REVIEWS

BRITAIN AND FRANCE BETWEEN TWO WARS: CONFLICTING STRATEGIES OF PEACE SINCE VERSAILLES. By Arnold Wolfers. New York: Harcourt, Brace & Co., 1940. Pp. 467. $3.75.

THE QUEST FOR PEACE SINCE THE WORLD WAR. By William E. Rappard. Cambridge: Harvard University Press, 1940. Pp. 516. $4.00.

THESE books belong among the dismal chronicles of peoples who have lost alike their minds, their souls and their future. They both deal with the failure of the Western democracies to save themselves by organizing the enforcement of law and order in the community of nations. Precisely why the peoples of the West, with wealth, power and all the promise of the world at their call, should have courted suicide in the 1930's is a problem simple on the surface and as baffling below the surface as the problem of the "causes" of the fall of ancient Rome.

Professor Wolfers of the Yale Institute of International Studies seeks to grapple with it, not without success, by reviewing the foreign policies of France and Britain from Versailles to a terminal point which is somewhat lost in his mingling of a chronological with a topical treatment. His work is less a history of Anglo-French diplomacy than an analysis of the emergence, application and breakdown of the principal concepts which shaped the behavior of the men of Downing Street and the Quai d'Orsay: *"Securité,"* Eastern alliances, *"L'Organisation de la Paix"* and disarmament, balance of power, appeasement. Wolfers' analyses are lucid and suggestive. His book is well documented and contains an admirable bibliography. If the reader at the end still has no clear answer to the initial question, the fault lies less with Dr. Wolfers than with the confusions and contradictions in which the British and French leaders involved themselves in the years of surrender and rout.

One might wish, however, that the author had striven somewhat harder for sharpness and incisiveness and that he had given more attention to the details of crucial decisions and to the internal determinants of external action. He somehow misses the point of the British election of 1935, of the Maffey report (which is relegated to a footnote), of the bargain, not mentioned at all, between Hoare and Laval in September, 1935, to betray Ethiopia and the Covenant, of Carpatho-Ukraine, of the Cagoulard conspiracy and the Non-Intervention Committee and the logic of the Munichmen and the secret fears which lay behind the belated abandonment of appeasement and final catastrophe.

The problem posed for solution by M. Rappard, gracious and learned Director of the Graduate Institute of International Studies and Professor at the University of Geneva, is at once simpler and more fundamental than that dealt with in Wolfers' book. His chapters, originally written in preparation for a series of lectures at Harvard, deal with "Peace as a War Aim" (1914–1918), "The Quest for Peace" at Paris, the development of international arbitration and adjudication in the two decades after Versailles, "The Fluctuating Destinies of Collective Security," and the failure of disarmament. His

theme, brilliantly and beautifully presented, is that peace failed because the peoples and governments of the democracies were unwilling to assume the responsibilities and risks of enforcing it by collective action against peace-breakers. He properly puts American guilt first: "If the United States had failed to intervene in Europe in 1917, the peace settlement would doubtless have been far less just. But it might well have been less precarious. Or if the United States had consented, after 1920, to defend the liberal conquests it fought to secure on the fields of battle and at the conference table, then, but only then, would the peace settlement have been both just and lasting." He perceives with considerable clarity the hypocrisies and betrayals of the democratic statesmen who ultimately doomed their world to disaster. "The present plight of Europe is due less to the excessive ambitions of the men of 1919 than to the excessive debility of their successors. It would be fair to lay the blame on the former only if they could be made responsible for not foreseeing the feebleness of the latter." And the consequences of feebleness? . . . "Where, except on the hidden tables of our innermost hopes, is it written that freedom will not after all perish from the earth?"

To this question there is no answer. Rappard sees hope in federalism, but knows that a self-defeated generation has neither vision nor courage to act. These qualities, always the *sine qua non* of success in any human enterprise which is novel and dangerous, are the monopoly of the new Caesars and their disciples. The peoples of the West are lost—already conquered or ripe for conquest, because they have rejected the dangers of solidarity and preferred the illusions of security through passive inaction or through "national defense" which is neither defense nor national but only a feckless striving toward goals forever unattainable on the part of those too timid or blind to understand the world. Tomorrow belongs to the conquerors. The peace-seekers are dead or dying. These two sad books will deserve honorable mention when the last epitaph comes to be written.

