business cycle, the American people was apt to turn to social insurance. . . . In its organization, the prevailing individualist attitude could find recognition by relating the amount of benefits to a certain extent to the previous contributions of the wage earner. While thus social insurance proved to be an instrument germane to the American mode of thinking, the technical application has been adapted to the historic traditions and the political outlook of the nation. Within the bounds of possibility, cooperative relationships have been favored over a subordination of the states to the federal government. It is merely the consequence of a natural development, noticeable in other spheres as well, that the center of gravity has been partly shifted to the latter. Even in case of a complete change of the political composition of the government, one may therefore regard the preservation of the social security system as guaranteed. A conceivable expansion is likely to follow the lines of social insurance.

That's all. No haughty frown, no caustic jeer, no political declamations. As a straightforward guide for the German student, the book lacks only chronological supplementation. It has the laws, the facts, and the figures. I have not bothered to find out how it was received by the Third Reich's learned journals. Did it evoke praise, its " ideological weakness " notwithstanding? Apparently Herr Dr. jur. Haupt was not afraid of political reprimand. For all I know, he may since have vanished into *Blut und Boden* — at Smolensk. But the Institute for Labor Law at the University of Leipzig still stands. And its director must know what he is doing. What, then, is the explanation? Is there another Germany in the shadow of Hitler's Empire? If we were to judge by the contents of this book, the reply would seem to be in the affirmative.

FRITZ MORSTEIN MARX.*

HANDBOOK OF THE LAW OF TORTS. By William L. Prosser.[1] St. Paul: West Publishing Co. 1941. Pp. xiii, 1309. $5.00.

Here is another hornbook. All the objections which for years have been leveled at this type of book are, of course, applicable to this one. It must be said for the author, however, that he comes as near bending the hornbook pattern to the task of writing an acceptable treatise on the law of torts as it is possible to achieve. His black letters are fair summarizations of the text which follows it, lacking the deceptive simplicity which characterizes many such books. He has reduced dogmatism to the minimum and has formulated his propositions in terms relatively unobjectionable. Indeed, his mastery of this technique is such that it almost persuades one that there is some virtue in the hornbook method.

The book in outline follows what has come to be the accepted mod-

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ern alignment of the subject. The author accepts the classical tripartite division of intentional misconduct, negligence or recklessness, and action at peril. He deviates from the more usual American order of treatment by dealing with the various duties of owners and occupiers of land and the suppliers of chattels in chapters separated from the four chapters on negligence by the chapters on liability without fault and on employers' liability to servants. The latter part of the book deals in the usual order with misrepresentation, defamation, malicious prosecution and abuse of process, torts to the domestic relations, and business and industrial torts. His concluding chapter deals with a miscellaneous assortment of problems including the right of privacy, certain personal immunities, joint torts, and election of remedies.

There is in Professor Prosser's volume little originality of treatment. Novelty alone, however, is hardly to be regarded as a scholarly virtue. It is more important that he has taken advantage of the many genuine contributions of the past quarter-century in the analysis and solution of tort problems. It is obvious that a tremendous amount of intelligent scholarship has gone into this work. The footnotes are replete with references to the choicest of the periodical literature in the field, and the text reflects a keen appreciation and a thorough grasp of the content of the articles to which such generous reference is made. Not only the beginning student but the mature scholar will find the volume a stimulating source of valuable materials. To the reviewer it seems that Professor Prosser has done an exceptional job of compressing within the limitations of a single volume a birds-eye view of legal scholarship in the field of torts.

The author throughout shows familiarity with the *Restatement of Torts*. Usually he seems content to accept the *Restatement* for what it purports to be, although he does not hesitate to direct attention to its occasional inconsistencies or to take exception to its choice of rules. In his treatment of negligence the author has followed the traditional scheme. He treats the *Palsgraf* case at some length, accepts Cardozo's analysis of duty, treats negligence as an unreasonable risk to be determined by weighing the magnitude of the risk of harm against the utility of the actor's conduct, accepts the distinction between affirmative misconduct and the failure to act for another's benefit, and treats the violation of a criminal statute or ordinance as negligence under the usual conditions. This is not to suggest that all of these views are slavishly followed. Adequate reference is made to the pertinent criticisms of each one.

The author has blended the various " approaches " to tort problems in a convenient and practical way. Where historical explanation is called for, it is given in sufficient detail to throw some light upon the problem. Where the technicalities of procedure have influenced the development of the law, they are given appropriate attention. Throughout, the protection-of-interest analysis is emphasized while doctrinal de-

velopments are treated with that respect which most lawyers expect from a text writer. To this reviewer, the result is an admirable blending which avoids the excesses ordinarily to be found in the overzealous advocacy of any one approach.

FOWLER V. HARPER.*

REGULATION OF PIPE LINES AS COMMON CARRIERS. By William Beard.[1] New York: Columbia University Press. 1941. Pp. vi, 184. $2.00.

This monograph has been very interesting to one member of the legal profession who is entirely inexpert in the field covered, and should be interesting to all persons who feel the need for governmental control of a business which touches so closely the one essential of our mechanical age — oil. Mr. Beard presents a cross-section of the ineffectual past attempts to regulate the pipe-line part of this business in the interest of the small producer and refiner of petroleum, and proposes, as a solution, governmental regulation of pipe lines, not as common carriers, but as parts of an integrated industry, through the application of the " public utility " concept.

The author's presentation of the history of regulation of pipe lines as common carriers, the first in the field, seems to be as complete as is feasible within the limits of his space. His arguments in favor of his preferred solution are convincing, particularly as he has shown that attempts to correlate oil carriage by pipe line with carriage by rail or water are attacking a problem insoluble in terms of common carriers (ch. 7): the lowering of pipe-line rates takes traffic from the railroads, while increase in pipe-line rates will not give traffic back to the roads and will increase the ultimate cost of the finished products. Attempts to correlate pipe-line and water carriage of oil, moreover, will be ineffective, since tank-ships are owned by the refiners who transport in them their own oil from their own producing fields and water terminals to their own refineries or the refineries of their customers.

The author discusses at length the history of the movement for regulation of pipe lines as common carriers, and notes the " automatic regulation " thereof, founded upon the application of the " common carrier " concept to those lines which opened their facilities to all shippers of oil (ch. 2). He notes, also, the contemporaneous cry for a shift from the Standard Oil monopoly of pipe-line control to freedom of competition in the oil business, a freedom to be obtained by compelling the monopoly to open up its lines to all producers of oil; noting, particularly, that the demand for regulation has been largely confined to crude oil pipe lines, and has rarely attacked pipe lines for the transportation of refined pe-

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