

BOOK REVIEWS

THE SUPREME COURT AND MINIMUM WAGE LEGISLATION. Comment by the Legal Profession on the District of Columbia Case. Compiled by the National Consumers League. New Republic, Inc., New York, 1925, pp. xxviii, 287.

As indicated by its title, this publication presents a compilation of sundry Law Review articles and other professional comment on the decision of the Supreme Court of the United States in the Minimum Wage case (*Atkins v. Children's Hospital*, 261 U. S. 525). Most of the articles consist primarily of a recapitulation of the various opposing considerations adduced in the opinions of the Justices of the Supreme Court, in support of and in dissent from the Court's conclusions, coupled with an expression of the authors' views upon the matter. The solution of the controversy does not seem to be materially advanced by the discussion; but perhaps this was not to be expected in view of the very thorough fashion in which the issue was canvassed before the Supreme Court. The majority of the comment is adverse to the decision, but this also is not surprising, in view of the fact that the academic mind is not usually stimulated to express its concurrence in judicial deliverances, whereas it responds readily to the challenge of a ruling adverse to its beliefs.

To the reviewer, it seems that the case is another illustration of a decision relative to the validity of social legislation predicated primarily on *a priori* theory rather than on facts proved of record. It would seem not unreasonable that those who attack the constitutionality of such legislation should be required to prove by evidence or by matter of which the Court will take judicial notice that the legislation has no real or substantial relation to a *bona fide* police purpose, or that the means used are arbitrary. The prevailing opinion seems to indicate that the decision is based, not so much on what is disclosed in the record, but on the assumptions of the Court as to what are primarily questions of fact, *vis.*, whether a minimum wage has a reasonable or substantial relation to the health and morals of women, and whether to require that it be measured by the amount necessary for the support of the employee is an arbitrary method of ascertaining the value of the employee's services.

The volume includes an interesting introductory essay by Dean Pound.

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THE UNITED STATES SENATE AND THE INTERNATIONAL COURT. By Frances Kellor and Antonia Hatvany. New York, Thomas Seltzer, 1925, pp. 353.

This volume is devoted to marshalling all possible criticisms and objections that may be made of the Permanent Court of International Justice and the adherence of the United States to the statute establishing the Court. From this standpoint the book is certainly comprehensive, possibly exhaustive, though many of the criticisms made seem trivial, such as that the Court or its President has been authorized in certain treaties to appoint arbitrators, and some are entirely imaginary, such as the assertion that the right of revision of the statute of the Court is vested in the League of Nations. The authors regard

the Court as simply a part of the League organization and any criticism that may be made of the League as therefore applicable to the Court. Their principal objection to the League seems to be that the Covenant of the League does not go to the extent of abolishing or "outlawing" war; the fact that the signatories of the Covenant have agreed not to resort to war in some circumstances they seem to regard not as an achievement but as worse than no agreement at all. All the way or not a step is their motto. It is a typically American attitude as witness the action of the United States delegation to the Opium Conference. Yet it would hardly seem possible to have international co-operation if each nation asserts the right to dictate all the details of what is to be done. It is certainly not a wise or practical attitude to reject any advance unless the ideal aimed at can be attained all at once. As to the authors' assertion that "the Court was intended to be and is constituted as the judicial organ of the League of Nations" there is doubtless a certain element of truth underlying it used as a figure of speech; but the authors have entirely failed to substantiate their contention that the Court is controlled by and not independent of the League. It is of course not to be expected that any general international institution can be set up that will conform in all respects to the ideas of individual theorists.

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CASES ON EQUITY. Volume 2. Walter Wheeler Cook, St. Paul, West Publishing Company, 1925, pp. 835.

The second volume of Professor Cook's Cases on Equity and the last to be completed deals with the specific performance of contracts. In Volume I dealing, roughly speaking, with the whole problem of fraud, accident and mistake, the learned editor introduced a new and original classification of the material which has proved a valuable contribution to the pedagogy of this vast subject. The present volume departs less radically from the traditional classification but is none the less original. The older collections of cases stressed historical development; Professor Cook approaches the subject, as he puts it himself, from an analytical and functional point of view. Without minimizing our debt to the earlier editors, there was undoubtedly much lost motion in the historically developed case-book, and material did creep in that belonged to the substantive law of sale of real property. The present editor has kept in view the fact that the primary purpose of the course is to teach the underlying principles of equity jurisprudence and their application in the modern world and has arranged his material for an orderly and logical presentation of this topic. Some familiar leading cases appear but the bulk of the authorities are recent American decisions upon points of present day interest or of future importance. Professor Cook's long experience as a teacher of law has made him very expert in the selection of cases involving thought provoking controversies, and this talent is displayed throughout the volume. The only fault to be found is that the material is too abundant to be handled in the limited time that can usually be allotted to the subject in a crowded curriculum.

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