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In a soil furrowed by depression, seeds heretofore germinating more or less feebly have sprung into luxuriant growth. Efforts of trade associations in establishing codes of ethics and fair competition, the movement for reduced hours of employment, minimum wages and the elimination of child labor, activities of trade unions in extending their membership, are a few examples. Forces in our industrial society such as these, endeavoring to find expression and gain momentum under the aegis of the NRA, have multiplied the areas of conflict and friction. One means of alleviating the friction, thinks the author of this book, is to extend and develop the practice of settling disputes by arbitration.

The book begins with a discussion of a vague concept termed "economic good will". It seems broad enough to cover both that very real intangible, well recognized as a business asset, and the highly ideal notion of brotherly love. This preliminary sermonizing with its rather futile classification is undoubtedly an attempt at popularization, and may be justified on that ground. It also furnishes a setting for the thesis that arbitration is a very important method of promoting this essential good. The remainder of the book provides more nourishing pabulum.

There is a description of the situation in industry at the advent of the NRA, including a panegyric on arbitration to be expected from a professional promoter of the movement. Then follows a discussion of developments under the codes. The "new industrial society" is viewed on the whole sympathetically, but the author effectively points out many defects that must be remedied before this new partnership between government and industry can function to the best advantage. There is needed a more adequate supervision of code authorities to the end of insuring a larger degree of responsibility both toward the industry and the government; greater uniformity in the powers of code authorities in dealing with non-compliance; a more orderly system of appeal from code authorities to the administrator; a standard by which to check the costs of non-compliance inquiries; a system of graded penalties; a more stabilized procedure to provide safeguards against injustice by reason of the fact that large powers are exercised by competitors in the determination of penalties for code infractions; further co-ordination of the various methods for securing compliance; the resolution of inter-trade differences through inter-industrial or master codes, regional clearing houses for discussion of inter-trade problems, and a central organization along the lines of the Swope plan representing industry as a whole. The author makes a good case for most of these points. As to the one last mentioned, however, it seems to the reviewer that the difficulties might better be met by limiting the subject-matter of codes, rather than by building up an even more complex system of control. Perhaps both of these ideas come to the same thing in the end, since both look toward the curtailment of monopolistic practices. In any event it seems fairly clear that there ought to be room for a larger measure of freedom to compete than most of the codes contemplate. It is the attempt to stifle so many departures from the uniform that has led to most of the evils. The recent reorganization of the NRA and the utterances of Mr. Richberg indicate that this may be the policy for the future. As to the much less significant suggestion with respect to graded

3. P. 186.
5. P. 110.
6. P. 111.
7. P. 197.
penalties, it might be pointed out that this is opposed to the recent trend in the direction of allowing a wider discretion in the fixing of penalties for crime.

From the above catalogue of recommendations it is apparent that the book contains a more extensive discussion of the NRA than would be necessary in dealing with the subject of arbitration alone. Although this makes the subject matter somewhat broader than the title, it adds to the value of the book. Most of the material, however, deals with the subject of arbitration. The discussion is not confined to proceedings for the settlement of controversies arising out of a claimed injury which result in damage awards, usually called commercial arbitrations, but also includes those that involve the determination of a plan of operation for the future such as industrial arbitrations. Proceedings of the latter type are frequently referred to in the codes themselves. There would seem to be no objection to combining the treatment of both types, since, although they have had an independent development, they have many elements in common. The differences are made sufficiently clear in the book, although the same cannot be said of the use of the term in the codes. There is merit, also, in the author's view that confusion will be avoided if care is taken to distinguish arbitration from mediation.

A portion of the book is devoted to the narrower subject of commercial arbitration. It is pointed out that many codes include a recommendation of this method of settling disputes and a few have made it compulsory either by specific provision in the code or by requiring the use of form contracts containing arbitration clauses. Of course, these provisions will not have much effect in three-fourths of the states where agreements to arbitrate future disputes are not enforceable.

Perhaps the chief purpose of the book is to call attention to possibilities of the wider use of arbitration in determining questions arising in the interpretation and application of the codes. As yet not much progress has been made in this direction although this method is referred to in many codes and in the Manual for the Adjustment of Complaints. The American Arbitration Association recommends rules for arbitration under the codes which are printed in the appendix. A number of questions that might be suitable for arbitration are pointed out. The author advocates that the procedure be made more uniform and that the practice of having decisions of arbitrators subject to the approval of the Administrator be abandoned in favor of a provision for appeal. The view as to the advantages of arbitration may be too optimistic but it should not be criticized on that account. A good cause needs an enthusiastic sponsorship which becomes ineffective if it attempts to be judicial.

In general it may be said that this book has a place in the literature of the New Deal. The discussion of the functioning of the NRA has educational value in spite of occasional obscurity. The treatment of arbitration provides good propaganda.

