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According to Mr. Jerome, the Supreme Court started right off by making mistakes and it has been at it ever since. In fact, the Court has made so many mistakes that the reviewer had a hard time putting this book down. You never could tell what kind of mistakes would pop up in the next chapter. And when the last chapter was finished, it seemed as though the whole Supreme Court has been just one big mistake ever since it started to work.

The assurance with which the author goes about his work is disarming. If you go along with him from premise to premise the process of mowing down the Supreme Court and nearly all of its works is simplicity itself. There is just nothing to it. The reader who stops to ask questions and to ponder the wisdom of the premises that appear along the road is no fit reader of this book. And, of course, no reader should stop to ask whether the whole enterprise is worth while. This book is only for the naive and the simple minded.

So let us forbid all questions and be on our way with Mr. Jerome and The Problem of the Constitution.

At the outset there are some fundamentals. There always are on this kind of a journey. The first is that we must be on our guard to separate constitutional "law" from constitutional "politics." They are "entirely different" (p. 1). The first deals only with what the words of the Constitution "actually say and mean" while the second is concerned with what they "ought to mean" (p. 1). (Remember, no questions). It almost goes without saying that "the effect of politics on any kind of law is nearly always bad" (p. 1). And that, of course, is putting it mildly. Now we proceed to define constitutional "law." "According to the legal view" it is "a group of logical deductions from the meaning of the words written into the Constitution" (p. 2). (Yes, we meant it, no questions). This makes it "fixed and certain" (p. 2). Now, turning to constitutional "politics," we find that this relates to "controversies about whether government ought to have the power to take some proposed action, and controversies as to what the Constitution ought to mean" (pp. 2-3). This will give us a flexible and developing Constitution. Now, where do we go? Well, it seems that constitutional "law" can only be applied by courts to restrain legislation "when the enforcement of the legislation under attack would destroy or impair some right, privilege, or immunity, guaranteed by the Constitution to the one who seeks a court's decision" (p. 3). Just to make this plain, there can be no invasion of the citizen's rights unless the legislation in some manner seeks to regulate his conduct. If it does not, then constitutional "law" should have nothing to say about it but if it does, then it should. To illustrate this thought, the Supreme Court made a mistake when it invalidated the Agricultural Adjustment Act for "there was no contention whatever" that the Act sought to regulate "the conduct of any person who was before the court and seeking to prevent the enforcement of the"
Act” (p. 4). (Perhaps now you will begin to understand why no questions are allowed). But then the Supreme Court made another mistake when it upheld the National Labor Relations Act for that Act did regulate conduct. You will see why this is so when we get to the Commerce Clause. A pretty mess. Whichever way the Supreme Court turns it makes a mistake. It is "politics" that keeps bobbing up to spoil the "law." If we could just do away with "politics." What a bother "politics" can be.

Now we come to the poor Commerce Clause. Again we begin with a fundamental. It is that sovereignty cannot be divided (p. 6). The trouble begins when we learn that the Constitution was prepared "as an attempt to divide sovereignty" (p. 7). It looks as though we are stuck now, but we aren't. (Are you still with us, reader? If so, summon up all the faith you may have. You will need it). It would be easier to divide sovereignty if we first found out what it was that we were trying to divide. So let's define it and then it may be easier. Here it is. “Sovereignty is the power to control all the conduct of all persons who may be found within a given territory” (p. 9). The road is now clear for from this definition “there immediately follows” (no pauses and shut your eyes, please) “the proposition that the only practicable method of dividing sovereignty is to give to one sovereign the power to control conduct of certain kinds and to another the power to control conduct of all other kinds” (p. 9). This means that a person may be called upon to serve two sovereign masters (p. 10). Well, that doesn't seem to be so bad but it is if he has to serve both at the same time. That would be awkward. Another premise will fix that up. "No person . . . can serve two masters at the same time" (p. 10). There we are. (How is your faith holding up, reader? Didn't we tell you?).

