

or psychologically such a course would be either beneficial or practical. It hardly seems possible for the United States to remain indifferent to the course of events in the rest of the world. Mr. Harding had that idea too, but he soon confessed, after becoming President, that it was impracticable. And if we are interested in fact, then it seems the height—or depth—of ostrichism to pretend that we are not, and the depth of negligence or cowardice to refrain from doing what we can, within the measure of the values at stake, to solve the problem.

We have here, then, an extremely able, but far from simple, *ex parte* plea in what without exaggeration may be described as the most important problem of human relations, social science, and American policy, of this age. It is full of personal and political feeling, dialectical subtlety—see the prejudicial statement in the first line of the Preface, and such items occur all through the book—, and bitter rhetoric. It is deplorable that such treatment should be given to a vital problem of broadest national and human importance. The fate of the present League of Nations is of very small moment indeed in comparison with it. The injustices, such as they are, of the present territorial and economic international distribution, are of limited and passing importance. The antagonism between the ultra-nationalist nations of today and the great body of nations which are trying to build up a system of pacific international order and progress,—even that is of subordinate importance and it is conceivable that Germany will become cooperative again and Poland violent. What is important is the conflict between two fundamental philosophies and techniques of international relations. On one side are solidarity, organization, cooperation, effectively sanctioned in the extreme case, if need be, and all this not merely in behalf of existing rights but in behalf of progressive change by pacific means. On the other, are anarchy, disorder, isolation, neutrality, and war. The present volume, without its author intending so entirely, is a contribution on the latter side.

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The Power to Govern. By Walton H. Hamilton and Douglass Adair. New York: W. W. Norton and Company, Inc., 1937. Pp. 254. \$2.50.

Selected Supreme Court Decisions. Edited by Myer Cohen, with a Foreword by Alexander Meiklejohn. New York: Harper and Brothers, 1937. Pp. xxi, 309. \$2.50.

Mr. Meiklejohn, under whose leadership Mr. Cohen, Mr. Hamilton and the reviewer have all taught, furnishes a foreword, not only to one of these books, but to the future teaching of law in the United States. In the light of his successful experience at Amherst, Wisconsin and San Francisco, he has concluded that our civilization can best be understood by concentrating attention first on our law, and particularly our constitutional law. He has been a leader in urging that education should be a coherent effort to understand our civilization. It is significant, therefore, to find him, as his view gains ground, arguing that for adults at least the starting place for education is the law. Every student should read his compact and instructive foreword to Mr. Cohen's collection of cases.

The cases themselves are well selected. Inevitably, in such a rapidly growing field,

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they become quickly out of date. This of itself should be instructive to a student; and the main lines of decision persist sufficiently so that the case material here can be readily supplemented. It is clear, nowadays, even to most laymen, that it is only in the light of outdoor situations that decisions can be understood. Mr. Cohen, as an old student of Mr. Hamilton, must realize this even better than most of us. It is to be hoped that he will make available for general use a selection from the other materials which he must use to supplement his discussion of the reports of cases.

The Power to Govern is an example of the wide range and usefulness of such supplementary material. It is a discussion of the historical setting of the federal Constitution in so far as the setting furnishes indications of the meaning of the Commerce Clause. There is a particularly interesting chapter on the words available in Eighteenth Century dictionaries, as a clue to economic history and the political economy of the time. There is a full discussion of the American problem and the course of English and American "mercantilist" thought. The argument is designed to show that the mercantilist tradition was in full force in Eighteenth Century America, and that in the light of this body of opinion wide scope should be given to Congress in its exercise of power over interstate commerce.

The argument has much force and has strengthened the reviewer's opinion that there is nothing in the Constitution to prevent Congress from acting to serve great national needs. At the same time, some of the irony and significance of later constitutional history seem to be lost if one does not recognize the strength of the counter current of opinion that was already at work modifying mercantilist opinions. This counter current goes back at least as far as the *Case of the Monopolies*¹ which though only remotely in point was much relied on in Mr. Justice Field's dissent in the *Slaughterhouse Cases*² which in turn was the creator of our modern due process doctrines. The same influence appears in Webster's argument in *Gibbons v. Ogden*,³ which is the best ultimate source of that strange body of doctrine which prevents New York from burdening interstate commerce by regulating the price at which Vermont milk is sold in New York.⁴ The skeptical student can explain the difference between congressional regulation of interstate trade in lottery tickets, women, impure food, and stolen automobiles, on the one hand, and the products of child labor on the other, only by reference to the persistence of some such influence. The *Case of the Monopolies*, the *Wealth of Nations*, the Boston Tea Party, and the early frontier are signs of historical forces which were at work along with the tradition of mercantilism. What Mr. Hamilton's book does is to remind us persuasively that the influences affecting the Fathers' minds were not simple; and that there is no reason to read one economic theory rather than another into the broad enabling words of the federal Constitution. In this respect, Mr. Hamilton's book belongs in a significant place with a growing body of critical and historical studies. Its timeliness hardly needs to be pointed out.

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¹ 11 Co. 84 b (1602).

² 16 Wall. (U.S.) 36 (1873).

³ 9 Wheat. (U.S.) 1 (1824).

⁴ *Baldwin v. Seelig*, 295 U.S. 511 (1935). See Sholley, *The Negative Implications of the Commerce Clause*, 3 Univ. Chi. L. Rev. 556 (1936).

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