Harold C. Havighurst.†

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9. For a criticism of the codes for failing to keep these processes distinct, see Phillips, Commercial Arbitration under the N. R. A. (1934) 1 U. of Chi. L. Rev. 424.


11. This compulsory feature presents one of the constitutional questions which constantly crop up in connection with code enforcement. A statutory provision requiring the use of a form of fire insurance contract containing an arbitration clause was held constitutional in Hardware Dealers' Mut. Fire Ins. Co. v. Glidden Co., 284 U. S. 151 (1931), but it is not clear that the holding would be the same for all types of contracts.

12. Mr. Phillips, in the article cited, supra note 9, opposes the use of code provisions to extend arbitration and criticizes the recommendations of the American Arbitration Association.

The scope of this review is very limited. I have been asked to comment only on Chapter I, Section 3 in this case book, which deals with Contracts for Arbitration and Appraisal. This section covers seventy pages in this excellent compilation of materials for a course in equity. One may ask at once why the subject of arbitration is included in a case book on equity at all. Until very recently an agreement to submit a dispute to arbitration was revocable, although the parties themselves expressly declared it to be irrevocable. Furthermore, the remedy for an award given by the arbitrators in case there was no revocation was substantially in the common law courts. On the other hand, if there was an agreement for appraisal or some other determination of fact which the courts regarded as less than arbitration of the dispute itself, then this might be specifically enforced by a court of equity and, to a limited extent at least, the determination by the appraiser would be given effect by a court of equity. The cases in this section deal very largely with the problem of revocability at common law and the extent of the remedy which equity will afford, where the particular agreement is considered to involve appraisal or the determination of a minor question of fact rather than a settlement of the entire dispute itself by arbitration.

In their preface, Professors Chafee and Simpson declare their allegiance to a separate course in equity rather than to the teaching of equity as an integral part of civil procedure and several substantive law courses in the curriculum. Regardless of the merits of this general commitment, it does seem to the reviewer unfortunate that arbitration and award is not treated as a part of procedure. Even in Dean Clark's exhaustive case books on civil procedure, in which he includes a great deal of equitable material, there is practically nothing on arbitration and award. If we consider the importance of litigation which now obtains before arbitration tribunals, this result seems all the more extraordinary. There have been periods in some cities when the business before arbitration tribunals involved more money than the business before the regular courts.

While the common law rules of evidence and our traditional rules of court procedure do not prevail before arbitration bodies, it is an error to suppose that the proceedings before these bodies involve no difficult rules, or that they can be handled without legal training in the presentation of a case. In many ways the nebulous condition of arbitration procedure makes it doubly difficult, so that the lawyer is in need of more rather than less training in this field of procedure. Furthermore, the emphasis, from its very nature in arbitration law, is on procedure. By definition, it is a method for settling disputes. The materials found in this case book on equity are excellent so far as the scope of equitable relief is concerned. But I fear they are totally inadequate for the reasonable preparation of the young lawyer who seeks guidance in practice before arbitration tribunals.

Perhaps a more serious difficulty than any of the ones mentioned so far is that the approach here used is likely to give a warped presentation of the problems themselves. For instance, the excellent footnotes in this section are filled with references on the problem of revocability of the submission to arbitration. Yet modern statutes make this problem of minor importance at the present time. The difficult questions, apart from the procedure itself, are what kind of awards by arbitration tribunals will be enforced by either law courts or equity courts, and how far equity courts will go in giving specific relief. Yet the case material in this section is dominantly on the problem of enforcing appraisals. In England, before the Arbitration Act of 1889, and in
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America, until some twenty years ago, these were the important questions. They are not the important questions now.

Much of the material seems to be presented in the spirit of the movement for commercial arbitration that was especially active some fifteen years ago. For instance, there are repeated references in the footnotes to a book by Julius Henry Cohen, *Commercial Arbitration and the Law.* In fact, this was a book of popular propaganda. For instance, Professor Whittier disposed of the book most thoroughly when it first came out, showing, by specific instances in the book itself, that Mr. Cohen could not read the year books in the first place, and did not understand the significance of the cases in the second place. But the book was highly commended in the popular press. It seems strange, however, that Mr. Chafee and Mr. Simpson should emphasize it by their repeated references. The appropriate as well as the generous course would be to forget the book and not go on discussing the alleged errors of Lord Coke when substantial reasons to prove these alleged errors have not been presented.

*Paul L. Sayre.*


This volume is a companion to another work by the same author on *International Guarantees of Minority Rights* (1932) which was devoted to the multipartite treaties made on the subject after the Great War under the guarantee of the League of Nations. The volume under review deals with the protection of minorities under the German-Polish Convention of 1922 relating to Upper Silesia.

The differences between the treaties in question on the one hand and the Convention on the other are many and some of them substantial. These treaties were multipartite as to the number of parties and unilateral as to the obligations assumed. The bipartite Convention, on the other hand, provided for mutual and equal obligations. The obligations assumed under the treaties have no term, while those under the Convention are stipulated for fifteen years only. The obligations under the treaties were assumed by the given States without any limitation as to locality, while those under the Convention are somehow limited to the plebiscite area of Upper Silesia. The treaties laid down only a few general provisions in the matter, while the Convention contains numerous detailed provisions.