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ADMINISTRATIVE LAW—CASES AND COMMENTS. By Walter Gellhorn. Chicago: The Foundation Press, Inc., 1940. Pp. lxxii, 1007. $6.00.

AN INTRODUCTION TO ADMINISTRATIVE LAW. By James Hart. New York: F. S. Crofts & Co., 1940. Pp. xviii, 621. $5.00.

LAWYERS who deal with the administrative activities of any government fall into two classes: those who work for government and those who do not. Law schools are engaged in training both kinds. The cases that are the chief training tools grow out of disputes between these two types of lawyers that were carried to the judiciary for settlement. The disputes are now dead and buried, yet the opinions of the judges live on as part of the apparatus which our two kinds of lawyers will use when they go forth to combat in the future. But they are only a small part of that apparatus. For the rest, the lawyer

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who works for government will soon become a specialist in his field. He will live with it and with nothing else and his techniques will be shaped by the work to be done. The lawyer on the other side is not nearly so likely to be a specialist. The administrative matter in which he finds himself may be something novel and forbidding, or it may be old stuff to him too. His task will usually be twofold: to keep his client out of the administrative waters entirely, if that is possible, and then, if the plunge cannot be avoided, to keep clear of the rocks and shoals of "bureaucracy" and bring his client to shore as safely as possible; or to try to get what his client wants or must have from government. His techniques as pilot will range all over the lot. For both kinds of lawyers, however, the stuff that is gleaned from casebook and classroom is but a background for the concreteness of the particulars that make up the working days of both.

It is some such notion as this that has moved recent editors of casebooks in this field to bring administrative law down from the lofty heights of constitutional law on which Frankfurter and Davison deposited it with their 1932 casebook and, instead, to focus materials on the administrative process at work. The three books that appeared in 1937 and 1938 all did this[1] and now, in 1940, Professor Gellhorn carries on the same approach. His Introduction tells us that he will not take up "the substantive law that is projected by the administrative agencies" or "in detail the procedure of each of the myriad agencies." The objective of the book is said to be "to exhibit problems that may be regarded as generally applicable to administrative functioning," and that doubtless is as far as a book of this sort may go.

In spite of the stated objective the book starts off with two long chapters on separation of powers and delegation of powers. Together they take up about three hundred pages, or nearly a third of the book. They raise the legal questions involved in "a valid transference of power from the legislature to an administrative agency." These might well have been cut down. It is hard to believe that ten pages of cases on the power of legislatures to grant divorces, twelve pages on declaratory judgments and advisory opinions, or eight pages on the reviewability of decisions of the Court of Claims add very much toward the attainment of the objective. The chapter on delegation of power runs along for one hundred and seventy pages. That seems much too long. The material is fine but if there is any place in the book that would gain by cutting down on cases and putting text treatment to the forefront it is here. There is plenty of excellent text, but why all the cases on top of it for all these pages?

The emphasis on the administrative process at work is shown in the excellent chapters that follow. They go through the right to notice in Chapter IV, its adequacy in Chapter V, the elements that go to make up a fair hearing in Chapters VI, VII and VIII and the necessity of findings in Chapter IX. There is a lot of provocative and meaningful text matter mixed up with the cases. In fact a more industrious fellow reviewer has figured out that non-

1. I refer, of course, to STASON, THE LAW OF ADMINISTRATIVE TRIBUNALS (1937), MAURER, CASES AND OTHER MATERIALS ON ADMINISTRATIVE LAW (1937) and SEARS, CASES AND MATERIALS ON ADMINISTRATIVE LAW (1938).

case material takes up about 58 per cent of the total pages.[2] And when this editor writes his own text, he writes with an engaging flair. In a casebook, that is something to point to with joy in the heart. Most of the text is made up of sharp and imaginative comments, quips and queries that are sprinkled liberally through the book, as well as pages of background material and summaries of particular topics. For the rest he has chosen well from law review notes and articles, two Supreme Court briefs and an argument, some magazine articles and books, and a speech or two.

