

BOOK REVIEWS

The Life and Works of Hugo Grotius. By W. S. M. Knight. London, Sweet & Maxwell, Ltd., 1925. pp. xiv, 304.

A biography of Grotius written in accordance with modern standards of biographical literary composition has long been desired. Mr. Knight has written such a book which is particularly appropriate at this time, the tercentenary of the great work of the *Law of War and Peace*. The most recent life of Grotius prior to that of the present one was that of Vreeland, published in 1910. It is readable but not over critical, being based to a considerable extent upon the work of Burigny (1754). The earlier life by Butler (1826) is properly designated by Mr. Knight as rather futile, so that the inquirer has been thrown back upon the eighteenth century lives by Brandt and Burigny, not easily accessible and certainly not satisfying. Mr. Knight had already shown himself well qualified for his task by his several studies of Grotius in the Transactions of the Grotius Society. The promise of these essays (reprinted in part in this work) is fulfilled in the present biography. In it Mr. Knight has made a discriminating use of his predecessors' work. The main source materials were open to them as well as to him, for they are largely the letters of Grotius and his contemporaries as published in the seventeenth century. Of the letters of Grotius there are about twenty-five hundred in the folio edition of 1687. There are at Leyden, and elsewhere, many letters of Grotius as yet unpublished. Mr. Knight makes no claim to have used these. To what extent they will modify some of the conclusions of the present volume cannot, of course, be determined until the undertaking, now well under way, of printing them has been accomplished. Mr. Knight has, however, used to good purpose manuscript sources available in the British Museum, particularly with reference to the missions of Grotius to England made early in his career. Mr. Knight's interest is first and foremost in recovering the personality of Grotius, about which a tradition arose even in his youth. The process of tradition making was aided by the many dramatic incidents of his career, arrest, imprisonment, escape, exile, and death.

Grotius was said to "have been born a man", and the acclaim given to his youthful literary efforts was enough to destroy his own sense of proportion, if not to make him a prig. James Mill's direction of the education of his son, John Stuart, was not more fitted to drive out boyishness and boyish interests than was that which the elder Grotius gave his son. The youthful effusions were no doubt overestimated by the learned of his generation, but Grotius himself at his maturity had no illusions as to them. The early training of Grotius seems to have been justified by its results, it stimulated and did not destroy his intellectual curiosity, it gave him a permanent interest and point of view—that of the classics. These were the foundations for the approach afterwards made by Grotius in law and in theology. Indeed, it may be said that Grotius was first and foremost a classical scholar, next a theologian, and only in the third place a jurist. In history and poetry also was he able to express himself, but always upon classical lines and with theological prepossessions. It is Mr. Knight's service to show the extraordinary many-sidedness of Grotius. The classi-

cal training and interest result in an amazing range of works, philological and critical, which have become obsolete through the development of newer canons of criticism and newer principles of philology. The theological works also have become obsolete, but it is a question if the influence of Grotius through his *Truth of the Christian Religion* is not greater than that exercised by the *Law of War and Peace*, great as that has been. In writing the history of classical scholarship, of Protestant theology, as well as of law, the name of Grotius is always to be considered and his work appraised, as in each of these fields he made a definite, decided, if not, in all but the last, enduring contribution. To these should be added his services as an historian and his writings as a poet. It is enough to suggest that his name appears in the history of anthropology. Some of Mr. Knight's conclusions as to the influence of Grotius may be quoted: "It is as a Christian apologist that Grotius obtained and maintained his greatest and most widely spread popularity" (p. 181); "the influence of Grotius upon the study of the Scriptures and their interpretation was very great—greater, perhaps, than that of any scholar of or before his time" (p. 266); as a philologist "Grotius may be regarded as standing at the head of modern interpreters" of classical texts (p. 262); as an historian his works "belong to the best historical literature of the time" (p. 277); while as a poet, *Christus Patiens*, the work of his relative maturity, is one of beauty, power, and originality. As a jurist his *Introduction to Dutch Jurisprudence* would alone "justify an outstanding and lasting reputation of its author" (p. 163). With praise such as these excerpts express it would be difficult to erect the expected climax for the position to be taken by the great work on the *Law of War and Peace*. As a matter of fact the biography does not make this great work the climax or high water mark of the career of Grotius. The writing of that work was, it would appear, one of the incidents of a busy life in which the study, the forum, and the court each in turn claimed a paramount share of attention. It was the product of a specialist only in this sense, that Grotius was a specialist in many fields. Perhaps certain other works of his were written more *con amore*; but Grotius himself was able to single out the work for which he is mainly remembered and valued today. The *Law of War and Peace* he rightly considered would be the one most regarded by posterity. Mr. Knight has written an interesting and discriminating volume and has put under debt every student of Grotius, which ought to include every serious student of International Law.