Very substantial also are the differences in the machinery and procedure. The organ charged with supervising the execution of the treaties is situated outside the State concerned, and persons belonging to minorities have no right of access to that organ. The Convention, however, provides for local machinery in Upper Silesia and recourse to the League of Nations, and also gives to the minorities a *locus standi* in the procedure by way of petition and appeal.

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*The first volume, only, of this two-volume work has as yet been published. A review of the entire work will appear in a future issue of the Review.*

1. 1918.
3. See laudatory editorial in 115 Independent 725 (Dec. 15, 1925). This is mentioned with apparent approval by Phillips in his excellent article *The Paradox in Arbitration Law: Compulsion as Applied to a Voluntary Proceeding* (1933) 46 Harv. L. Rev. 1258, 1259.
4. See particularly pp. 538, 539, 544 and two references on p. 556.
A few words should be said about the title of the book and some terms used therein. The title is *Regional Guarantees*; the title of Part I² is *International Guarantees and Regional Guarantees*; the “machinery” and the “procedure” are called “regional”.² This use of the word “regional”, as quoted above, does not, to the reviewer, seem quite appropriate.

The “guarantees”, both in the multipartite treaties and in the Convention, are international. The Convention expressly provides that its minority provisions are placed under the guarantee of the League of Nations, and the Council of the League, on July 20, 1922 “confirmed” its decision of May 16, 1922, by which these provisions “have, as provided for in the Convention, been placed under the guarantee of the League of Nations”. Furthermore, the “machinery” and the “procedure” of the Convention are “international”, because they are created by an international instrument, and also because the Council of the League of Nations is a most important, though not the only, element of the “machinery” stipulated by the Convention. Some parts of the machinery and the procedure under the Convention are local in the sense of being within the territory of the State concerned, and so (“local”) they are denominated in diplomatic instruments.⁴ It is true that the substantive obligations assumed under the Convention are regional, because they are somehow limited to the area of Upper Silesia. But this alone does not seem to warrant the use, by the author, of the term “Regional Guarantees” as descriptive of the régime created by the Convention in contradistinction to what he calls the “International Guarantees” established by the multipartite treaties.

The machinery created by the Convention is twofold. On the one hand there is local machinery, consisting of (a) Minorities Offices in each portion of the plebiscite territory, which, if they do not succeed in giving satisfaction to the petitioners, must forward the petition with observations to (b) the President of the Mixed Commission who, after examination of the case, gives his opinion on the manner in which the case may be settled.⁸ He also has the general right to draw the attention of the agent of the State concerned to facts and situations which, in his opinion, are not in conformity with the Convention. If the petitioners are not satisfied with the action taken in the matter by the administrative authorities they may appeal to (c) the Council of the League of Nations.⁹

The other procedure is that of direct appeal by the petitioners to the Council of the League.⁹ The Resolution of the Council of September 8, 1928 and the Paris Agreement of April 6, 1929 between Poland and Germany provided that only the following petitions are subject to direct appeal to the Council (under article 147): (a) urgent petitions, as well as (b) those which are of sufficient importance to justify their examination by the Council and which, at the same time, may not be dealt with by way of local procedure, under which the Council acts only as the last instance.

What are the limitations of the Convention as to persons? Says the author:

“The text of the Convention is by no means clear as to whether the petitioner must be a national of the State against which he petitions. In so far as any conclusion may be drawn from its provisions, they would seem to favor the view that ‘a member of a minority’ within articles 147 and 149 need not be a national of the State concerned. Thus wherever

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1. P. 17.
2. E. g., pp. 15, 21 et passim. Italics supplied.
3. Preamble to Part III.
4. E. g., in the Paris Arrangement of 1929.
5. Arts. 149-152.
6. Art. 152.
8. Art. 149.
9. Art. 147.
10. Under art. 149 as explained above.
it is sought in the Convention to confer rights upon nationals only, the
text is careful to say expressly ‘nationals’ (les ressortissants) . . . in
articles 147 and 149 no mention is made of nationality”.

He further states:

“Why should not a person domiciled outside the plebiscite area, but with
permanent business or other interests within it, be entitled to petition when
he is injured in respect of those interests? The Convention does not dic-
tate the . . . view [that only residents of the area are entitled to protec-
tion] nor does expediency and justice.”

What are the limitations of the Convention as to the locality? Says the
author:

“It is clear that the procedure both before the Council of the League
of Nations under articles 147 and 149, and before the regional organs under
articles 149 to 157 is only available in respect of acts done within the pleb-
iscite area.”

Thus the author appears to be of the opinion that both procedures are
available to all persons without any limitations as to their nationality and/or
domicile, and that both procedures are limited, in all cases, to acts done within
the plebiscite area.

