

## BOOK REVIEWS.

LAW AS A MEANS TO AN END. Rudolph von Ihering. Translated from the German by Isaac Husik, Lecturer on Philosophy in the University of Pennsylvania. Modern Legal Philosophy Series V. Boston Book Co., Boston, Mass. 1914.

The most recent contribution to the series of translations of continental master-works on legal philosophy, edited by a Committee of the Association of American Law Schools, is the first volume of "Der Zweck im Recht," by Rudolph von Ihering, translated under the title of "Law as a Means to an End."

"The fundamental idea of the present work consists in the thought that purpose is the creator of the entire law, that there is no rule which does not owe its origin to a purpose, *i. e.*, to a practical motive." In these words, we have the kernel of von Ihering's philosophy of the law.

Social evolution started with the egoism in man, that egoism which "desires nothing for the world but everything for itself alone." And man was brought into the service of society and induced to minister to its ends by taking egoism into its service and paying it the reward which it desired. In doing this, society used its social levers: reward, which plays its chief role in economics, and coercion, which when organized constitutes the state and law. Society is "the realization of the truth of the principle 'every one exists for the world and the world exists for everyone.'" It insists on the observance of its social rules by inflicting on those who disregard them pains and penalties. And behind it, in the very last instance, stands the physical force of the community, directly exercised, where necessary, in the person or property of an individual. By thus serving itself, egoism has been transformed into social ends, and the material for the legal structure has been produced.

"Law is the political mechanism for realizing the coercive norms (abstract commands) recognized by the state as binding absolutely." Such is its form. Its standard is not the absolute one of truth; its problem is not to realize truth absolute. But its standard is the relative one of purpose. "The entire law is simply one creation of purpose, except that most of the particular creative acts reach back into such a distant past that humanity has lost remembrance of them." Its purpose, in the main, is to secure the conditions of social life by the power of the state.

This purpose concept of law is applied by the author to contract, property, inheritance,—in fact to all sorts of legal questions; and the thread of the argument is logically and, in a most pleasant vein, by apt illustrations followed to its conclusion.

This conception of law should appeal to the present day readers of law and philosophy, particularly as there is at present a demand for a reform of the law. By applying the purpose idea to the particular principle of law as it is attacked, we can come to the conclusion whether or not that particular law really serves our ends. If it does not, a change should not be opposed on any ground such as that the rule of law in question is sacred and should, therefore, be entirely exempt from any criticism or attack by the people. No rule of law is sacred; it must fulfill its purposes or be reformed so that it does.

N. J. S. G.

THE MECHANICS OF LAW MAKING. Courtenay Ilbert, G. C. B., Clerk of the House of Commons. New York: Columbia University Press. 1914. Pp. viii-209.

Interesting and instructive are the adjectives which characterize this little volume, consisting chiefly of a series of lectures delivered by the author before the Columbia University Law School in the fall of 1913.

The urgent need for scientific law drafting has during recent years been engaging the attention of the most intelligent members of the Bar in almost every one of the United States. State drafting bureaus, university drafting bureaus, political party legislative drafting committees are the result of a tardy realization of the hopeless confusion into which our carelessly prepared statutory law is leading. Every authoritative utterance on the subject is therefore bound to engage the interested attention of the more progressive lawyers of the country.

Mr. Ilbert's book is a happy combination of the historical and the practical. It includes a brief survey of the work which has been done in England from the time of Edward VI to the present day in an effort to reform the statute book, describing with particularity the duties and activities of the Parliamentary Counsel,—an office which the author filled with distinction for many years. But not only are Mr. Ilbert's lectures unusually informing historically; they are also most helpful to the practical legislative draftsman. Emphasis is of course laid upon the very different conditions which confront English and American law-writers, but in spite of this difference Mr. Ilbert's practical advice, especially in his chapter, "Rules for the Guidance of Draftsmen," will doubtless furnish many valuable suggestions to those who are undertaking in a scientific way to prepare bills for our American legislatures.

Other interesting chapters deal with "Codification" and "Some Characteristics of Modern Legislation." Taken as a whole, "The Mechanics of Law Making" can be read with advantage by any one who is or wants to be interested in one of the most permanently useful reforms now before the public.

W. A. S.

THE TARIFF AND THE TRUSTS. Franklin Pierce of the New York Bar. Macmillan & Co., New York City.

The preface of this book states that its object is to supply a clear statement of the wrongs of the Dingley Tariff. But having taken his text, the author straightway departs from it and discusses protective tariffs in general, with only an occasional reference to the Dingley Tariff for purposes of illustration.

The title of the book indicates its contents better than the preface, for from the beginning the author discusses the relation between the tariff and trusts showing how the tariff aids in bringing about monopoly control of the industries protected, and how the "trust-system" has grown until even the government is in some measure controlled by it. It would be more accurate to say that political parties are controlled, through campaign contributions, rather than the government, but inasmuch as ours is a government by parties, the effect is the same. This subject of control of the government is treated in a chapter entitled "Protective Tariffs and Public Virtue."

The first half of the volume is taken up chiefly with an exposition of the wrongs growing out of a protective tariff as it affects manufacturers, laborers, farmers and consumers. The author here sets forth very clearly how the shutting out of imports has the effect of shutting in exports, thus confining our trade in great measure to ourselves. This would seem to be unobjectionable for a time, at least until our industries had grown strong, but if long continued, centralization of wealth and power in the hands of those protected follows, which in turn brings unrest and disturbance.

It appears as if the present legislation on the subject of employers' liability were an attempt to correct the injustice brought on by too many years of protective tariff. The recent reduction in the tariff is a more direct method of arriving at the same result, although not felt so quickly.

This first half of the book is written like a campaign speech rather than a study of the subject of protective tariffs. The illustrations are sometimes more than are necessary to make the point under discussion clear to the reader, and the statistics interrupt the argument by reason of their length and number, but they are well chosen and would be good points of departure for anyone desiring to carry on a further investigation.

The second half of the book is taken up chiefly with the tariff histories of the United States, England and Germany.

The campaign-speech style is used in the United States tariff history to some extent, but none the less an accurate history, very well condensed is given, from the year 1701 down to the tariff of 1894 (the Wilson Bill) and the Dingley Tariff.

The English and German protective tariff histories are shorter than ours and more interesting, perhaps because their measures are passed and repealed as matters of public policy, while ours bear the marks of "log-rolling."

The book does not pretend to be a scholarly study of tariffs and protection, but it is a well adapted book for the purpose it has in view, namely, to awaken men to the fallacy of protective tariffs as the only means of prosperity, and the dangers of over-protection.

C. C. S.