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Book Reviews

BOOK REVIEWS

The Federal Income Tax. By ROY G. and GLADYS C. BLAKEY. New York: Longmans, Green and Co. 1940. Pp. xvii, 640.

This book is primarily an economic and social history of the federal income tax. Changes in legislation are noted and legal issues receive attention but the emphasis throughout is on the background from which these changes come, or against which they and related matters may be perceived. Thus the income tax is viewed not as a finished instrument, and perhaps as one never to be completed but always in the making.

To the preparation of this work, the authors brought the accumulated knowledge of long study not exclusively beside the lamp. They have lived in Washington at various periods for a total of several years, and thereby became acquainted with the important political and administration leaders who have played parts in the development of the income tax. Secretary Cordell Hull, who, according to the authors, "has probably done more than any living man to establish and develop a good income tax in the United States," was especially helpful. Indeed, it appeared at one time that he might collaborate in writing the book. Judge Green, for a long time Chairman of the Committee on Ways and Means, and W. T. Sherwood gave much assistance. Guy T. Helvering, Roswell Magill, Arthur Kent, L. H. Parker, Colin Stam, and many other persons of prominence in taxation also provided information. Evidence of the long continued interest of the authors in the problems examined in this book is afforded by numerous articles on federal income taxation. Since the adoption of the Sixteenth Amendment, Professor Blakey either individually or in collaboration with Mrs. Blakey has discussed each federal revenue act in the pages of the American Economic Review.

The first two chapters of the book give the background to the income tax measure of 1913. Inasmuch as their content is of special importance, it will be reviewed here at some length. The personal income tax, viewed by the authors as a revolution in national taxation, sprang from the equalitarian movement generated by the long depression that began in the seventies. The difficulties of the farmers in the South and West led them not only to favor greenbacks and free silver but also to advocate income taxation. The Greenback, Anti-monopoly, and Populist Parties all favored such a tax. Out of this ferment of political pressure came many bills. Indeed, from 1874 to 1893, one or more bills for income tax legislation were introduced at practically every session of Congress. The authors of these bills were invariably from the South and the West. The first prominent Easterner to favor income taxation was Joseph Pulitzer, who included the taxation of large incomes as part of his program for The World.

All this agitation bore fruit in the income tax act of 1894. It was a period of depression following the panic of 1893, and the Treasury was in need of money. President Cleveland was opposed to an income tax but his party was committed to a reduction in the tariff, thus making this need more acute. In this emergency, William J. Bryan, who had made a study of the income

tax and who was then serving as a member of the Committee on Ways and Means, exerted his influence in support of the income tax. He was seconded by Representative Hall of Missouri who, though not a member of the Committee, influenced it by his arguments and by presenting petitions from state delegations. Under the rallying cry "Vote for free sugar and an income tax" both measures were passed. They were linked because with sugar on the free list, the need for a revenue measure was great.

Following the invalidation of the tax in *Pollock v. Farmers Loan and Trust Company*,[1] economic conditions improved and interest in the passage of income tax legislation declined though it never wholly subsided. In 1906 support for such a measure came from an unexpected source. President Theodore Roosevelt, in speaking at the laying of the corner stone of the House Office Building, urged strongly the enactment of graduated income and inheritance taxes. In 1907, Cordell Hull, a Representative from Tennessee, introduced a bill for an income tax and endeavored to educate Congress concerning this impost.

The campaign of 1908 was mainly on the issue of tariff reform, and with the victory of the Republicans, conservatism appeared firmly established. Speaker Cannon presided over the House with a none too gentle hand, and the leaders in key positions, including the chairman of the Committee on Ways and Means, were all "standpatters." But in advocating increased tariff rates, they overreached themselves and stirred up much opposition in the ranks of their members in Congress and in the country at large. The determined fight of the insurgents against the reactionaries of the party began. In this struggle the issue of the income tax got an inning, and eventually President Taft thought it well to propose a compromise: an excise tax of 1 per cent on the income of corporations, and a joint resolution for an amendment to the constitution giving the federal government power to levy an income tax without apportionment among the states.

