

BOOK REVIEWS

WALTER LIPPMANN AND HIS TIMES. EDITED BY MARQUIS CHILDS AND JAMES RESTON. New York: Harcourt, Brace & Company, 1959. Pp. v, 238. \$3.95.

Joseph Kraft †

Walter Lippmann has been called a voice in the wilderness, but how much of the national story is written in his career. A son of Manhatta, he knew Harvard in the time of James and Royce, raked muck with Lincoln Steffens, stood with Wilson for "peace without victory," and lived the halcyon days of the *New Republic* and the "old" *World*. His columns and books are a measure of this country's march to the center of the world stage. As much as Howells' move from Boston to New York in 1900, Lippmann's passage from New York to Washington in 1938 signaled a portentous change. Few other contemporary American greats have crossed the bar of three score and ten with so powerful a claim to be celebrated.

The *festschrift* put together by Lippmann's newspaper and academic friends is remarkable, even in its genre, for telling us so little. Arthur Schlesinger, Jr. has contributed a penetrating analysis of Lippmann's varying stands on the role of the intellectual in politics. Carl Binger's story of the early years is a useful memoir; so is Allan Nevins' account of W. L.'s editorship of the *World*. Wit and perception inform Harry Ashmore's assessment of Lippmann as a "national monument," and there is special grace in James Reston's tribute. Of the other appreciations, the decent thing is to say nothing. Taken as a whole, the essays present not so much a flawed picture as an incongruously partial one. Decked out as a full-length portrait, *Walter Lippmann and His Times* in fact shows only a face. Warts are there, but not animating force. Mr. Lippmann's friends have done him far less than justice.

No doubt some of the trouble lies with Mr. Lippmann himself. For fifty years he has been driving a brisk trade at the corner of Mind and Politics. Far more than most he has found it feasible to mix the two strains. But like a monk quailing before the problem of wedding body to soul, he has at all times stressed their incompatibility. At Cambridge he played off Santayana's essences against James' pragmatism. *A Preface to Politics* emphasizes the clash between political realities and political ideals. *Drift and Mastery* opposes "passion" to "discipline." "It is impossible," he said in a notable speech in 1936, "to mix the pursuit of knowledge and the exercise of political power." *The Public Philosophy*

† Free lance writer, formerly with *The New York Times*. Mr. Kraft has written extensively about the press.

speaks of two realms: "that of this world . . . and that of the transcendent world. . . ."

Mr. Lippmann's friends have accepted the dichotomy at face value. From his person they positively shrink. The central fact that he was born a Jew is nowhere mentioned. One can gather that he has money, has been married, divorced and remarried, that he lunches at a club, plays tennis, is musical and occasionally watches television—but only from the most genteel references. What Laski, in an unkind cut, once called Lippmann's "stereotyped sophistication" suffuses even the tributes to him.

Lippmann's mind and thought rate and receive pages. Friend after friend bows homage to undoubted powers. "What made Walter special," Dr. Binger recalls, "was his extraordinary intellectual capacity. . . ." (p. 23). "He has been," says Reinhold Neibuhr, "one of the great educators. . . ." (p. 188). "He had given my generation of newspapermen," Mr. Reston writes, "a wider vision of our duty." (p. 238). No words are minced about Lippmann's support of Landon, his early writing down of Franklin Roosevelt, his nearly incredible first judgment on Adolph Hitler. But except for Professor Schlesinger, no one grapples with the guts of his mind. Who cares now how he happened to stand on passing issues? What counts is how he stands with Rousseau, Locke, Machiavelli and Cicero. To be sure, he is a journalist; so were they. They were also political philosophers. So is he—one of the last of a declining breed.

THE GREAT LEGAL PHILOSOPHERS: SELECTED READINGS
IN JURISPRUDENCE. CLARENCE MORRIS, EDITOR. Philadelphia:
University of Pennsylvania Press, 1959. Pp. 571. \$10.00.

Edwin W. Patterson †

The growth and spread of serious interest in jurisprudence and in the philosophy of law during the past four decades may be reckoned as one of the significant aspects of the intellectual history of the twentieth century. Among its causes, which are too numerous and complex to be fully treated here, are the currents of political and economic change that have led many of us to some troubled soul-searching for the bases of our political and economic beliefs, and the extended use of legislation that calls for clarification of legal policies and principles. These changes illustrate, more clearly than ever before, the futility of trying to cram all legal knowledge into a three-year curriculum and point to the need for teaching in law school some of the basic modes of thinking about law.

While the present century has produced some important creative legal philosophers, they built upon the "great" legal philosophers of the past twenty-five hundred years of Western culture; and these "greats" are still

† *Cardozo Professor Emeritus of Jurisprudence, Columbia University.*

significant for the legal theory of our time. Professor Morris' selection from the major works of the "greats" provides the reader with an excellent survey of their currently valuable ideas. He gives us clues to his motivations in this labor of love when he suggests that the material in this volume gives the reader something on which to exercise his philosophic talent: ". . . whoever wants to become a philosopher must view all systems of philosophy as merely a history of the use of reason and as material on which to exercise his philosophic talent." (p. 3, quoted from pp. 74-75 of J. H. W. Stuckenberg's *Life of Immanuel Kant*). In his Preface he explains that, while legal philosophy has never been his full-time vocation, "part-time legal philosophy can satisfyingly put in perspective the lives of us who work in the law." (p. 6). In short, the reader of this book may find it valuable in satisfying his deeper intellectual curiosity and in doing his daily work in the law.

