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Book Reviews

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BOOK REVIEWS


Bauer and Dillavon's Cases on Business Law is really a companion volume to Britton and Bauer's cases on the same subject. The earlier volume covered Contracts, Agency, Negotiable Instruments, Partnership, and Corporations. This second volume includes cases on Bailments and Carriers, Mortgages and Suretyship—under the headings of Security Rights in Rem and Security Rights in Personam, Property, Insurance, Banks and Banking, Bankruptcy, Crimes, and Regulation of Trade. It seems a pity that what few subjects of the law school curriculum are omitted could not have been represented in these two volumes, which are apparently designed to give students of colleges of business administration the whole thing in a nutshell.

If the schools of commerce or business administration can spare the time necessary to cover the cases collected in these two books, it seems to the reviewer that they might better send their students into the law schools for one year where they can probably get a much more thorough training in the fundamental principles of law. The second book, at least, seems to be an admission that a course in a law school furnishes the best training for a business career.

Granting, however, that there is a place in the school of commerce curriculum for this second course in business law, one may well question the advisability of including such a technical subject as Property.

Reversions and remainders at best are difficult subjects for third-year law students and are out of place in an elementary course in law. Thirty-eight pages are given to the subject of Joint Estates. Under the title of Equitable Estates the subject of Trusts is thoroughly covered in seventeen pages. It seems entirely out of place in a book of this nature to try to give an idea of the subject of Perpetuities to business students in eleven pages of cases. The compilers have attempted to deal with Wills, Executors and Administrators also in eleven
pages. The whole thing is absurd and in the end likely to lead the college of commerce graduate into expensive litigation by causing him to rely upon his own knowledge of the law where he should consult a trained lawyer. The whole scheme is too ambitious. The compilers would have done better had they confined their efforts to the so-called commercial subjects of the law.

W. Lewis Roberts.


Among the many well known casebooks that have recently appeared in the second edition is Professor Mikell's Cases on Criminal Law. Not all of these second editions are bona fide revisions but Professor Mikell's is. He has added nearly two hundred pages, increased the number of footnotes and citations in those given in the first edition, and made changes in the organization of his material. The result is a marked improvement on what was already a very scholarly piece of work.

Of the one hundred new cases incorporated there are about twice as many decided by American judges as were decided by English judges. This changes the proportion of English decisions which greatly outnumbered the American in the first book and leaves an excess of only ten or fifteen. Of the new cases added only forty-four have been decided since 1907 when the first edition was published and of these forty-four only one is an English decision. The fact that more than half of the new cases were decided prior to 1907 shows that the compiler was painstaking in his search for the right case to illustrate his point. Of the American cases chosen Pennsylvania, North Carolina and Texas seem to have an undue proportion. As the subject is that of criminal law no one is likely to object that this jurisdiction has been slighted.

The principal change in arrangement comes in Chapter II of the first edition, "The Elements of Crime." In the new edition a chapter under the title "The Nature of Crime" is introduced which contains most of the material included in Chapter II of the first edition—and section 3 under this chapter
has several new cases added and the subdivisions are dropped. Chapter three of the second edition covers the elements of crime and includes the cases embodied in Chapters III and IV of the first book. In the chapter dealing with homicide a new section is introduced under the title "Proof of the Homicide." The introduction of this topic seems somewhat questionable.

Professor Mikell’s casebook now contains much more material than can be covered in the time usually allotted to the subject. The compiler’s purpose doubtless is to satisfy those who believe that if there are extra cases in the book the student will read them although they are not assigned, a thing which the reviewer’s own experience leads him to believe the student seldom or never does. If he should, in fact, read these cases the reading would be of little benefit to him unless he checked up on the standing of the cases by reference to text books.

Professor Mikell’s Cases on Criminal Law is one of the most scholarly of the American Casebook series.

W. L. R.


"Economic Liberalism" is one of a series of four books dealing with present-day topics, three of which are founded upon lectures delivered upon the Bennett Foundation at Wesleyan University at Middletown, Connecticut.

