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Book Reviews

SEARGENT S. PRENTISS: WHIG ORATOR OF THE OLD SOUTH, by Dallas C. Dickey. Southern Biography Series. Edited by Fred C. Cole and Wendell H. Stephenson. Baton Rouge, Louisiana State University Press, 1945. Pp. ix, 422. Illustrations, critical essay on authorities, index. \$4.00.

Boom towns, land speculation, rapidly expanding cotton plantation areas, extensive bank organization, steadily developing river trade, and ever-growing entrepots of Natchez and Vicksburg—all made the Mississippi of the 1830's and 1840's a fabulous land of opportunity. Scarcely past the Indian-frontier stage, it was a land and commercial frontier of considerable national appeal. The Gulf and Mississippi river coasts had been settled; adjacent inlands were peopled with planters from older, worn-out lands further eastward, with middle-class farmers who had few slaves or none at all, with sprinklings of so-called "poor whites" who had migrated in the all-too-frequent but oftentimes forlorn hope of climbing to a new and higher economic stratum; and newer lands toward Alabama were already being surveyed and sold. Prices were good, business flourishing; it was a southern El Dorado.

Many ambitious young Yankees emigrated to Mississippi during those early years of her statehood. But few of them made so great an impress upon her local scene and upon her future history as the young lawyer from Maine, Seargent S. Prentiss, who on an early November day in 1827 landed from the river packet at the Under-the-Hill wharves of Natchez. In a few short, action-packed years Prentiss became an outstanding member of Mississippi's bar, a national political figure and one of the most dynamic orators of his generation, whose fame carried to the Potomac, the Hudson, and beyond to his native New England.

After a brief period spent as a teacher, during which time he wrestled with and mastered Mississippi law and read widely on varied cultural subjects, Prentiss hung out his shingle as a Natchez lawyer. His first partnership was with Felix Huston, who later distinguished himself in Texas history. Despite immediate success as a pleader, he four years later journeyed north to Vicksburg, where he formed a partnership with John I. Guion. This alliance lasted until 1836 when he became associated with

William C. Smedes. He and Smedes were law partners until Prentiss' departure for New Orleans in 1845. There he joined John Finney, an already-established lawyer, and on December 20 the new firm announced its domicile at "Office No. 56, Canal Street, up stairs." Here he remained until his death in 1850.

Prentiss' reputation as statesman and orator was made in Mississippi. A staunch Whig, he early turned to state politics as a field of activity for his broad intellect, driving energy, and boundless enthusiasm. He served in the Mississippi legislature in 1836-37. There he headed the important Judiciary Committee, favored internal improvements, defended slavery, a strict construction of law, and the state constitution. His speeches were well prepared and of great weight, one newspaper saying that he frequently used "the Club of Hercules, and the Toledo blade with equal power, precision and effect." But his greatest contribution to his adopted state's political life was his staunch opposition to the repudiation of her Union Bank bonds; a fight which was lost early in 1842.

After serving in the Mississippi legislature, Prentiss went to Congress where he made a name for himself as a logician in debate and a Whig orator of high quality. His maiden Congressional speech, after being seated, was against Van Buren's Sub-Treasury Bill and was deemed important enough to be answered by South Carolina's great Robert Barnwell Rhett. Later he attacked the bill vigorously, sparing neither argument, invective, nor denunciation, and closed with the idea that a "dead Percy was better than the live Falstaff," a point driven home with, "It was said when great julep drinkers died, the mint was seen springing on their graves: it seemed so of this bank of the United States; though it was dead, its money still continued to supply the people with their best currency." During his second session he attacked the Samuel Swartwout defalcations (collector of customs at New York) and later fought the resolutions that the Speaker, James K. Polk, had presented in an "able, impartial, and dignified manner."

As a campaigner in national elections he consistently toured his state in behalf of Whig principles, speaking at every opportunity and from every vantage point, once at least from the top of a lion's cage. His contributions to the election of Harrison in 1840 can hardly be overestimated; his efforts for Clay in 1844 were but slightly less prodigious. However, his influence during the campaign of 1848 was less pronounced, for the falling action

of Prentiss' career had begun with his removal to New Orleans in 1845.

