

to a reorganization and their expectations ultimately reflected in the formulated plan.³⁸ Modifications continually adjusting the plan to business changes should not supersede the considered initial judgment of parties and court. Establishing confirmation as the cutoff date for modifications and prohibiting specific reservations of jurisdiction from extending this date will restore an independent corporation and certainty of rights and obligations as speedily as possible.

CHESTER J. LUBY†

38. "[F]actors to be considered [in formulation of the plan] are whether the total debt is reasonable when compared with the capitalized valuation of the debtor, whether the expected earning power will be sufficient to meet the fixed charges, whether proposed dividends can be paid, whether there are provisions for adequate working capital. . . ." 6 COLLIER, BANKRUPTCY ¶ 11.07 (14th ed. 1947).

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REVIEWS

GOD AND MAN AT YALE: By William F. Buckley, Jr. Chicago: Henry Regenery Company, 1951. Pp. x, 240. \$3.50.

ONCE upon a time there was a little boy named William Buckley. Although he was a very little boy, he was much too big for his britches.

Long before little Willie grew up, he came to Yale University where, as little boys at universities so frequently do, he became a Big Man^o On Campus—an accomplishment which did nothing to improve the fit of his pants. Little boys in the past have become BMOG by such freakish pranks as eating goldfish or phonograph records. Little Willie took a somewhat different though not an original course to freakishness (Pegler had left the trail well blazed)—he became a strident champion of political and religious bigotry. And when he was elected chairman of the *Yale Daily News*, Willie had the entire university for his audience.

For one glorious year little Willie reveled in the editorial columns of the *News*. He took positions on a great variety of subjects—positions which were not always consistent and sometimes not very coherent, but which were always asserted with great assurance and which could usually be counted upon to provoke an angry response from irritated readers. After a rather slow start during which he supplied the student body with a list of “brilliant and provocative lecturers” including Professor Raymond Kennedy in Anthropology¹ and favored the faculty with some rather vacuous advice on how to improve itself,² Willie broke loose with a savage attack on Professor Raymond Kennedy for the manner in which he conducted his Anthropology class. The trouble was not with Kennedy’s “general competence,” which was conceded, but that Kennedy had “made a cult of anti-religion” and was “undermining religion through bawdy and slapstick humor.”³ The heat of the responses to this attack was so gratifying that Willie devoted a second editorial to the same subject, declaring that it was “alarmingly ridiculous” to suggest that he would “impose censorship” on Kennedy, but that the “same laws of good taste, tolerance and understanding . . . that keep you from introducing your roommate as a member of Skull and Bones” should apply in the classroom to ridiculing a subject which to many students “is a personal and sacred thing.”⁴ At this point Kennedy came to his own defense in a lengthy letter flatly denying the charges

1. *Yale Daily News*, February 18, 1949.

2. The faculty was admonished to avoid the “inexcusable tendency of some teachers to utilize the classroom as a soapbox from which to impose upon their students not the great ideas of great scholars, but their own” and to avoid also using the classroom for “dogmatic inculcation rather than [as] a melting pot for provocative and liberal ideas.” *Ibid.*, February 25, 1949.

3. *Ibid.*, March 9, 1949.

4. *Ibid.*, March 11, 1949.

that he made a "cult of anti-religion" or that he ridiculed religious beliefs, challenging some vicious innuendos in the editorials, and asserting that as a sociologist he tried to treat all varieties of religious belief in a thoroughly dispassionate manner without endorsing any of them.⁵ With the publication of this letter, Willie announced that communications on the subject had been three to two against the stand taken in his editorials and that the matter was now closed. He also revealed, at the insistence of his staff,⁶ that the views he had expressed were his own and not theirs.⁷

Willie continued thereafter to make sporadic attacks upon the faculty generally for its "skepticism for the validity of the American economic system"⁸ and its "supercilious iconoclasm,"⁹ and he once managed to trace an alleged freshman practice of littering the campus with beer cans to the fact that "the men who teach them are flabby in their convictions, mealy-mouthed and variable in their allegiance to traditional virtues, and self-conscious when they assert their beliefs in God, integrity and good."¹⁰ But these attacks lacked punch somehow—perhaps because no specific offender was ever again named.

Others did not share even this partial immunity from Willie's ire. The National Council of Arts, Sciences and Professions was exposed as a "communist front,"¹¹ Harry Truman was admonished that he had no mandate to "lead the United States to socialism,"¹² and the Young Republicans were castigated for concentrating too much on winning an election and not enough on reasserting "principles of freedom of enterprise [and] anti-New Dealism."¹³ When the student editors of a magazine sponsored by the University Christian Association announced that they, as a matter of personal conviction, had chosen "the Christian philosophy . . . [as] the most adequate, the most pervasive, the most conducive to understanding," but that their pages would be open to contributors of other persuasions, Willie flayed them for their "outstandingly flabby and ambiguous proclamation of what we must assume to be their allegi-

5. "As for religion in general, I take this stand in class: so wide and deep is the mystery surrounding the universe that there is ample room for all sorts of speculation and belief about it. . . . Personally, I am willing to say that I simply do not know how the universe originated, or how life on earth started. . . . Other men use the concept of a god to explain the mystery, their versions of what god or various gods are like varying remarkably. Instead of saying, 'God (or some gods) did it,' I say, honestly, 'I do not know who or what did it, or whether anyone or anything did it.' . . . My attitude toward any believer in any religion, which I express freely to members of the class who tell me that they have the answer, is, 'You may be right; anything is possible.' This, it seems to me, is tolerance, and certainly nothing which could fairly be called a 'cult of anti-religion.'" *Ibid.*, March 14, 1949.

6. See Milam, *The Yale Daily News*, 1950 CLASS BOOK, YALE UNIVERSITY 117.

7. *Yale Daily News*, March 10, 1949.

8. *Ibid.*, January 16, 1950.

9. *Ibid.*, May 2, 1949.

10. *Ibid.*

11. *Ibid.*, March 22, 1949.

12. *Ibid.*, May 14, 1949.

13. *Ibid.*, April 30, 1949.

ance to the Christian faith" and instructed them: "To be a Christian in the etymological and meaningful sense of the term is to believe in Christ as the revealer of the true philosophy to be used by man as a basis for his conduct and his worship, as the determinant of human values. It is impossible, given this definition, to be a Christian and not believe that apostles of other philosophies are misled."¹⁴

The alumni also come in for a broadside because one of their number had suggested that varsity football players should oversee the academic work of freshman squad members. The question of football at Yale, Willie declared, was a matter which could be "left to the maturity of a carefully screened undergraduate body" without interference from "some unbalanced alumni."¹⁵

As the time of his chairmanship of the *News* drew to a close, little Willie looked deep into the problems of our time and came up with two positive proposals: (1) Robert A. Taft should be elected President of the United States.¹⁶ (2) Conservatives, who "fortunately . . . command a good deal of wealth," should use their money to combat the "tremendously appealing drive of the collectivists" in the universities by endowing "Adam Smith chairs of Political and Economic Philosophy."¹⁷

Long before little Willie grew up, he was graduated from Yale and, with a parting blast in a Class Day Oration which reads as if it had been conceived in a litter of beer cans,¹⁸ went out into the world.

