generally suggests something about how judges go about their business. But such insight is external to the substance of law, and so not surprisingly derives from the external source of correspondence. Yet Judge Lynch never mentions correspondence where he reflects on his own method. One therefore wonders whether he was entirely alert to the methodological issues surrounding the use of different sources to answer different questions. That doubt haunts the reader throughout.

Despite its limitations, certain readers should consult this book. Scholars of early American law should assess for themselves the characterisations of the justices profiled herein, as well as that of the Marshall court as a whole. Anyone who might wish to opine on the book’s central thesis about the significance of circuit courts, or indeed any inferior federal courts in early America, ought also to take note of it. While perhaps something of a missed opportunity given the significant labour devoted herein by an experienced jurist, the book still has value.

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A book about what they do, written by parliamentary clerks for parliamentary clerks. That might describe Erskine May, the classic text on procedure in the UK Parliament. It might describe this book. But both deserve much wider attention. Events in Parliament affect millions of people, especially as proceedings veer between delay, debate and decision over Brexit. So why should two contributors in ch. 7 describe the purpose of Erskine May as “to explain to Parliament [my emphasis] how it has come to bind itself to particular rules and processes and, perhaps, why”? The background provided by this book is worth mastering, not for argument on the merits of any constitutional policy but to appreciate the nuts and bolts of this part of the Constitution and what practicalities any proposal for change must reckon with.

Having left the Parliamentary Counsel Office after 25 years, I shall probably never again consult Erskine May nor the standing orders with the same anxious optimism to see how a new topic can be got into a Bill or kept out, how spending on a new policy must be authorised, how amendments can achieve a compromise between the Lords and Commons. Details like these, or the substance and timing of debate and scrutiny in the House or its committees, rest on a regime of practice developed over centuries and constantly evolving in response to political and social change.

Here an impressive list of contributors explore this regime and its development from its beginnings to the present. Almost all are parliamentary insiders, mostly present and former Commons clerks. Scholarly credentials often supplement experience. It is refreshing to see this level of historical perspective among those working in the system. It would be interesting to know whether this can be sustained against pressures for modernisation and efficiency, and whether other practitioners informed by corporate memory (still a strength of the Parliamentary Counsel Office) could contribute insights of similar value.

Procedure is defined fairly narrowly but in fact the book goes wider to include staffing, library provision and relations with the courts. It does not really cover
the general constitutional content of “the Treatise” (in the context a better label for what has become *Erskine May*), or May’s separate *Constitutional History*. This is legitimate though a wider view at least of the early reception of the *Treatise* might have been welcome. What was behind *The Times’* description of its first edition as “essentially a popular work, and one that will be prized by every gentleman who reads a newspaper, or dabbles in politics and parliamentary debates” (p. 115)?

Paul Evans’s Introduction is well worth reading for itself. It takes us through chapter by chapter but has its own focus on procedural development: the challenge posed by “procedures designed almost positively to discourage legislation”, the direction of reform “always to secure for the Government increasing control over ‘the time of the House’”, battles over control of supply, quality of legislative scrutiny (“many believe that the quality of the House of Commons’ scrutiny of legislation in the era of programming is the strongest remaining argument for having a House of Lords”), the novel allocation in 2010 of significant time to backbenchers (“Previously, all the government needed to do was to fail to find time for any inconvenient business”) and the departmental select committee system by which government is scrutinised (“the most profound change in Parliament of the last century”).

The chapters that follow give a wealth of material bearing on the themes of the Introduction. They are not lacking in analysis and interpretation, but there is no overall argument beyond the Introduction. Frequent cross-references between chapters are in very general terms. The book exemplifies the clerkly culture that it discusses: antiquarian interest, independence of thought, calm open-mindedness, readiness to exercise judgment. Sir William McKay’s opening portrait of May and his career is an example (“an ambitious, hard-working and innovative proceduralist, if personally somewhat ponderous and dull”). Another comes from his current successor as Clerk of the House, Sir David Natzler, whose chapter on procedural manuals before May is short but scattered with perceptive comments borne of experience.

In the opening chapters setting the scene, McKay’s account of May’s career is joined by Professor Emma Crewe’s study of the modern-day clerks, coming out of a project of ethnographic study into MPs. The study is suggestive of the background to May’s career, but bears directly on how procedural machinery is managed now, and casts light on the contributors and contributions to the book itself. A study of the Commons Library (where May began his career) by Oonagh Gay makes useful connections too, between May’s time and the subsequent development of the library and information service. The theme of indexing and information retrieval comes up throughout the book and is crucial to understanding the development of the House and its functions as well as its procedures.

Parts 2 and 3 contain some of the most substantial contributions, focusing on the *Treatise* itself, and on procedure. Martyn Atkins’s survey of the use of the Commons Journal as a source of precedent puts both in context. The linked issues of recording and retrieving precedent are introduced, both taken up (after Natzler’s survey of early manuals) by Paul Seaward’s detailed account of the practical challenges, where he draws interesting parallels with the habits of common law practitioners. He also deals at length with repeated efforts to index the Journal – which will resonate with any outsider who has struggled with the seeming idiosyncrasies of the indexes to the Journal, or, for that matter, to the *Treatise*.