Now all we have to do is to classify conduct and when we have done that we will know which sovereign may control it. That will take care of the powers of state and nation in our federal system. This task of classifying conduct might seem to be a bit difficult, but it is as easy as can be. We simply read the Constitution to find out what kind of conduct may be regulated by the National Government. Among other powers we find in the Constitution the power to regulate commerce “among the several States.” Commerce is a kind of conduct so when we find that the National Government is given power to regulate it then that puts it in its right category. It follows that it "cannot be regulated in any manner or for any reason by a State” (p. 128) for we have already learned that "no person . . . can serve two masters at the same time." The premise comes in mighty handy. (No, you most certainly may not ask any questions). We are almost ready to go after the Supreme Court, but there is one little matter that must be taken care of first. We almost forgot about the expression “among the several States” in the Commerce Clause. It will only take us a moment to dispose of that for obviously it is not descriptive of the kind of commerce that may be regulated. Any kind of conduct, so long as it is in any kind of commerce, may be regulated (p. 130). We won't have to bother about interstate and intrastate commerce and all that.

Now we are ready to strike down nearly everything that the Supreme Court has ever had to say about the Commerce Clause. Here we go. Let
the chips fall where they may. Chief Justice Marshall's opinion in *Gibbons v. Ogden* was "a most unfortunate one" (p. 135) for he "looked at the things involved, the place from which they came and that to which they were going" and the worst blow of all is that every justice since then has followed his example in writing an opinion on this subject (p. 139). *Brown v. Maryland* was another mistake and, in *Willson v. The Blackbird Creek Marsh Company*, Marshall wrote "another unfortunate opinion" (p. 144). When we come to *New York v. Miln*, there is "an alarming degeneration in the quality of reasoning" (p. 146) and "an appalling ignorance of the nature of the Constitution and of law also" (p. 147). As though this wasn't bad enough, *Thurlow v. Massachusetts* comes out as "an absurd decision." Enough. A hundred or more decisions might share the same fate. Things get worse as we go along, though. Since this kind of conduct is within the exclusive power of Congress, the states may not do anything about it. Are you ready? Here it is. The states may not tax commerce at all. All state sales taxes are unconstitutional (p. 154). "The taxation of the railroads by the States is an equally absurd violation of the Constitution" (p. 155). The states have been violating the Constitution ever since they started regulating charges for electric light and power "and possibly for telephones" (p. 157). Whence comes the "possibly" we know not. Remember, we need only find that the matter regulated is commerce and then the states may do nothing at all about it for no longer do we differentiate between interstate and intrastate commerce. It is all or nothing now.

The chips have fallen pretty fast so far but we come to an abrupt halt when we learn that in the Law Merchant — and for some undisclosed reason we are bound to look at that alone — the word commerce did not include "industry and agriculture, or any kind of production" (p. 164). We may be pretty positive about that. "No kind of production is included" (p. 164). Just in passing, that takes care of the National Labor Relations Board cases. It is plain enough, Mr. Jerome tells us, that all of the employees in the *Jones & Laughlin* case "were engaged in production, and not in commerce" (p. 171). Apparently commerce does not begin until sale and distribution begin (p. 172). This distinction will make everything clear and simple. We simply "leave production under the exclusive control of the States and commerce under the exclusive control of the National Government" (p. 186).

Why go on? There are nearly two hundred pages of this sort of stuff. We could take the reader down the due process trail and the journey would be much like the one we have just completed. There would be many odd side trips too. We would keep finding "politics" bobbing up at the most unexpected places. If we could only get rid of "politics" then the way of "law" would be straight and narrow. That, it seems, is "The Problem" of our Constitution. But why do publishers publish a book such as this? For that matter, why does a reviewer review it and why does the *Yale Law Journal* publish the review? Let's forget about it all.

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For a century the Balkan peninsula has been a pawn in the European game of power politics. Local disturbances might pass unnoticed in other areas, but once south-eastern Europe is involved, the foreign offices of half a dozen Powers are in a flutter. Internal revolutions or assassinations, even political and social reforms, are luxuries which the Balkan states cannot enjoy unmolested, because the mythical "balance of power" might be endangered. The Balkans have been and are a danger zone affecting the peace of Europe.