But Willie was not through with Yale. He had gone there believing "that an active faith in God and a rigid adherence to Christian principles are the most powerful influences toward the good life" and that "free enterprise and limited government had served this country well and would probably continue to do so in the future."¹⁹ His experience at Yale as "one of a small group of students who fought . . . against those who seek to subvert religion and individualism" had in no way altered his conviction in the rightness of his beliefs, but had only served to strengthen them. He emerged from Yale believing "that the duel between Christianity and atheism is the most important in the world" and "that the struggle between individualism and collectivism is the

14. *Ibid.*, November 14, 1949.

15. *Ibid.*, January 6, 1950.

16. *Ibid.*, January 10, 1950.

17. *Ibid.*, January 17, 1950.

18. "We have bent over backwards so far to apologize for our beliefs and our traditions that we have lost our balance and we see a topsy-turvy world and we say topsy-turvy things, such as that the way to beat Communism is to make democracy better. What a curious self-examination! Beat Communism by so changing our way of life as to convince Communists that ours can be a better life than theirs! How much more realistic for the apologists of the American way of life to say beat the Union of Soviet Socialist Republics by making America socialistic. Beat atheism by denying God. Uphold individual freedom by denying natural rights. . . ." Buckley, *Class Day Oration, 1950* CLASS BOOK, YALE UNIVERSITY 171.

19. P. xciii.

same struggle reproduced on another level."²⁰ But, despite the comfort that must have come from having God on his side all the way, and despite his conviction that "after each side has had its say, we are right and they are wrong," he was also convinced that "they are winning and we are losing." Hence, when "a number of persons" who shared his views urged him "to deal at greater length with the problem," he came reluctantly to the conclusion that he must write a book about it.

In his book, Willie sets out to prove, "at greater length," that Yale does not seek to inculcate its students with his views on religion and "individualism." Willie is not much given to defining what he is talking about, here or elsewhere, but by "religion" he means "along with Webster, . . . a belief in a Supreme Being, 'arousing reverence, love, gratitude, the will to obey and serve, and the like.'"²¹ By this definition, Yale is "neither pro-Christian nor even . . . neutral toward religion." In the first place, Yale does not require its liberal arts students to take courses in religion. While they are required to take courses in a number of fields of learning, they are given a choice among courses in history, philosophy and religion, and less than ten per cent of them elect courses in religion. But the situation would not be much improved if 100% of the student body elected to study religion at Yale, in view of the nature of the courses offered. The most popular course in religion is one entitled Historical and Literary Aspects of the Old Testament, but the teacher of the course "does not proselytize the Christian faith, or indeed, *teach* religion at all. Even the title of the course does not call for understanding of, or even sympathy with Christianity."²² The teacher of a course on Philosophy of Religion conducts a "completely nondogmatic examination of the philosophies of religion." The course in Development of Religious Thought is taught by a man who "does not seek to persuade his students to believe in Christ," largely because, as Willie hears it, "he has not . . . been completely able to persuade himself." And if Willie's understanding of the matter is wrong, it must be borne in mind that "what is relevant to this survey is the teacher's attitude *as it is understood by his students*, even if this be, at times, at variance with his personal convictions."²³ Finally, there are two courses taught by a man characterized as "a good Congregationalist" by, "surprisingly, a number of persons who are on the face of it, intimately acquainted with the University," but Willie knows of at least one occasion on which this man "classified himself, before his students, as '80 per cent atheist and 20 per cent agnostic.'"²⁴ True,

20. Pp. xiii, xvi-xvii.

21. P. 8. He also accepts, as "perhaps more topical and specifically relating to Christianity," the definitions of the World Council of Churches ("a belief in Jesus Christ as God and Saviour") and of the Federal Council of Churches ("Jesus Christ as Divine Lord and Saviour").

22. P. 6.

23. P. 8.

24. Pp. 8-9.

there are other instructors and other courses in religion with which Willie can find no fault, but they are "lightly subscribed" by the students.

Outside of the Religion Department, matters are even worse. The History Department offers a course taught by a man who, though an "able scholar" is "emphatically and vigorously atheistic." In the Department of Philosophy is a man who is a "distinguished scholar" but he is also an "earnest and expansive atheist" [since publication of his book, little Willie has made a written retraction of this charge], and another whose scholarship is "highly regarded" but who is "an agnostic." One course in the History of Philosophy is taught by a professor from the Divinity School but he, in teaching this course, "keeps his convictions largely to himself." The basic ethics course is taught by men "highly sympathetic to Christianity," but they use a textbook which shows that "belief in God can neither be proved nor disproved." The instructors in the Department of Psychology "more often than not, simply do not mention religion." As for the Department of Sociology, Professor Raymond Kennedy, until his death in the spring of 1950, was the member of the Department "who had the greatest effect on the greatest number of students." And to show what sort of a man Professor Kennedy was, Willie reprints his two editorials from the *Daily News* and five of the letters provoked by them [three for Willie and two for Kennedy]. Professor Kennedy's own letter on the subject is not reprinted—which makes it easier for Willie to ask his readers to "rest in the knowledge that Mr. Kennedy held forth at Yale for a great many years . . . revealing an unswerving contempt for religion in general and Christianity in particular."²⁵

Turning now to the second point of his attack, Willie undertakes to demonstrate that "collectivism" is rampant at Yale. Here again it is not entirely clear what he is talking about. "Collectivism" is the opposite of "individualism," which Willie favors and defines as a belief in "the classical doctrine that the optimum adjustment—private property, production for profit and by private ownership, and regulation by a free competitive economy—brings not only maximum prosperity but also maximum freedom." From this it follows that "any infringement upon the component parts of the free economy" is "unsound economics" and "militates against maximum freedom."²⁶ The feared infringer is, of course, the government, but the functions which government may properly discharge without being "collectivist" are nowhere specified. It is fair to conclude, since Willie treats them as "collectivist" devices, that the government should not impose income or inheritance taxes, and certainly it should not attempt to affect the distribution of income or other functioning of the economy in any more comprehensive fashion. But whether any governmental activity above the level of enforcing the traffic laws against drivers of non-commercial vehicles is acceptable to an "individualist" Willie does not say.