Professor Hollander opposes the term "Liberalism" to that of "Conservatism." "Liberalism," he says, "may therefore be appraised as less a formal creed than a habit of mind. It is the disposition of the man who looks upon each of his fellows as of equal worth with himself." Certainly, all men are not of equal capacity nor entitled to equal rewards. But the Liberal is "always inclined to leave and to give them equal opportunity with himself for self-expression and for self-development." He refuses to "impose his judgment upon that of others, or to force them to live their lives according to his ideas rather than their own." Most of all, he insists that other men are "never to be used by him for their own ends, but for theirs." Liberalism wins its gains by hard fighting and holds what it wins by incessant vigilence. . . . It is in economic and social
matters that Liberalism must wage its sharpest struggle, for here there is clearest agreement as to desired end—and profound difference as to correct approach."

There are, he says, "four outstanding issues as to economic affairs before the people of the United States at the present time: (1) The Price Level, (2) Taxation, (3) Trade Unionism, (4) Social Reform." Consequently he devotes a chapter to each of these topics.

Price fluctuations which are a normal feature of our industrial organization, work a hardship on either debtor or creditor according to whether prices go up or down. These fluctuations, the author insists can be controlled. He would go further and have fixed prices. "Against such a policy of doing nothing—or worse—Liberalism sounds the clear vote of 'just weight and measure.' It sets forth that the service of the dollar is to measure value, as the pound measures weight and the yard measures extension. If the value measure is debased, justice is denied, business is undermined, morality is degraded not a whit less than if the yard stick or the pound weight be frequently altered."

In regard to taxation, he says, "Liberalism thus demands that such tax reduction as can properly result from the current excess of revenues over expenditures, should be so distributed that the lightened tax burden will conform to the principle of ability. . . . The heart and center of Liberalism in taxation is Fiscal Justice—the people of the United States should contribute to the support of the federal government in accordance with their economic ability."

In regard to trade unionism Liberalism "regards effective organization and collective bargaining as an indispensible guaranty of industrial welfare" It "is emphatic in opposition to the use of injunction in trade disputes. It regards the procedure ineffective as to purpose, mischievous as to result, and, most important of all, unsound as to basic theory."

In social reform, Liberalism stands for regulation of hours of work, the minimum wage and child-labor legislation. In reviewing what has been accomplished in these fields, he says: "Certainly, for the time at least, victory has perched on the banner of Conservatism. But to Liberalism rebuff is an old,
old story, for it can only be rebuff. To the Liberal, in social reform, there can be no such thing as defeat."

The author has not, perhaps, as pleasing a style as some who have written on economic questions, but he has stated many interesting theories in a forceful way and has given his reader food for thought.

W. L. R.


Mr. High, who as an American newspaper correspondent has since 1919 been traveling over Europe and making a study of political situations there, regards the year 1924 as the turning point for better things. It is then that Europe turns the corner. "No events," he says, "since Versailles surpass in importance the Labor rule in England, the downfall of Poincare in France, the London Conference, the Dawes Plan, the recognition of Russia by England and France, and the promulgation of the Protocol of the League of Nations." It is of these events that he gives us a first hand account in his latest book, "Europe Turns the Corner."

Mr. MacDonald on coming to power in England, he says, "discarded the diplomatic tactics of his predecessors, more important, he discarded their spirit. His first notes to France astonished Europe out of its sullenness." The significance of the London Conference between MacDonald and Herriot is shown to the reader, the Dawes plan is taken up in detail, and the political situation in each country in Europe is carefully explained. The solution of the Russian riddle, as the author terms the situation in Russia, he believes lies in recognition by outside capitalistic nations. "Every negotiation with Russia's government aids the evolution away from Communism. When, in the course of that evolution, a less ruthless period is reached, there will be, I believe, a religious as well as a political open-mindedness; the day of Communism and of atheism will be done, and a new Russia will emerge, fitted to assume, with honor, its place at the council tables of the world."

Mr. High's book is timely and gives us a store of information bearing upon American foreign policies, especially the
questions of debt settlement and entrance into the World Court. The author’s conclusions are perhaps somewhat open to the charge of personal bias and his style is, as one might expect, journalistic. However, very complicated situations are handled in a masterly way and the book is well worthwhile.

W. L. R.


It seems to be the natural and proper thing to make use of models. As lawyers we are interested to see just how those who have had notable success at the bar have attained that success, how they have handled their cases, and especially how they summed up the evidence for the court or jury. Professor Hicks has prepared just such a book of models. He has selected twenty-four representative speeches delivered by leading lawyers during the past forty years.