Seaward leaves us in the early nineteenth century and we move on to the *Treatise* itself. Paul Evans and Andrej Ninkovic (whose ch. 7 is quoted above) take us through the editions of this “Bible” from “Genesis” to a statement of collective “Wisdom” (the status achieved by the *Treatise* by May’s ninth and last edition) and on (back?) to “Chronicles” of 15 more editions before “Revelation”: dramas
and proposals surrounding production of the 25th edition, which according to LexisNexis is due to be published on 27 May 2019. The chapter ends with the suggestion that we may expect a free online version (not mentioned on the Parliament website or LexisNexis in time for this review). And the story of the Treatise concludes with a multi-authored chapter on its influences, successors and cousins abroad.

In Part 3 (procedural development) form meets substance. Another contribution from McKay gives us May’s part in debates about procedural reform. The new landscape – particularly since the 1832 Reform Act, with pressure for government control of the legislative process – made change inevitable. But some of May’s radical solutions were ahead of his time. McKay suggests that his efforts “can be seen as an early attempt to bridge the gap between Parliament, the government and the courts in refining the legislative process”. Colin Lee looks at May’s efforts to reform Commons procedure for provision of funding to government, which is inextricably linked to the function of the House as a representative forum for debate. Subsequent debate on procedural reform is taken up by Mark Egan through the role of procedure committees, and by Jacqy Sharpe and Paul Evans in relation to legislative procedure. That contribution brings many more recent developments into focus, including controversy over provision for consideration of private members’ Bills (since highlighted by the treatment of Sir Christopher Chope when he objected to a Bill against upskirting under procedures whose rationale was very difficult to explain to the uninitiated), and the timetables that government Bills in the Commons are now almost always subject to. (The authors’ comment that this “can mean that there is often little time available to debate in detail” is an understatement.) Part 3 also includes a welcome account by Simon Patrick of the role of permanent written rules of procedure, standing orders. The nature of the territory is summed up by his comment that the Treatise “is still an essential guide to what the standing orders really mean”.

The topic of Part 4, select committees, looks like something of a digression, but both its chapters are worthwhile contributions. Mark Hutton deals with select committees in the period before their dramatic rise to prominence in the later twentieth century since when their role in holding Ministers to account attracts high media coverage. He poses the question why the growing use of select committees was arrested in the years after the Second World War; it may be that just as clerks could promote innovation some could also cause stagnation. A further contribution by Lee follows, on select committees and the estimates. As with his chapter in Part 3, Lee’s knowledge of financial procedure in the Commons (hardly reflected in the Notes on Contributors) brings clarity to the role of the House in scrutinising planned government expenditure.

Part 5 at last reaches legal territory proper. Eve Samson discusses the debate over parliamentary privilege from May to today. There are live issues here – among them, what Samson describes as “a renewed emphasis on Parliament’s penal powers”, and the interaction between freedom of debate in Parliament and use of its debates in the interpretation of legislation. Finally, David Howarth asks whether the lex parliamentaria is really law, and suggests some benefits in seeing Parliament or the Commons as operating a “legal system”. His experience as an MP, unique to this collection, adds weight to his comments. His point that “To treat everything that happens in Parliament as a black box marked ‘political’ is to miss much of what happens there” summarises one reason why this book is important.

There is much practical guidance here for anyone wanting to explore the sources further, though it would be helpful if it could be drawn together. There is no bibliography, either for individual chapters or collectively. A note to the Introduction
points to some surveys of the development of procedure. It might be helpful to mention sources freely available online, including the original 1844 edition of May’s *Treatise*, and his 1849 pamphlet of reform proposals discussed in detail in McKay’s ch. 9. Some readers will think to search for “Commons Journals online”, but if not will have to find their way to note 70 on p. 85 to be told where to find them.

The index is to be appreciated. There are signs of cut and paste: a number of chapter headings or subheadings appear as head-words for entries that more or less index the chapter, some of which then appear independently. But the result generally seems to be duplication rather than omission.

The book should be a pleasing addition to the series of Hart Studies in Constitutional Law. Seeing it in that context makes better sense of the choice of material. The 2013 volume, *Law in Politics, Politics in Law*, third in the series, edited by David Feldman, filled some of the ground between procedure and legislation. Readers should go there for a drafter’s contribution, particularly Daniel Greenberg’s ch. 11, with an account of the role of the clerks in the operation of the Parliament Act 1911. What he says on one point of interpretation could be applied more widely: “the lore of the Public Bill Office in the Commons, as well as traditionally within the Office of the Parliamentary Counsel, is replete with wisdom and examples.” Rhodri Walters’s ch. 13 gave a brief but desirable contribution from a Lords Clerk, not much in evidence in the book under review. Seen in this context, *Essays on the History of Parliamentary Procedure* whets the appetite for work on procedure and its implications with contributions from a wider field.

EDWARD STELL


The availability of credit and the consequent need to modernise collateral laws are important factors in improving access to finance. This is particularly important for micro- and small businesses’ access to finance. The ability to give security influences both the cost of credit and the availability of credit. This consideration is equally applicable to both developed and developing economies. Since the 1990s many jurisdictions have embarked upon modernisation of secured transactions laws. Some of these modernisation activities have evolved from within domestic legal systems intended either to increase a country’s credit rating, or to emulate the successful implementation of secured transactions reform by a neighbouring country. Some modernisation activities have instead been recommended by international financial institutions, as where a national government invites assistance to modernise its activities or a country goes through austerity measures to meet the conditions of finance offered by international financial institutions. The reason is that predictable laws on security rights are said to be critical in increasing investment and credit extension decisions; in particular, laws that permit non-possessory