25. P. 17.

26. P. 51.

But, whatever a "collectivist" is, there are too many of them in Yale's Economics Department and Willie can prove it. One line of proof is based on the Department's selection of texts for the course in Elementary Economics. Willie offers an analysis of each of the four textbooks which were used in the course at one time or another during the years 1946-1951.²⁷ Here he makes his most serious mistake. So long as he confined himself to reporting the statements and views of faculty members based on his recollection of what they said, or of what someone else said they said, or upon his own "abbreviated lecture notes," his reliability as a reporter could not be effectively tested. But no one who compares the four textbooks with his analysis of them can believe his statement that he has made "every effort to avoid distortion."

Unquestionably, the authors of the books fail to meet Willie's test of "individualism" on many points—none of them, for instance, advocates abandonment of the income tax. But Willie is not satisfied with demonstrating this; he pushes on to the conclusion that all of them believe that "all the society's ills—the economic, the social, the ethical—can be ameliorated by Bigger and Bigger Government."²⁸ This conclusion he substantiates by a systematic distortion of what they said which is neither honest nor intelligent.

One form of frequently recurring distortion is to take from a book a passage which seeks to dispose of *one objection* to a conceivable governmental practice and to construe it as a rejection of all other objections and a wholehearted advocacy of resort to the practice. For instance, each of the books under consideration seeks to demonstrate that there is no technical financial limit on the size of the public debt beyond which national bankruptcy will result, although each of them points out that a large public debt may otherwise seriously affect economic stability.²⁹ But Willie, by snatching statements out

27. SAMUELSON, *ECONOMICS, AN INTRODUCTORY ANALYSIS* (1948); MORGAN, *INCOME AND EMPLOYMENT* (1947); TARSHIS, *THE ELEMENTS OF ECONOMICS* (1947); BOWMAN & BACH, *ECONOMIC ANALYSIS AND PUBLIC POLICY* (1946).

28. P. 79.

29. "The real question is only whether such a policy [of deficit spending] will impinge on an economy that is inflationary or deflationary. . . . If a nation . . . is misguided enough to continue heavy spending and light taxing after total consumption and private investment have become too large, then inflation will be the outcome." SAMUELSON, *op. cit. supra* note 27, at 433.

"But nothing that we have said denies that *management* of the public debt is likely to be a major concern and problem of the Treasury and Federal Reserve during the next several decades. One critical element in the problem is that the public might unpredictably and in large volume sell bonds to obtain cash, and vice versa. Such 'flight' between bonds and cash would imply rapid fluctuation in the volume of total demand, and cause disturbances in the banking system." MORGAN, *op. cit. supra* note 27, at 244.

"Nonetheless, the existence of a high public debt is not a matter for indifference. . . . When the debt is high, we must be especially insistent on maintaining the national income at the maximum. For if it falls, either we shall need extremely high tax rates to collect the money for interest or we shall have to borrow. Neither of these alternatives appeals to us, the first because it is deflationary and the second because it is unconventional." TARSHIS, *op. cit. supra* note 27, at 541.

of context, presents all of them as endorsing a view that under a program of deficit spending "there appears to be no cause for concern over government debt—or over a stable currency."³⁰

Another of Willie's favorite tricks is to cite a piece of pure description as evidence that the author "supports," considers "one of the goals of government," or at least "does not disapprove" the thing described. One of the books,³¹ for example, contains at page 573 a description of methods of control of income distribution in a private enterprise economy, and at page 575 a description of methods of control of income distribution in a socialist economy. The descriptions are completely dispassionate, with no indication of the authors' preference between the two. Yet Willie writes that the authors "have no quarrel, economic or ethical, with the distribution of wealth as it is carried on in a socialist society (p. 575)."³² Anyone seeking to prove that the authors were "individualists" rather than "collectivists" could say, with equal dishonesty, that they "have no quarrel with the distribution of wealth as it is carried on in a free enterprise economy (p. 573)."

Perhaps all of Willie's misrepresentations are not the result of dishonesty. There is at least one instance suggesting that he is incapable of transposing the essence of a passage in the English language from one page to another. One book³³ contains the following statements:

"The balance of considerations points toward the personal income tax as the major single source of Federal government revenues. The Committee for Economic Development, for example, recommends that about 60 per cent of Federal revenues come from that source [p. 188]. . . . With respect to personal income taxes, it is discouraging and unjust to risky enterprises that individuals who have fluctuating incomes should not have credit for years of loss or low income to set against years of high income. . . . Realized capital gains and losses . . . should be treated like any other income. They should, similarly, be subject to a generous carry-over provision, and losses should be fully deductible [pp. 196-197]. . . . The marginal tax rate of 75 per cent on \$50,000 incomes in 1946, and the 87 per cent on \$90,000 incomes was

"But the argument against a steadily increasing government debt has, nevertheless, considerable validity, for these reasons previously stated: (a) The larger the annual interest burden, the greater is the pressure on tax sources each year to raise funds for interest payments. (b) The fear that heavy government debt will prove disastrous, even when this fear is irrational, may operate to deter production and investment and may also make it more expensive for the government to borrow additional funds. (c) As a matter of practical politics, when the pressure of making expenditures conform to 'regular' revenues is removed, wasteful and inefficient expenditures are much more likely to result." *BOWMAN & BACH, op. cit. supra* note 27, at 799.

30. P. 74.

31. *BOWMAN & BACH, op. cit. supra* note 27.

32. P. 55.

33. *MORGAN, op. cit. supra* note 27.

probably too high, though we can justify the 90 per cent on incomes over \$200,000. The Committee for Economic Development has proposed taxes of 42 to 49 per cent on incomes in the \$20,000 to \$100,000 bracket. This seems more reasonable. . . ." [p. 197].