It seems to be certain that the competence of the local organs, under article
149 above, is limited to acts done in the respective part of the plebiscite area.
Article 148 provides that the Minorities Offices shall be established by each of
the two governments in its part of the plebiscite territory “in order to ensure
that petitions . . . should receive uniform and equitable treatment from the
administrative authorities in each of the two parts of the plebiscite territory”.
These Offices are local organs with advisory powers only. They can deal only
with matters happening within the area where they are established; hence article
148 above so limits their competence. The President of the Mixed Commis-
sion and the Council of the League of Nations, being only instances in the
local procedure which begins with the Minorities Office, of course can deal only
with matters happening within the area of competence of that Office.

Therefore, so far as local procedure is concerned, which is limited to com-
plaints against the acts of the respective government within the plebiscite area,
the only question is as to what persons can use this procedure. In the absence
of any limitations as to persons in article 149, it seems to follow that any person
can be a petitioner, provided the respective substantive provisions of the minor-
ity clauses of the Convention do not exclude such a person from their protection.
But some substantive provisions of the Convention are limited to “nationals in
the (national) portion of the plebiscite territory”, other substantive provisions
cover expressly “all the inhabitants of the plebiscite territory”, others speak
of “nationals who belong to minorities”, while still other of these substantive
provisions, dealing as they do with special matters having their locality in the
area, do not contain any description or limitation of persons entitled to the bene-
fits thereof.

Now what in case of direct appeals to the Council of the League of Na-
tions under article 147? For the author “it is clear” that this procedure is only
available in respect of acts done within the “plebiscite area”, the same as is

11. P. 41.
12. P. 45 n.
13. P. 64.
14. Under art. 147 and art. 149.
15. Italics supplied.
17. Art. 149.
18. Art. 75.
19. Art. 83.
20. Art. 98.
21. E. g., arts. 100, 113, 134, 140, etc.
22. P. 64, as quoted above.
the local procedure. But the only authority the author adduces for his conclusion is the case of a student whose petition was rejected by the President of the Mixed Commission (which means in the course of local procedure!) on the ground that the case was based "completely on acts done outside the plebiscite area", and that "the competence of the Mixed Commission for Upper Silesia is limited to the plebiscite area". This decision, however, deals with the competence of the Mixed Commission, not with that of the Council of the League of Nations in case of direct appeals under article 147. Note also that the Paris Arrangement of 1929, mentioned above, expressly states that there are some matters which may not be dealt with by way of local procedure and may only be dealt with by way of a direct appeal to the Council of the League under article 147. What are these matters?

The scope of competence of the Council, under article 147, depends on the scope of the numerous and different substantive provisions of the minorities clauses of the Convention. In the first place, these substantive provisions, as explained above, contain different limitations as to the persons entitled to the benefits thereof. So far as locality of the enjoyment of the protection provided by the Convention is concerned, some of the substantive provisions of the Convention, because of their special character are necessarily local to the area, and, therefore, are limited to the acts of the respective government within that area. But there are in the Convention other substantive provisions which neither by their nature nor by any express statement are limited, so far as the locality of the acts of the government is concerned, to the plebiscite area. Thus it is provided that "The Contracting Parties undertake to assure full and complete protection of life and liberty to all the inhabitants of the plebiscite territory, without distinction of party, nationality, language, race or religion." Quaere then whether this provision, limited as it is to the inhabitants of the plebiscite territory, is further limited to protection of life and liberty of these persons only while they are in the plebiscite territory and does not extent to such inhabitants while they are in other parts of the territory of the State concerned?

The author states that "The Council regards its competence under the Convention as limited to acts done within the plebiscite area." This statement is somewhat misleading. It is perfectly clear that with reference to some substantive provisions which are limited to acts done within the area the competence of the Council is limited to such acts. But it does not follow that the Council's "competence under the Convention", as the author puts it, is so limited generally. To use the expressions of the author himself in a different situation (cf. above), the Convention "does not dictate" such a view, "nor does expediency or justice," nor do the "authorities" which he cites, without any analysis, appear to support the somewhat too general character of his statement. The citation from the Official Journal of the League of Nations is irrelevant as the acts complained of in these petitions were committed within Upper Silesia, and no question of the limitation of the competence of the Council to acts done only within the area was raised or discussed. As to the citation of 1932, the rapporteur, M. Nagaoka, himself states that "the petitioners refer to the situation of the Polish minority in Germany in general and complain in particular of the attitude of the German authorities towards the minority, more especially with regard to the issue of passports and permits, education, local government administration, elections to the legislature, the germanization of per-