This move by the President appealed to the conservatives of his party because they thought it harmless. Their belief that the amendment would not be ratified was shared by such prominent liberals as Senators La Follette and Cummins. The Progressives could not, however, oppose the compromise because it went part way with their views. The Democrats, having urged enactment of an income tax, were likewise not in a position to oppose the President's plan. The excise on corporate earnings was enacted, the resolution was passed, the amendment was adopted, and thus the thin wedge of the income tax entered the federal revenue structure.

The first personal income tax measure passed under the authority of the amendment, was linked, like its predecessors, the income tax act of 1894 and the excise of 1909 on corporation income, to changes in the tariff. The income tax was proposed to make up for revenue lost by a reduction in the rates of the tariff. Representative Cordell Hull was assigned the task of writing the bill. To this work he brought to bear the results of a careful study of foreign income taxes, particularly the British. The idea of collection at the source appealed particularly to him and led him to favor a flat rate of taxation. In this he was opposed by Representative Garner who

[1] 157 U. S. 429, 15 Sup. Ct. 673 (1895).

advocated the levy of the tax at graduated rates. The system of individual reporting was adopted in the final measure, and the tax was laid at graduated rates.

In discussing this and other revenue measures, the original bills in the House and Senate, the conference reports, and finally the resulting legislation are all examined with such sidelights from the political or economic situation as are needed for comprehension of the issues involved. The names of the members of important committees are given, and characterizations of leading figures are made. Thus the reader comes to feel that he is present at the making of income tax law.

The last four of the twenty-four chapters examine the evolution of the definition of taxable income, rates and exemptions, the problem of administration, and the conclusions that may be drawn respecting the income tax. The treatment here as elsewhere is in the historical emphasis, for the income tax is viewed as part and parcel of modern industrial civilization and its development as parallel to that of civilization as a whole.

This is a work of depth and breadth, indispensable to those who seek understanding of the extraordinary changes that have come in federal taxation since the adoption of the Sixteenth Amendment.

*M. Slade Kendrick.**

Ithaca, New York.

Benjamin N. Cardozo, American Judge. By GEORGE S. HELLMAN. New York: Whittlesey House, McGraw-Hill Book Company, Inc. 1940. Pp. ix, 339.

Some of the books on Cardozo show him as the legal machine. In this one the Judge is dwelt upon, but Mr. Hellman is at pains to show us the human Cardozo. He goes back to the distinguished ancestry for the roots of a personality, which, as Mr. Hellman unfolds it, is full of charm. The name Cardozo indicates the Spanish-Portuguese source of the family, but, *via* England, it was early in the New World. The clan fought in our American Revolution and its members were part of old New York. Proud in their hearts, they were proudest of their brains and their culture. The child grew up among highly literate family contacts and, curiously enough, under the tutorship of Horatio Alger—he of the onward and upward books. At ten "Master Ben" was writing boyish poetry which Mr. Hellman reproduces. At fourteen the boy was ready for entrance to Columbia College, then without its present population and located on Madison Avenue. His life of expiation had already begun. He was a too earnest student. His boyhood, in the ordinary sense of boyhood, was like the snakes of Ireland, but Mr. Hellman by various anecdotes establishes that "Ben" was well beloved among his contemporaries. At his commencement the nineteen year old Cardozo was first orator, speaking on "The Altruist in Politics." Photographs show him a beautiful baby, a winsome little boy, a handsome young man; and, as we know, his good looks stayed with him. Cardozo's law

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training at Columbia Mr. Hellman merely flits over. "In the School of Law he had a two year course, which he did not complete." Cardozo at the bar gets little of Mr. Hellman's attention although his subject "for more than a score of years toiled in his law offices." During these years Cardozo established the tradition of the gentle hermit devoted to "work, work, work." This he carried over into the judicial career, on which Mr. Hellman chiefly dwells. One morning, I myself saw the Judge climbing the hill at Albany. It was 6:45 a.m. but he was on his way to his office. Mr. Hellman has undertaken to show the human side and he succeeds. One realizes the attractive lovableness of the man as well as the greatness of the Judge. But I confess to feeling sorry that such a fine fellow seems to have had so little fun out of life. Cardozo at play is a theme which apparently was not sounded often. No doubt he drew his satisfaction out of making the second Justice Cardozo so fragrant a memory that the first is forgotten.