It is Prentiss' fame as a trial and jury lawyer rather than his reputation as legislator or statesman, or his renown as a public orator, that keeps his memory fresh in the minds of presentday legalists. Though he appeared only once before the United States Supreme Court, he pleaded numerous cases before Mississippi's supreme tribunal and, within the brief space of five years, twice as many before Louisiana's highest court. Between these appearances he rode the circuit where his logic influenced many a judge and his eloquence swayed many a jury. He was a consistent winner in the courtroom. His most sensational case was the defense of the Wilkinson brothers of Kentucky against charges of murder committed in self-defense, a trial still remembered as one of the most famous in Kentucky history. Prentiss won an acquittal by keen legal analysis and synthesis and, perhaps most of all, by surging, overwhelming oratory. Speaking of his great legal powers half a century after his death a noted member of Louisiana's bar said, "Let the young lawyer, ambitious to be an orator, not despair, but setting the example of Prentiss before him, let him imitate it by going hard to work. If, as is not unlikely, he should fall far short of the consummate pattern before him, he will at least, providing he perseveres, have left many of the faults of his beginning behind him."

Dr. Dickey's biography presents the complete, colorful story of the Mississippi statesman and orator who has been almost forgotten by modern Americans. His search for materials led eastward to Prentiss' Maine and back to Mississippi and Louisiana again. Manuscript and documentary, as well as printed, sources authenticate statements of fact, while a happy combination of factual and lucid writing makes the reading of the volume unusually pleasurable. It is indeed unfortunate that Dr. Dickey was not permitted to use the splendid source collection of E. Bryan Dabney of Vicksburg; for, while it is extremely doubtful that the use of the collection would have altered factual conclusions, much detail and considerable color might have been discovered among musty old manuscripts and time-worn newspapers, books, and pamphlets. The reviewer is aware that repeated efforts were made to secure the cooperation of Mr. Dabney, but all to no avail. Why do some collectors greedily grab valuable historical records and then guard them as misers their gold, producing nothing

themselves but preventing competent scholars from gleaning from them knowledge of our past history? Dr. Dickey's biography is definitive. It is a significant contribution to the field of southern political, legal and oratorical history and a distinct compliment to Louisiana State University's Southern Biography Series.

EDWIN ADAMS DAVIS*

GENERAL THEORY OF LAW AND STATE, by Hans Kelsen, translated by Anders Wedberg (20th Century Legal Philosophy Series: Volume I), Harvard University Press, Cambridge, 1945. Pp. xxxiii, 516. \$6.00.

THE PURE THEORY OF LAW, by William Ebenstein. University of Wisconsin Press, Madison, 1945. Pp. xii, 211.

As a sequel to the Modern Legal Philosophy Series, the Association of American Law Schools has prepared the publication of a *20th Century Legal Philosophy Series*. Most appropriately the editorial committee has chosen Hans Kelsen's *General Theory of Law and State* as the opening volume. Kelsen's "Pure Theory of Law" is, no doubt, the outstanding achievement of our time in legal theory. The great trend of analytical jurisprudence, going back to Bentham and Austin, has reached in Kelsen's work a climax of elaboration that will hardly be surpassed in the near future. The achievement is paralleled by a prodigious success, attested by the bibliography that is attached to the volume: it shows translations of Kelsen's works into fourteen languages, and the select bibliography of the more important monographs on the Pure Theory of Law runs into eight pages.

The present volume contains a restatement of ideas expressed in earlier works. It has absorbed the substance of the *Allgemeine Staatslehre* (1925), of the *Théorie Générale du Droit International Public* (1928) and of the *Reine Rechtslehre* (1934). It is, however, not simply a translation of parts of the earlier volumes but a systematic reorganization of the whole body of doctrine with a view to the interest of the reader who is brought up in the tradition of the Common Law. This fact alone lends importance to the new volume, for the shifts of emphasis, as well as the omissions and additions, throw a revealing light on the differences of outlook between the Civil Law and the Common Law. The stu-

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