Professor Morris has selected parts of the writings of twenty-two philosophers. He is committed to the view that it is better to present fairly full representative excerpts from a few authors than to include snippets from the writings of many. This reviewer, having tried both kinds of readings in jurisprudence, has come to the same conclusion. While a few well chosen sentences may summarize a writer's most important conclusions, the reader will miss the "use of reason" by which the writer arrived at, or at least by which he sought to justify, his conclusions. Some of the reasons may be "facts" or beliefs that are no longer true or important, yet we may find analogies in our present society. In a fairly long excerpt one may find repeated many or most of the author's "pet" beliefs, by which he purports to order the universe, or at least its legal and political phases. His beliefs, though significant as far as they go, may be seen to be incomplete or one-sided when compared with those of another philosopher. By reading them all, and by tracing and recognizing their residues in the currently accepted ideas of our day, we can realize what a pluralistic aggregation of thoughts we have inherited from the past. Yet this very heterogeneity is, I think, among the best safeguards of our freedom.

Professor Morris has included significant and valuable parts of the writings of these twenty-two men: Aristotle, Cicero, Thomas Aquinas, Grotius, Hobbes, Locke, Montesquieu, Hume, Rousseau, Kant, Bentham, Savigny, Hegel, Austin, John Stuart Mill, Ihering, Holmes, Ehrlich, Jean Dabin, John Dewey, Cardozo and Pound. Each of these writers has made significant contributions to current ideas about law. Critics may find sins of omission and commission in this list. The most regrettable omission, as I see it, is leaving out Plato; yet it must be confessed that Plato's ideas are very difficult to present in excerpts. The editor's omission of recent American writers seems quite justifiable.

Are all of the men on this list not only "great" but also indispensable? For one thing, it is clear that the editor has taken the term "legal philosophy" broadly enough to include a few "political" philosophers. The

fence between the two is neither very high nor strong; it marks a conventional division of labor between departments of a university. Nevertheless, this reviewer would be disposed to omit Cicero, Grotius and Rousseau. Cicero may have been a "great" rhetorician, but in repeating the windy platitudes of the Stoics he was not a "great" legal philosopher. The chief use of this excerpt would be to enable the good student to detect Cicero's inconsistencies and his emptiness. The inclusion of Grotius may be justified because of his importance for international law; yet aside from this I see but little of value in his work. And Rousseau's grains of wisdom and insight are hard to find among the chaff which even Professor Morris' careful winnowing has failed to throw out. The inclusion of David Hume is justified because he states most clearly and persuasively that "reason is the slave of the emotions," a view which I reject along with its misbegotten descendant, the present student cynicism that "judges decide cases just the way they feel like" (a view which, I believe, David Hume also would reject).

The best feature of Professor Morris' editorial work I have saved to the last, as dessert should be. For each of the twenty-two philosophers he has written a brief biography and a characterization of his work in its then contemporary setting. These introductory sketches are beautifully done. They should be read both "before and after taking" the exercise of the reader's philosophic talent.

The chief drawback of the book, for elderly readers, is the rather small and closely leaded type in double columns, which is not painful to read but is a strain on the attention. The index, which seems to be very good, is printed in even smaller type. These condensations were doubtless necessary to bring the collection within a manageable size.

Professor Morris and the Press have produced a book that deserves to find a host of readers among members of the legal profession, among students of law and political science and among other men who, weary of the world's utilities, seek solace in the exercise of their "philosophic talent."

BOOK NOTE

INDEX DIGEST OF STATE CONSTITUTIONS. BY LEGISLATIVE DRAFTING RESEARCH FUND OF COLUMBIA UNIVERSITY. (RICHARD A. EDWARDS, EDITOR). Second Edition. New York: Oceana Press, Inc., 1959. Pp. xx, 1132. \$20.00.

John P. Keith †

A review of this important tool of legal research can hardly do it justice. What can be said of an index? That it is thoughtfully and systematically organized? That it is exceptionally helpful to comparative constitutional consideration? Certainly the Digest has achieved these objectives well.

The full worth of the *Index* can be determined only as it is used for investigations. Without the appreciation of extensive use, but after close inspection of sections pertaining to familiar constitutional provisions, this reviewer gives it an unqualified stamp of approval.

All those connected with the volume deserve high praise: the National Municipal League and The Brookings Institution for their part in alerting the foundations to the need for redoing the 1915 *Digest*, The Ford Foundation for underwriting the project, and Columbia University's Legislative Drafting Research Fund for carrying the project through to completion under the immediate direction of Professor Richard A. Edwards.

It is to be earnestly hoped that the Fund and the Council of State Governments will carry through with their plan to keep the *Digest* current by preparing annual pocket-parts. Equally important is the much needed companion piece to the *Digest*—a compilation of the fifty state constitutions, which is especially necessary as some of these documents are unavailable. Production of the constitution volume would encourage research in state constitutions, a field of exploration that is increasingly important. With the *Digest* available as a guide, the first major step has been taken and the second now seems a real possibility.

The *Index Digest of State Constitutions* will find its way into law and other scholarly libraries as a requisite for research in state and local government.

† Executive Director of Regional Plan Association, Inc., New York.