*G. H. Robinson.**

Ithaca, New York

Encyclopedia of Corporate Forms, vol. IV. Prepared by the Editorial Staff of Prentice-Hall, Inc. New York: Prentice-Hall, Inc. 1940. Pp. xli, 1269.

The December, 1939, issue of the QUARTERLY reviewed Volume III of the present series, which covered Merger, Consolidation, Leases and several other topics. Since an explanation was given at that time of the general scope of the series and of the editorial methods employed, there is perhaps no need to go into detail regarding the volume in hand. The subjects here covered are Reorganization (162 pages, 93 forms); Trust Indentures and Other Borrowing Agreements (268 pages, 24 forms); Resolutions and Notices relating to Borrowing (286 pages, 216 forms); and Statutory Forms for the various states (444 pages, 371 forms). Such of the forms as this reviewer has read appear to have been carefully prepared. The typography, arrangement and indexing are excellent. There seem to be, however, a substantial number of items differing from one another only in minor respects, or dealing with situations which only rarely arise.

Several complete trust indentures are given, including one which runs to 92 pages. Other long forms supplied are protective committee deposit agreement (13 pages), and several plans of reorganization and reorganization agreements.

A large section of the book is given over to Statutory Forms. These are not limited to forms whose exact wording is prescribed by statute; they include for each state, with the exception of those which themselves supply official forms on request, a group of instruments complying with basic statutory requirements. This group generally comprises the certificate of incorporation and other organization forms, as well as forms relating to amendment of the certificate, consolidation, merger, and dissolution. The New

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York section, for example, covers 39 pages and includes 28 of these basic forms. To include so many forms of this nature in a permanent volume seems rather an expensive luxury, since statutory changes during the coming years will probably render obsolete a large number of them. The editors' plan, however, called for completeness, and that goal has certainly been achieved.

*George T. Washington.**

Ithaca, New York.

Law as Logic and Experience. By MAX RADIN. New Haven: Yale University Press. 1940. Pp. ix, 164.

The five chapters of this little volume constitute, in the main, the Storrs Lectures which were recently delivered at the Yale Law School. Their message is symbolized by that famous pronouncement of Holmes,[1] "The life of the law has not been logic: it has been experience." Their reception by the profession will be welcomed as a systematic exposition by one of the pioneer realists.[2] Nearly a decade ago Radin was prominent among the twenty who were designated by Llewellyn as notably realistic in their legal thought.[3] More recently Llewellyn has placed him in a more select group of four writers who have come in for few "drubbings."[4] The title of the volume is an appropriate tribute to Holmes, who has so often been acclaimed the forerunner of the American realistic movement.

In the Preface, the author advises the reader[5] that he does not intend to strike a middle course between "conceptualism" and "realism." "If 'conceptualism' were recognized for what it is, an inescapable form of the language of the law, it could do little harm." If that is true, then there is no middle course. The question is merely one of a well adjusted interrelation. That would seem to make the problem one of semantics.

The author exemplifies the value of the resources of diction in law[6] by suggesting that when the indefinite article is substituted for the definite article, "the law" becomes "a law" and one descends "into the piffling particularity of ephemeral statute." When the law deals with experience, it must use the word which symbolizes experience.[7] The marginal experience in which the law lives is social experience. The artificial notions that the

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[1]HOLMES, THE COMMON LAW (1881) 1.

[2]"I profess the faith of realism and cannot imagine a legal theory that is not first of all concerned with a disposition of relations between man and man in an actual case." Radin, *On Legal Scholarship* (1937) 46 YALE L. J. 1124, 1138.

[3]Llewellyn, *Some Realism about Realism—Responding to Dean Pound* (1931) 44 HARV. L. REV. 1222, 1227.

[4]Lewellyn, *On Reading and Using the Newer Jurisprudence* (1940) 26 A. B. A. J. 300, 307.

[5]P. vi.

[6]P. 5.