Chapter X, which deals with methods of obtaining judicial review, leaves something to be desired. The notion of the exhaustion of administrative remedies and the primary jurisdiction rule are passed off too briefly while the problems raised by the newer statutory schemes for review are scarcely touched upon. Brief paragraphs only are devoted to quo warranto and habeas corpus, while certiorari and mandamus, by contrast, get extended treatment.

Chapter XI takes surprisingly few pages to cover the scope of judicial review. In its fifty nine pages are found an excerpt from Henderson's book on the Federal Trade Commission and six cases: the *Ben Avon* case, the *St. Joseph Stock Yards Co.* case, *Acker v. United States, Ng Fung Ho v. White,* the *Dahlstrom Metallic Door Co.* case and *Crowell v. Benson,* plus a few digested cases. An extended footnote on pages 893 and 894 asks enough questions to keep anyone busy for a long time, but the materials do seem skimpy. What about the Interstate Commerce Commission, postal orders, public land matters, the Board of Tax Appeals and other tax cases, to say nothing about some of the newer federal agencies? And what about some state cases? Exhaustive treatment is, no doubt, impossible within the confines of a casebook, but a more complete sampling would do much to provide more adequate materials for discussion.

The criticisms herein made are without benefit of teaching experience with the book. Perhaps they will disappear when that time comes. In any event, they must not serve to obscure my conviction that this is a brilliant book and one that deserves high praise. But one omission bothers me a lot, and that is material relating to res judicata as applied to administrative orders and the integrity, or lack of it, of such orders against collateral attack. A lawyer ought to be familiar with what little there is on these subjects. I am sorry, too, that Professor Gellhorn has not seen fit to follow Professor Stason in reproducing in full some statute creating an administrative agency. I have found it to be an excellent teaching tool. After all, the powers of administrative agencies flow in some fashion from statutes, and the bits of statutes that show up in the cases do not give an adequate picture of the ever present questions of interpretation that beset every agency's work.

Professor Hart is, if anything, unduly modest about his book. He tells us in the Preface that it is designed as "a general introduction to American administrative law" for use in undergraduate courses. As such it is offered as a successor to Goodnow's *Principles of the Administrative Law of the United States,* first published in 1905. It is a worthy successor. It seems to me that any undergraduate who has his nose well rubbed into this intro-

2. See Clark Byse's excellent review of this book in 25 IOWA L. REV. 839 (1940).

duction will have little left to rub it in when he turns up at law school and is introduced to Professor Gellhorn's book. In fact he can tell Professor Gellhorn's students a thing or two after they have reached the end of that book. He can tell them about the law relating to the official relation (Chapter I), de facto officers (Chapter II), quo warranto (Chapter III), incompatible and forbidden offices (Chapter IV), res judicata and collateral attack (Chapter XV) and the contractual and criminal liabilities of officers (Chapters XXIII and XXV). Otherwise the general coverage of topics is about the same.

Professor Hart's method throughout the book is to write his own comments on the cases. These often summarize the holding, tell whether the case is "leading" or not, what it is supposed to illustrate, and sometimes too whether it can be reconciled with other cases. Sometimes he pronounces the decision "sound"; at other times he criticizes it. Often, too, there is a summary of the subject involved in a group of cases and a statement of questions still unanswered. In many instances he has summarized law review articles and discussion from other sources. Take this sort of material along with the excerpts from opinions and you get a running story that represents an excellent attempt to combine the technique of a casebook with that of a textbook. Doubtless this plan was adopted for the use of undergraduates who are supposed to be untutored in the mysteries of the case and the case system.