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JESSE S. REEVES

Trade Associations, Their Economic Significance and Legal Status. Published by the National Industrial Conference Board, New York, 1935. pp. xiv, 388.

This book is a valuable and scholarly treatise designed as part of a broad study of the public policy affecting the relations between government and business. There has developed within comparatively recent years a great coöperative organization of American industries, through the formation of trade associations, the economic significance of which is as yet little appreciated. The economic power possessed by these great organizations makes them potent agencies either for good or for evil. The activities of some of these associations, in violation of the anti-trust acts, have resulted in prosecutions, and the decisions rendered in these proceedings are rapidly clarifying the law and clearly stating the public policy regarded by the courts applicable to such organizations.

After giving a brief history of the development of such associations and an analysis of the evolution of our public policy affecting the competitive system, the authors first discuss those classes of illegal activities designed unreasonably to restrain trade, such as price manipulation, restriction of production and attempts to control the channels of distribution. The practices which merely regulate but do not necessarily unreasonably restrain trade are then described. In this category are placed such activities as the dissemination of trade statistics, the interchange of patent rights, the standardization of products, the interchange of credit information, coöperative buying agencies, and the development of standards of business conduct. The legal limits beyond which such activities cannot be safely conducted, are in general stated carefully. The discussion is followed by a description of association activities, not necessarily relating to competition, such as research, education in cost finding, advertising, coöperative insurance, traffic bureaus, commercial arbitration, and the improvement of relations with employes and with the public.

While not designed to be a textbook on the law applicable to trade association activities, this book is full of legal advice which will be most helpful to trade association officials and members. It is unfortunate that a more thorough study could not have been made of the economic effects of association work. The book describes very clearly the functions of trade associations, and the results which theoretically should be secured from the exercise of such functions, but like all other books thus far published on trade associations, it fails to analyze and measure the actual results of the many sided activities of these great trade organizations. With the wealth of data now becoming available there is need for a study which will coldly appraise the real results of trade association work. Many of our associations are beyond doubt constructive factors of great importance to many American industries; but in other industries the plethora of such organizations working at cross purposes makes their activities of dubious value.

It is very interesting to note that this publication, from a body generally reputed to be most conservative, endorses the competitive system of industrial organization as essential to individual freedom, flexibility of operation and to the protection of the consuming public against exploitation. The defects of the competitive system are likewise frankly recognized; and the possibility that our trade associations may become a strong factor in the reinvigoration and stabilization of the competitive system is clearly set forth. Constructive studies such as this on great questions of public policy should, and probably do, render a real public service by tending to crystallize public opinion. In view of the large amount and high quality of the research obviously involved in the compilation of this report, it seems unfair that the National Industrial Conference Board should not give due recognition to the authors.

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FRANKLIN D. JONES

An Outline of Copyright Law. By Richard C. De Wolf. Boston, John W. Luce & Co., 1925. pp. xxiv, 330.