Yet the number of dependable books describing the peoples and resources of south-eastern Europe is surprisingly small. Perhaps that is due to the fact that the region has, until recently, been more important strategically than economically. The Great Powers have seen in the Balkans a corridor providing access to something more vital, to greater stakes of empire—to the Straits, Russia's age-old objective; to the Bagdad Railway, the dream child of the Hohenzollerns; to an Aegean outlet for the sprawling Hapsburg empire. Similarly the British and, to a lesser extent, the French have viewed the Balkans as a barrier to Russian and German expansion into the Eastern Mediterranean, and the Italians have sought in the western Balkans the means of complete sway in the Adriatic.

When imperialism was concerned chiefly with the partition of Africa or concession-hunting in China, the resources of the Balkan states were indeed of secondary importance. But in this day of autarchy and resurgent imperialism, when even the smaller peoples of northern and western Europe are threatened by grasping neighbors seeking Lebensraum or "security," eyes must be fixed on south-eastern Europe, and well-informed persons must have precise knowledge of the economic value and political affiliations of the weak Balkan states. The volume under review supplies admirably this vital information.

South-Eastern Europe provides first a masterful outline of European relations since 1919, as they affected the Balkan region. How sinister and futile it all seems in retrospect! The deliberate isolation of the defeated states served to accentuate economic instability, the effects of which even the victors could not escape. Franco-Italian rivalry for prestige and power prevented cooperation in the Danube basin which might have benefited all Europe, and paved the way for German hegemony which soon affected both rivals adversely. One wonders how Mussolini, the "forgotten man of Europe," justifies his mistakes before his own conscience. The whole unsavory tale is told but far too tersely to be of real value to the average reader. One must know well the tortuous path of diplomacy to appreciate the excellence of the summary presented in the volume.

The survey of internal politics in the seven states, beginning with Hungary in the north and ending with Turkey in the south-east, is adequate. But the most valuable part of the book by far is the careful analysis of economic realities in the cock-pit of Europe. Few works of similar compass contain
such a variety of indispensable information (and in such convenient form) respecting agricultural and industrial production, mineral resources, foreign trade, government finance and private investments. A mere glance at the invaluable statistical tables reveals that the Balkan region is no longer a mere corridor. It has intrinsic value in the form of resources which stronger powers covet. The imagination of Nazi imperialists, for example, has been fired not so much by the mystical affinity of race and blood as by tangible assets like foodstuffs and raw materials. South-eastern Europe could supply all the cereals Germany imports and a considerable proportion of the cattle, pigs and meat. Germany could secure all of its peace-time needs of petroleum from Rumania, three-quarters of its bauxite from Hungary, Jugoslavia and Greece, and all of its chrome from Turkey, Greece and Jugoslavia. And the surplus of tobacco available in Greece, Turkey and Bulgaria exceeds Germany's imports.

The wealth of south-eastern Europe was within the reach of the Reich as soon as the Austrian and Czechoslovakian barriers were dismantled. Why the Nazis did not halt to consolidate their positions before challenging the West is a mystery lodged deeply in the semi-unstable minds of the absolutist German leaders. Perhaps they felt that the supreme shock of the Hitler-Stalin Pact would so demoralize British and French opposition as to win for them at one stroke a commanding position in world affairs.

The book is unquestionably the best survey of recent developments in south-eastern Europe, but one serious defect (other than the lack of an index) must be noted. Britain's role in the diplomatic fiasco which put Hitler astride central and southern Europe is overlooked. One almost gets the impression that the British Government has been a benevolent and only remotely interested party. Little or nothing is said of Tory displeasure with the Franco-Russian alliance, their unwillingness to make effective protest against the repudiation of the Locarno agreements, and the shameful and criminally stupid betrayal of Czechoslovakia. An adequate analysis of Mr. Chamberlain's or Sir John Simon's objectives might have rendered intelligible, though it would not condone, the present fantastic policy of the Kremlin.