In Willie's rendering, the author of this book "advocates, generally, that 60 per cent of federal revenue ought to come from income taxes (p. 188), that exemption for capital gains ought to be eliminated (p. 197), and that a tax of 42-49 per cent on incomes between \$20,000 and \$100,000 and a tax of 75-99 per cent on incomes over \$100,000 would seem equitable (p. 197)."³⁴

Willie tries to be fair, though. He is willing to admit that an instructor of proper orientation might be able to offset the "collectivist inclinations of the textbook writers." Unfortunately, however, he finds no such instructors in residence at Yale. The course in Elementary Economics is usually taught by graduate or law students in the university. When Willie took the course he had three instructors, all from the law school. One was "an outspoken socialist" and the other two were "doctrinaire Keynesians." If there were students in other classes who were taught by "teachers who sought to deflate the Keynesian brand of collectivism," Willie has "not met any of them." And the possibility is very remote, in view of the attitudes of the members of the Department of Economics who select the instructors. One of the professors in the Department advocates a number of policies favored by "collectivists," although he is "not doctrinaire" and has written a book which is "unorthodox from the point of view of doctrinaire collectivism." Two others "call upon the government to regulate free market violators." Another "at one time found himself well to the left of his present position, which is now more or less middle of the road, although retaining a heavy prolabor bias." Another wrote an introduction for one of the textbooks subject to Willie's attack, in which he stated, "This book contains the best that the expert has to offer regarding the economic problems of our time."³⁵ Of the nine full professors in the Department, "only four are forthright defenders of individualism" and, of these, one is about to retire, one has been transferred out of the Department, and a third "has been urged to transfer."³⁶

In view of Willie's demonstrable distortion of the views expressed in the textbooks, it is a little difficult to accept his characterization of faculty views at face value, or to join in his conclusion that the Economics Department is "deifying collectivism." But neither the distortion nor the conclusion are essential to his main point anyway. For if the members of the economics faculty were carefully to avoid expressing or even entertaining any "collectivist" views, they would be no more acceptable to Willie than the instructor in religion whom he criticizes for teaching in a "completely nondogmatic"

34. P. 59.

35. Introduction to TARSHEIS, *op. cit. supra* note 27, at vii.

36. P. 99.

fashion. Little Willie wants a faculty which will, to a man, espouse in the classrooms Willie's views on religion and "individualism." Any teacher who cannot pursue "with keen and genuine enthusiasm" a process of "value inculcation" based on Willie's values should be discharged.³⁷

This sounds very much as if the university is to be required to abandon its attempt to teach students *how* to think and to substitute a program designed to tell them *what* to think, but that really isn't what Willie has in mind at all. He recognizes that "an indispensable part of education is training in how to think, how to analyze."³⁸ And he would preserve this function, while brushing away the "superstitions of academic freedom," by allowing the teacher to expose his students to the writings of "men with different values"—provided that the teacher would "do his earnest and intellectual best to expose the shortcomings and fallacies" of the other views and "to 'deflate' the arguments advanced."³⁹

Who is to provide this expression of other views? Certainly not the teachers, if little Willie's idea of the proper way to operate a university is as widely adopted as he would like it to be. No, the function of providing other views is to be left to the "researcher" who, since he must be free to proceed without any outside prescription of "the method or orientation of the findings of his research," could not be employed as a teacher. That, of course, raises another question, but Willie has anticipated it and has an answer ready: "Who is going to pay for this research? My answer to this is, in the simplest terms, whoever wants to." If no one wants to, then the researcher "is the victim of the kind of a world he lives in, of an excess of supply over demand" and he had better take up another trade.⁴⁰ And the teacher, presumably, will then have to teach his students how to think by confining his "deflating" attacks to such views as were expressed by "men with different values" before Willie's system of education went into effect.

Willie, of course, does not have the power to bring about this remarkable change in educational practices at Yale all by himself, but he wouldn't want to do it if he could. His "individualism" provides not only the content of his proposals, but the method of effecting them. The power to make the change, and the responsibility for doing it, rests with the "consumers." And the "consumers" of education are not the people who consume it—not the "carefully screened undergraduate body" which Willie earlier proclaimed fully competent to handle the football program at Yale without interference from "some unbalanced alumni." The "consumers" are the people who pay for education by their financial contributions to the university. The "consumers" are the alumni—whose unbalance apparently is confined to football. Little Willie proffers his views as the proper ends of "value inculcation" at Yale be-

37. P. 188.

38. P. 179.

39. Pp. 180-1.

40. Pp. 186, 189.

cause he is sure that the alumni of Yale agree with him. If he is wrong in this assumption and "the alumni wish secular and collectivist influences to prevail at Yale, that is their privilege." To the alumni who disagree with Willie's views on religion and "individualism," Willie "has nothing more to say."⁴¹

This, then, is the purpose of Willie's elaborately misrepresented picture of what is taught at Yale: to convince the alumni that the university is now engaged in a process of "value inculcation" which is "secular and collectivist" and to make the picture so alarming that the alumni will stampede to the conclusion that Willie's system of "value inculcation" should be substituted forthwith. In the process, of course, it is necessary to dispose of the widely accepted notion that a university should function as a center of perpetual free inquiry rather than as an implement for the ordainment of any one generation's "truth." Hence Willie's attack on the "superstitions of academic freedom" and his pathetic contrivance of separation between "teacher" and "researcher" which, if adopted a century and a half earlier, would have the medical schools still concentrating on the proper application of the leech in the treatment of fevers.

Truly, this book is a sorry effort, and one which would warrant no serious consideration were it not for the support it has received from other "individualists" of more stature and influence than little Willie. For the book has been enthusiastically hailed in some quarters, although the enthusiasm of the greeting has been coupled with a peculiar ambivalence. Thus, the apostate "collectivist" John Chamberlain, when he wrote the introduction for the book, thought Willie's case against the Economics Department "devastating on its face" and seemed, although he was extremely coy about it, to embrace Willie's consumers-choice notion of how to run a university. Felix Wittmer reviewed the book in *The Freeman*, an "individualist" periodical of which Chamberlain is co-editor, and concluded that it "shows convincingly the extensive and perilous trends of materialism and statism in a presumably individualistic and Christian university," but he cautiously skirted Willie's latest proposed solution and endorsed instead his earlier proposal for Adam Smith chairs of political economy, together with alumni support for an "anti-collectivist press in which men of Mr. Buckley's alertness, caliber and integrity" could function.⁴² *The Freeman* then came out with an editorial on the subject, hopefully entitled "Yale in Turmoil," which conceded that Willie was "open to the criticism that he has not given the faculty a break as a whole" and that he "may have overstated his case against the Yale economics faculty," but concluded, either on Willie's evidence or perhaps on evidence from some other source—maybe the private knowledge of Editor Chamberlain (Yale '25)—that the "individualist tradition" has not been "permitted to reproduce itself in New Haven." But the editors of *The Freeman* did "not agree, personally, with all of Mr. Buckley's proposals for strengthening the

41. Pp. 47, 114.

42. *The Freeman*, October 22, 1951, p. 58.

Yale faculty." They "would be satisfied, as a starter, if a good individualist were accorded an equal chance at a job" in the Economics Department.⁴³

Another apostate, Max Eastman, is consumed with admiration for Willie's "arrant intellectual courage," but considers his attack on Yale's handling of religion to be the ill-considered product of immaturity. To Eastman, "it is ridiculous to see little, two-legged fanatics running around the earth fighting and organizing in behalf of a Deity whom they profess to consider omnipotent." But Willie's attack on "collectivism" is, "by contrast, entirely mature." Backed as it is "with astounding quotations from the four textbooks used in the elementary course in economics," it leaves Eastman "convinced that the students of economics at Yale are being pretty well indoctrinated . . . with the principles of creeping socialism." Although Eastman shies away from Willie's proposals for reform at Yale, considering them "really dangerous," he nonetheless finds the book "brilliant, sincere, well-informed, keenly reasoned, and exciting to read."