The scope and purpose of this book is well presented in the author's preface, as a combination of commentary, essay and manual, for the use of authors, editors, publishers and lawyers who need a book for occasional and incidental reference. Obviously, therefore, it does not pretend to be, nor is it a treatise, historical or philosophical, on the law of copyright. It is a hand book for ready reference, a guide for those who require instructions on how to obtain the protection that existing laws and treaties afford. The author advocates several changes in the present copyright

law, including the abolition of all formalities of notice, registration, and deposit, as a condition of protection; the abrogation of compulsory manufacture in the United States for books in the English language, and the entry of the United States into the International Copyright Union. All are changes tending to simplify the law, and the means for securing the benefits thereof.

The first English law of copyright (8 Anne, Ch. 19) was the original charter of liberties for authors, for it initiated a condition in which they became entitled to enjoy the profits from their intellectual labors and able to reap where they had sown. For centuries before that time, the writer had been primarily dependent upon the patronage of some man of wealth, to whom he attached himself in the condition of a client, or a sycophant. Vergil, the friend of Maecenas, and the favorite of his Emperor, Augustus, won fortune as well as fame from his literary labors, and repaid the kindness of his patrons in well turned verses that have contributed much to the preservation of their memories. So in the early centuries of English literature, in which the author was not allowed to publish his works, except by license of the government, the chief hope of reward for literary effort was in the patronage of the great and wealthy, ready to exchange food for flattery and money for renown.

With the progress of the art of printing, and the accompanying spread of literacy among the people, the market for literary products was greatly enlarged, and the need was recognized of legislation, that should secure to authors the fruits of their labor. The Statute of Anne is said to have been originally the handiwork of Dean Swift, and recited the evil of literary piracy which it sought to correct, by securing to authors the sole right to control the publication of their work during a term of years. Whether there had previously existed, at common law, a copyright that survived the publication of the work, a problem which engaged the attention of the House of Lords, is a question perhaps of more interest than practical importance, for in the stage of social progress where, if at all, it existed, the field of its application was as limited as the returns from its operation. The printing press, that for centuries was the sole rival of the amanuensis in the reproduction of literature, has now been supplemented by many new inventions, each of which has made its own contribution to the art of multiplying copies, and has given rise to its individual problems. The phonograph and the motion picture have had to be met by new legislation; and recently radio broadcasting has developed another unprotected gap in the literary fences.

The most important problem in the copyright field today, however, is probably the entry of the United States into the International Copyright Union. To conform to the provisions of the Convention, we must simplify our procedure, by eliminating the formalities now required to obtain protection; and we must do away with the barbarous requirement that a work in the English language, cannot be protected here, except when printed here, from type set in the United States. The retention of that provision in the law is a striking illustration of the provincialism of our attitude in the protection of literary property. The law of copyright is still, therefore, as the author points out, a living and growing thing. It is of interest to note that the prospective development of the statutory law is in the direction of that simplicity which seems to have existed at common law, before the Statute of Anne, tending to change the copyright statute from a collection of formalities requiring exact compliance, to a mere codification of the remedies for infringement, and the penalties to be imposed therefor.

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ARTHUR WILLIAM BARBER

The Present Economic Revolution in the United States. By Thomas Nixon Carver. Boston, Little, Brown & Co., 1925. pp. 270.

Analysing certain recent developments in the field of industrial relations, Professor Carver reaches conclusions regarding the future status of the wage earning population and the wisdom of trade union policy which differ from those of many other writers on the subject. According to this author, hope for a continued improvement in the economic position of the workers lies in their financial power rather than in their bargaining prowess. The expanding prosperity of the laboring classes, the consequence of prevailing high wage rates, is tending naturally to make the wage earner at the same time a capitalist. Savings from the surplus of the wage income are being invested in increasing amounts in the securities of corporation and other forms of interest bearing property. This development is fostered by many employers through their profit- and ownership-sharing plans; and has become a recognised part of trade union policy, as evidenced by the rapid spread of coöperative labor banks since 1920. It is this tendency to unite the labor and capitalist functions in the person of the wage earner which Professor Carver calls "the present economic revolution". In his opinion, it is the only revolution in progress anywhere in the world which "amounts to a hill of beans". Professor Carver believes that it will solve the labor problem by a process which is automatic, peaceful and beneficial to all classes of society.