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The best way I can think of to describe this little book of six lectures by two University of Chicago law professors is to confess that, although I read it word for word and page for page a couple of days ago, I am now having great difficulty in remembering what I read. I did, however, make a few notes and mark a few margins.

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The first three lectures by Mr. Sharp, are called, collectively, "Society and the Law." That's quite a lot of ground to cover in three lectures, even though Mr. Sharp uses seven league boots with springs on the soles. Perhaps I can give you a rough idea by telling you that the separate lectures are entitled "Responsibility, Damages, and the Protection of Property" (that's one lecture, not three), "Contract and Constitution," and "Industrial Management in the Law." The result, even within the lectures, is that Mr. Sharp seems constantly to be tossing off a series of disconnected ideas and trying desperately all the time to tie them together. But ideas that don't fit or flow together of their own accord can't be tied together by resort to such devices as "We have seen that . . ." and "In the fifth place . . ." The devices merely emphasize the incoherence they are supposed to conceal.

As for the ideas in Mr. Sharp's congeries, although some of them are stimulating, some of them are downright silly. For instance, he applies psychiatric theory to men's conduct when discussing legal responsibility; but he assumes throughout his lectures that the conduct of men who happen to be judges, when they lay down the law, is sparked by unadulterated ratio-
cination. For instance, he talks blithely about recent changes in constit-
tutional doctrine as exemplifying the innate tendency of the law to move for-
ward—without so much as a nod to those extra-legal factors which just possibly contributed more toward the doctrinal changes than any congenital momentum inherent in the law itself. For instance, he paraphrases the business-man's use of the due process clauses, to contest regulatory legisla-
tion, as an argument that the legislation "is merely silly." Whereas, Mr. Sharp ought to know that what the business-man thinks and what his lawyer not infrequently proclaims is that any new regulation is socialistic, un-
American, and a threat to private enterprise and individual initiative.

Mr. Sharp is most stimulating when, occasionally, he points out — with the tone of a mild parental rebuke — that legal thinking about one or another type of social problem is perhaps too restricted in pace and scope. But the melody that lingers on through the three lectures is a philosophic defense of the law and its ways. Mr. Sharp even ends up on the high lyric note achieved by calling the common law a "cathedral." The metaphor reminded me irreverently of Thomas Reed Powell's scathing remarks anent James M. Beck's insistence that the Constitution is a light-house. It reminded me simultane-
ously and in reverse of what Mr. Justice Holmes said the common law is not. Yet I am not sure that the cathedral symbol does not fit in pretty well with those new Chicago gods to whom Mr. Sharp, in the course of his lectures, does proper obeisance. As a matter of fact he goes President Hutchins one better. He drags in not only Demosthenes, Thucydides, Plato, and of course Aristotle, but also Adam and Eve.

Mr. Gregory, who contributes the book's other three lectures, set himself a far less ambitious task and consequently carried it off more successfully. His is a rambling over-all discussion of labor law from the English Statute of Laborers up to and including the NLRA. I would give heavy odds that Mr. Gregory was introduced to labor law (as was I) by Landis' case-book, for his first two lectures amount to a discursive digest of Landis' material, same cases, same pet quotes and all. His third lecture is a calm, competent,
uninspired analysis of the Wagner Act and the activities of the Labor Board, with emphasis—as it would have to be—on the problem of the "appropriate bargaining unit."

Mr. Gregory is at his best when he is defending the sit-down strike as a well-meant effort on the part of labor to avoid the open violence of the picket line, and when he is contrasting that effort to the defiant lawlessness of the Liberty Leaguers. He is at his worst, to my mind, when he keeps harping on the eventual removal of labor disputes from the "arena of coercive self-help," apparently without following the compulsory arbitration idea through to its inevitable conclusion—namely, a strong political labor party, so that labor could trust the arbitrators. Short of that, labor will never give up its right to strike without a terrific struggle, and I, for one, can't say that I blame them.

