BOOK REVIEWS

to see it come from a man of the learning of the Dean, just as it is difficult to see why adjudication according to flexible standards is praiseworthy when it is exercised by a tribunal called “court” and damnable when it is practiced by a tribunal called “board.” However, these and other prejudices of the Dean have been sufficiently discussed by others and, after all, as André Gide has expressed it, “prejudices are the pillars of civilization.” Even where we do not share them, the convictions of a great man are entitled to respect. However one may feel about the controversial passages, one must welcome this succinct statement of Dean Pound’s thought on the very basic problems of jurisprudence.

Although the lectures seem to have been delivered before a lay audience, the Dean has not refrained from cutting deeply and attacking difficult problems. In general his style is so clear and simple that he could well afford doing so. But one may well doubt whether the difficult theories of Duguit, Kelsen, and Lundberg have been sufficiently clarified in the two pages which the author could devote to them. Apart from this minor point, however, one can experience, even in reading, the excitement which his audience must have felt when it was in live contact with one of the great masters of our age.

The attractive form in which the lectures have been published by Franklin and Marshall College deserves to be mentioned.

MAX RHEINSTEIN*


These published lectures compress much of the philosophy of government which has characterized Professor Merriam’s teaching by word, book, and example. Compression, as we learn from experience with dehydrated foods, does not preserve sympathetically the original flavor as partisans of a commodity relish it, yet those who have been disciples will catch now and then the characteristic roll of the voice or of the eye. The theme is stated in the first lecture—the ubiquitous nature of government. The apparently simple generalization raises implications that should lead to insight and tolerance, as we are led to re-survey and re-appraise how we act in even the simplest associations. It leads the author to examine afresh, in his second lecture, the idea of sovereignty, whose present meaning he finds in the symbol of unity of the state amidst the diversity of human associations and interests, and so “a determination to decide as well as to deliberate.” “If sovereignty speaks as one having authority, it will be because it speaks as one having reason, justice, liberty, human dignity, as the co-authors of its authority.” There follow two chapters in which the resultant problem of organization is explored in the light of fresh experience and the attacks upon democratic political systems.

What a person so experienced in affairs, so eager a searcher in varied fields for new insights into politics, is transmitting to his hearers is significant. It rests upon a profound (and not mawkish or sentimental) faith in persons and in the emergence of organic systems of government to serve their common needs; an insight that pierces the surface of current events to find deeper currents of science and technology in production and the study of man which may be utilized by men to achieve a democratic society; and a kind of grim aggressiveness in puncturing the facile and defeatist general-

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izations about the failure of democracy and the evils of government that come from phony aristocrats. The opening theme needs wide acceptance today, when so many are eager to retreat from the civic responsibilities which an interdependent society compels, and ignore the problems left unanswered by a belief that free enterprise is, as Harding said of government, "a simple thing." What such a society as ours requires in organization and procedures to permit the minimum fruits of its productive powers to be available was well stated thirty years ago by Brooks Adams, who believed that the conditions necessary for personal "success" destroyed the development of capacities necessary to administering "the Great Society." Professor Merriam finds in the new sciences or technologies evidence that man can, by taking thought, accept the responsibilities of citizenship. It is good that youth can enlist under the leadership of such experience and wisdom.

JOHN M. GAUS*

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Teoría esgotológica del derecho y el concepto jurídico de Libertad. By Carlos Cossio.

For half a century prior to the end of World War I, Latin American philosophy of law had been dominated by Auguste Comte's positivism. But in the last decades Comte's influence has been replaced by Kant and neo-Kantian philosophy. Instead of a rather crude sociological-biological jurisprudence a philosophy of law on neo-Kantian lines has come into existence. Together with this change another new development can be seen. From colonial times on, Latin American philosophy of law has hardly been more than a restatement of continental European jurisprudence, following first scholastic philosophy, then the French droit naturel of the eighteenth century, finally, as a reaction against natural law, Comte's positivism. The new turn toward neo-Kantian philosophy follows again, it is true, the rhythm of continental European thought, a reaction against positivism; but for the first time we see a serious attempt no longer to be satisfied with a restatement of foreign systems, but to achieve creative, original thought, to create an original, Latin American philosophy of law.

There is a revival of philosophy of law in Latin America; the number of scholars dedicating their life work to this field is growing, many scientific journals are entirely or in part dedicated to philosophy of law, and particularly, works of high quality, making original contributions, are being written; leading philosophers of law have appeared.

While neo-Kantian philosophy dominates the contemporary Latin American philosophy of law, the ruler of Latin American thought in theory of law is unquestionably Hans Kelsen, the head of the "Vienna School of Jurisprudence," the founder of the Pure Theory of Law. Even in Brazil, where Comte's influence was not only strongest, but has also lasted longest, the new trend is making progress; but in Spanish America the new trend has achieved a complete victory.

But while the work of Kelsen is mostly accepted as basic, as far as theory of law is concerned, there can also be seen all over Latin America a "new thirst for justice," an attempt to retain Kelsen's theoretical achievements, and yet to go beyond him in philosophy of law. This tendency makes itself felt in nearly all of the Spanish American republics, but the two undoubtedly leading countries are Mexico and Argentina.

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