The best parts of the book are those in which the facts regarding the investment activities of wage earners are assembled and analysed. Statistics gathered from many sources are offered as indications of the tremendous latent financial power of the workers. The tendency to use this power to acquire a share in the control of industrial enterprise is disclosed by an examination of numerous stock acquisition plans, and by a study of the record of labor banks. Much interesting and authoritative information is brought together in this part of the study. The reader who does not find himself in agreement with the conclusions of the writer will, nevertheless, discover here a useful accumulation of facts which could be obtained otherwise only by laborious study of ephemeral documents and records. This tendency toward saving and investment is called "the higher strategy of labor". The book as a whole may be viewed as an appeal to organized labor to abandon its attitude of antagonism to the employer and to achieve its objectives by this surer and more socially desirable means.

Running through the book is a strain of Professor Carver's well known social philosophy. Any one interested in the industrial institutions of modern society who has been deterred from a study of economics by the repellent nature of most treatises on the subject will be in a mood to appreciate the clarity of style and attractiveness of exposition which characterize this writer's treatment of abstract topics. Needless to say, controversial subjects are discussed with the bias of a conservative. The chapter on "What Capitalism Is and Does" is both an analysis and a defense of the established economic order. The final chapter of the book, "A Balanced Economic System", argues the power of the present business structure to correct (with the aid of free education and our restrictive immigration policy) existing inequalities of wealth and opportunity without altering capitalism in its essentials. It is the opinion of the reviewer that this part of the book is weakened by the author's proneness to lump all schools of socialist thought together, indiscriminately, and to dispose of their varied programs with a single blast of criticism which often fails to meet the issue. Nevertheless, a presentation of the conservatives' side

of the controversy is welcome, especially in this day when most of the writing is being done by the reformers and the radicals.

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EDGAR S. FURNISS

Cases on Trusts. By George F. Costigan. St. Paul, West Publishing Co., 1925. pp. xxii, 1017.

This is an excellent work. Professor Costigan, as he states in his preface, was a student of James Barr Ames and the book shows, both in content and arrangement, the debt which he freely acknowledges to the older teacher. To any one who agrees with the writer that Mr. Ames was at his best, both in the compilation of the cases and in teaching Trusts, and that Professor Scott's book carries forward and improves upon the work of Mr. Ames, this collection will not prove a disappointment. It covers substantially the same ground as the older works and attacks the problems in practically the same way. There is some change of emphasis. Thus there is considerable expansion in the chapter dealing with the distinction between trusts, or "strict trusts", as they are called, and other relationships. The matter dealing with the Statute of Frauds, the Statute of Wills, and Constructive and Resulting Trusts, is collected and placed at the end of the volume. Both the expansion and the change in arrangement are, I think, advantageous.

Professor Costigan has been wise in not refusing to use methods which have proved valuable, simply because others whom he respects have used them, but it must not be thought that his work is a revamping of old material. We find about sixty of the old favorites, but the great bulk of cases are new to a case book. Approximately one-half of the cases have been decided within the last twenty-five years—a desirable proportion when satisfactory modern cases can be found, especially in this subject, which, dealing with complicated states of fact, requires a very high degree of human interest in the cases to keep alive the enthusiasm of the classes. Professor Costigan has succeeded in finding cases which are both teachable and important from the standpoint of modern life.

The notes, as in previous case books on this subject, are both informative and suggestive. They are very extensive. Thus, out of the first two hundred pages approximately one-third of the space is taken up by notes and excerpts, mostly in small type. In addition to the references to cases, and excerpts from legal writings, the editor from time to time has made an analysis of the problems to be discussed. With less difficult material this would be in derogation of the general teaching method. In this subject, however, the editor again has done well in not departing from precedent. Incidentally, the work should prove of great value to practitioners, not only because of the collection of authorities, but because in many difficult situations it presents the analysis of a careful student of the subject.

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