

## REVIEWS

MAITLAND: SELECTED ESSAYS. Edited by H. D. Hezeltine, G. Lapsley, P. H. Winfield. (Cambridge University Press; 2/6.)

The three volumes of Maitland's *Collected Papers* being now out of print, it is good to have this group of selected essays which include six of the collected papers and the famous essay on the *Memoranda de Parlamento*, all edited and brought up to date by the scholarship of three distinguished members of the Cambridge schools of Law and History.

The conclusions of the *Memoranda de Parlamento* have been carried further by the recent work of Miss Clarke on *Medieval Representation and Consent*, which has traced the principle of Parliamentary representation to its ecclesiastical origins and to the decrees of the Lateran Council of 1215. Indeed the language of the early Writs of Summons to the House of Lords and to the House of Commons is itself indicative of an ecclesiastical origin. The Peers are summoned "*ad deliberandum et consentiendum*" and the Commons at first "*ad faciendum*" only and later "*ad consentiendum et faciendum*." The formulae of Parliament thus follow the scholastic statement of the acts of the practical reason: *deliberare, consentire, facere*. It would be interesting to have from some competent scholar a study of the effect of mediæval philosophy on the development of the English Constitution. For example, Sir John Fortescue in his *De Laudibus Legum Angliæ*, which may be said to be the first piece of writing on the Constitution, takes from Aquinas the distinction between absolute monarchy and constitutional monarchy (*Regimen Regale* and *Regimen Politicum et Regale*) and affirms that England is a constitutional as opposed to an absolute monarchy. In the seventeenth century, the texts of Fortescue were everywhere used by Parliament in its quarrel with the King.

Again, the growth of English corporations owes much to the canonist thinking on this debated matter. The problem of corporate personality seems to have fascinated Maitland in his last years, and it appears also to interest the Editors of this volume, for all the essays other than the *Memoranda de Parlamento* have in one way or another to do with it. In a note to the essay on *Moral Personality and Legal Personality* we are told that the two principal theories of legal personality at the present day are "the canonist's theory of the *persona ficta* and Gierke's theory that the group is a real person which itself can will and itself can act by the men who are its organs." The matter is fully discussed in Professor Ernest Barker's introduction to the new translation of Gierke on *Natural Law and the Theory of Society*, and something in the nature of a *via media* is suggested. Against those, however, who affirm that corporate personality involves a new being and a new essence there always remains the daring metaphor of

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Maitland in his *Political Theories of the Middle Ages*: "No doubt if the State mutters some mystical words there takes place in the insensible substance of the group some change of which lawyers must say that all a Roman or a romanesque orthodoxy exacts; but to the lay eyes of debtors and creditors, brokers and jobbers all sensible accidents seem much what they were."

RICHARD O'SULLIVAN, K.C.

## MEDIÆVAL STUDIES

That among the works of Giles of Rome, the *Doctor fundatissimus*, a great deal remain still unpublished has been conclusively shown by G. Bruni. The present volume, a *Quaestio de natura universalis*,<sup>1</sup> is intended as the first in the series of the *Opera hactenus inedita*. It is, he tells us, the shortest and perhaps the least important of Giles' writings. And it is very brief indeed; it occupies hardly six pages in the printed text. A list of the unedited works of Giles, a short introduction and an analysis of the contents precede the text. The edition is made from two manuscripts, the only known, cod. Vat. lat. 773 and MS. 485 of the University Library of Erlangen. The most important part, however, of the publication is an essay on the chronology of Giles' life and works. In four parallel columns are indicated the dates, main events, writings and authorities. Of course, not all the items possess the same value: some are approximate or only tentatively proposed, other few are dubious, and one or two obviously wrong. Many uncertainties still remain. Dr. Bruni has devoted many years to the study of Giles of Rome; his researches are wide and he is a recognized authority on the subject. If we may make a suggestion, we would ask him to condense his large knowledge in a synthetic work, and to give us a complete and accurate account of all Giles' writings, published and unpublished, with the indications of the editions, manuscripts, authorities, etc., in their chronological order, etc. He has the competence to do it. It would be a standard work and would deserve the gratitude of all mediævalists.

Dr. M. de Bouïard presents us with a new *Compendium Philosophiae*.<sup>2</sup> It belongs to that very popular class of mediæval literature, a kind of encyclopaedia, in which was gathered together in an unsystematized form all the scientific knowledge

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<sup>1</sup> BRUNI, G.: *Una inedita "Quaestio de natura Universalis" di Egidio Romano. Con un Saggio di Cronologia Egidiana.* (Collezione di Testi filosofici inediti e rari, 2.) Napoli (A. Morano), 1935; pp. 53; Lire 6.

<sup>2</sup> M. DE BOUARD: *Une Nouvelle Encyclopédie Médiévale: Le Compendium Philosophiae.* Paris (E. De Boccard), 1936; pp. 207.