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Book Reviews

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BOOK REVIEWS

Origins of the Natural Law Tradition. Studies in Jurisprudence I. Edited by Arthur L. Harding. Dallas: Southern Methodist University Press, 1954. Pp. viii, 93. $3.00.

Natural Law and Natural Rights. Studies in Jurisprudence II. Edited by Arther L. Harding. Dallas: Southern Methodist University Press, 1955. Pp. ix, 99. $3.00.

One of the results of the social, economic, and political upheavals which have followed World War II has been a healthy reappraisal of first principles. The law has not been exempt from this reëxamination; on the contrary, it has become introspective with a vengeance. The reviving interest in jurisprudence may be shown by the increased publication of material on legal theory. This may be traced perhaps to an awareness that an insular pragmatism is a pitiful thing with which to cope with global problems, that the complacent and mechanical digestion of one recorded case after another may be a utilitarian way to maintain order in society, but is insufficient indeed to combat the growing philosophical tendency toward an all-powerful state. Or again, perhaps the lawyer is beginning to wonder with many laymen whether man is, after all, the master of his fate, subject to no other will than his own.

At any rate, the lawyer is asking himself "What is law?" and "What is the purpose of the law?" The Southern Methodist University School of Law has addressed itself to these questions in its annual conference on Law in Society, and it is fitting that it has chosen to examine first the Natural Law philosophy. For sheer staying power, Natural Law has all other legal philosophies beat all hollow: it has been "logically" annihilated, sneered at, misinterpreted into formulae capable of "solving" any and all legal problems, perverted into an enthroned "Goddess of Reason" by the eighteenth-century rationalists and their ilk, and yet, from Antigone to Eisenhower it has persisted as an implicit belief of the average man. This, of course, does not lead to an inference that Natural Law is necessarily valid. It does suggest that it cannot be ignored.

The first volume, *Origins of the Natural Law Tradition,* explores the historical development and content of four major Natural Law philosophies—Cicero and his Stoic cosmology; St. Thomas Aquinas and his synthesis of Greek natural law, as exemplified by Aristotle, to Christianity; Richard Hooker and his typical English concept of Natural Law

as embodied in tradition; and Herbert Spencer and his coldly "scientific" natural law idea. These four essays are done ably and economically by Judge Robert N. Wilkins, Thomas E. Davitt, S. J., Mr. John S. Marshall, and Professor Arthur L. Harding, respectively.

Having defined, or at least investigated, in the first volume the meaning of "Natural Law," the second volume, *Natural Law and Natural Rights,* "rounds out the picture" by investigating the effect of the Protestant reformation on the ideas of Natural Law theretofore prevailing, and John Locke's interpretation of human rights in the seventeenth-century tradition. These are presented by Professor Albert C. Outler and Mr. Thomas S. K. Scott-Craig, respectively. A pragmatist, Professor Edwin W. Patterson, then incisively criticizes both Natural Law and natural rights. After this criticism, Professor Harding summarizes the two volumes and suggests pitfalls apt to confront the natural lawyer in the final essay, A Reviving Natural Law.

However, one can question the selection of the individual proponents of Natural Law to the exclusion of, say, Aristotle, Augustine, or Coke, and the practically non-critical presentation of Natural Law. Even the criticism by Professor Patterson in the second volume seems to attack the applicability rather than the basis of the Natural Law.

Although necessarily limited by their size and the great scope of the ideas discussed, these volumes appear to this reviewer to deserve a wide readership. Southern Methodist University has performed a great service in presenting these volumes at a time when considerations of a universal law have become more urgent than theoretical.

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The Law of Debtor Relief. By Charles Elihu Nadler. Atlanta: The Harrison Co., 1954. Pp. 1117. $25.00.

In 1948 the author of the book under review published a companion volume entitled *The Law of Bankruptcy,* which was well received by the legal profession.[1] It dealt with the first seven chapters of the Federal Bankruptcy Act, commonly referred to as "straight" or "strict" bankruptcy. The attorney's role in this realm is usually that of undertaker, for he simply supervises the interment of a financially dead debtor.

Professor Nadler has now turned his capable hand to the remainder of the Bankruptcy Act, Chapters VIII through XV.[2] Here we find

[1] Woods, Book Review, 35 A. B. A. J. 215 (1949); Book Review, 23 J. N. A. REF. BANKR. 87 (1949).

[2] The author wisely does not attempt to cover Chapter IX (Composition of

relief for those whose fiscal disability is not fatal. The lawyer is thus able to serve a more creative and constructive function for society in general, and for his client in particular, since bankruptcy is essentially wasteful by nature. Able, that is, if he knows something about the therapy of financial rehabilitation.[3]

The intelligent counsellor who encounters a problem in a field beyond his immediate familiarity, such as admiralty or patent law, normally associates with or refers the case to a specialist on the subject. Now bankruptcy is as pregnant with pitfalls as these specialities, and yet, all too often, this is not realized by counsel until it is too late. One of the reasons for this undesirable situation in the past has been a lack of accessible law books within the limits of the book budget and shelf space of counsel. A large firm or university library could afford the luxury of the definitive multivolume sets, but nothing was available for the individual practitioner or small partnership. That gap has now been handsomely filled by the instant text. Indeed, along with the author's *Law of Bankruptcy,* an attractive package deal is now made possible.

Professor Nadler happily blends theory with practice. He outlines in detail every step to be taken in a debtor-creditor case for both bankruptcy and non-bankruptcy devices. One type of relief is always compared with another, the similarities as well as the dissimilarities being pinpointed in provocative and sound fashion. Accurate forms are generously sprinkled throughout the text. In brief, the author has done a superb job[4] and it is a pleasure to commend the book to the attention of the Bar.

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Taxing Agencies), Section 77 (Railroad Reorganizations), Chapter XIV (Maritime Commission Liens), or Chapter XV (Railroad Readjustments). These problems do not cross the desk of the average practitioner and satisfactory individual volumes for the specialist have already been devoted to each of the topics.

[3] Statistics are notoriously dull, but a study of the current report of the Administrative Office of the United States Courts, prepared by Edwin L. Covey, Chief of the Bankruptcy Division, is most revealing. For example, there was an awesome rise of 33% in the number of bankruptcy cases over the preceding year. It is sufficient to note without comment that attorney's fees represent the largest single item of administrative expense. Chapter XIII proceedings are becoming more widespread, which would happily seem to indicate that at long last the Bar is beginning to appreciate the efficacy of this simple remedy. [Chapter XIII proceedings are the subject of an article appearing in this *Review* at page 439.—Ed.]

[4] No book is perfect. Undoubtedly this one would be more useful if there were a table of cases; occasionally the author's style is not smooth and even possibly obscure; there is some evidence of careless proofreading. But none of these defects detracts from the otherwise commendable virtue of the volume.