It seems to me too that Mr. Gregory is a trifle naive when he speaks of the courts as now "guaranteeing labor the right to organize by vote and to publicize its sentiments freely." He should read over some of the recent decisions of the once pro-labor New York Court of Appeals. And the general effort throughout his lectures to reconcile and distinguish cases, to formulate rules and principles, strikes me as particularly naive as applied to the United States labor law field. He should read, among other things, Mr. Pringle's biography of Taft. But at least Mr. Gregory does not mention Aristotle, and I suppose you can't have everything.

One more point. It should be noted, in behalf of Messrs. Sharp and Gregory, that these lectures were given as lectures and, so far as I can judge, they were not written out beforehand nor overly edited afterward. As lectures they may have made good listening. Frankly I envy both men, especially Mr. Gregory, their apparent ability to speak so fluently with nothing but notes to guide them. Equally frankly, that is no excuse for publishing what they said in book form.

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Mr. Palmer has attempted three major tasks: an evaluation of the work of Chief Justice Marshall; a revaluation of the work of Chief Justice Taney; a presentation of the historical background of their respective periods in the light of which the principal decisions of the two men assume significance.

Making no pretense to originality or completeness, and leaning heavily upon standard secondary works such as Beveridge, McLaughlin, Corwin, Rhodes, Parrington and Bowers, the author has contributed a popular, liberal, and at times suggestive, treatment of his subjects. He is of the opinion that the "canonized" Marshall, and the "condemned" Taney remain the two ablest

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chief justices in our history. The point is made by the presentation of brief biographical sketches of the two men and an analysis of their socially or constitutionally significant decisions.

In the case of Marshall, the story familiar to every student of American history is told once again. *Marbury v. Madison, United States v. Aaron Burr, Dartmouth College v. Woodward, McCulloch v. Maryland, Cohens v. Virginia, Gibbons v. Ogden, Brown v. Maryland,* are paraded to reaffirm the gratitude of the nation to this inspired jurist who affirmed national supremacy, protected property and contractual rights, and gave increased power to the Court itself. As to the decisions and their importance, Mr. Palmer has merely followed the trails of Beveridge and Warren; as to the historical background, he has added nothing of value.

With respect to Taney, the material is somewhat fresher because of the greater general ignorance of his useful work. There is no doubt in the mind of this reviewer that historians of the present generation will effect a revaluation of Taney's achievements comparable to the reversal of judgment of President Johnson during the past generation. A good beginning has been made by Swisher. Taney's political activities before his elevation to the Court, particularly his important and partisan role in Jackson's attack on the Bank, condemned him in advance to his own generation as a "political" judge; and to later generations his constructive achievements have been obscured by the dramatic importance of the *Dred Scott* case.

Mr. Palmer treats that famous case fully, but the importance of his treatment of Taney rests with his consideration of other cases, notably the *Charles River Bridge* case, which limited the doctrine of the *Dartmouth College* case, and as Hampton Carson has said, "produced the happiest results in freeing the states from the grasp of monopolists, and in leaving them uncrippled in the exercise of most important rights of sovereignty;" the *Louisville Railroad v. Letson* decision, so highly praised by Chief Justice Taft, and the *Genesee Chief* case, the latter two also involving exercise of the commerce power.

Important cases predominantly political in character: *Luther v. Borden,* arising out of the Dorr Rebellion in Rhode Island, and in which the Court refused to sanction politically the Dorr government, despite its popularity with a majority of the judges; *Ableman v. Booth,* in which the Supreme Court reversed the decision of the Wisconsin Supreme Court in regard to the enforcement of the fugitive trade law, a decision the long range wisdom of which was buried under partisan invective; and the famous *Ex parte Merryman* case, in which Taney vainly tried to stem the tide of military interference with civil rights in time of warfare. Also considered briefly are other cases; *Kentucky v. Dennison, Holmes v. Jennison, Almy v. California, Martin v. Wadell, Leisy v. Hardin.* While the author's treatment is rather uneven, it is perfectly clear that Taney was a man of deep conviction, legal ability, and solid accomplishment, fully deserving of objective, intelligent treatment.