His title “Famous American Jury Speeches” is somewhat of a misnomer since only about half of the speeches selected were delivered before juries. Several were made in equity and probate cases and six were before legislative bodies. Most of them are, however, connected with famous cases; the Union Club Case, the Page Case, the Davis Will Case, the Carlyle Harris Murder Trial, the Miller and Lux Case, the Coeur d’Alene Riot Murder Trial, the Thaw Murder Trial, the Danbury Hatters’ Case, the Sulzer Impeachment Trial, the Barnes-Roosevelt Libel Case, the Investigation of the New York Socialists by the New York Assembly, the O’Shea Conspiracy Case, and the Leopold-Loeb Murder Trial.

Many of these speeches are not exceptional. The compiler has aimed apparently to give the typical rather than the exceptional speech of Joseph Choate, Borah, Wellman, Darrow, Brackett, Conboy and Crowe. Some even are rather ordinary addresses by rather ordinary advocates. One reading them for pleasure is certain to be disappointed. It is, perhaps, due to this very fact that the speeches are typical of the ordinary everyday work of advocates that the book is of real value.

A valuable and also interesting feature of the work is the material found in the head-notes which give short biographical
accounts of the speakers and also accounts of the cases which called forth the speeches. The members of the legal profession are obligated to Professor Hicks for making this collection of speeches available. The publishers have contributed to the enterprise by putting the book out in convenient, attractive form.

W. L. R.


The fourth edition of Gleason and Otis' text on Inheritance Taxation has been made necessary by recent statutory changes affecting inheritance and gift taxes in thirty-eight states and in the federal government.

The law on the subjects covered has developed very rapidly in the past few years and the authors to keep their work, which has become the standard authority in this field, up to date have not spared any pains to make the book of real value to the practitioner and have made a thorough revision. Several sections of the book have been entirely rewritten, and the arrangement of material has been changed. In the original book the authors covered the subject under six heads: The Tax, The Transfer, The Parties, The Property, Procedure, and The Statutes. In the fourth edition the main topics are: The Federal Estate and Gift Taxes, General Treaties on Inheritance Taxation, The New York Statute, and The State Statutes.

A surprisingly large number of difficult questions arise in the administration of our inheritance tax laws. Should the amount of the federal tax be deducted from the value of the estate before the amount of the state tax is computed? When is a gift made "in contemplation of death?" Can the legislature in imposing such taxes discriminate between classes of persons and kinds of property? If a testator in his will provides for the remission or forgiveness of a debt, is the gift to be treated as a legacy and taxed? When is property passing under a testamentary power of appointment taxed? Does one taking by right of survivorship in a joint estate ever have to pay an inheritance tax? What legacies are exempt from the tax?
How is the tax assessed in the case of a contingent remainder? Questions like these the authors deal with by citing cases in point and quoting the language of the courts. It might be said that they follow the digest system.

The book has been padded in some places by quoting freely from law review articles and in one instance by incorporating the speech delivered by President Coolidge before the National Tax Association at Washington in February, 1925. What the President had to say on that occasion is doubtless good economics but it is not appropriate for incorporation in a law book.

The authors have performed a real service for the profession by making available in one volume the recent amendments to both federal and state inheritance laws and the latest decisions bearing upon them. Everything is given down to July 1st, 1925. The result is an authoritative treatise on the subject.

The mechanical makeup of the book is all that can be desired. It is well done.


"Profits" is an attempt to prove that profit motive is the dynamic force of the existing economic order. For the authors the profit motive may be a centre of attraction or a point of departure, but it is still their chief subject. The argument revolves interestingly around this central theme, and is rich in ideas and suggestions. The author's analyses are of the un-hackneyed kind, but some of their conclusions are rather startling.

The organization of the material and the mechanics of the work are especially commendable. The book is divided into five parts. Each part deals with a separate phase of the subject, but blends with the others to form a unified whole. All are co-operative, co-essential, and co-existent. The definitions are clear and accurate. All notes and references are placed together in the appendix. This feature adds greatly to the attractiveness of the book and to the convenience of the reader.

In dealing with the importance of the profit motive the authors say:
"Profits are the heart of the industrial society in which we live. The expectation of profits is the pulsating force that drives the life-sustaining blood to every part of the economic body. The blood is money . . . In the actual economic world in which we live, the pumping station cannot develop much power without the motive force of anticipated profits; and it cannot long continue to operate at all, unless the expected profits are realized. In short, the chief urge to business activity is the profits motive."

