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Studies in the History of American Law

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BOOK REVIEWS

STUDIES IN THE HISTORY OF AMERICAN LAW. By Richard B. Morris. Studies in History, Economics and Public Law, No. 316. New York: Columbia University Press. 1930. Pp. 285.

This very interesting little book, as the preface states, is an introductory study of the history of early American law and deals chiefly with phases of real property law, legal liability and with the position of women in the law. During the colonial period, termed the Dark Ages of American Law, lawyers were unpopular, particularly in New England, and the courts were manned by laymen. The clergy was often powerful and attempts were made to derive a system of law from the Bible. There were few law books and fewer lawyers so there was little knowledge of the English common law. Ignorance of the common law may have had its disadvantages, but also had great advantages in that the ignorance of the technicalities of that over technical system was particularly marked. Under such an organization and administration of justice the common law forms of action were not understood and the action of trespass was at times used for a wide variety of purposes including the recovery of possession of land and chattels, and other forms of action were likewise misused; but justice is as welcome under one form of action as under another. This judicial machinery manned by those free from the hampering common law technicalities managed to develop ideas so admirable and progressive in their nature that one feels regret that the records were not made easily accessible by means of published reports. Had this been done post-revolutionary judges would have derived much benefit therefrom, and our early law been enriched and benefited. To some moderns it may be unthinkable that anything good could ever have been accomplished by the Puritans, but reading this book has given the writer an added respect for that very earnest people, for nowhere in the colonies was the progressive spirit more marked than in New England. The book should be read by lawyers and laymen and particularly by those who still imagine that the colonists came to this continent bringing with them the complete English common law system.

—JAMES W. SIMONTON.