The value of the historical material presented in the book is lessened by the author's tendency toward over simplification, doubtful generalization, a striving for dramatic effect and occasional factual errors.
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For example: "Who is the most hated American judge? We think at once of Taney and the Dred Scott case."¹ This question was asked of an American history class of college undergraduates, more of whom listed Chase, Gary and Thayer than Taney. "All men regarded it (the Constitution) as but a tentative constitution."² Neither Beard, Libby nor Schuyler, would make so broad a statement, and the writings of James Madison, for one, refute it. Burke's revulsion to the French Revolution was not caused by the Reign of Terror,³ but preceded it by several years. The population of the United States was not 30,000,000 in 1829,⁴ but less than half the number. Jefferson's alarm at the prospect of Jackson's elevation to the Presidency was expressed not at the time of Jackson's election, as is implied;⁵ Jefferson had died before Jackson was elected. "It (the West) was to a greater extent than the East subject to the gusts of passion, because on the whole its people were less cultured and less supplied with the balance that comes from education."⁶ Cultured easterners cried out just as loudly and passionately when their feet were pinched; one may recall some of the tirades against Jeffersonianism and Jacobinism from the pens of the early New England Federalists, for example, the "Century Sermon" of Timothy Dwight! The West merely had more to complain about. Several minor errors in the spelling of names; Shay for Shays, Conklin for Conkling, may be noted. The reviewer also feels that in a work of this kind, the absence of footnotes and a bibliography is to be regretted.

Despite these limitations, the book presents a better perspective of Taney's services than is usually provided in standard accounts, and thus merits the attention of students of law and history.

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Intended as "the first in a series of casebooks by the same editors designed to cover all the traditional property subjects," this volume is organized to develop "the basic concepts of ownership . . . with special emphasis on possession and the rights incident to ownership."¹ Chapter one examines various definitions and fundamental distinctions. Chapter two, containing a splendidly executed section on adverse possession, develops the concept of

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¹ P. 145.
² P. 49.
³ P. 62.
⁴ P. 154.
⁵ P. 155.
⁶ P. 162.

¹ Walsh and Niles, p. iii.
possession and the relation between possession and ownership of real and personal property. Then come orthodox personal property materials, traditionally arranged, on bona fide purchases, gifts, transfer of title by satisfaction of a judgment in trover, accession, confusion, liens and pledges. Next are well planned chapters on fixtures and waste. Last is a chapter entitled "enjoyment of land," containing the "natural rights" cases and short sections on border trees and the doctrine of emblements.

From historical and conceptual viewpoints this book is exceptionally well organized. Cases have been skilfully selected to bring out the origin, evolution and contemporary significance of relevant legal concepts. And they have been reported with sufficient fullness to let the student know what the parties did and what the court said. Herein are no "condensed statements of facts" followed by anaemic and oftentimes well nigh meaningless excerpts from opinions out of which all background and most foreground has been sedulously edited. Nor has a fetish been made of mere newness as a canon of choice. On the contrary, with the exception of Teaff v. Hewitt\(^2\) — perhaps the leading American case on fixtures — all pertinent turning point opinions which articulate controlling reasons of policy seem to have been included.

Included, also, are numerous notes especially written for intercalation at appropriate places throughout the book. Some contain expositions of matters it would be profligate of time to develop by case discussion. Others discuss the impact of various modern statutes upon common law doctrine. Still others explore situations on the periphery of the cases to which they are appended. All are clear, incisive and interesting; none are merely encyclopedic collections of authority bearing weighty testimonial to an author’s profundity — and to his familiarity with the digest system. Moreover, it is these notes, combined with a judicious selection of cases, that have enabled the authors to cover, without loss of substance, the usual personal property topics in less than two thirds of the space required by other casebooks. And that is certainly a praiseworthy achievement.\(^3\)

