

## BOOK REVIEWS

**THE CRISIS OF THE OLD ORDER, 1919-1933.** By Arthur M. Schlesinger, Jr. Boston: Houghton Mifflin Co., 1957. Pp. xi, 557. \$6.00.

Harvard's Professor Arthur Schlesinger, Jr. is a man of remarkable talents, both as writer and historian. In *The Crisis of the Old Order*, the first of a series of four projected volumes on *The Age of Roosevelt*, he has once again given us a book of eminently readable history, made vivid and engrossing without resort to fiction or conjecture.

This well-merited praise must be qualified by a professional cavil. Professor Schlesinger has unfortunately taken certain shortcuts in his references with a practice of grouping his footnotes in "lumps"—a matter of little moment to most readers, but potentially annoying to the academic community of which the author is, after all, a part (*e.g.*, footnotes 1, c. 4, p. 28, and 2, c. 19, p. 156); there are some involved phrases with questionable antecedents (*e.g.*, p. 109); an occasional misquote (*e.g.*, Holmes, p. 109); and this reviewer, for one, found the author's flashback device somewhat confusing, however effective it may be as a technique. These are, however, but minor aberrations.

As if in tribute to the proposition that history is a matter of people, Professor Schlesinger evokes the political and economic philosophies of the era in the persons of the public figures who gave them voice. The men of both the old order and the new appear in a myriad of telling sketches; the reader meets such diverse characters as the three leading original "brain trusters," Raymond Moley, Rexford Tugwell and Adolph Berle, and Huey Long and Douglas MacArthur, the two men whom F.D.R.—in August of 1932—considered "the two most dangerous men in the United States today." (pp. 417-18). McAdoo, Brandeis, Farley, Howe, and the many others whose public lives are the history of the period emerge as living personalities and are seen in the broad context of the nation's political life.

Four men stand out as major actors in this drama—three Presidents and a fourth to come. We see a devastating, though brief, portrait of President Harding, drawn not without sympathy: "He was not a bad man. He was kindly and amiable, devoted in friendship and without malice in antagonism." (p. 50). Alice Roosevelt Longworth could be less kind: "He was not a bad man, he was just a slob." (p. 50). The tragedy of the man appears most poignantly in his own words. "I am not fit for the office, and should never have been here," he admitted to Nicholas Murray Butler. (p. 51).

President Coolidge emerges as one who "as President . . . dedicated himself to inactivity." (p. 57). To the report of the White House usher that Coolidge slept more than any other President in his time, Schlesinger retorts, "In his dozen or so waking hours he did as little as possible." (p. 57). Coolidge awake fares little better than Coolidge asleep: "His speeches offered his social philosophy in dry pellets of aphorism." (p. 57). Yet, assuredly, Coolidge was "the moral symbol the times seemed to demand." (p. 58).

Professor Schlesinger leaves no room for reasonable doubt as to the location and intensity of his sympathies. His indictment of the business and banking community is at times almost savage. With bitter phrases he recalls the sorry spectacle of their "melancholy parade" before various congressional committees early in 1932, in a chapter well titled "Confusion in the Void." "And so," comments the author, "in the fourth winter of the depression, American business seemed to plead not only financial but also intellectual bankruptcy." (p. 459).

Some of Schlesinger's most severely critical barbs are reserved for President Hoover—whom he blames on a par with the leaders of business and banking for the "Crisis of the Old Order." While granting Hoover's idealism and integrity, he castigates his "intellectual rigidity," his "infatuation with the balanced budget" (p. 233), his stubborn negativeness in the face of an obvious and crying need for positive governmental action—a shortsightedness which ultimately did more to "breach the walls of local responsibility than any other President in American history" (p. 246), before and after Hoover. The author's epitaph for Hoover is deservedly razor-sharp:

"Doctrinaire by temperament, he tended to make every difference in degree a difference in kind and to transform questions of tactics into questions of principles. As his term wore on, the ideological obsession grew. He had himself done unprecedented things to show the potentialities of national action; but anyone who went a step beyond transgressed the invisible line and menaced the American way of life. His was the tragedy of a man of high ideals whose intelligence froze into inflexibility and whose dedication was smitten by self-righteousness." (pp. 246-47).

Harding, Coolidge, and Hoover belong to the first, and in some ways more informative—perhaps because more remote—part of the book, dealing with the state of affairs and the events leading up to the crash of 1929, the crisis of 1932, and the nominating conventions of 1932. The second part is devoted to Franklin D. Roosevelt, culminating in an excitingly narrated description of his nomination and election. Professor Schlesinger has given us a book with a hero, but it is a hero of human proportions with the weaknesses and contradictions of character inherent in that state. The picture that emerges, however, is that of the total man—and it stresses funda-

mentals: the basically conservative aristocrat, educated *comme il faut*; an inherited compassion for the downtrodden; an inspiring leader, superbly trained for the ultimate job through extensive, manifold private and public experience and service; the affable, cheerful, determined optimist. ("In all the years of my husband's public life," said his gallant wife, "I never once heard him make a remark which indicated that any crisis could not be solved."—p. 409.) Not the world, but much of America has often forgotten this great calm and courage in the face of supreme obstacles—the man who had spent two years in bed trying to wiggle his big toe.

Professor Schlesinger gives his verdict well:

"So robust a faith was the inevitable afterglow of a personal struggle during which he could never for a moment admit the possibility of defeat. . . . At bottom, Franklin Roosevelt was a man without illusions, clearheaded and compassionate, who had been close enough to death to understand the frailty of human striving, but who remained loyal enough to life to do his best in the sight of God." (pp. 409-10).