[7]P. 25.

law sees man *qua* citizen or man *qua* father, as subjects of rights and duties and existing only for the law by virtue of them, are labeled false notions.[8]

To Radin, it is curious that most of the statements of law about actual experience do not get into books.[9] The idea is, perhaps, not new. The modern emphasis upon administration, dating from Ihering, may readily account for that fact. Doubtless, it was that fact which, years ago, made Pound's exposition of *Law in Books and Law in Action*[10] a classic revelation. However, Radin's exposition is characteristically penetrating and resourceful. Indeed, it is the field in which the realists have reveled.

But when Radin pays tribute to the logical technique of the mediaeval schoolman,[11] who sifted, arranged and systematized, he stands on sounder ground than some of the exponents of realistic movement in law have stood.[12] That "any other method breaks down under its own weight" seems amply to justify his position.

What is the goal of the law? How are negligence cases which arise from automobile accidents handled in the law,[13] where our interest is still in the source of the accident? In Workmen's Compensation, the question is not "How was the injury produced?" but "How may it be repaired?"[14] What is the task of the lawyer and what is the sphere of the penologist so far as the criminal law is concerned?[15] Should the lawyer be an economist?[16] These are some of the problems to which Radin directs his attention.

The goal of the law is, according to Ihering,[17] "the means of securing the conditions of life in the community." In the first instance that purpose looks to experience rather than to logic;[18] it is a social ideal. The end of law is always ideal. An ideal is given not by logic nor by experience but by moral conviction.[19] It involves rational processes indulged in with the hope of a real experience. The cynic would say that is "wishful thinking" but if the thinking is based upon adequate experience it scarcely merits condemnation even by a realist. It is merely evidence, as Holmes said, that "Every opinion tends to become law."[20] Just now we are aware that idealism springs eternal in the breasts of men, when the forces of economics challenge. It is not in the field of legislation alone that we are made aware of that fact; we must remember that judicial New Dealism unseated doctrinaire conservatism.

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[8] P. 35.
[9] P. 37.
[10] Pound, *Law in Books and Law in Action* (1910) 44 AM. L. REV. 12.
[11] P. 45.
[12] Aronson speaks of "the stormy petrels of so-called neo-realism" whose direction "leads to the ultimate conclusion that there is no such thing at all as a body of legal principles, but only individual judgments in each case, and evaporating with the breath of the judge as he pronounces the decision." Aronson, *Cardozo's Doctrine of Sociological Jurisprudence* (1938) 4 J. Soc. PHIL. 5, 29.
[13] P. 69.
[14] P. 71.
[15] P. 101.
[16] P. 134.
[17] P. 142.
[18] *Ibid.*
[19] P. 143.
[20] Lochner v. New York, 198 U. S. 45, 76, 25 Sup. Ct. 539 (1905).

Whatever else justice may turn out to be, it is a social ideal.[21] Radin says "To secure a good society, whether it is good because it is characterized by an abstractly derived justice or by an ideal taken from experience, cannot be the purpose of law for the simple reason that it is the purpose of the entire mechanism of political and social organization."[22] The reader may well ask himself, if law, politics and sociology are all social sciences, why may not the purpose of all be deemed to be the purpose of each, even though they may be interrelated parts of a social complex. Even though one may admit that commercial convenience, appeasement of litigants and promotion of good will are the purpose of law in actual operation,[23] that admission does not preclude those ends being subsumed under a social ideal of a law that conditions the life of the community.

"What is justice?" is the age-old problem with which Radin concludes this little volume. Even as mathematically conceived in primitive society, it served as a guaranty of peace and stability.[24] If justice is the end of law, to many a lawyer, the achievement of the end is said to be a little doubtful.[25] Since law, like life, is a process, even a lawyer needs insight to discover if any valid basis for such doubt, as Radin suggests, exists. Still, equity, or justice, does enter the law, although sometimes surreptitiously.[26] In the last analysis, justice is what judges in general think is just.[27]

Radin concludes that the law is a technique,[28] which cannot dispense with either logic or experience. To him "Humanity is, after all, the business of the law."[29] Since logic is a technique and experience is not, to some realists at least it will appear that if the business of the law is humanity it is something more than a technique.[30] Its technique alone probably does not distinguish it from some other sciences.