Indeed only on the counts of scope and emphasis is this book vulnerable to criticism. On these counts, however, it is a disappointment to those sharing your reviewer’s conviction that the practice, characteristic of many casebooks on property, of emphasizing and focussing attention upon diffuse abstractions such as "ownership" and "possession," while making for dialectical pyrotechnics as well as mental agility in manipulating legal formulas, is otherwise of doubtful value, at least from a bread and butter standpoint, in training neophytes for the practice of law. Entertaining this view, I, of course, believe that much of the personal property material included in this book should be dealt with in courses on security, contracts, procedure and sales. For example, to me it seems desirable that liens and pledges should be covered in a course on security; that the cases concerning sales of chattels to bona fide purchasers should be assigned to sales; that the cases on the availability to mere possessors of ejectment and replevin should be assigned to procedure.

\(^2\) 1 Ohio St. 511, 59 Am. Dec. 634 (1853).

\(^3\) In this connection, it is perhaps noteworthy and certainly praiseworthy, in my judgment, that this volume contains no section devoted to the "Elements of a Bailment."
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Also, in my judgment, waste can best be developed in connection with posses-
sory estates. And so on.

But enough of these "I should have done it this way" diatribes. The
simple fact is that the authors have skilfully, nay brilliantly, done what they
set out to do. Furthermore, with a breadth of view as worthy of emulation
as it is unique, they have made their book available in pamphlets of from
150 to 250 pages each. Thus an instructor wishing to adopt only certain
parts of the book, for example the truly excellent chapters on fixtures and
enjoyment of land, may do so without subjecting his students to the financial
burden of purchasing the entire book. May other editors be as thoughtful!

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NATIONAL SOVEREIGNTY AND INTERNATIONAL ORDER. By George W. Keeton.

Professor Keeton's study of the incidence of the traditional concepts of
sovereignty on the post-1918 efforts to create an "international order" is
almost prophetic. Appearing just before the outbreak of the War of 1939,
it applies the scalpel of an incisive logical analysis to the unreason of war as
a solution of contemporary tensions. Within an actual, if as yet unrecognized
world economic and social unity, the absence of orderly modes of legal and
political procedure for the settlement of disputes between states stands out
as a glaring and tragic illustration of "social lag."

The principal reason for the failure at Geneva after 1920 was that the pace
of change from force to adjudication was too slow. Although there were
implicit in the Covenant (for instance Article 19) and other postwar instru-
ments new techniques for reconciling the interests of the Great and Small
Powers, the viability of traditional ideas of sovereignty frustrated efforts to
utilize them. Failure to adjust international economic, social or political policy
to the needs—or the desires—of the vanquished peoples produced pro-
gressive disillusionment as to the validity of the new principle of inter-state
law and order. As it was put to the test by Japan, Italy and Germany, it
became apparent that even its ostensible supporters were reluctant to imple-
ment it. With disillusionment came repudiation of the very principle and
the revival of the idea of state sovereignty unrestrained by any common
obligations to an international order.

When Professor Keeton moves from analysis to prognosis, he treads more
debatable ground. This study is a product of the New Commonwealth Insti-
tute, of which he is Director of Studies. The Institute's emphasis on the
idea of an international police force is well-known. He does not shirk the
issue of how to organize a concensus of opinion within national states that
war by one or more of them is a crime against the others. That idea is
rooted in American political and legal thought (Professor Keeton quotes from

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Secretaries of State, from Root to Hull). It is the inspiration of an important contemporary school of international law, typified by Kelsen. It underlies the extension of domestic peace over a thousand years of history.

As Professor Keeton rightly points out, the fundamental problem in Europe is the divergent views on this question which are held by the democracies and the totalitarian states. He offers no easy solution. But his argument is persuasive that no international order is possible until a consensus on acceptance of third-party adjudication—enforced by a common defense power sufficient to secure acceptance of judgments internationally arrived at.

No more useful analysis of the legal basis of a permanent international order has recently appeared. But the question remains: Will the politics of another period of peacemaking accommodate itself to the framework of order through law? That is perhaps the most critical question before our own country, as every other, today.

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