normative order, the separation of powers becomes a mere formal distinction without substantive meaning. Yet, it was conceived as a political idea covering certain processes of the state as a social reality and was intended to establish a system of political checks and balances.\(^7\)

In the final phase of his discussion, Ebenstein points to the moment of indeterminacy and therefore unpredictability of the law which results from the volitional element in all steps of the legal process. Emphasizing that the Pure Theory includes the unknowable as an inevitable part of the legal order, the author quotes a significant statement of Merkl: "The science of law as a science of legal norms does not compromise itself when it says that it does not know what is the law for a particular case; after all, it does know it in rendering the unequivocal and doubtlessly correct judgment: law is what the law-applying authority on the basis of the legal norm recognizes as law."\(^8\)

This statement is, of course, a contradiction of the traditional theory that the legal norm as a rule of human conduct must possess certainty and if lacking this quality does not constitute positive law. Here, one remembers Holmes' remark, also quoted by Ebenstein, that law is nothing but the \textit{prophecies} of what the courts will do. The Pure Theory recognizes the inherent dependence of the legal process on social and other factual phenomena. The purity of the theory consists only in confining its scope to the formal structure of the legal system and excluding the consideration of all other elements which enter into the positive order of the law.

The time has not yet come for a full appraisal of the historical importance of the Pure Theory. Yet it seems that it represents a climax of an era of analytical jurisprudence foreboding in its own system the rise of a new conception of legal science.

The foregoing review was necessarily limited to some important points of the Pure Theory which is almost completely presented in Mr. Ebenstein's book. The only principal topics which the author has omitted are the Vienna School's theories of the state and of international law. Mr. Ebenstein's book, however, is more than a scholarly presentation of the Pure Theory of Law. His many references to related and parallel thoughts in German, English, American, French and Italian legal literature make it instructive and stimulating reading. It is hoped that a translation will make it accessible to all American readers interested in jurisprudence.

\textbf{Ernst A. Braun}*  


This is a "revised and enlarged edition" of the same title which appeared in 1928 and which was in turn a greatly enlarged revision of \textit{The Conduct of American Foreign Relations}, published in 1922. The book is divided into two parts with fifty pages of source material in appendices. Part I, consisting of eleven chapters, is concerned with a general statement on international relations and the development and content of American foreign policy. Part II, consisting of twenty-one chapters which constitute more than half of the book, is devoted to the conduct of and the machinery for carry-


\(^8\) \textit{P. 180}.

*Ref. J. U. D. University of Berne; J. D., University of Chicago.
BOOK REVIEWS

John E. Stoner*:


The first 144 pages, representing all but 34 pages of the author's contribution, are taken up mainly with a listing of cases under the various sections of the sixth draft of the Uniform Small Loans Law as revised January 1, 1935. The cases are preceded with

1 P. 53.  2 P. 181.  3 P. 203.  4 P. 195.  5 P. 205.  6 Pp. 53-89.

* Visiting Professor of Political Science, Indiana University.