This same approach is reflected in Professor Hart's effort in Part II to set up two schemes for classifying the materials that make up Part III on the scope and limits of administrative powers and Part V on the availability of different kinds of remedies. My trouble with these schemes is that they are set apart in separate chapters from the materials which they are supposed to classify. I ran into difficulties as soon as I tried to put the materials into the cubbyholes and couldn't help but wonder what was to be gained even if I should succeed. Professor Hart has no illusions about his schemes and gives due warning that no sharp lines are intended to be drawn, for "sharp exactness is illusory." It seems to me that a good deal of bewilderment will be the reward of the student who tries hard to make the schemes work. It would seem like a waste of time to me.

One thing that irritated me about the book was the size of the type. The excerpts from court opinions are in type that is a trifle smaller than that used throughout Professor Gellhorn's book but for some reason the extensive text material is printed in even smaller type. It is but little larger than that normally used for footnotes in law reviews. Of course it cut down the total number of pages and doubtless saved some dollars but those seem to be small matters, particularly when the book is to be used as a student text.

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A LIBERAL IN WARTIME: THE EDUCATION OF ALBERT DE SILVER. By Walter Nelles.[1] Edited by Lewis Gannett. New York: W. W. Norton & Co., Inc., 1940. Pp. 221.

IT is dramatic that the epitaph of the National Civil Liberties Bureau, if not of its successor, the American Civil Liberties Union, should take the form of a biography of one of its founders lovingly written by another, both now tragically dead. The circumstances lend a sentimental atmosphere to the story—a feeling of nostalgia for a time more distant than the years between denote. And it was no small part of Walter Nelles' wisdom that this book reads more like history than the statement of a faith as true for now as then. He stood with Sumner in the perception that morals and beliefs are creatures of a given time and place. The problem must give rise to the solution; the solution must not be permitted to mould the problem. In writing the present story, he embodied this perception. The bases of the credo of those who launched the National Civil Liberties Bureau are revealed—bases which were founded, as Nelles knew, on an arrested moment in the flux of time. To say that the credo is no longer at grips with the issues before us here and now is simply to say that the moment has passed. It is not uncomforting to those of us who believed in this credo that both Albert De Silver, the subject of this book, and Walter Nelles himself, ceased active work in the American Civil Liberties Union as the present moment first began to appear.

Albert De Silver was the archetype of what the National Civil Liberties Bureau stood for. Conservative in political and economic outlook, a Bones man and heir to a comfortable fortune, he spent his time and money in the defense, as Nelles put it, "of radicals of many shades, from red, through pink to Christian blue." He took Voltaire's attitude toward the man with whom he disagreed, not only as a rule of personal conduct but as a command to public action. And since he did not agree with most of those whom he defended, his devotion to freedom of speech was undefiled by a motive ulterior to the struggle for it.

Those who have read Nelles' other writings will know the facility and charm with which De Silver is revealed. By copious quotation and paraphrase from the sparse letters available, there is brought to life a man of abundant grace of mind, a hale and comfort-loving fellow whom everyone would have liked to know, and yet a devotee of justice and of tolerance who did not flinch when the finger of his mind pointed down the unpopular, derided path.

The point of view which De Silver and his colleagues took bases upon certain postulates. First, there must be a fundamental faith in the ability of man to determine his social destiny by reason. Second, one must be certain that the rational argument will, if heard, prevail. Third, there must be a sense of absolute security that the processes of democracy if given free rein cannot be made the instruments of their own destruction, come what may. Each of these faiths De Silver was ready to affirm. "I feel sure as I do of anything," he wrote while still in college, "that what changes will come in my ways of thinking will be on the paths of beliefs based on exact reasoning

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and not on the return road of less enquiring faith. For to me the rationally certain is far more beautiful, more efficient and more uplifting, than the unenquiring faith as a basis of one's way of life." When the holocaust of war had come and emotion overran the thinking of every man, he still stated it as his ambition "to try to form part of the intellectual pivot upon which the balance of our civilization must be gained—to reason my way to a position *before* the fact and not after it." Billy Sunday made him sick. "Not a single word that made the slightest rational appeal." Nothing which "a rational being could recognize as a thought—words with no reason and fact after fact with no relevance." Even La Follette's fustian offended him.

