

ciple which is vaguely felt by the community. But the process is more one of divining than of articulate reasoning and so again akin to the practical art.

In modern continental countries the judge is expected primarily to rely upon scientific reason. All the rules are, or at least are supposed to be, formulated in the statute or the authoritative scholarly text, and in his publicly pronounced opinion the judge is supposed to have his decision appear as a logical conclusion inevitably following from the subsumption of the case under the rule. We know, of course, that the officially pronounced syllogism does not always represent the true motivation of the decision, especially in the novel case which cannot be subsumed under the old rule without distortion. In recent decades, the pretext has not infrequently been abandoned and the true grounds of the decision are stated with frankness. But even then the decision has not been found without logic or syllogism. The judge creates the major premise under which he subsumes the case, but in creating it he applies other syllogisms, deriving from other existing rules the principles or rules of a higher order from which he derives the rule of the new case. His office binds him to apply this process, simply because the community will not tolerate judicial arbitrariness. It expects its judges to implement, if necessary through the creation of new rules, those policies by which it wishes conflicts of social interests to be resolved. To find the right rule of this kind is an art, an exercise of practical reason, but, again, the policies of the community can neither be ascertained nor applied without also applying scientific reason.

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**Character Assassination.** By Jerome Davis; Introduction by Robert M. Hutchins. New York: Philosophical Library, 1950. Pp. xix, 259. \$3.00.

This book is an eloquent statement against all the prejudices disliked by the author—he does not discuss prejudices to be found among members of groups with which he is by and large in sympathy. Like all good men, he regrets that deliberate defamation of character is so frequently used against individuals and groups as a political weapon. They are called names not so much because one dislikes them, as because one tries in this way to advance one's own goals or to intimidate others from pursuing their goals. The author shows how prejudice and persecution of minorities has always been with us: true though discomforting. In this country it began with the persecution of the Quakers and the sad story continues to show that even the most venerated figures of the Republic, from Washington to Lincoln and Roosevelt, did not escape unjustified smearing by their opponents. The bulk of the book is devoted to stating and elaborating the calumnies made use of by those who think they can best reach their goals by attacking Jews, Negroes, labor unions, and progressive groups or individuals in general.

The values of the author coincide, by and large, with those of this reviewer: hence, the favorable impression he received, which other readers will share if they hold this particular set of values and political opinions. Mr. Davis himself

was a victim of character assassination when he was being considered for an important position with the National Youth Administration. It might be asking too much of an author who has been subject to such attacks to give an equally fair account of the character assassination which is used by so-called liberal groups against their political opponents. After all, labeling persons or groups as being "fascist" without objectively investigating the merits and demerits of their position is as much character assassination as are some of the cases abundantly discussed in this book. If we are serious about doing away with defamation in our public life, it will not do to see only the beam in the eyes of reactionary groups distorting their views, we will also have to recognize the influence of the mote in the eyes of liberals.

While the book contains many new examples of what the author calls character assassination, and reviews a great number of those that are well known, it is unfortunately deficient in analysing the reasons for so widespread a social phenomenon. Nor does it suggest any workable remedies that have not previously been advocated widely, though without much success.

Thus it is a book strong in moral fervor in stating the case against persecution. In this it is similar to the universal caution against sin, but like so much of the cautioning it fails to tell us why people like to sin in the first place, or what they can do to cut down on their sinning.

In the few introductory pages by Robert Maynard Hutchins, more is said of importance about the issue of character assassination and its remedies than will be found in the book. The author shows us that his opponents hold ideas he disapproves of and asks us to fight against them. In his introduction Hutchins says, "The way to fight ideas is to show that you have better ideas." Unfortunately this advice was not used in the book. Instead of devoting his pages to stating and elaborating his "better ideas," the author uses most of its space to nailing down bad ideas. This would not have been necessary, had he developed the "better ideas" and fought on that level with as much devotion as he fought against bad ideas. But if we were fortunate in having better ideas that were really workable, we would no longer have to worry about the influence of bad ideas: they would fall by their own demerits.

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**Introduction to Commercial Law.** By Robert Braucher and Charles Corker.

Brooklyn: The Foundation Press, 1950. Pp. xxi, 308. \$5.00.

**Uniform Commercial Laws.** By Frederick K. Beutel. Indianapolis: Bobbs-Merrill Co., 1950. Pp. xviii, 881. \$8.50.

Commercial law has been in a period of gestation since the war. The old courses on Sales and Negotiable Instruments, which seemed destined to go their separate ways into permanent bachelorhood, have been brought together

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