Other champions of "individualism" give the same impression of delight with the book combined with fear of being identified with its proposals. Peter Viereck finds Willie's alternative to "statism and atheism" to be "nothing more inspiring than the most sterile Old Guard brand of Republicanism, far to the right of Taft," and cautions the reader that "words will really fail you when you reach the book's" proposed remedies.⁴⁴ But he too ascribes all of this to Willie's immaturity and tenders the hope that "some day, being intelligent and earnest, Buckley may give us . . . hard-won wisdom."⁴⁵ Felix Morley, writing for *Barron's*, finds the book "well-reasoned and well-supported" and vouches that there is "no question" of Willie's "ability as a reporter," although "his own suggested remedy is open to question."⁴⁶ *Life* magazine finds the book "not quite honest," but withal "brilliant."⁴⁷

Aided by this sort of praise-with-reservations and by an advertising campaign which, appropriately enough, reproduces the praise and omits the reservations,⁴⁸ little Willie's book has had a gratifying sale.⁴⁹ And it must be comforting to Willie to know that he has undoubtedly done Yale some damage. But he will be less than delighted with the initial response of Yale alumni. One month after the book reached its sales peak, the university administra-

43. *Ibid.*, November 5, 1951, p. 70.

44. *American Mercury*, December, 1951, p. 22.

45. *New York Times Book Review*, November 4, 1951, p. 39.

46. *Barron's*, October 14, 1951, p. 3.

47. *Life*, October 29, 1951, p. 32.

48. See excerpts from the Wittmer, Eastman, Morley and Viereck reviews in the advertisements appearing in the *New York Times*, November 15, 1951, p. 25, the *New York Times Book Review*, November 25, 1951, p. 41, and the *Yale Alumni Magazine*, December, 1951, pp. 28-9.

49. In November the book once ranked sixteenth on a best-seller list compiled by the *New York Times* from "reports from leading book sellers in 36 cities." *New York Times Book Review*, November 24, 1951, p. 8.

tion had received fifty communications relating to it. Twelve of them supported Willie's attack in whole or in part. Thirteen rejected his charges and voiced confidence in the university. The remaining twenty-five were either requests for additional information or expressions of concern about the book which did not reveal the writers' positions on either Willie's charges or his proposals.⁵⁰

To the extent that the university has so far felt alumni response to the book, then, there is no indication that any substantial number of the alumni agrees either with Willie's proposals for "value inculcation" or with the "values" which he would inculcate. If they do not, then we have Willie's word for it that the alumni will hear no more from him. But this promise probably should not be taken too seriously. It seems more likely that, in view of the support which he has gotten, more will be heard from this little Neanderthaler in white shoes and still-too-tight pants. And, while his next attack will probably be no more honest than the last, he may with practice become more clever at concealing his dishonesty.⁵¹

VERN COUNTRYMAN†

ADMINISTRATIVE LAW. By Kenneth Culp Davis. St. Paul: West Publishing Company, 1951. Pp. xvi, 1024. \$8.00.

CASES ON ADMINISTRATIVE LAW. By Kenneth Culp Davis. Boston: Little, Brown and Company, 1951. Pp. xxv, 1031. \$8.50.

I SUPPOSE every teacher of Administrative Law, possibly even Professor Davis himself, has been waiting with mixed hope and apprehension for the emergence of a solid text on the subject. For two decades we've watched an amorphous mass gradually achieve vague contours and striations. We've grappled with the varied casebook approaches of Freund, Frankfurter, Stason and Gellhorn. We've seen the subject achieve in 1948 a belated but helpful recognition by rubric in the American Digest System. We've speculated on the possible effects and implications of the Federal Administrative Procedure Act and the several contemporaneous state acts. Now, at long last and thanks to Professor Davis, we have a definitive achievement that seeks to pull all these things together.

The text is no pedestrian hornbook. Far from it. There is more of critique and challenge per average page than has been attempted for almost any other subject. But it is orderly in arrangement and tidy in summation. The

50. This tabulation was made from correspondence received up to December 23, 1951.

51. Willie has not had enough practice yet. Writing a reply to McGeorge Bundy's highly critical review of his book which appeared in the Atlantic, November, 1951, p. 50, he resorted to the same sort of gross distortion of Bundy's position as he had previously employed on others in the book—a fact which Bundy easily demonstrates in his response. Atlantic, December, 1951, p. 78.

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twenty chapters cover, with a minimum of initial emphasis on background constitutional issues of separation and delegation of powers, the range of administrative action from preliminary investigation through sequential procedural elements to the scope of judicial review. Extensively annotated and integrated throughout is a wealth of supporting reference materials. There is a resourceful documentation to Congressional proceedings, agency reports, the monographs of the Attorney General's Committee on Administrative Procedure, and a wide variety of other source data.

Many of the chapters have appeared before as separate law review articles. As such, they invited, usually stimulated, and often provoked agreement or disagreement with the views expressed. I for one have found myself perhaps more frequently in agreement than otherwise. The bringing of these articles together in chapter sequence might have resulted in occasional subject overlap, and yet at only one or two points is there discernible repetition. For example, a quotation from Feller appears in the text of the chapter dealing with informal adjudication¹ and again in a footnote to a later chapter on rule-making procedure.²

The customary Davis approach is to attack his problem with a beaver-like industriousness that compels admiration, even though the end result is on occasion merely a mouthful of unappetizing splinters rather than a neatly-felled tree. The *Bridges* case,³ as he analyzes it, clearly defies assimilation into the pattern of previous deportation decisions involving the sufficiency of evidence to support an order, and Professor Davis properly leaves it unreconciled.⁴ Similarly, the *Chenery* cases⁵ provide an unpalatable lump in the digest of rationale on findings and grounds for administrative action.⁶ But Davis, as his treatment of these cases indicates, seldom passes up an opportunity to be sharply critical where sharp criticism is merited. Only once in a while does he overlook the possibility of rationalizing a case in terms of a change in judicial climate and personnel. Thus, the seeming inconsistency of the first and second *Raladam* cases⁷ could be explained by their relative chronological positions in the Supreme Court's shift of attitude toward review of the Federal Trade Commission, the respective extremes of which are marked by the *Gratz* case⁸ in 1920 and the *Cement Institute* case⁹

1. C. 4. Supervising, Prosecuting, Advising, Declaring, and Informally Adjudicating. P. 180.

2. C. 6. Rule-Making Procedure; Requirement of Opportunity to be Heard. P. 233, n.14.

3. *Bridges v. Wixon*, 326 U.S. 135 (1945).

