

will not show such restrictions.¹⁵ Occasionally when the changes are unusually burdensome some scholars will protest that the old estates have been destroyed by the politicians.¹⁶ Usually these objections will be brushed aside with some such comment as "all that has happened is that the fruits of ownership have become less sweet; but that is nothing new in land law"¹⁷—a theory amply supported, as Professor Gray's study demonstrates so admirably, by the law of copyholds in the merrie years of Henry VIII and Elizabeth I.

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¹⁵ Passero, *Effect of Zoning Ordinances and Violations Upon Marketability of Property*, 24 ALBANY L. REV. 167, 176 (1960).

¹⁶ Cross, *The Diminishing Fee*, 20 LAW & CONTEMP. PROB. 517 (1955); Potter, *Caveat Emptor or Conveyancing Under the Planning Acts*, 13 CONVEY. (n.s.) 3 (1948); Potter, *The Twilight of Landowning*, 12 CONVEY. (n.s.) 3 (1947).

¹⁷ MEGARRY, A MANUAL OF THE LAW OF REAL PROPERTY 615-16 (3d ed. 1962): "When the Town and Country Planning Act of 1947 was enacted, some strange suggestions were made as to its fundamental effect on English land law. It was even contended that the fee simple in land no longer existed, but instead each landowner had merely a fee simple in the existing or permitted use of his land. This view appears to have been based on the need to obtain permission for any development, and on the obligation to pay a development charge. . . . In truth, the theory would not bear examination, and it has gained no foothold in the courts or among practitioners. Planning control affects the use and enjoyment of land, but not the estates or interests in it; and development charges, while they existed, were a purely fiscal burden. Planning matters must be duly investigated for the protection of purchasers, but they are not technically matters of title. The right to use property in a particular way is not in itself property. The fee simple in land remains the same fee simple as before. 'All that has happened is that the fruits of ownership have become less sweet; but that is nothing new in land law.'"

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The Life Insurance Enterprise, 1885-1910: A Study in the Limits of Corporate Power. By MORTON KELLER. Cambridge: The Belknap Press of Harvard University Press, 1963. Pp. xiv, 338. \$7.25.

This is a history of selected aspects of the growth of five great life insurance companies from the late 19th century to the investigation of the industry by New York's Armstrong Committee in 1905 and its immediate aftermath. The five companies include the three giants of that time: The Mutual Life Insurance Company, the Equitable Life Assurance Society and the New York Life Insurance Company. The other two are the Prudential Insurance Company and the Metropolitan Life Insurance Company, which began by selling workingmen's burial insurance (industrial insurance) and then moved into regular life insurance. The book deals mainly with four features of the companies' development: their internal organization and marketing techniques; their effort to build

life insurance sales in foreign countries; their managers' ambitions to wield power as commanders of investment capital; the companies' responses to expanding (if largely ineffective or subservient) legal regulation of their affairs. In addition to its synthesis of a great body of published sources, the book makes a distinctive contribution by drawing extensively upon letterbooks and other materials from the files of the companies studied.

The leaders of the five companies showed quite common patterns of ideas and action. Accordingly, Professor Keller is able to weave together the affairs of the five companies under each of the four lines of their growth which he explores. The companies' institutional character took a very different—more conservative—turn after the watershed year 1905. Nonetheless, their further development continued to show a common pattern. Thus, Professor Keller finds that the five institutions constituted in effect "a society of companies."

A reader whose prime interest is in studying roles of law in this society is likely to be both satisfied and disappointed with this book. First, as to satisfaction: A lawman's concern is basically with the structure of power, and—given our tradition of constitutionalism—with the precept that all forms of power be responsibly exercised. Professor Keller's chosen subjects have high relevance, and his work contributes needed facts and analysis to understanding the growth both of power structures and of canons of responsible use in the late 19th century United States.

This was a society in which large business corporations grew to be principal competitors or partners with government in shaping social order. This political aspect of the insurance companies' history is what mainly interests Professor Keller; what he tells of the economics, business administration and social influence of the life insurance industry he presents chiefly for its bearing upon the companies as wielders of power. Both in their pre-1905 and in their post-1905 character, the five life insurance companies, he finds, "continued to play a prototypal role." On the one hand, the rapidity and the vastness of their growth made their control a prize of ambition for proud and willful men. The companies greedily reached for sales volume by tactics questionable by either moral or financial measures; their top managers concentrated control in themselves at the expense of effective supervision by directors, stockholders or policy holders; the leaders created divided loyalties through their investment policies; they manipulated legislators and public administrative officers as they sought to make their companies a major influence on public policy. In all these respects life insurance management typified abuses of the new corporate power which generated major conflicts in our late 19th century legal order. On the other hand, Professor Keller

points out, the creation and maintenance of a workable private system of life insurance required, functionally, some minimum respect to trust concepts; the mounting size of the companies' operations tended to force attention to regularity in internal procedures; meanwhile, both the companies' repeated professions of their responsibility and the development of a broad popular regard for the social importance of the business built a political climate which demanded self-restraint from management and supported regulation by government. In these respects, the course of the life insurance business typified trends, which have come to mark a broad range of big corporate enterprise, toward bureaucratization and self-imposed or law-imposed public responsibilities.

For all its merits, however, the book has limited utility to a lawyer or legal scholar. It is quite general in treating the law's relations to the structure and processes of the life insurance business. The analysis does not come to pointed demonstration of the distinctive impact of law as compared with other institutional forces working upon the companies. Legislation is characterized usually in very brief terms; the influence of life insurance litigation is measured mainly in undifferentiated totals of reported appellate cases; there is little concrete demonstration of the influence or frailties of administrative regulation. These are a specialist's dissatisfactions. They are relevant to appraising the range of uses of the book, but they need not be given more weight than that. The time costs of detailed investigation of the interplay of legal and economic processes are great; the field is so little explored that there is presently an inadequate framework of concepts or methods within which to pursue the work; often the most diligent search will not turn up materials which permit even rough measures of the relative influence of legal and other-than-legal factors.

If a monograph like this has limited utility to a legal specialist, nonetheless, because he works under the hazards of a specialist's focus, the legal researcher needs such work as Professor Keller's to give him perspective. Not the least of the benefits from this study is the warning which the lawman should read here against exaggerating the law's influence on the total structure of power in the society. The skill of Charles Evans Hughes made the work of the Armstrong Committee one of the most potent instances of legal regulation in our history. But it seems quite plain from Professor Keller's broad account that legal regulation obtained effective leverage upon the insurance industry about 1905 less because of the law's own power than because of the power given to law by changes in public opinion and in the internal processes of the business itself.

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