Some realists doubt that justice vitally pulsates as a factor in law. Contrast the attitude of the two outstanding realists, Radin and Llewellyn. Llewellyn implores: "Let us forget 'right reason'; let us forget the bastard something known as morality; let us acknowledge merely the obvious fact in law, that law *as is,* is law. Justice may be an ideal; in actuality it is an accident. A legal system exists to preserve the law as is, and any other thinking is a somewhat idealistic tendency, divorced from the facts of life."[31] Perry seems to clarify the controverted point.[32] "The nature of the world is judged by fact rather than ideals. . . . The degree of its goodness is a

[21] P. 144.
[22] P. 145.
[23] P. 146.
[24] P. 149.
[25] P. 153.
[26] P. 154.
[27] P. 158.
[28] P. 163.
[29] P. 164.
[30] "Yet the ethical element is there, not in the terminology, indeed, but in the body of authoritative materials, in the form of a definite body of received ideals, as well established and quite as efficacious in the results in the judicial decisions as the precepts." Pound, *Hierarchy of Sources and Forms in Different Systems of Law* (1933) 7 TULANE L. REV. 475, 477.
[31] Llewellyn, *On Philosophy in American Law* (1934) 82 U. OF PA. L. REV. 205, 208.
[32] PERRY, PHILOSOPHY OF THE RECENT PAST (1926) 220.

question of experience, or of faith translated into endeavor." The difference between Radin and Llewellyn as realists must be either one of experience or one of faith. Clearly, speculation uncontrolled by fact may lose touch with reality. Yet there must be something in the law *as is* which was not in the law *as was,* otherwise legal justice and social justice would not have been so sharply differentiated as they have been in recent years.[33] Probably Radin differs from Llewellyn not so much in his technique as in the social range from which he draws his materials. That difference is not formal; it is substantial. The perspective of Holmes was more likely the result of his vision rather than of his technique, however significant his technique may have been.[34]

The year of 1940 has contributed greatly to enrich the field of legal thought. In it have appeared three notable critiques of current legal theory: Radin's *Law as Logic and Experience,* Fuller's *The Law in Quest of Itself* and Pound's *Contemporary Juristic Theory.* They represent not only a high level of performance but they also demonstrate the value of the lecture foundation as a stimulus to legal thought.

*Herbert D. Laube.**

Ithaca, New York.

Law, the State, and the International Community. By JAMES BROWN SCOTT. New York: Columbia University Press. 1939. Two volumes. Pp. xxiv, 613; vi, 401.

Dr. James Brown Scott, formerly Solicitor of the Department of State, presents in these two volumes a detailed examination of fundamental principles of our legal, political and international ideals. Volume I contains a history of relevant political thought, legal philosophy, and international law. Volume II consists of excerpts largely from the sources discussed in the first volume but grouped ideologically rather than chronologically under the three main headings of Jurisprudence, The State, and The Law of Nations. The second volume is described by Dr. Scott as a codification of the various selected authorities on the subject-matter. Both volumes begin with fifth-century B.C. Greece and end substantially with the first quarter of the seventeenth century of our era.

Thus, after presenting in an introductory chapter largely his own views supported by quotations from modern sources, Dr. Scott launches into the subject-matter with The Greek Background (ch. II-VI) in which he sets the social and political stage for a description of the lives and an analysis of the theories of Socrates, Plato, Aristotle, and the Stoics. The section serves also as a broader background for the next three chapters (ch. VII-IX)

[33]Dewey has said that realism may easily become "a sanction of legal formalism in behalf of things as they are." DEWEY, CREATIVE INTELLIGENCE: THE NEED FOR A RECOVERY OF PHILOSOPHY (1917) 68.

[34]Morris Cohen has often spoken of the absurdity of trying "to build a house with nothing but the rules of architecture." Cohen, *Law and Scientific Method* (1927) 6 AM. L. SCHOOL REV. 231, 237.