4. P. 462-6.

5. *Securities and Exchange Commission v. Chenery Corp.*, 318 U.S. 80 (1943); *Securities and Exchange Commission v. Chenery Corp.*, 332 U.S. 194 (1947).

6. DAVIS, C. 13, § 169, pp. 552-61.

7. *Federal Trade Commission v. Raladam Co.*, 283 U.S. 643 (1931); *Federal Trade Commission v. Raladam Co.*, 316 U.S. 149 (1942).

8. *Federal Trade Commission v. Gratz*, 253 U.S. 421 (1920).

9. *Federal Trade Commission v. Cement Institute*, 333 U.S. 683 (1948).

in 1948, with the *Keppel* case¹⁰ in 1934 providing the turning point from judicial intervention to judicial *laissez faire*.

Throughout his text, Professor Davis makes a commendably valiant effort to explain and adapt the relevant provisions of the Administrative Procedure Act of 1946. He shows remarkable patience and tolerance in dealing with that masterpiece of mountainous effort that aborted such mesmerized mice as the following enigma: "Except so far as . . . agency action is by law committed to agency discretion . . . the reviewing court shall . . . hold unlawful and set aside agency action . . . found to be . . . an abuse of discretion. . . ."¹¹

To the extent that my comments on Professor Davis' textbook have ventured criticism they are of course superficial. The solid fact remains that he has done a monumental job and done it well. He earns, and surely receives, the gratitude of all of us who have been hoping for just this sort of aid in teaching the course.

As to his casebook, I am not quite prepared to be so certain. Its arrangement neatly parallels his textbook and is appropriately annotated thereto. His selection of cases and materials and their sequence are something that only an empirical rather than an *a priori* evaluation can properly appraise. Since I have not tried using his casebook in class, I can offer only a personal and unsupported opinion, and that opinion is, on the whole, a favorable one.

What bothers me most about the casebook is something that Professor Davis obviously considers a most useful adjunct. I refer to his interpolation of "Notes and Problems" inserts in which specific and sometimes insoluble questions are tossed at the student-reader. My hesitation is due less to the type of problems offered than to the passion for freedom of each teacher to develop his own challenges and to vary them from semester to semester. As an Episcopalian, I hold a respectful reverence for the Book of Common Prayer but I do not necessarily find it conducive to independent self-soul-searching. So might it be with a casebook which conveniently catalogues the questions to be asked of students and the places in the ritual at which they are to be asked and, hopefully, answered.

It is a good case compilation. It is not only up-to-date, but it is put together with care and concern for the developing of a questioning attitude toward a subject in which absolutes are often either elusive or non-existent. It can be used, and probably will be most effectively used, in a course which is allotted four semester hours, or at least three, in the law school curriculum. With selective excision, it can doubtless be adapted to a two-unit course. Because it is primarily built around cases and materials pertaining to federal administrative agencies, it will need considerable supplementation to give a realistic awareness of state and local administrative action. But I predict for

10. *Federal Trade Commission v. R. F. Keppel & Bro.*, 291 U.S. 304 (1934). See Davis, at 906.

11. Administrative Procedure Act § 10. See discussion by Davis, pp. 842 *et seq.*

those teachers who try it out an interesting, and probably well-rewarding, experience.

SHELDEN D. ELLIOTT†

THE SIXTH AMENDMENT. By Francis H. Heller. Lawrence, Kansas: The University of Kansas Press, 1951. Pp. ii, 195. \$3.50.

THE Sixth Amendment entitles the accused in "all criminal prosecutions" to: (1) "a speedy and public trial"; (2) "by an impartial jury"; (3) "of the State and district wherein the crime shall have been committed"; (4) and to "be informed of the nature and cause of the accusation"; (5) "be confronted with the witnesses against him"; (6) "have compulsory process for obtaining witnesses in his favor"; and (7) have "the assistance of Counsel for his defence." Professor Heller, an Associate Professor of Political Science at the University of Kansas, discusses the "origin and meaning" of these procedural guarantees in a study which was initially undertaken as a doctoral dissertation at the University of Virginia. He does not purport to have written a treatise or practitioner's manual. His inquiry is directed "solely at the antecedents and the implications of this one constitutional provision: the Sixth Amendment." By "antecedents" and "implications" he means "an outline of whence this provision came and of what it has meant and what it means today, and to determine to what extent it has been adopted to changing times and conditions." He offers "a study in constitutional development." This is a laudable and impressive objective. It is regrettable that it was not achieved.

Professor Heller relies chiefly upon the usual sources—government reports and papers, historical treatises, law review articles, and appellate court decisions—for his material on the origin and past history of the amendment. These bones have been picked many times before. Although Professor Heller occasionally displays original interpretative insights, he presents, on the whole, very little that is new. His treatment of the meaning of the amendment today is equally sterile. Such an inquiry, to be meaningful, should start with an empirical study of the effect, if any, that Supreme Court pronouncements have had upon the behavior of persons working at the primary level of criminal administration. Such an investigation is lacking in the present volume.

Professor Heller makes his most fundamental error and displays his greatest confusion of thought in the chapter on "Trial by Jury." Several pages are devoted to the matter of judicial control over the composition of juries. In discussing the *Thiel* case¹ and the *Ballard* case,² which involved federal juries, Professor Heller states that the Supreme Court "perfunctorily used language resembling that of the Sixth Amendment, only to proceed to decision on

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1. *Thiel v. Southern Pacific Co.*, 328 U.S. 217 (1946).

2. *Ballard v. United States*, 329 U.S. 187 (1946).

grounds of discrimination in violation of the requirements of equal protection."³ If by "equal protection" he is referring to the inapplicable Fourteenth Amendment, the statement doesn't make any sense. He also fails to understand that the Court disregarded Constitutional provisions because it relied upon its general power of supervision over the administration of justice in the federal courts—a device which gives the Court greater freedom to reflect notions of good policy not necessarily embodied in the concept of due process. When considering the New York *Blue Ribbon Jury* cases,⁴ Professor Heller observes: "Striking again is the absence in these two cases of references to the specific language of the Sixth Amendment."⁵ He apparently forgot or failed to perceive the applicability of his previously valid statement that the Sixth Amendment is not a limitation upon the states and is not picked up by the due process clause of the Fourteenth Amendment.