A few essentials in a theory of profits are enumerated as follows:

". . . All profits and losses . . . result from taking risks. Risks are universal because uncertainties are universal. Business risks, unlike gambling risks, are inherent in the nature of economic enterprise in a progressive, as opposed to a static society; . . . ."

The last chapter of part V contains these conclusions:

"Progress toward greater production is retarded because consumer buying does not keep pace with production. Consumer buying lags for two reasons; first, because industry does not disburse to consumers enough money to buy the goods produced; second, because consumers, under the necessity of saving, cannot spend even as much money as they receive. . . ."

The authors of Profits have contributed a valuable work to the body of economic literature. They have presented their material with accuracy, concision and insight. The book is exceedingly interesting and instructive. The argument presents a far-reaching criticism of the existing economic order, but the conclusions drawn therefrom are more or less experimental in nature. The subject is of especial interest to business men and economists, but the book may well be read by any person interested in the field of economics or related subjects.

Woodson D. Scott.


Professor Blakeslee in "The Recent Foreign Policy of the United States" speaks with authority for he was a member of
the Commission of Inquiry to prepare data for the American
delegation to the Paris Peace Conference, technical adviser to
the American delegation to the Conference on the Limitation
of Armament and Pacific and Far Eastern Questions at Wash-
ington, a member of the editorial staff of the magazine entitled
"Foreign Affairs," and for a few months a member of the
Department of State under Mr. Hughes.

The discussion covers the period of Mr. Hughes' term as
Secretary of State. We are reminded in the first place that
"the United States does not have a set of policies which it
applies uniformly in all parts of the world, but that its most
distinctive policies are essentially regional in character. . . .
As for Europe, the United State now seeks to keep out of
European politics. For this hemisphere it aims to keep Europe
and the Far East out of American politics, and to group the
American republics into a Pan-American Union under its own
friendly leadership. For the Far East, it desires to co-operate
politically with both the Far Eastern and the European nations
whose homelands or possessions lie in the Pacific area."

The present policy of unofficial cooperation with Europe
in regard to reparations, the author says has thus far been
very successful; "for the settlement of the reparation issue lays
the foundation for the financial and economic restoration of
Europe, as well as for a solution of the most acute political
problems."

Professor Blakeslee feels that ex-Secretary of State Hughes'attempt to define the Monroe Doctrine during his term of office
has done much to clarify our foreign policies in this hemis-
phere. "In addition to the Monroe Doctrine," he points out,
"certain factors are responsible for further American policies
in the Caribbean. . . . Public sentiment in the United
States will not permit the Caribbean area, or any considerable
part of it, to lapse into political, economic, or financial anar-
chy." Next to the Monroe Doctrine our most outstanding
policy for this hemisphere is Pan-Americanism, which aims to
bind the Americans together. Running counter to our plan
for Pan-Americanism is the policy of the Latin-American re-
publics for Latin-Americanism, the policy of the Latin-Ameri-
can republics to group themselves together by themselves If
the League of Nations increases in influence and power, the
author suggests that it will probably render Pan-Americanism of little account.

Opposed to our "closed door" policy in the Americas is our open door policy in the Far East. Here the Washington Conference and the Four Power treaty that grew out of it have done much to simplify matters. Of this conference the author says: "Altogether, the Washington Conference marks the greatest measure of close cooperation with other powers of the world which this nation has ever undertaken. It is also without doubt one of the most striking diplomatic achievements of the United States since the negotiations at Paris in 1782-83, which led to the treaty formally recognizing American independence."

The average American sees or knows little of the work of our Department of State and it was the purpose of giving a clear idea of our course in diplomacy that prompted the writing of this book. The author has certainly done his work well. He has a pleasing style and expresses his thoughts clearly and forcefully. Few books on present-day topics are more readable or instructive.