So devout a faith in reason demands that trade in ideas be subject to the principle of laissez faire. Nelles states the theory thus:—"Intelligence is never very widespread. Its 'principles,' or best guesses, count practically, when at all, only as modified in the course of slow diffusion through gradually increasing minorities. Their chance to count depends upon their freedom to be heard, and that depends upon equal freedom for all principles, however stupid or pernicious. Therefore, it seemed to us, Jefferson was right in observing that 'it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out in overt acts against peace and good order.' Any narrower limit to lawful freedom of expression would endanger if not destroy what seemed to us the most valuable achievement of the bloody centuries through which the ideal of freedom had won acceptance as a commonplace." Hence, De Silver, with the other members of the National Civil Liberties Bureau, disagreed with the substitution in the *Schenk* and *Debs* cases of the test of "clear and present danger of substantive evils" for "overt acts against peace and good order." Regardless of the motive or the power of the speaker, words, if not actually put to immediate action, must not be subject to government control. Even the Ku Klux Klan "should be left free to organize and disseminate their detestable propaganda." Reason would triumph in the end.

All this unquestionably is good doctrine. It warms the heart to remember that not so long ago intelligent men could feel so sound a sense of political security as to lead their lives and determine their actions as if such an ideal were actually in sight. Of the many questionings reflected in this book concerning theories, plans and tactics, not once did De Silver apparently question that American democracy would survive the war. And just there, of course, lies the difference between then and now. Three premises, I have said, underlay the philosophy De Silver embraced. With the first two, belief in reason and in its triumph in a free and quiet market, perhaps we can agree—although the questions today seem somewhat sophomoric. The third premise, however, and the cornerstone, is now removed. "Am I to believe," De Silver could rhetorically exclaim, "that this country is so weak as to be wrecked by any New Nationalism? or that any one man may become a dictator? It makes me sore."

Current events have brought into a new and unforeseen perspective the danger which De Silver so cavalierly tossed aside. To make liberty of expression dependent on one's allegiances or political beliefs is to conflict with the very bases of the theory to which the founders of the Union sub-

scribed. But it would be a dull observer of recent history who did not perceive that in a period of hysteria induced by stark danger from without, the external enemy is aided by allowing his adherents within the walls to undermine the defenses by speech as well as act.

The dilemma is insoluble upon this statement of the case. But the difficulty stems from the framing of the issue. In a period of actual danger to the institutions upon which alone freedom of speech can be founded, the problem is wrongly stated if put in terms of that freedom as an independent goal. In such periods the problem shifts from concentration upon the ideal to a struggle for the survival of its prerequisite conditions. Such a shift of emphasis is nothing new. A recent example is the interpretation of the Wagner Act to restrict "freedom of speech" upon the part of industrial employers. The right of labor freely to organize is a condition of the kind of healthy economic process in which free speech can truly be said to exist. When that right is threatened, the ideal must give way so that the more basic right may be safely entrenched.

Freedom of speech is a symptom of a secure and prosperous political condition, not its cause. When the security and prosperity are impaired, all effort must be spent upon their restoration, even if the symptom is neglected. It need not be feared that in approaching the problem thus, the good sought to be protected will be lost. It is only common prudence that the goods dependent on prosperity are less endangered by conscious temporary sacrifice than by quixotic disregard of patent insecurity.

If this analysis be sound it is unlikely that in the present war liberals will find their most satisfactory instrument in the American Civil Liberties Union. The protection of the rights of labor and consumers and small business against injuries not required by the common good, the safeguarding of religious and racial minorities from hysterical oppression, will best be accomplished by organizations devoted to those separate aims. The individual will have little to fear of undue restrictions on his basic personal liberties if success is achieved along these lines. In this defensive battle there is little to inspire enthusiasm, for without the kind of freedom for which De Silver and Nelles fought, the chances of human and social advance are indubitably lessened. But until we can once more say with De Silver that the suggestion of this country succumbing to fascism "makes me sore," our fight must be defense.