I would also take issue with the first part of his assertion that the jury in criminal cases is declining in importance and that, as a result, greater weight and reliance is being placed on other guarantees such as the right to counsel and publicity. The "vitalization of these guarantees," he declares, "in effect compensates for the decline of the jury."⁶ The Annual Reports of the Director of the Administrative Office of the United States Courts disclose that the jury still plays an important role in criminal cases.⁷ Even though one concedes that there are strong objections to the jury system in civil cases, it has not been demonstrated by even the system's most perceptive critics that these criticisms are equally relevant to criminal cases or that there are not other more important countervailing considerations.

Professor Heller's best chapter is on "The Right to Counsel." He thoroughly discusses Mr. Justice Black's *tour de force* in *Johnson v. Zerbst* wherein he announced that "The Sixth Amendment withholds from federal courts, in all criminal proceedings, the power and authority to deprive an accused of his life or liberty unless he has or waives the assistance of counsel."⁸ Although one may wholeheartedly endorse the result reached in this case, it must be admitted, as Professor Heller demonstrates, that it is lacking in historical support. At the time of the American Revolution, the law of England permitted a prisoner to be represented by counsel only in misdemeanor and treason cases.

3. P. 89.

4. *Fay v. New York*, 332 U.S. 261 (1947); *Moore v. New York*, 333 U.S. 565 (1948).

5. P. 90.

6. P. 146.

7. The Report for 1947, for instance, shows that in 1944 there were 4,926 criminal trials in the Federal District Courts of which 3,107 were tried before juries and 1,819 before the court; in 1945, the figures were 2,641 and 1,391 respectively; in 1946 they were 2,031 and 1,139; in 1947, 1,441 and 988. ANNUAL REPORT OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS 83 (1947). Subsequent Reports indicate a similar ratio.

8. 304 U.S. 458, 463 (1938).

It was not until 1836 that he was allowed representation in felony trials. Prior to the adoption of the Constitution, twelve of the thirteen states had renounced the English practice by constitutional provisions authorizing representation by counsel in felony cases. The Sixth Amendment merely echoed existing constitutional practice. Until the *Zerbst* decision in 1938, the right conferred by the Sixth Amendment was generally understood, according to Professor Heller, as meaning that in the federal courts a defendant was only entitled to be represented by counsel retained by him; not that he had any right to court appointed counsel if for financial or other reasons he was unable to retain an attorney. The *Zerbst* opinion, however, interpreted the Sixth Amendment as obligating the federal trial courts to provide an accused with counsel, unless there was an intelligent waiver, at the risk of forfeiting their jurisdiction over the case.

The solicitude of the Supreme Court for the right of an accused to counsel is meaningless unless assistance is effective and competent. Some of the pertinent questions that an investigator should ask are: May the right be waived? What constitutes an adequate waiver? Does the right exist in petty cases? Must the judge take the initiative in informing a defendant of this right? Has a defendant enjoyed the right if his attorney was patently incompetent? What is the measure of incompetence in terms of the purposes of the Sixth Amendment? What procedures must be followed in dealing with applications for habeas corpus? To what extent does the right to counsel include opportunities for consultation and preparation?⁹ At what point does the denial of a motion for a continuance amount to an infringement of the constitutional right itself? How should the right be secured in the case of an indigent defendant?

Professor Heller advocates the adoption of the Public Defender System in the federal courts. He observes that it has successfully been employed in several of the states.¹⁰ In evaluating state systems, some of the pertinent questions that should be asked are: Is the particular system established on a state or local basis? Is it the exclusive device for assigning counsel to poor persons or is it supplemented by court assigned counsel? Is the position appointive or elective? Is compensation made by a fixed salary or on a case by case basis? What about the general competence of the public defenders? How long in advance of trial is he informed of the duty of defending a particular case? Is he able to obtain continuances easily? In the case of court

9. An important case holding that an accused does not enjoy the effective aid of counsel if he is denied the right of private consultation with him is *Coplion v. United States*, 191 F.2d 749 (D.C. Cir. 1951). In this case telephone messages between the defendant and her counsel before and during trial were intercepted.

10. Much of the writing on the Public Defender System, including Professor Heller's, is uncritical. An exception is Stewart, *The Public Defender System is Unsound in Principle*, 32 J. AM. JUD. SOC. 115 (1948). A recent California decision holding that the defense put up by the public defender was merely formal and not effective is *People v. Avilez*, 86 Cal. App. 2d 289, 194 P.2d 829 (1948).

assigned counsel how long in advance of trial are assignments usually made? Are those assigned usually young practitioners, men of small practice, men who happen to be in the courtroom at the time of the appointment? Are they men of high repute at the bar? What is their general legal quality? What facilities are afforded for interviewing and obtaining witnesses? Are pleas of guilty unnecessarily interposed where there has been no compensation? Is the bar generally unwilling to serve as counsel for defendants who are members of minority groups or advocates of unpopular causes?

Professor Heller raises some of the above questions but his answers are in terms of appellate court abstractions. The barrenness of his type of research is apparent. The vitality of the Bill of Rights is measured, not in the sporadic rulings of our highest tribunals, but in the day to day attitudes of the lower courts, other branches of government, the bar, and the community. The only time that Professor Heller apparently left his ivory tower was to interview the members of two federal grand jury panels. He concluded from his investigation that "[i]n spite of their recent participation in its work a majority of those questioned were unable to state the purpose and function of the grand jury. The preponderant feeling appeared to be that it was 'a waste of time and money' and that nothing of practical value was accomplished."¹¹ These observations are valueless unless we know what questions were asked, the role of the judge and the United States District Attorney, and the matters which the grand jury had under investigation.

The procedural safeguards itemized in the Sixth Amendment are applicable "in all criminal prosecutions." If they are not prescriptions of what a criminal trial ought to be, they are at least a register of abuses to be prevented. Professor Heller might have emphasized that this provision—as do others in the Constitution¹²—recognizes Criminal Law as a special category of law and a criminal proceeding as a distinct type of proceeding. The common conception of a "criminal prosecution" is tautological in that it is deemed to be a proceeding which may result in the imposition of a criminal sanction. Perhaps the chief characteristic of criminal law is the severity of the sanction imposed for the deviational behavior involved. However, the conventional assumption that "criminal" and "civil" sanctions differ in nature as well as in purpose does not square with the facts. Value deprivations of great severity are common to both. Frequently, the applicable "civil" sanctions (denaturalization, deportation, indefinite commitment of individuals, decrees of divestiture, divorcement or dissolution of industrial or commercial organizations, denial of employment or access to professions) are far more depriving and severe than applicable "criminal" sanctions. The classification of a proceeding

11. P. 174, n.50

12. For example, Article III, Section 2 refers to "The Trial of all Crimes. . . ." and the Fifth Amendment refers to "any criminal case." Other provisions are the Eighth Amendment prohibiting excessive bail, excessive fines and cruel and unusual punishments. Article I, Section 9 prohibits bills of attainder and ex post facto laws.

or sanction as "civil" automatically deprives a defendant of the special constitutional and procedural safeguards afforded a defendant in a "criminal prosecution." A functional and imaginative interpretation of the Sixth Amendment would make its guarantees available in any proceeding where the infliction of a severe sanction is possible.¹³

Professor Heller set for himself a significant goal. It is extremely important that we know what the Sixth Amendment "means today and . . . to what extent it has been adopted to changing times and conditions." An appraisal of his work was made more difficult by his unfortunate tendency to lapse into the equivocal and cautious legal jargon of the standard treatise. The following, which also happens to be a *non sequitur*, is an example:¹⁴

"It is submitted that, if one regards a high esteem for local mores as a postulate of the federal system the rule of *Betts v. Brady* is to be preferred."

