers to the great movements of juridical thought which we have so long neglected.

There seems to be no limit to the enthusiasm and industry of our foremost historian of English law, Dr. W. S. Holdsworth, who has recently succeeded to the Vinerian (Blackstone’s) Chair at Oxford. His History of English Law, in three volumes, is too well known to need description here. Vol. I, “intended to be the first of two volumes dealing with the General History of English