

one feels that a nation which looked upon such a violation of law in silence would have signed its own death sentence. From the nation which allowed itself to be deprived of one square mile of territory by its neighbor, unpunished, the rest would be taken, until nothing remained to it to call its own, and it had ceased to exist as a State, and such a nation would deserve no better fate." (p.p. 24-25.)

When Professor Von Jhering proclaims that the very existence of the law is dependent upon the assertion by each citizen of his rights, few will disagree with him. But when he states that the struggle for law is a species of holy war which must be fought *à l'outrance*, there is room for serious exception. In the case of violent infractions of rights, the doctrine is conceivable; the defence of a man's property is then assimilated to that of his person. But what about fraudulent attacks, unattended by violence? It is then no longer a question of repelling force by force, but of protecting private interests. The "feeling of right" is an exalted standard; but let the disputed object become worthless, and the feeling runs out quickly.

To say that war is the life of the law is like saying that strikes are the life of trade. War and strikes each have their function; and a very important one it is, in each case. But they mark only the crises, the times of transition, the travail of newer ideas and institutions.

If the "Struggle for Law" had done nothing more than to teach the duties of hopefulness and bravery, it would not have been written in vain. But it does much more. It has vindicated the share of the individual in the fashioning of the positive enactments governing his life; it has also vindicated the right of conscientious legislation to be deemed the highest evolution of law. It has shown that the heroes who struggled for justice, even in the face of existing law, are martyrs in the cause of the unborn law. Speaking of Michael Kohlhaas, our author says (p. 87): "It is said that the blood of martyrs does not flow in vain; and the saying may have been true of him. It may be that his warning shadow sufficed for a long time to make the legal oppression of which he was a victim, an impossibility."

The book closes with a panegyric of strife. The æsthetic theory of law, propounded by Herbart, comes in for destructive notice. That philosopher sees the basis of law in the dislike of contention.

The answer obviously is that contention has fulfilled, and is yet fulfilling, a high office in the development of law and of all other social institutions.

The concluding words are:

"The sentence: 'In the sweat of thy brow shalt

thou eat bread,' is on a level with this other: 'By struggling shalt thou obtain thy rights!'"

From the moment that the law gives up its readiness to fight, it gives itself up; for the saying of the poet, that only he deserves liberty and life who has to conquer them for himself every day, is true of law also.

Many other features of the work deserve notice, but cannot be treated in the compass of an article like this. The criticism upon the iniquitous decision in Shylock's case, the parallel between law and love, the fable of the Englishman and the Austrian, and their different methods of dealing with a swindling inn-keeper, are all as instructive as they are interesting.

A final word upon the main thesis of the book. Strife has its uses in law. It is one of its main reformative agencies. But custom, not private war, is the parent of law. Strife is not the life of Law. The struggle between two individuals is a common conception of a law-suit. But the difference between a battle and a law-suit is that in the former case there is no arbiter, while in the latter there is. It is not the prowess of the victor which wins him the suit: it is his power to convince the judge. While it is true that legal revolutions are frequently consummated in a civil struggle, their lasting effects are moulded by the succeeding peace, and very often could not have been foreseen by the combatants.

The industrial age has displaced warlike ideals. Foreign wars serve to-day mostly as an avenue to foreign markets. Law-suits are taken and conducted, in the vast majority of cases, purely from the standpoint of interest.

The struggle for justice is shifted to other spheres. The claim of humanity, purely *as humanity*, to recognition, is being hurled into the teeth of industrialism. Monopoly in trade, and class-domination in politics, are preparing a state of things for which only one remedy is possible whereby the honor of mankind may be saved.

The lessons of courage taught by Von Jhering's brave little book are of supreme value in the present age of transition.

The universal struggle for justice will need all the energies developed in the various activities of the race. The remembrance of the indestructible vitality of Right in the past should nerve the arms of the combatants of the future.

"Truth, crush'd to earth, will rise again;
The eternal years of God are hers;
But Error, wounded, writhes in pain,
And dies among her worshippers."

P.C.R.