23. Under art. 149.
25. Arts. 84-96, religious organizations; art. 97 et seq., minorities schools and minorities language in the public schools; art. 134 et seq., language of administration.
sonal and place names, and intellectual and economic life. Further, according to the petitioners, certain organs of the Press have shown evidence of a hostile attitude towards the minority; most of these cases occurred outside the territory covered by the Geneva Convention." Of course the rapporteur concluded that "these cases should be excluded from our examination", and this conclusion was accepted by the Council. This case illustrates the perfectly clear proposition that the Upper Silesian Convention deals only with Upper Silesian matters and not with "the Polish minority in Germany in general", nor with the intellectual and economic life of the Poles in Germany, nor with the attitude of the German Press toward them. But this case does not show that all the substantive clauses of the Convention refer always and only to acts done within the area. Nor does this case show that the inhabitants of the area are assured full and complete protection of life and liberty without distinction of party, nationality, language, race or religion only in the area, and not in other parts of the territory of the State concerned as well.

This very useful book undoubtedly has great informative value. It takes account of documentary material as well as of the author's personal investigations on the spot. The exposition of the actual working of the local machinery is good and interesting.

A. N. Sack.


This volume is not merely a treatise upon the taxation of trusts as inheritance, but deals with the field of inheritance taxation generally, with some special reference to the problem of trusts. The title instilled a modicum of doubt as to what to expect.

The author has expended great effort in the gathering and selection of cases. He does not purport to cite all cases, but has included virtually all the important ones. This thoroughness is marred by the failure of the author to include all the reporter system citations, rather than omitting many in the haphazard handling of this detail.

Turning from footnotes to text, we find an example of what Judge Cardozo labeled the tonsorial and agglutinative method of composition. Opening the book at almost any page we find extended quotations from judicial sources. Quotations two, three, and four pages in length are not rare. The author's contribution is a gloss upon these quotations. The style is that of a brief rather than that of a treatise. It is somewhat repetitious and redundant. Nonjudicial authorities are almost completely ignored.

The author's experience as an assistant attorney general of Illinois handling inheritance tax problems enriches the book. He writes convincingly of the problems which he there encountered. That portion dealing with the mechanics of valuation and collection is quite satisfactory. The discussion of the taxation of inter vivos transfers sheds considerable light in an obscure and difficult field. This is the best part of the book. The remainder of the book fits rather loosely about this portion. We do find in this discussion evidence of a considerable understanding of the problem.

The other chapters of the book are disappointing. The cases are presented as the author finds them, with little effort at synthesis or explanation. The case

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29. Italics supplied.
statements are generally accurate enough, although there is an occasional lapse into oversimplification. Of the philosophical and social problems involved, the author has little to say. The answers to the hard problems are assumed on page 4, where the author says:

"The right of the state to levy an inheritance or transfer tax arises out of the principle that property rights cease upon the death of the holder thereof. The right of one, therefore, to give his property at death, and the right to receive such property, are not natural rights but are creatures of the statute. The state may therefore levy a tax upon such transfer. The underlying principle of an inheritance tax is that property interests are allowed to pass at the death of the owner by permission and provision of legislative acts, and that therefore the legislature may provide for a tax on the privilege of acquiring or succeeding to the property rights of the deceased. Unless property rights are so acquired, they are not, and cannot be, made subject to an inheritance tax."

The same thought is reiterated on page 102, but the author adds:

"This must not be construed, however, to the effect that the right of inheritance is not given by the common law, although in jurisdictions where the subject of descent and distribution is completely covered by statute, it has been declared that the right to inherit is wholly a creature of statute."

Only a few pages further on the author enters into his valuable treatment of inheritance taxation of inter vivos transfers. The reader's head is left in a whirl. The recent cases and statutes dealing with inter vivos trusts, life insurance trusts, insurance and annuity contracts, gifts in contemplation of death, and the like, would indicate that we must find our jurisprudential postulations in something more fundamental than an assumed extraordinary privilege of inheritance. After all, inheritance taxes existed when inheritance was thought of as a God-given and inherent right or condition of human existence. This same shibboleth of legislative largess was long used as a test of jurisdiction to levy the tax. We have just learned that it is of little value in this field. Why not forget about it, and make real progress in solving the inheritance tax muddle?

To sum up: Mr. Kidder has given us an average practitioner's manual and case-finder on inheritance taxation. It contains a better than average chapter on inter vivos transfers. It is marked by an occasional shrewd comment or enlightening criticism. Whether the book can make a place for itself in the established literature of the subject remains to be seen.

Arthur Leon Harding.

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As declared by the author in his Preface, the purpose of this book is "to state the services of Francisco de Vitoria and his relation to the law of nations". To accomplish this purpose, Dr. Scott has subjected the most important works of the distinguished professor of theology at the University of Salamanca to a thorough and minute study. Dr. Scott's analysis, explanation, and interpretation of these writings form the first and greater part of this volume. The texts analyzed are given in English translation in the Appendix. These are the readings (relectiones) On the Indians Recently Discovered, On the Law of War.

