

systems as a whole, while the English school deals rather with the development of juridical ideas and particular institutions within the legal system.

'According to the teaching of Savigny,' writes Professor Sohm, 'law must be regarded as a product of the entire history of a people; it is not, he contends, a thing that can be made, at will, or ever has been so made; it is an organic growth which comes into being by virtue of an inward necessity, and continues to develop in the same way from within by the operation of natural forces.'

And it could easily be shown that in a broad sense this is true of legislation itself.

Now Professor Vinogradoff has shown us that this German school had a political origin and explanation.

'It represented,' he says, 'a powerful social doctrine which had sprung into being in Europe's struggle against revolutionary rationalism as embodied in the French Republic and in Napoleon's Empire. Romantic in its appeals to archaic custom and national traditions, conservative in its legal creed, the first school of historical Jurisprudence entered the lists in support of a conception of law determined by historical antecedents, by a growth of national psychology hardly less instinctive than the evolution of language itself.'

The English school of historical Jurisprudence, on the other hand, had a scientific origin and explanation rather than a political. As the editor of this REVIEW has said: 'The transformation of political science about forty years ago cannot be disconnected from the all but simultaneous putting forth of new and far-reaching ideas in the study of organic nature. "Ancient Law" and the "Origin of Species" were really the outcome, in different branches, of one and the same intellectual movement, that which we now associate with the word "evolution"'.¹ 'Coming soon after the publication of Darwin's great book, which had made the theory of evolution a great force in natural philosophy,' says Leslie Stephen, 'Maine's "Ancient Law" introduced a correlative method into the philosophy of institutions.'² 'His chief aim,' says Professor Vinogradoff, 'was to propagate in the domain of Jurisprudence the same spirit and methods which had already given such splendid results in two newly created departments of science—in comparative philology

¹ Institutes of Roman Law (Ledlie's trans.), p. 160.

² The Teaching of Sir H. Maine, An inaugural lecture, p. 9.

³ Article on Comparative Jurisprudence in Journal of Society of Comparative Legislation (August, 1903).

⁴ Dictionary of National Biography.

⁵ The Teaching of Sir H. Maine, p. 15.