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under the heading The Roman Heritage since, as Dr. Scott observes, much of the content of Rome's *ius gentium* stems from Greek sources and since Greek philosophical doctrine, particularly that of the Stoics, facilitated the identification of *ius gentium* with natural law. The Roman section is, on the whole, devoted to a description and analysis of two identifications, that of Roman civil law with *ius gentium* and of *ius gentium* with natural law, accomplished by Rome's legal genius and leading to positive legal, rather than purely ethical or moral, conceptions of universal and of international law respectively. Cicero's and Seneca's contributions are specially noted here. The third section's seven chapters (X-XVI) continue this description and analysis of the development of political and legal ideas—of law into an universal or international law and of the state into a cosmopolitan society. Here The Christian Heritage, Ancient and Medieval from Greek and Roman sources is correlated to Hebrew and Christian ideals and its further evolution traced through St. Augustine, Isidore of Seville, John of Salisbury, St. Thomas Aquinas, Dante Alighieri, and others, to The Church as an Institution in relation to law and politics down to the middle of the fifteenth century after Christ. Of significance for the history of international law here is Dr. Scott's restatement of the view that St. Augustine already suggested a definition of "just" war according to its cause, which implies a condemnation of wars of aggression as well as of international criminals (*cf.* p. 192 f.), and that it was Isidore of Seville who first described *ius gentium* in terms of a modern international law (p. 202).

So far Dr. Scott's survey implies continuance and steady progress in the history of ideas and of humankind. But in The Transition from Medieval to Modern Thought (ch. XVII-XXVI), which resulted partially in such disruptive theories as that of Machiavelli in relation to statecraft or that of Bodin with regard to the sovereign state, Dr. Scott's theory of "progress" in the history of ideas on law, the state, and the international community encounters difficulties. These obstacles "to the normal growth of political ideals from their historical bases" (p. 341) are, however, in Dr. Scott's view, naught but "aberrations which at one time or another threatened to impede" the symmetrical growth of legal and political theory as embodying moral conceptions of justice, equity, right and liberty (p. 278). For this reason no extracts from *The Prince* or the *Six Books of the Republic* have been included in volume II (*cf.* p. 278 and n. 2), which seems therefore intended to codify a law of progress in poltical and legal thought. Whether or not this represents an injustice to Machiavelli or Bodin the reviewer makes no attempt to decide. The reader may, however, find solace in the implication that in the theories of Vitoria, designated as the real father of international law, of Marsiglio, Castiglione, St. Germain, Ayala, Gentili, and others, the law of progress took its course. Next The Era of Reform (ch. XXVII-XXX) is ushered in with More's *Utopia,* with Calvin's and Luther's theories of the relation of the church to law and to the state, and with the discussion of church reform as reflected, *inter alia,* in Erasmus' humanistic *Praise of Folly.* In The Beginning of the Modern Age (ch. XXXI-XXXIV) Dr. Scott concludes his survey of the political, legal, and international ideals fundamental to *our* period as outlined by Grotius in his *Mare Liberum,* and

as presented in Cardinal Bellarmine's, Suarez', and Hooker's theories. An Epilogue (ch. XXXV) summarizes the development traced in the volume, comments briefly on subsequent developments in the writings of John Locke, Edmund Burke and John Ruskin, and emphasizes an eighteenth and nineteenth century liberalism, individualism and *laissez-faire*.

It might, of course, be contended that most of our modern ideals on law, the state, and the international community had been formulated and stated before the advent of the middle of the seventeenth century of our era and that therefore subsequent thinkers merely restated fundamentals in their application to a particular situation. On this basis Dr. Scott's survey is adequate in its historical span. But if historical exclusion or inclusion is governed by such considerations then such theories as, for instance, Cicero's restatement of Stoic doctrine might be ommitted as much as Bellarmine or Hooker. Such is, however, not the case. Hence Dr. Scott's survey might be profitably expanded to include the period between 1648 and 1940 since, it is submitted, these centuries furnished as much of our modern heritage of political, legal and international ideals and ideas as did those preceding them. The author's brief introductory chapter does not adequately treat the last four centuries which contain names such as Hobbes, Spinoza, Pufendorf, Wolff, Vattel, Martens, Moser, Kant, Hegel, Marx, Bluntschli, Bosanquet, Wheaton, Westlake, Jhering, Stammler, Triepel, Duguit, Krabbe, Kelsen—to mention but a few of those who have made significant contributions to recent political, legal and international thought. It may, moreover, be questioned whether our idcas of the state, of law and international law, and of the international community bear as much semblance to the fundamentals expounded by the ancients, the middle ages, and the transitional fifteenth and sixteenth centuries as they do to the ideas of the less distant past. Dr. Scott's survey would be materially enhanced by the addition of a third and fourth volume devoted this period.