W. L. R.


This enormous volume of more than sixteen hundred pages is described as a "biographical dictionary of contemporary lawyers and jurists." More than twelve thousand biographies are included, which means that probably one lawyer out of every twelve who make up the army of about 150,000 lawyers practicing in America will find his name in this dictionary. The advertising circular frankly says that the work "is not claimed as presenting a constellation of stars;" we would indeed be fortunate if our legal darkness were enlightened by 12,600 stars. But the lawyers and judges who have submitted the biographical sketches reproduced in this volume—and most of them have written with commendable restraint—undoubtedly constitute the leading members of the bar in their own communities; and the omission of any outstanding judge or lawyer is no doubt due, as the editor points out, to his failure to accept the invi-
tation to submit data about himself. Obviously there are few such persons.

In reading cursorily here and there through this volume, one is amazed by the number of things lawyers do besides practicing law and the number of clubs they belong to. It is a poor lawyer who cannot boast of holding one or more political offices during his career. A critic of the profession would no doubt use such facts as the basis for an indictment of lawyers, as "jacks-of-all-trades," "joiners" and politicians. The fact is that the record of extra-legal activities with which this volume is crowded, is a tribute to the profession, rather than a criticism of it. What other profession can boast of so large a number of members who devote themselves so unreservedly to public duties and civic responsibilities as do the lawyers? Many times at great personal sacrifice and pecuniary loss, a lawyer accepts appointment to the bench solely because of his sense of public obligation. This is notably true in the state of Kentucky, where the salaries paid judges are disgracefully low and an outworn constitutional limitation appears to remain in the way of relief.

"Who's Who in Jurisprudence" is a law list plus. Aside from the fact that no effort is made to estimate in terms of "a," "b" or "c," the financial standing or the legal ability of the lawyer, enough is told so that a discerning reader can tell whether the subject of the sketch is making much ado about little or is concealing great virtues in few words. The sketches are arranged along the general lines made familiar by "Who's Who in America," whose first editor, John William Leonard, is the editor of this book. It is a volume which will have considerable use as a reference work for lawyers and others who need quick information about members of the bar at distant points. There ought to be such books, and it is fortunate that our human nature is so susceptible to the flattery of being included in a "Who's Who" that few distinguished men withhold the needed facts. Others besides lawyers have this failing, and thus this volume would seem to open up a rich field, in medicine for example and in engineering and above all in banking and commerce, for enterprising publishers.

A few of those whose names are included in the volume have died while the book was in process of publication. The
thought cannot be escaped that even among lawyers, "the paths of glory lead but to the grave." Nevertheless, who would refuse to participate in the great American game of "hobnobbing with the great," even though one's only contact is by having his name and the names of the great included in the same massive volume? 'Tis a pleasure greatly to be hoped for and not easily turned down.

C. J. T.


To the American Foundation of New York we are indebted for an authoritative work on the World Court by one of the judges. The first few chapters are devoted to showing that the court is not a new idea and that plans for such an organization to settle international disputes have been presented from time to time ever since the Middle Ages. Many of these schemes the author sets forth in detail. The number of them is surprisingly large. Many, the author points out, had already won practical success in the two Hague Peace Conferences of 1899 and 1907.

That the advisory committee of jurists who drew up the final plans for the court were able to overcome the seemingly insurmountable obstacle which the American delegation to the second Hague Conference encountered, namely a satisfactory method of electing judges, was due to two Americans on the Committee, Elihu Root and James Brown Scott. To them the author gives all the credit. He says: "Without the World War, perhaps, and without the powerful movement against force that was developed in a good many nations, the governments would never have decided to put it into practice. This is human nature. It learns from preaching and from logic, but still more from unhappiness and grief. Always great and always progressive, it emerges, from success and disaster alike, stronger, nobler and more just. Let us rejoice over this lesson, which has been repeated often in the history of the world; and let us celebrate the fact that at last between nations, as for a long time between men, we can now, under the protection of a Permanent Court, speak of law and of justice, for the strong and for the weak."
Judge de Bustamante treats fully of the purpose of the Court, its jurisdiction—to what extent its jurisdiction is compulsory, its power to render advisory opinions, the election of judges and the cases already decided. He has no doubt of the success of the great experiment. He says "each day the Court's jurisprudence will become more comprehensive and its assistance will become more useful and be more desired. Until now it has apparently gone on from one successful issue to another; that the principal nations of the world, after watching it at work, continue to have confidence in it is shown by the recent London agreements between Germany, Belgium, France and Great Britain."

The book is a scholarly piece of work and reveals the high ability of the men who compose the present Court.

W. L. R.

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