A more basic error, however, doomed his effort to failure. His method of inquiry precluded meaningful answers to the questions he asked. Rarely did he ask the right questions.

RICHARD C. DONNELLY†

LAW AND SOCIETY IN THE RELATIONS OF STATES. By P. E. Corbett. New York: Harcourt, Brace and Co., 1951. Pp. 337. \$4.75.

UNTIL recently it has been difficult for students of international affairs to find a book which placed the subject of International Law into the context of the overall, present day relationship between states. In 1948 Professor Jessup commented on the urgent need for a re-examination of the traditional body of international law in order to develop a modern law of nations. His own book made a significant contribution to that end. Now another study has been published which not only re-examines the law as it has evolved, but also inquires searchingly into the basic assumptions and doctrines upon which it has been built.

Mr. Corbett explains in his introduction that he has written *Law and Society in the Relations of States* because he believes "that while legal ideas

13. The Supreme Court moved in this direction in *United States v. Lovett*, 328 U.S. 303 (1946) where it was held that permanent proscription from Government employment constituted punishment in the criminal sense and that the bill of attainder provision of the Constitution was applicable. In *Bailey v. Richardson*, 182 F.2d 46 (D.C. Cir. 1950) *aff'd* by an equally divided court, 71 S.Ct. 669 (1951), Judge Edgerton in dissent took the position that dismissal from government service for disloyalty was punishment and required all the safeguards of a judicial trial.

14. P. 131.

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play a substantial and often beneficent part in the relations of States, their influence is grossly overrated in the traditional literature of international law and, on the other hand, discounted to excess by the Machiavellis of our time." He apparently thinks, however, that it is more important to disenchant the traditionalists than to convince the cynics, for his book is concerned mainly with an analysis of the disparity between international law as a theory "and the observable conduct of States in their mutual relations." Mr. Corbett believes that this gap between reality and theory is due to the fact that international law depends for its effectiveness on the unwarranted supposition of the existence of a community of states.

The first part of his book is devoted to an examination of how this assumption came to be widely accepted; the second and major part consists of an analysis of how states have in fact carried on their relations in the fields covered by what is known as international law. In this most informative and interesting discussion of cases and "patterns of practice" the author concentrates on two issues: first, to show the extent to which the conduct of states indicates the existence or absence of a community of interest, and second, to discover whether and in what way "international law" promotes the growth of such a community.

Mr. Corbett's concern with the measure of agreement on values among nations results from his conviction that within the nation-state, law depends for its efficacy on the existence of institutions of government, and government in turn on a strong sense of community; thus, in the international field there can be no law until a community of interest and a supra-national organization has developed. At the present time, therefore, Mr. Corbett considers the use of the word law in the term "international law" inappropriate and even dangerous, because it "involves wasteful self-deception and misdirection of energy, and leads to false expectations on the part of the public." He asserts that more important than the codification of international law or the construction of new principles and rules, is the creation of supra-national institutions so firmly anchored in broad common interests that they will withstand particular and temporary defections. In his view "the future of international law is one with the future of international organization."

The third part of this book is concerned with the problem of international organization. Once again the author comments on the dichotomy between the proceedings of the United Nations Organization as it has developed over the past six years and the language of the charter drafted at San Francisco. Whereas the Charter assumes collective interests on the part of the members in the purposes and aims for which the United Nations was created, no such common interests have been found to exist. The organization at the present moment is not a society of states but an arena within which the struggle between two armed and hostile camps is being carried on. Nor does the author see any possibility of the development of the United Nations into a true community of states unless a drastic change occurs in Soviet policy.

Thus Mr. Corbett considers the direct route to a universal organization blocked, for the time being, by factors beyond our control. He suggests, however, in the very brief last chapter of his book, what kind of future world government we should advocate and work for. He submits that the focal point of any supra-national organization must be a program for the development of positive and essential human rights. Agreement on the maximization of welfare for the individual represents, according to the author, the common interest on which states could be persuaded to submit to international machinery for regulating the use of force, keeping order, and administering justice. Because such an international organization would offer tangible benefits to the individual within the state, Mr. Corbett believes that existing prejudices against supra-national institutions could be broken down. "This is the way," he says, "to bring international organization out of the high clouds of diplomacy and to win for it the common loyalty which is the firm foundation for authority." This is the kind of organization we should be advocating without any other qualifications as to its social or economic nature.

Mr. Corbett recognizes, of course, that his is a long range program and that no direct steps for its realization can be taken before the East-West conflict is resolved. He believes, however, that while waiting for a change to occur western nations should attempt to secure essential human rights for their own citizens. For not until this is done can a society based on these principles be honestly offered to the world.

No one can object to either the ends which Mr. Corbett believes an international organization should serve, nor to the value of immediate efforts along the lines he suggests within the western states. Unfortunately the specific way in which he thinks progress can be made toward international agreement on human rights as a means of establishing world government, is vague and confusing. He suggests a *gradual* approach, somewhat after the model of the ILO, to specific problems of human rights, such as racial discrimination. His emphasis on the word "gradual" is based on a belief that international conventions or declarations must not run too far ahead of the willingness of states to practice what they agree to. At the same time he talks of "enforcement." But he does not indicate how even something states voluntarily consent to can be enforced internationally without the existence of governmental institutions with jurisdiction over the individual. If Mr. Corbett envisions a system in which international conventions would be enforced by national governments, would this not be open to all the objections he has raised against traditional "international law?"

Mr. Corbett affirms that common agreement on human rights is a prerequisite for an international organization. Yet organization would appear necessary for the effective development of human rights on the international plane. The conclusion therefore presents itself that the problem of building effective international institutions requires a double strategy: the developing of a sense of community through cooperative efforts in the social, economic and humanitarian field, and a direct attack on the institutions themselves.