

## BOOK REVIEWS.

MODERN FRENCH PHILOSOPHY. By A. Fouillée, J. Charmont, J. Duguit and R. Demogue. Translated by Mrs. F. W. Scott and Joseph P. Chamberlain. Boston: The Boston Book Company, 1916.

The seventh volume of the Modern Legal Philosophy Series edited under the auspices of the Association of American Law Schools, strikes a new and distinctive note. Here are presented the latest tendencies in legal thought in France before the great war. True, Fouillée belongs to the last generation, in thought, as well as years, but his efforts to reconcile the positivism of his youth with the idealism of his later contemporaries show that, after all, he belongs to a transition period and his contribution may be regarded as a prelude to that which follows. His acute comparison of German, French, and English theories of law and legal rights are of particular interest at the present moment. The other contributors are modern of the moderns, having won their laurels within the last decade. In the selections from Charmont, will be found a study of the renaissance of legal idealism, of pragmatism in its relation to jurisprudence, and a new interpretation of natural law. If somewhat barren of constructive suggestions, this work is, in essence, an acute and impartial criticism of contemporary thought. The work of Duguit is chiefly concerned with the demolition of certain prevailing misconceptions of the nature of Government. The doctrine of state personality is rejected as a useless and vicious fiction. His masterly discussion of this topic is a substantial contribution to jurisprudence. But, in his constructive theses, where he shows the influence of syndicalism, he is not so happy; there are patent defects in his doctrines of objective law and social solidarism.

The selections from Demogue, while perhaps the most elusive in their content, are by far the most interesting in the collection. Here will be found a brilliant and rational discussion of some of the fundamental notions connected with jurisprudence, such as: Security, Justice, Liberty, the evaluation of interests, Equality, Law itself. As we ought to know, but generally fail to realize, the more familiar the concept, the more thoroughly it defies analysis, but this writer has a remarkable way of cutting to the heart of an obscure problem. If it is still insoluble, in the present state of our mental and social development, we may, nevertheless, be glad to be led to a realization of our limitations.

The American readers interested in legal and political philosophy (it is a pity that they are so few) will find much in temporary French thought of absorbing interest. The fundamental political ideals of both republics have a common source in the Revolutionary Period of the eighteenth century. That France under the influence of syndicalism was rapidly losing sight of these traditional ideals cannot be denied; but it would seem as though the positivist tendencies of the nineteenth century had reached the limits of their doctrinal expansion, and while their effect on the social

legislation may be long and perhaps beneficially felt, a philosophical reaction from the extremes of collectivism has set in. There are indications of a rational and healthy return to the idealism, humanism, and belief in the dignity and freedom of the individual man that made the older France the Shrine of American Democracy.

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THE COMMODITIES' CLAUSE. By Thomas Latimer Kibler. Pp. 178. Washington: John Byrne and Company, 1916.

The work by Mr. Kibler is "a treatise on the development and enactment of the commodities' clause and its construction when applied to interstate railroads engaged in the coal industry." The subject is treated concisely under six chapter titles, the first chapter dealing with the railways and coal mining in Europe. This is followed by an historical account of the acquisition of coal properties by American railroads. The main part of the book is devoted to the legislative history of the commodities' clause, to the operation of the law, and to the inadequacy of the statute.

The discussion of the relation of European railways to coal mining companies seems to be unessential to the treatment of the subject. Moreover, the account is so brief and so incomplete as to be decidedly inferior in merit to the rest of the book. It might better have been omitted.

The chapters dealing with the history, operation and inadequacy of the commodities' clause are well written and constitute a real contribution to the literature upon the subject. It would probably have been better to have dealt with these subjects somewhat more fully, but on the whole the presentation is very satisfactory. The author's proposals as to future legislation to make effective the principles underlying the commodities' clause are (1) that the United States Government should not sell the coal lands it now owns but should lease them to be operated under royalty contracts; (2) that the Interstate Commerce Act should be so amended as effectually to prohibit railroad companies from owning or controlling coal lands except for the purpose of securing fuel for the uses of the owners; and to prevent railroad officers from being officials in coal mining companies; (3) common ownership of railroad and coal properties by the same individuals or firms or corporations should be prohibited; and (4) no railroad company should be allowed to "expend any money, or incur any liability, or acquire any property, not in the operation of its railroad, or in the legitimate improvement, extension or development, of its railroad."

The proposed law for the complete separation of railroad companies from owning and operating coal mining properties is supported by arguments that the state laws requiring insurance companies to limit their business to insurance have been beneficial to the companies. Emphasis is also laid upon the fact that the ownership by railroad companies of steam and trolley lines has been found to result in inefficiency and unprofitable management.

The economic philosophy underlying the author's argument in favor of complete separation of the business of mining and transporting of coal is

stated as follows at the end of the volume: "The situation which the merger of the transportation industry and the coal industry has produced, presents in its most aggravated form the injustice and danger of permitting diverse yet dependent interests to unite. It is only through the absolute dissociation of such interests that we may reasonably hope to give independent industry a fair opportunity for development and prevent the ultimate monopolization of those industries into which the railway may choose to enter."

This doctrine is undoubtedly sound. The reasoning in support of the author's view is convincing. Although legislation will have to proceed with caution in order to avoid the sacrifice of property interests, the difficulties in the way should not prevent the enactment of legislation to bring about the complete separation of transportation from the business of the mining of coal.

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THE MONROE DOCTRINE: AN INTERPRETATION. By Albert Bushnell Hart. Pp. xiv and 445. Boston: Little, Brown & Company, 1916.

Perhaps one of the most cherished inheritances of the people of the United States is the Monroe Doctrine. It is invoked at all times and is generally regarded as an intangible something under cover of which the United States can justify any act. But, fundamentally, what is the Monroe Doctrine and for what does it really stand? In this book are the answers to these questions. The book seeks not a definition,—for defining anything so broad and so elastic as the Monroe Doctrine is well nigh impossible,—but an explanation. The explanation, as the Doctrine has constantly changed with the changes of history, necessarily follows the history of the times. Thus first we find a *résumé* of the state of affairs at the beginning of the nineteenth century, the despotism and intervention policy of Europe contrasted with the democracy and personal liberty of the Americas and Monroe's voice setting up the doctrine of the Two Spheres and warning the European nations to refrain from acquiring any territory at the expense of the American nations. Then as the conditions were altered we find the Doctrine assuming different meanings; since the middle of the nineteenth century the Doctrine has had almost as many meanings as there were Secretaries of State until now it represents the "American" policy—the policy of self-protection and self-preservation which the United States like every healthy nation or organism must have to survive.

Those who criticize the Doctrine point out that the Doctrine is not consistent, and that it gives greater rights to the United States than to any other nation; but no principle of self-preservation can ever be perfectly consistent or non-discriminatory; such a policy must be a growing thing which changes with changing conditions and must favor above all other nations the nation which it seeks to protect. As the Monroe Doctrine stands

for the protection and preservation of the United States, the time must come when sooner or later it will have to be sustained by force or else become a mere "scrap of paper". When it is generally realized that the United States must be ready to defend their sacred Monroe Doctrine, there will be little doubt of the desirability of "Preparedness", whether military or economic.

The book, as it deals with subjects which are vital today, is of great interest, and because of the many quotations and excerpts from the original authorities and the excellent bibliography which is appended, carries weight as a scholarly treatise.

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