*Henry J. Abraham* †

**MUNICIPAL LAW.** By Charles S. Rhyne. Washington: National Institute of Municipal Law Officers, 1957. Pp. xxi, 1125. \$25.00.

It is now generally agreed that a municipality is a city, town, or village capable of governing its local affairs, but subordinate to the sovereign power. Local self-government is a field in which widely-debated political issues may be superimposed on purely legal problems. As we in Philadelphia well know, home rule is not established merely by adopting a "Home Rule Charter." The old political order like the old soldier cannot conveniently die, but must slowly and painfully fade away. Although Philadelphia's Home Rule Charter is six years old, its present City Solicitor had to argue only two months ago that certain municipal employees paid out of the city treasury were indeed "city employees" within the Civil Service and not "court officers" constitutionally immune from such protection. Happily, the Supreme Court in a scholarly opinion by Mr. Justice Cohen resisted the sometimes beguiling argument that separation of judicial and executive functions constitutionally required Quarter Sessions Court Clerks to be outside of the city charter.<sup>1</sup>

When it is considered that modern life is dominated by municipal regulations, the power of local communities to legislate and enforce their own laws assumes its proper perspective. Municipal government has an

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1. *Dwyer v. Diltworth*, 392 Pa. 123, 139 A.2d 653 (1958).

ever-widening impact upon the lives of its citizens because of its expanding functions, especially in large urban communities. These functions include race relations, housing, urban redevelopment, zoning, airport operations, parking, crime prevention, and all sorts of commercial, cultural, constructional, and recreational activities. Indeed, the most dynamic governments in America today are to be found at the local level. It is only natural, therefore, that the publication of an authoritative text on municipal law is an event of some importance to government officials and lawyers.

*Municipal Law* by Charles S. Rhyne is the newest, and, in many respects, the best book on the subject. When it was learned that Mr. Rhyne, current President of the American Bar Association, and long time General Counsel of the National Institute of Municipal Law Officers, was planning to issue this text, thousands of municipal attorneys, solicitors, and counsel looked forward to consulting an authoritative treatise on the myriad questions encountered in daily practice. Mr. Rhyne's book is an illuminating treatment which in less capable and sophisticated hands might have been, in the Dickensian phrase, dead as mutton. To know Mr. Rhyne is to understand this. A brilliant advocate and eminent scholar, he is the municipal lawyer's lawyer.

In some 1,100 pages Mr. Rhyne gives crisp and cogent treatment to the entire panorama of municipal legal problems—from Annexation to Zoning. This is not a pretentious work. There is no striving for scholarly or literary effect. But it considers virtually every municipal law problem which could confront today's practitioner.

Side by side with the standard chapter on city-state relations is one which is rather an innovation—a chapter on city-federal relations. This is all to the good. The enormous expansion of federal aid to local construction projects brings its own backwash of legal problems.

The author states (p. 275) :

“The tremendous increase in federal taxes and the growing body of laws extending federal aid in solving economic and social problems are features of the unparalleled expansion in recent decades of the federal government and its activities. Equally significant, however, has been the great expansion of the activities of cities and other local governments to cope with local problems that have multiplied in number and complexity in recent years. Greater population densities and urbanization, continuing industrial growth, marvelous developments in communications, transportation, science and technology, rising standards of living and changes in our social life, have resulted in enlarging the scope and increasing the complexity of both national and local government responsibilities. In consequence of these expanding governmental roles, national activities have tended to impinge upon city government at diverse points. Legal problems, unknown a few decades ago, pertaining to federal-local powers and responsibili-

ties have cropped up and many new relationships directly between the federal government and cities have developed. These have been of particular significance in the fields of contracts for federal aid and inter-governmental immunity from taxation and regulation.”<sup>2</sup>

Naturally, a problem related to federally aided city construction projects is their financing through the issuance of municipal bonds. Mr. Rhyne very capably and clearly treats this subject in another chapter.

The accent throughout is on newer phases of municipal activities. The practitioner will find an excellent chapter on laws governing municipal parking facilities and a comprehensive treatment of the entire subject of municipal airports including the thorny problem of leases and concessions. Further, there is a detailed exposition of the laws governing city planning and zoning with hundreds of useful citations. The scope and extent of municipal police power are highlighted and one can find highly useful guidance in the solution of many problems of licensing, inspection and taxation in this book.

There is also an interesting, if somewhat controversial, section devoted to the labor relations of the municipality. The author states, “[Q]ualifications, tenure, compensation, and working conditions of municipal employes cannot be the subject of collective bargaining. . . .” (p. 163). This is startling news to those of us who are accustomed to bargaining on behalf of a great city with a single union chosen by thousands of municipal employees. I must respectfully dissent. Philadelphia has for years recognized and upheld the right of its municipal employees to bargain collectively, and New York just recently has ordained that its employees may be represented by a single union of their own choice in collective bargaining negotiations.

However, all in all, Rhyne’s *Municipal Law* is a much needed one-volume work which should prove extremely popular with today’s busy lawyers. From the point of view of the City Solicitor it is a practical, handy reference work. Its utility will be recognized not only by those of us who represent municipalities, but also by the great body of practitioners who counsel and litigate in the field.

David Berger †

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2. For the most recent United States Supreme Court decisions allowing municipalities to tax against a claim of federal immunity, see *Detroit v. Murray Corp.*, 355 U.S. 488 (1958), and the related cases of *United States v. Detroit*, 355 U.S. 466 (1958), and *United States v. Township of Muskegon*, 355 U.S. 484 (1958).

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