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1. These works have already been published in the Carnegie Classics of International Law, No. 7 (1917).
and Concerning Civil Power; further, parts of the readings Concerning the Power of the Church and excerpts from Vitoria's notes on the law of nations and of nature, and on war. It should be noted that this book is the first volume of a contemplated set of three; the following two intend to present the contributions of other members of the Spanish jurist-theologian school to the development of international law.

Until comparatively recent times, it was axiomatic to regard Grotius as the father of modern international law. But, thanks to the indefatigable researches of a group of modern scholars, the contributions made to legal science by the Spanish jurist-theologians a century before Grotius have been put in their proper perspective and the accepted tradition has been modified accordingly. While Grotius still remains the first systematic expounder of international law, Vitoria had already adumbrated a large part of the body of law which Grotius systematized. Dr. Scott's role in inspiring, and, indeed, assuming leadership in these researches, and in making their results available to the English-speaking world through publication in the Carnegie Classics of International Law are too well known to require comment. It was only fitting that he should be the interpreter and glossator of Vitoria, to whose recognition as a pioneer in the historical development of international law, Dr. Scott has devoted so much effort.

Dr. Scott's analysis shows that he spared no labor in making himself thoroughly acquainted with every sentence written by the Salamanca professor. It is a tribute to Vitoria's power and wisdom that Dr. Scott finds no occasion for adverse criticism, but confines himself to the role of interpreter. In order to penetrate into the spirit of these writings, the author placed himself back in the atmosphere and environment in which they were written.

It may be that Dr. Scott's interpretation of some of Vitoria's theses will not be accepted by everyone, without qualification. It is possible that his occasional references to later development of international law—references seeking to demonstrate the validity of the principles advocated by Vitoria and their applicability to an international society widely different from that for which they were intended—will not go unchallenged. But this is immaterial. For whatever disagreement there may be as to the meaning and significance of some of Vitoria's principles, the importance of the total sum of his writings cannot be gainsaid. These stand, fully revealed in the light of Dr. Scott's study, as containing—sometimes unequivocally, at other times by implication—many of the precepts which even today govern relations between nations. They also suggest at least two lessons to be learned. First, whatever one may think of the legal or ethical standards whereby law in general, and international law in particular, are today measured—and, incidentally, Dr. Scott makes it clear more than once that he is not altogether satisfied with those at present prevailing—Vitoria's writings indicate that there is little justification for priding ourselves on the progress we have made since his time. Another lesson which, it is believed, may be derived from Vitoria (as revealed by Dr. Scott) is his realistic approach to many, if not all, the problems he dealt with; problems which mutatis mutandis still confront us today, but which are sometimes treated with less realism than Vitoria's. He, though primarily a priest, and thus bound by certain preconceptions and inspired by a high degree of idealism, nevertheless viewed the world as it was, and not as he would have it be. It might be asked whether some present day writers on international law would not be brought nearer to the truth if they read Vitoria's writings carefully and followed the example of his approach.

Francis Deák.†

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This book is the result of the author's study of the problems of citizenship and of the law of citizenship in the United States. The law of citizenship is found in thirty separate statutes and the Constitution. The author has delved through the laws, as well as decisions of the courts and international claims commissions, departmental rules, opinions and regulations on the laws of citizenship.

In the introductory chapter entitled General Principles, the author indicates that she is well aware of the necessity of clarification of her subject before proceeding further. Following this introductory chapter, Miss Gettys deals successfully with Citizenship by Birth, Individual Naturalization, Judicial Interpretation of Naturalization, the Effect of Marriage on Citizenship, Collective Naturalization and Citizenship in the Territories, Loss of Citizenship, and finally in the last chapter draws certain conclusions and raises questions.

Some points in need of clarification and systematization are such dubious points as minimum age at which an applicant may petition for naturalization, the status of territories in its relation to citizenship, the effect of presumption of cessation of citizenship and the right of election in cases of dual citizenship. Serious consideration is invited of a proposal to divorce the naturalization process from the courts and make it an exclusive function of administrative tribunals. Benefits are seen as possible from the adoption of an international code providing uniform rules for the determination of nationality of origin, the right of expatriation, the status of a naturalized citizen in his native country, the effect of marriage on nationality, and the right of election in cases of dual nationality.

This book was in press when Congress enacted the amendment to the citizenship and naturalization laws of May 24, 1934. However, there is an Addenda indicating what changes were made by this amendment. The amendment made some progress towards a much needed systematization of these laws.

The author has made a careful coordination of legislation, judicial opinion, and administrative decisions on each topic, which involved very careful study and search of the records, and which is a valuable contribution to the study.

Among the many interesting problems connected with the determination of citizenship by birth is the question as to whether or not a person who acquires United States citizenship through jure sanguinis is a "natural born citizen" of the United States within the meaning of the Constitution, which specifies that only natural born citizens are eligible to the Presidency and Vice-Presidency. Another of the many problems incident to our unsystematized laws on citizenship is the status of children born of American citizens in the unincorporated territories of the United States.