Dr. Scott's presentation of the subject-matter bears the distinct imprint of his person—his values and his ideals. The selection and interpretation of materials seems governed by a belief that history reveals a slow and painful ascent of humankind accomplished by a series of advances and retreats but steadily pushing forward. That belief accounts for the treatment meted out to Machiavelli and Bodin and, perhaps, for the omission of the last four centuries. Whether or not history reveals such a law of progress is, however, a matter of dispute. But surely forces, factors, and ideas disruptive of such progress are as much part of history, both actual and ideal, as those facts and ideas which harmonize with personal values, judgments, and ideals. Dr. Scott's values and ideals—his view of law as a constructive force in society embodying legal, ethical and religious ideas and ideals, of the state as a social institution for the attainment of the good life and as a legal construct identical with law, of international law as in nature essentially the same as municipal law and regulating but the conduct of the agents of the state, and of the international community as a community of individuals rather than abstract states—are, in a sense, realistic and surely commendable. But they represent only one strain of thought in the long history of political, legal and international ideas. Recent theory, moreover,

inclines more toward empiricism and realism in political and philosophical theory, toward a positivism in law and international law, and toward the discovery of socio-natural laws as opposed to *a* natural law in social relations.

The value of Dr. Scott's present work lies in its emphasis on ideals, such as an ideal justice embodied in an ideal natural law, which may serve as criteria of actual political and legal behavior and institutions as much as of positive law and international legal relations. Perhaps no society can intelligently guide itself without such ideals as factors of rational control and as social ends. In this sense Dr. Scott's survey is a valuable contribution to the literature on law, the state and the international community. For the same reason, however, it does not present all those possible solutions to legal, political and international problems transmitted to us by the past.

*George Manner.**

Urbana, Illinois.

Bankruptcy and Reorganization. By ARTHUR W. SELVERSTONE. Brooklyn: Harmon Publications. 1940. Pp. xli, 560.

"When Britain really ruled the waves—
(In good Queen Bess's time)
The House of Peers made no pretense
To intellectual eminence,
Or scholarship sublime;
Yet Britain won her proudest bays
In good Queen Bess's glorious days!"

In reviewing this one volume work, I am sorely tempted to quote the above song of Lord Mountararat from the second act of *Iolanthe* and leave the matter there.

Gilbert and Sullivan, as usual, have said all I can say and said it "very well."

The style of this book is the same as the invaluable Richardson on *Evidence* and the present volume is dedicated to Dean Richardson.

The author sets forth in good clear English the provisions of the act and refers to a great many leading decisions.

No attempt is made at criticism or analysis of these decisions or of the various provisions in the amended act that at present excite those of us whose job it is to study them.

The author in his preface frankly states that the book is designed to present "the materials of the subject in compact form" and expresses the hope that "this type of presentation should prove of particular value to the law student, the accountant and the business man. To this end, the book has been written."

Granted that the author's approach is the right one, it is difficult to understand why there is no reference to the many intellectually stimulating articles

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in the legal periodicals. The Table of Authorities (p. xli) refers to but three articles in legal periodicals (two by the author himself and one by Duberstein in the *Federal Law Journal* of June, 1939).

It is hoped that the author in future editions will remedy this inexcusable defect.

There is no denying, however, that the book is of value to the practicing lawyer and law student. In the first place, any book that reduces a presentation of even the non-controversial material in this field to 313 pages deserves a place on your library shelf. In the second place, both the practicing lawyer and the law student can profitably read a short book that presents fundamentals.

As Harold R. Medina recently said in reviewing Sealy on *Torts,*

> "At a time when law books seemed [sic] to be growing in size by leaps and bounds, while at the same time taking on the aspect of a mere succession of case digests, it is refreshing to find a modern work . . . sufficiently small in size to make one feel that it can be read from cover to cover."[1]

*Arthur John Keeffe**

Ithaca, New York.

[1](1939) BROOKLYN L. REV. 100.

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