Even in such a fight, however, it is important not to forget the battle which lies ahead once security is restored; for to be complacent in a defensive victory would be in the end to lose the prize. As a guide to future action, as a light beyond the present blackout, this book serves a noble function. Its precepts we must lay aside for the moment, but with reverence and hope that some day we may turn to them again in a world in which they can prevail.

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CASES AND MATERIALS ON THE LAW MERCHANT. By Philip Warren Thayer. Cambridge: Harvard University Press, 1939. Pp. xxvi, 1296.

LAW Merchant usually brings to mind that body of customs and laws which were enforced in the Staple Courts of England and mercantile courts on the continent and which became the predecessor of most of our European and American commercial law, now happily codified by many statutes, uniform and otherwise. The term is also frequently applied to those modern commercial practices which form part of the international customs and dealings of merchants. The title, as applied to this work, is really a misnomer. The book is a collection of modern cases on the law of sales, of a unique and possibly functional outline, with a small section on negotiable instruments added to the material on documents of title which is usually found in the standardized courses. Except for casual reference to a few law review articles, the historical materials on the law merchant in which the author is so well versed are entirely missing. The book contains not over fifty references to case material prior to the Civil War and approximately one-half of this number of reported cases before that time. The great majority of cases and references are from decisions since World War I. The book, therefore, must be evaluated as a tool for teaching a modern and practically standard course in the law of sales.

The author has succeeded in collecting a mass of raw material for use in this field. There are over eight hundred cases and statements or extracts from cases, covering approximately one thousand pages, together with two hundred pages of the complete text of American, English, German and French statutes in the field of sales, international draft acts, and chamber of commerce rules of uniform customs and practice for commercial documentary credit. Approximately twenty pages are devoted to blank forms of various types of shipping documents. Such notes as there are, usually are descriptions of single cases. Critical notes attempting to compile and analyze materials together with copious references to treatises, articles and law review material, which are found in most modern case books, are entirely omitted. The collection of materials on sales is similar to and covers the same material found in the ordinary works on sales, but in a different order.

The work is most unusual in its addition of approximately one hundred and seventy pages of unintegrated material on the types of negotiable instruments which are often found in connection with sales transactions. In this short space, the author attempts to give a bird's-eye picture of the field of negotiable instruments. Inasmuch as the teaching material is made up wholly of cases and extracts of cases, this section is too sketchy to supply the needs of an experienced teacher in the field and is so spotty in choice of materials that it is likely to confuse a beginner. In this section, as in the whole book, few sign posts are offered to guide the teacher or student through the mass of learning and writing available in the field, and practically no warnings appear of pitfalls and variations of interpretation.

If the book is intended to be used in the much-heralded course in the revised curriculum of the Harvard Law School which was going to combine negotiable instruments and sales, its success must be set down as ex-

tremely doubtful. The subject matter of this combined course is unique in that it is mainly in a field in which the law has been codified. If there is any unity to be found in the materials, it must be in the technique of interpreting statutes and codes. It is submitted that it is impossible to develop such a technique by the use of the same crude tools which Langdell fashioned for the purpose of studying and systematizing the common law. Especially is this true when the cases are chosen at random from common law, civil law and jurisdictions which are controlled by special statutes. Any systematic attempt to develop law from such material is more likely to create in the student's mind an impression which Jerome Frank has characterized as an aphose.[1] This difficulty is aggravated by the fact that much comparative material has been thrown in by way of casual reference.

Mr. Thayer has done a great service in calling the attention of the profession to the necessity for considering comparative law in the form of statutory enactments and various commercial customs, and he has taken the first step in the direction of developing this material. It is unfortunate that he did not see fit to break sharply with the traditional case method and to create a course frankly based on developing a technique of statutory interpretation.

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INSTITUTES OF THE ROMAN LAW OF CIVIL PROCEDURE. Revised edition by Leopold Wenger. Translated by Otis Harrison Fisk. New York: Oskar Piest, 1940. Pp. xxix, 440.