The author displays considerable skill in keeping the material in terse form, and makes a distinct contribution in presenting a comprehensive treatment of the subject of citizenship in the United States.

Guy S. Claire.†


The author of this interesting and inspiring volume has been concerned for many years with the rendition of legal aid to poor persons as part of the

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general service of the Bar to the community, and has taken the lead in interesting the Bar at large in this work, and in acquainting them with what is going on in that field. As a result, he has been called upon to give instruction on Legal Aid in the Law Schools of the University of Southern California and Duke University. He has thus come in contact more than the average practitioner with the opinion of lawyers which is held by the public. As Professor Bradway humorously remarks, the charity client is often freer in expressing his opinion of the professional man than one who is paying a fee. The first part of the book is an attempt to explain to the public the lawyer's methods and problems so that they may be better understood, and to show to the lawyer the means whereby he can make his methods better accord with public opinion. The discussion is made more graphic by casting it in the form of an interchange of views between the lawyer and his unofficial and critical observer, "the man in the street".

As might be expected from the particular experience of the author, he is more concerned with personal relations as the subject matter of the lawyer's activities, than with property rights. It is in such matters especially that the lawyer should learn to co-operate with other professional groups. The second part of the book discusses the interdependence of the lawyer and the social worker, the doctor, the psychiatrist, and the clergyman.

The ideal which Professor Bradway holds up to his profession is thus expressed (page 216):

"A contentment of mind in both the litigants after the controversy is at an end would seem to be the result of practicing law in the grand manner."

The author has contributed much to the attainment of this ideal.

The foot-notes collected at the end of the volume contain an exhaustive bibliography and betoken a great amount of research. But the best contribution to the work is the earnest idealism and feeling for humanity of the author.

Lewis H. Van Dusen†


Nationality and the privileges pertaining to that status have been important governmental problems since Rome, the first great cosmopolitan state, found it necessary to establish a praetor peregrinos to handle disputes arising between the strangers within her gates. The problem became increasingly vexatious as society, fighting and haggling its way through the centuries, has differentiated to its present staggering number of governmental units—over sixty nations, and an incalculable number of mandates, minorites and protectorates—each with a set of laws determining national status and depriving aliens of certain privileges of ownership and freedom of action. With the immense waves of emigration during the last part of the nineteenth century, and since the Great War, conflicts between the nationality regulations of the state of departure and the state of arrival have created an astoundingly large number of people who have either several nationalities (and corresponding allegiances) or no nationality at all. Neither position is desirable from the point of view of the individual or the point of view of society.

† Judge of the Orphans' Court, Philadelphia, Pa.
Dr. Hudson's book, the first of a new series to be issued as the American University studies in International Law and Relations, is a study of the problem of the "man without a country". It is the first study of the problem and approaches it not from the viewpoint of the individual affected, but as a governmental problem. In other words the study is concerned with the law that creates such an anomalous situation, with the reasons for such law, and with the means that can be devised to alter the situation. Her study reveals the highly undesirable condition of our own law on the subject, and gives, as an incidental matter, a very considerable portion of the foreign law on the subject.

The study is a very workmanlike piece of research. The text presents the situation very adequately, and the very full footnotes and appendices give not only the case material, but also correspondence and matters of practice of the Department of State which could otherwise be consulted only with great expenditure of time and effort if at all. In addition Dr. Hudson presents a very complete bibliography, an aid usually difficult to obtain in a specialized field of this nature. Her broad proposals for a change of our existing law are interesting. They would place us midway of the present position of our law and that of France, and would thus certainly lay a foundation for the much needed international change in this field of international law. This book should be of great value to practitioners in immigration and citizenship matters, teachers of international law, officials in administrative posts, and, last but not least, to the codifiers at whom it is aimed.

In spite of a subject matter which is weighty and rather divorced from the ken of the general professional reader, the study is eminently readable. Dr. Hudson has an easy, flowing style of writing. Her inclusion of illustrative factual situations from newspaper accounts and state department records point her observation; and her use of summary and recapitulation at the end of each section permits one readily to watch a development in theory that would otherwise be rather difficult.

J. John Lawler.†


This is an account of the career of Earl Rogers, a Los Angeles criminal lawyer, written in collaboration by a member of his office staff and a reporter. Rogers undoubtedly had the gift of inspiring with affection certain members of his family and close associates so that they protest to this day that Rogers played the criminal law game on the level. It may be so, but, as these pages reveal, he had the police department, the leaders of the underworld, the jury fixers all in close and friendly association. The inference cannot be repressed. One finds here the stories that have been told of criminal lawyers since their spoken words first cheated the gallows of its own. The defense of the known guilty and the cynical comment, after the acquittal, "Guilty as hell", the melodramatic embellishments to transform a depraved murderess into an innocent victim of a wicked man, the trial of the police or the prosecuting attorney instead of the defendant, the creation of an atmosphere on the examination of the jurors, the interruptions when a telling point is about to be made by the opponent, these tricks and many more are told as if they were the inventions of Earl Rogers. Even his daughter in the Foreword relates the story of the Chinese who asked "How much killee Chinaman" and being told $500, started out to kill him. The reviewer heard this story attributed to Tom Fitch of Nevada before Miss Rogers was born. How much further back it goes, perhaps the

