3-1927

Sumptuary Legislation and Personal Regulation in England

William Thomas Morgan

Indiana University

Follow this and additional works at: https://www.repository.law.indiana.edu/ilj

Part of the Comparative and Foreign Law Commons, and the Legislation Commons

Recommended Citation
Available at: https://www.repository.law.indiana.edu/ilj/vol2/iss6/6

This Book Review is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in Indiana Law Journal by an authorized editor of Digital Repository @ Maurer Law. For more information, please contact rvaughan@indiana.edu.
XII, p. 49), an article on "The Scope and Effect of the 1926 Amendments to the Bankruptcy Act," written by the writer of this review, calls attention to the erroneous impression about the proviso, and also the gap between 60-a and 60-b, which results from the act of Congress in adding the words "or permitted," to subdivision (a) without also adding the same words to subdivision (b).

Use of the Manual as a reference work by law school classes has been found by the reviewer to be very satisfactory.

Black's fourth edition of his work on Bankruptcy is an impressive work, written in a clear style, emphasizing a text statement of principles, rather than an encyclopedic collection of case-statements. The language of the statute, in black-faced type, is set out throughout the body of the text. This new edition was published a few months too early to include the new amendments. The brief supplement is a reprint of the Act as amended. These important amendments, especially as their interpretation by the new cases grows, may well be expected to call for a new edition of Black within a short time.

Neither Gilbert's Collier nor Black contains a table of cases. Both are well done as to their mechanical features of printing and binding.

JAMES J. ROBINSON.
Indiana University School of Law.

SUMPTUARY LEGISLATION AND PERSONAL REGULATION IN ENGLAND*

This scholarly work is based upon a study of the more important printed sources available in American libraries. The title, unfortunately, is somewhat misleading, as the book deals largely with costume and fashions in dress, which came in for the lion's share of regulation, although food also received some consideration. The great mass of sumptuary laws, however, passed from time of Edward III to the Puritan Revolution suggest much ado about nothing, for Dr. Baldwin could find little evidence that any of them were really enforced.

"The English ordinances did not deal with as many or as varied subjects as did those of the continent and were issued almost exclusively by the central government, and not by the towns and other local bodies. They met with the same fate, however, that seems to have been reserved for similar laws everywhere—that is to say, they do not seem to have been rigidly enforced. . . . After studying them and their results . . . one is inclined to agree with Montesquieu . . . that 'manners and morals, like religion, lie outside the range of human comprehension.'" (p. 274).

In the light of these facts, why did parliament think it necessary to pay so much attention to regulating dress? Professor Baldwin fails to answer this question, although for the later period she suggests that the Puritans were deeply concerned with the regulation of both manners and morals. As the power of the Puritans increased, however, she points out that the amount of such regulation declined, and when they were securely in the saddle, such laws practically disappear, although the Puritans continued to concern themselves with censoring sports. Football, then as now, came in for criticism, and the game was more or less accurately described as being more “a friendly kind of fight then a plaie or recreation.”

The work is arranged chronologically. Dr. Baldwin feels that the first serious attempt to pass sumptuary legislation did not come until the reign of Edward III, and the amount tended constantly to increase to the close of the sixteenth century. The Lancastrians and Yorkists are given twenty-five pages each, the Tudors (excluding Elizabeth) seventy-three, and that of Elizabeth alone fifty-six. The author, in order to make the laws intelligible, goes into great detail in describing the costumes of the periods, so much so that a mere man surrenders at discretion upon encountering such words as “camlet”, “sarcenet”, “niefles”, “cracows”, “criniles”, “esclaires”, “liripipes”, and “cotehardies”. To do justice to the industry of Professor Baldwin, the work should have been profusely illustrated, preferably in colors, to show the costumes which she describes so carefully. Garments in those days, even for women, were intended to cover the body, and their number and size would bid fair to stagger our younger generation, a description of whose costumes will certainly involve far less difficulty to the historian four centuries hence than do those of Elizabeth to our twentieth century historian.

Closely akin to the attempt to regulate dress was the effort to exercise control over sports. The Puritans did this to such a degree as to bring down upon them the wrath of Lord Macaulay, who maintained that the Puritans objected to bear-baiting, not so much because it gave pain to the bear, but pleasure to the spectators. Even after the influence of Puritanism began to wane, we find a curious “Act for Punishing of Such Persons as Live at High Rate, and have no visible Estate, Profession or Calling answerable thereunto”. The preamble of this law ran: “Whereas divers lewd and dissolute persons in this Commonwealth live at very high Rates and Great Expenses . . . do make it their Trade and Livelyhood to Cheat, Deboyst, Cozen and Deceive the young Gentre” by “Cards, Dice, Tables, Bowles, Shovel-Board” in addition to cockfighting, horseracing and betting. This state and another mentioned below escaped Dr. Baldwin largely because her study terminated earlier. Another law of the same year (1657) was for the better observance of the Sabbath, and prohibited “all Persons unnecessarily walking in the church and churchyards, or elsewhere in the time of Publique-Worship, and all Persons prophaneely walking on the
Day aforesaid; upon Barbers trimming upon the day aforesaid, and Tradesmen exhibiting or Selling Commodities". All these laws and many more make it abundantly clear that the theory of laissez-faire is relatively new and such recently minute regulation of our daily life as is found in the Volstead and other supplementary legislation is simply a return to mercantilism, which our Himalayan Protective Tariff proves that we have never wholly given up.

The reviewer feels that the author labors overmuch to discriminate between sumptuary and mercantilistic legislation, as their aims in many cases were essentially the same. In this arid era we are a bit shocked to learn that maids of honor at the Tudor court received four and a half gallons of ale as a daily ration, although it may help to explain their comparatively brief tenure of office. The writer also fails to understand why Dr. Baldwin persists in giving us the names of the speakers of the House of Commons, so many of whom deserve only to be forgotten.

Two errors have crept in. Nantes, the Huguenot center, has been confused with Nancy on the eastern frontier (p. 135, n.) Henry VIII desired not a "divorce", but rather a decree of nullity. He wished the pope to declare him a bachelor, rather than a widower (p. 156). The bibliography is very much on the short side (three pages), and needs annotation. So brief an index (a page and a half) is almost an insult to the reader, as it can serve no useful purpose.

WILLIAM THOMAS MORGAN.

Indiana University.

NOTICES

(These notices are preliminary; they do not preclude reviews later.)


This book includes a list of "outstanding lawyers in all cities and larger towns in the United States and Canada" and a list of lawyers in foreign countries; court calendars; synopses of laws of the states and foreign countries; important forms for all the states; treatise on the inheritance tax law; list of U. S. embassies, legations and consuls; list of legal journals; and treatises on the patent and trade-mark laws. Its usefulness is evident. There are various indications that it is reliable. Its list of Indiana lawyers bears impressive evidence of reliability. But its Indiana list of fourteen federal and state court judges is only fifty per cent accurate, due to the misspelling of the names of seven of the judges. This may not be contempt of court but it deserves correction.

JAMES J. ROBINSON.

Indiana University School of Law.