

BOOKS

NON-CHRISTIAN JURIST

YANKEE FROM OLYMPUS: JUSTICE HOLMES AND HIS FAMILY. By Catherine Drinker Bowen. An Atlantic Monthly Press Book. Little, Brown and Co. \$3

THIS book is a biography of Oliver Wendell Holmes Jr., the jurist, based on extensive research into the records of his times, and as much contact with his contemporaries as was possible in the circumstances. Parts of the book are not strictly factual, because the author has invented conversations between the principal characters, based on her thorough knowledge of the events and persons she describes. This method will not suit the taste of everyone. But I think it is merely a matter of taste and, in competent hands like Mrs. Bowen's, may well succeed in giving a more accurate picture and impression than the mere recital of historical details. It is admittedly an interpretation. As long as it is a good interpretation, the truth is satisfied. The style is that of cultivated story-telling; the tone is that of the admirer—one almost says hero-worshipper. This approach has its defects, too, but is obviously more fruitful in arriving at the truth than former mud-raking methods.

The first part of the book (82 pp.) is devoted to the story of Abiel Holmes and Oliver Wendell, senior, the grandfather and father of the Justice. Thus the book covers the New England scene rather extensively from 1800 to the present time. The Olympus from which this Yankee came is an essential part of his story. Abiel Holmes was a kindly but firmly orthodox Calvinist minister, who spent long years in writing his *Annals of America* and, finally, rather than yield to the Unitarians, gave up his parish. The little doctor, the Autocrat of the Breakfast Table, emerges as not too great a figure. He appears as the professional *litterateur* rather than as the professor of anatomy. The impression grows that medicine came second with him. He wrote one or two widely known and important medical articles. For the rest, his reputation was that of the literary man, the dinner-table talker, the witty and cultivated oracle of the Back Bay. There still was a Back Bay in those days.

Holmes himself, the hero of the piece, is described in great detail, with great fidelity to fact, but with a wealth of anecdotal material chosen both to point his character and to hold the reader's interest. His early youth, his life as a soldier in the Civil War, his work as lawyer and professor of law, as a judge on the Massachusetts bench (1882-1902), and as Justice of the Supreme Court of the United States (1902-1932), all pass before the reader's eyes with clear chronology, judicious emphasis, finished sparkle.

The Justice seems on the whole to have been a lonely figure. His marriage was happy. But his relations with his father were maintained at the minimum level of cordiality. His friendships were not many, or intimate. Some of his law secretaries, who came annually from Harvard, were fairly close to him. He carried on a long-distance correspondence and a long-distance friendship with Sir Frederick Pollock during most of his adult life. He had some intellectual companions like Laski or Wu. But who were his really intimate friends? He dug his own groove, as William James, a former intimate, said of him. There is a note of sadness in the speech in which he expounded his personal philosophy of life as the triune formula of the joy, the duty, and the end of life:

Life is an end in itself and the only question as to whether it is worth living is whether you have enough of it. I will add but a word. We all are very near despair . . . but these thoughts have carried me, as I hope they will carry the young men who

hear me, through long years of doubt, self-distrust, and solitude.

He was getting toward sixty when he spoke these words.

Mrs. Bowen's account of Holmes' legal accomplishments, the impact of his decisions on the life and thought of the times, is interwoven with the general narrative. It is done skilfully and competently and, in this type of book, done by a layman and meant for the lay reader, no one could ask for more. We should remember, too, that Holmes' official biography is yet to appear, being prepared now, I believe, by Mark DeWolfe Howe. When it does appear, a more scientific interpretation of Holmes' legal contributions can be expected.

But in one particular we could have expected more in a book like this. Is it unimportant, or is it just not news that Holmes, in his whole *philosophy* of life and of law, had deserted the tradition of his fathers? That tradition was Christian in a broad sense of the word—broad enough to include Unitarian Christianity. Holmes was no more a Christian than Plato. No real appreciation of his character, and especially of his position in the contemporary scene, is possible without a clear recognition of that fact. He disagreed with practically all the Christian fundamentals, including the injunction to "love thy neighbor as thyself." Besides, Mrs. Bowen, who must have spent countless hours of dry toil in studying Holmes the lawyer and Holmes the judge, could have learned about Holmes the philosopher of law with comparative ease. His philosophical writings are not voluminous. They are clear, brief and consistent from the 1870's to the 1920's. Holmes philosophized on the nature of law, of rights, of morality, of truth, of the cosmos, and of the nature of man. His philosophical opinions on these subjects show him to be in many important and fundamental issues a pure totalitarian. (The word is not an epithet, but the description of a philosophy.)

The absence of any attempt to appreciate Holmes' philosophic views must be counted a major defect in the book. One does not ask that the author call him a totalitarian—after all, he is the hero. But it is not too much to expect that, in addition to the anecdotes that show us his sincere, honest and sparkling personality, we should be given some insight into the ideas that were the very basis of his thought. He taught that force was the essence of law, that might makes legal right, and that man's sacredness is a mere municipal ideal having no validity "outside the jurisdiction." In fact, man is a means at the mercy of the State. These are not unimportant themes today, and deserve discussion, at least, in any work on Holmes. The absence of such discussion is a notable deficiency.

But the book is recommended to everyone interested in Holmes, or in the law, or in the American scene of the last century. It tells a fascinating story and tells it extremely well.

JOHN C. FORD

TWO KEY DEMOCRATIC IDEAS

THE VOICE OF NORWAY. By Halvdan Koht and Sigmund Skard. Columbia University Press. \$3.50

THIS book by two Professors of the University of Oslo—Dr. Koht was also Minister of Foreign Affairs from 1935-1941—does not intend to give a complete picture of the political and intellectual development of Norway. The authors have chosen two ideas fundamental in the life of the nation: the trust of the Norwegian people in the rule of law as the best safeguard of that individual liberty they have cherished since the beginnings of their history; and, against the claim of the