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archaeologists can tell. Either history repeats itself or the flare for dramatic invention is hereditary. It must be conceded that Earl Rogers carried these tricks to the limit. No reasonably competent judge in a jurisdiction where he is not hog-tied by being forbidden to comment on the facts would have let an attorney get away with these raw devices. This must be taken into account when comparison is being made with the work of distinguished advocates in jurisdictions where able, fearless and unfettered judges conducted the trial. Reports of the trials are insufficient guides. It is always difficult to appraise the work of a lawyer from a short abstract of a case. Too many significant factors are omitted. Overthrowing a will on slight evidence may appear to be an advocate’s triumph; it may really be due in greater part to the feeling in the community that the proponent and his lawyer framed the will.

Rogers was the son of a Methodist minister. He possessed a gift for oratory, emotional instability and a love of the spotlight. It was more or less a matter of chance whether his exhibitionist tendencies displayed themselves as an actor, a sensational preacher or a criminal lawyer. Studying law he discovered that he possessed what his daughter so aptly calls “the strange immoral mesmerism of the criminal law”. He could confound witnesses and persuade juries. Here was an outlet for his ego—to become the idol of the underworld, to look and dress the part, to be the center of attraction at the racetrack, the saloons, the cafes, the sporting houses and to receive the grudging admiration which the rest of society accords the picaresque. To maintain this position, he had to win cases. He had, therefore, to pick them carefully, but when a case was taken, to win it at all hazards. This required intense effort. Alcoholic and narcotic stimulants were necessary to spur this activity during the trial and in the tenderloin celebrations afterwards. The natural result was a sanitarium and death at fifty-two not far from the gutter.

In his later days a witness on whom he was trying his tricks was asked by the court if he was annoyed. The witness replied that he was amused. Rogers left the case. Ridicule was the one thing he could not stand. The impression he created in San Francisco when he appeared in the graft cases was one of amusement at his verbal tricks and sartorial pyrotechnics. The real work in the graft cases was done by other lawyers, the publicity men and the jury fixers. It was probably well for Rogers that he did not go to New York for the Thaw trial. His Hollywood play acting would have fallen as flat on that hard boiled community as did Delmas' fustian heroics.

In truth Rogers was the product of an era in Los Angeles that was passing before his death and he realized it. He left a paper which his admirers characterize as remarkable. In this paper he calls attention to the changes in the practice of law and the encroachments on that practice. There is nothing remarkable in this, for many had said the same thing before. The legal profession does not favor the practice of law by banks and title companies nor does it approve ambulance chasing, but those institutions at their worst would seem preferable to the travesties on justice portrayed in many of the trials described in this book.

A. M. Kidd.†

† Professor of Law, University of California; member California Bar.
BOOK NOTES


This International Yearbook of Arbitration in Civil and Commercial Cases is issued with the co-operation of a score of jurists (including Professor Wesley A. Sturges of Yale, but with no editor from England), and of the American Arbitration Association; and is edited by Professor Arthur Nussbaum of the University of Berlin, now visiting professor at Columbia University. Because the most important problems of the field have received elaborate theoretical treatment in earlier volumes, and in order to reduce expenses of publication and lower the selling price, this volume is published without articles. It contains (1) a collection of statutes and treaties; (2) the rules of important bodies such as the International Chamber of Commerce and the London Court of Arbitration, pertinent to the subject; (3) a collection of cases from fourteen countries, including the United States; and (4) a selection of excerpts from books and articles dealing with the development of arbitration. These are followed by book reviews, lists of periodical publications, and an index to the volume. The whole constitutes an admirable guide for a special student of the subject.

F. S. P.


This brief volume is an exhaustive and detailed study of early Maryland corporations, made for the purpose, as stated by the author, of contributing material for a comprehensive historical survey of the business corporation in this country. There is no doubt that if the care and historical accuracy evident in the present book were extended to the larger undertaking a work of considerable value to students of the corporate form would be produced. It is difficult, however, to estimate the value of Dr. Blandi's work alone, in the absence of some knowledge concerning the relative importance and influence of the Maryland corporations of the period studied. On this point the author is silent. Evidently his work is intended to be simply an exposition of historical data, with no attempt at interpretation of the facts or judgment of their influence upon the development of American corporations. Limited to this sphere the book cannot but be praised. The maze of data is well authenticated and ordered, and, considering the subject matter, interestingly presented.

1. Partly in the form of abstracts, but mainly in textual reproductions.

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BOOKS RECEIVED


