

the elaborate rules on investigations by the Board of Trade in Britain. On the other hand, even the restricted right of stockholders<sup>21</sup> to inspect the books of the corporation looks very far-reaching to a European reader. The constitution-making power of the board of directors<sup>22</sup> is another institution unusual anywhere in Europe.

It is difficult, if not impossible, to form a considered opinion of a law which one has not seen in practical operation. If the reviewer has had the temerity to comment on the corporation legislation of a state situated many thousands of miles from his own country, his excuse must be the excellence of the work he was given for review. After many hours spent on perusing these volumes he was almost under the illusion that he was writing by the banks of Lake Michigan and not by those of the Thames. No greater praise can be bestowed on a legal work than that it depicts the law as a living organism and not as an agglomeration of dead pieces of machinery.

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**Preliminary Draft of a World Constitution.** By the Committee To Frame a World Constitution: Robert M. Hutchins, G. A. Borgese, and others. Chicago: The University of Chicago Press, 1948. Pp. xii, 92. \$2.00.

At Grinnell not long ago, the discussion of the various schemes for the establishment of the universal reign of law became so heated as to call forth the public rebuke of the president of the college. Such heat no doubt has its bad side; but it also has its good side. Without such heat, no great revolution was ever accomplished. Patriots like Patrick Henry and Samuel Adams were men of burning passion. They precipitated the American Revolution. They were not the builders of the Constitution, but without them there might never have been a Constitution. So, if we are to have a World Constitution today we must have a fiery zeal comparable to that of those early patriots. It must be a zeal that stirs the whole country and makes itself felt in the realms of power. It must be a missionary zeal not confined to the negative hatred of war but rather imbued with the positive ideal of the dignity of man. Such a zeal shows through the lines of this Preliminary Draft. The final constitution may be very different but it is zeal such as is evident here that will make that constitution possible.

The Preliminary Draft is not a lawyer's document, nor is it fundamentally an American document. Its philosophy is that of the classics and of the Continent rather than that of one steeped in American Constitutional and International Law. Perhaps that is no great objection. All that anyone can rightly ask is: Will it work? A possible answer to this is that the American and British models of government have worked better than most others.

The draft, however, is not without its American aspects. It provides for a federal form of government, for the judicial review of unconstitutional legislation. It contains a Bill of Rights. All this is to the good. A world government which does not reach the individual amounts only to a league. Leagues are secondary and temporary and essentially negative. They are inadequate for the protection of private rights. And without the power in the courts to declare legislation unconstitutional, there would be no ade-

<sup>21</sup> Illinois Business Corporation Act of 1933, § 45, Ill. Rev. Stat. (1947), c. 32, § 157.45.

<sup>22</sup> Illinois Business Corporation Act of 1933, § 25, Ill. Rev. Stat. (1947) c. 32, § 157.25.

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quate safeguard that the Constitution would be respected or the freedom of the individual secured. Without a Bill of Rights, a fundamental objective of the Constitution, the realization of the dignity of man would not have visual expression.

A possible criticism of the particular form of federalism proposed is that it is based on regional groupings which do not now exist, instead of on existing national states. If we were working in a vacuum this would be very well. Intense nationalism has been a breeder of wars and has been so permeated with extreme concepts of national sovereignty as to make the subordination of those national states to the world state a matter of difficulty. Could these national states be made to fit into a world state except in the very subordinate way that the draft contemplates? The draft would not wipe out national boundaries but would build the federal structure on the foundation of the regional groups. Fortunately, or unfortunately, we are not working in a vacuum. As President Cleveland once said, "It is a condition and not a theory that confronts us." We have the national states. We do not have these regional groupings. We must build with the material we have, or we shall not build at all. The task will be difficult enough to get the existing national states to surrender certain of their sovereign powers without making them, by a self-denying ordinance, relegate themselves to the position of municipal corporations. Existing loyalties are too dear to too many to be hastily brushed aside.

The draft provides for a President, but he is to be a President rather on the order of the President of the third French Republic. He is to be an outstanding citizen of the world, like Gandhi. He is to be chairman of the Supreme Court and Protector of the Peace. He is thus to be the symbol of law and order, just as the King of Great Britain is the symbol of the unity of the British Commonwealth; and, like the latter, he is not to be a great governing force. The political leader is to be the Chancellor, who in turn is responsible to the Council.<sup>1</sup> In other words, the government is presidential in form but parliamentary in fact. The great success of parliamentary government in Great Britain no doubt has been responsible for this choice. Elsewhere the parliamentary system has not worked so well. A prerequisite for its success would seem to be two major parties. Where the legislature is made up of a number of blocs, the changes are kaleidoscopic. With the changing combinations, continuity of policy is difficult and a long-range program unlikely. To meet this objection, a Planning Agency is provided for, but it will be the Council that holds the power and not the Agency. The chance of there being two well-knit world parties is not great. Rather one would anticipate blocs on a scale hitherto unknown.

The importance of a reign of law is emphasized by the creation of a Grand Tribunal of sixty justices, assigned equally to five benches. One representative from each of these benches together with the President of the Republic as chairman and the Chairman of the Council as vice-chairman shall constitute the Supreme Court. These two ex officio members might well be lawyers, but often they would not be. In such a case, they would add a lay element to the court that might be freshening but is somewhat startling. It is a far cry from any doctrine of the separation of powers. The creation of the five benches would anticipate a vast amount of legal work and provide ground for jurisdictional disputes which might well take up much of the time of the Supreme Court.

<sup>1</sup> He is also responsible to the President, but the Council would seem to be the dominant political power; and on the principle that no one can serve two masters, it would seem that the Council would prevail.

The outstanding contribution from Rome is the creation of the Tribune of the People as a spokesman for the minorities. Care is taken that he shall be an outstanding man and yet not represent the majority in power.

The Chamber of Guardians, with the President of the Republic as its chairman and six other guardians elected by the Council and the Grand Tribunal from among the Council for terms of three years, controls the armed forces of the Republic.

Legislative power is in the hands of the Council consisting of ninety-nine members, nine from each of the nine regional groups and eighteen chosen at large. It is a unicameral legislature.

The Federal Convention is the one body elected directly by the people of the world, with one delegate for each million of population or major fraction thereof, with special provision for states recognized as sovereign in 1945 and ranging between 100,000 and 1,000,000. The functions of the Convention are largely constitutional and electoral. It is to meet every third year for a session of thirty days. The preponderance which heavily populated areas like India and China would have on the basis of population alone is overcome by the fact that in the Council, where legislative power lies, the nine regions are equally represented except for the eighteen delegates-at-large.

These few words do scant justice to a work of great industry, devotion, and ingenuity. In so far as it builds in a vacuum instead of on existing foundations and after successful models, it labors under great handicaps. But it labors in a great cause, and no one knows what the acceptable solution will be. For solution there must be, or the world which we know will perish.

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