THE development of an entirely rational system of civil procedure became possible only after the common law forms of action had been abolished and the merger of law and equity had taken place. Only recently have we been able to regard our procedural system as a pliable medium for bringing about a just application of substantive law by the courts. Roman jurists met a comparable situation in the period in which the so-called *extra ordinaria cognitio* had replaced the older formulary procedure and the merger of the civil and pretorian law had taken place. This history of the Roman Law of Civil Procedure therefore bears as much interest for the lawyer who wishes to profit from another people's experience as for the historian. In Wenger's *Institutes,* however, the common law practitioner will find far more than an account of long passed events. He will be afforded an excellent introduction into the conceptual technique with which civil lawyers tried to handle procedural problems. German and Italian students of civil procedure doubtless indulged in often useless conceptualism but they frequently succeeded in discovering

1. "The subjective sensation of shadow . . . The Langdellian teacher . . . deals in aphoses; what he passes on to his students is a subjective sensation of the shadow of the actualities of a lawyer's life." Frank, Address, "What's Wrong with the Law Schools," September 15, 1938.

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certain real problems with which any procedural system must deal and in expressing the possible solutions in different concepts: *e.g.*, the problem of the cooperation of court and parties, the conditions of declaratory relief, the relevance of procedural mistakes, etc. A reading of Wenger's *Institutes* will give one an acquaintance with these fundamental concepts which will be enhanced by the extremely useful German-English and English-German glossary of those terms which Mr. Fisk has composed.

It seems scarcely necessary to emphasize the other merits of this revision and its translation. Wenger's *Institutes* sum up all our present knowledge on the subject of Roman Civil Procedure. Research of the past fourteen years has added much to the content of the original edition, published in 1925. Mr. Fisk has shown himself to be more than a skilful translator — he is an interpreter of the author's thoughts. Wherever he has felt that mere translation would not satisfactorily transmit the content of Wenger's thought (principally where Wenger presupposes notions with which jurists of common law countries are not familiar) he has added explanatory notes which are not only tributes to the excellence of his scholarship in both the civil and common law but also make the book particularly useful as an introduction for the common law student into the civil law theories of procedure. An appendix adds a translation of the Greek and Latin citations of the original. Here, too, Mr. Fisk adds his own notes and thus avoids the dangers of over-literal or over-free translation.

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WORKMEN'S COMPENSATION INSURANCE, INCLUDING EMPLOYERS' LIABILITY INSURANCE. Second Edition. By Clarence W. Hobbs. New York: McGraw-Hill Book Co., 1939. Pp. xviii, 707.

THIS volume is improperly termed a second edition. It was originally intended as a new edition of the valuable work by Michelbacher and Nial on *Workmen's Compensation Insurance*, published in 1925, but the lapse of years made a new book necessary. The chief resemblance between the old and the new is the high standard maintained in the new volume. The volume is not a law book in the technical sense, although substantially half of its pages are devoted to analysis of compensation statutes. The remaining pages, which deal with insurance carriers and rate making, are likewise essential to a lawyer's understanding of workmen's compensation.

As a result of his wide experience in administering a state insurance law and his many years of service as representative of the National Association of Insurance Commissioners on the National Council on Compensation Insurance, the author is unusually qualified for the preparation of a book of this character. The reviewer regrets that the limits of the volume did not permit the author to make more extended use of his annual reports to the National Association of Insurance Commissioners. These reports for the past

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ten years give an interesting picture of an industrial depression seen in terms of compensation for industrial injuries. These annual reports also represent a more informal and oftentimes a fuller discussion of many problems than can be presented in a text book. It is perhaps proper that, in the present state of its development, the multi-split experience rating plan should be merely referred to in the book (p. 574), but, in order to understand the plan, the reader needs the fuller discussion found in the author's annual report to the National Association of Insurance Commissioners for 1939. The book contains so much valuable information, however, that it cannot be unduly criticized for being no longer than it is.

In view of the constant changes taking place in the statutes regulating workmen's compensation, statements correct in page proof are often incorrect when the book is issued. But the present volume presents a clear and accurate picture of workmen's compensation as of January 1, 1939, and it is trusted that the demand for the book will make revisions possible as frequently as changes of conditions call for them.

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