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Book Reviews

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union and an employer involving a secondary boycott. See *e. g., Duplex Printing Press Co. v. Deering,* 254 U. S. 443, 41 S. Ct. 172, 65 L. Ed. 349 (1921). An even greater distinction is evident where the action arises out of a labor dispute in which violence on the part of the union was directed against an employer. See *e. g., Apex Hosiery Co. v. Leader et al.,* 310 U. S. 469, 60 S. Ct. 982, 84 L. Ed. 1311 (1940); *United Mine Workers of America et al. v. Coronado Coal Co. et al.,* 259 U. S. 344, 42 S. Ct. 570, 66 L. Ed. 975 (1922).

It can be said that very few labor unions, so far as the cases disclose, have gone as far as the association in the principal case in establishing itself as a monopoly. It is plainly evident that the union was not within its alleged purpose of improving the economic interest of its members. The court has faced reality in its holding that the activities of the union amounted to monopolistic practices. Society must be protected from practices disruptive of the economy no matter what type of organization is the perpetrator. Unions should have no immunity when they are guilty.

Edward J. VanTassel

BOOK REVIEWS

NEW PATHS OF THE LAW. First Lectures in the Roscoe Pound Lecture Series. By Roscoe Pound.[1] University, Nebraska: University of Nebraska Press, 1950. Pp. 69. $2.00.—Taking the cue from his own famous statement that "the law must be stable and yet it cannot stand still," Dean Pound tries to sketch the various paths which the Anglo-American law has taken during the past hundred years. In his first lecture which he entitles The Path of Liberty, he points out that during the greater part of the Nineteenth Century, when the common law had achieved a certain maturity, equality under the law signified equality of opportunity for free individual self-assertion, while security meant security from interference with this free self-assertion beyond what was required to maintain the like security of other self-asserting individuals. This "rugged individualism," it is conceded, was in line with the general social conception of an era of pioneering and economic adventure or opportunity. America was the land of opportunity, and opportunity, it was believed, called for the greatest possible measure of liberty to develop these opportunities. Thus it was no accident that America, preeminently the land of opportunity, should choose and pursue The Path of Liberty in developing its law.

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The formative period of American law and legal thinking was characterized by an ultra-individualism, an uncompromising insistence upon individual interests, individual property and the absolute freedom of contract. Legal and political institutions were considered to be a system of giving effect to individual rights or interests by protecting them not merely against aggression by other individuals, but even more against aggression by the state or by society. Out of the bitter contests between the English Crown and the English courts during the Sixteenth and Seventeenth Centuries, no less than out of the struggle between the American Colonies and the British home government which culminated in the American Revolution, grew the idea that law stood as a protector between the government and the individual, and that it was to guard the individual against arbitrary infringement of his liberties by those who exercise the authority of government. Hence the idea of law was one of protection of the individual against government instead of protection of the individual by government.

The paramount legal idea of this era of liberty was that every free man should stand or fall by the consequences of his own actions. J. C. Carter, in his *Law: Its Origin and Function*,[2] has given perfect expression to this idea when he states:

> . . . the sole function both of law and legislation . . . [is] to secure to each individual the utmost liberty which he can enjoy consistently with the preservation of the like liberty to all others. Liberty . . . is the supreme object. . . . Whatever tends to preserve it is right. . . . To leave each man to work out in freedom his own happiness or misery, to stand or fall by the consequences of his own conduct, is the true method of human discipline.

Freedom of contract, unrestricted use of one's property, and the complete rejection of the now so prevalent notion that industrial employers must share in the increased risks of their employees were congenial to a period which thought exclusively in terms of unrestrained opportunity and unrestricted liberty. Any restriction of this liberty was considered a restraint of man's natural faculties and an effort to obstruct the progress of humanity. To lawyers and jurists steeped in the doctrine, proposed by Maine, that true legal history was the conscious progress from status to contract, it was inconceivable that the contractual powers of free man should be restricted by statutes which, as they saw it, were simply devices of evil-doers to turn back the wheels of progress. Despite all the optimistic proclamations as to the unlimited future of man if he would be left to work out his happiness without any restraint being imposed on his urge for free self-assertion, some sociologists, economists, and jurists felt that the era of pioneering as well as of unlimited opportunity was approaching its end. A new social philosophy gradually began to evolve which put the idea of the greatest

2 CARTER, LAW ITS ORIGIN AND FUNCTION 337 (1907).

satisfaction of human wants and the universal opportunity of satisfying them with a minimum of socio-economic loss through the usual methods of a ruggedly competitive "social Darwinism," above absolute and unrestrained liberty. This novel type of social thinking gave direction and impetus to the further development of law. Beginning in 1880, legislation as well as judicial decisions began to impose increasing restraints upon individual self-assertion, particularly upon the "abusive exercise of rights."

In this fashion completely new attitudes towards liberty and free individual self-assertion were born. As the old single Path of Liberty reached its end, two new paths of the law gradually were beginning to take shape, both the result of an increasing distrust of unrestrained individualism coupled with a stronger emphasis upon general security. Dean Pound suggests calling one The Humanitarian Path, *i.e.*, the path which was characterized by the new idea of security. The other path, in the words of Dean Pound, is The Authoritarian Path, a path of increased subjection of the individual to state control moving towards the benevolent—or not so benevolent—omnicompetent bureaucracy.

The Humanitarian Path of the law, Dean Pound contends, is "the path directed to a newer and broader idea of security." [3] Such a path "seems to be indicated for a time when the world has ceased to afford boundless conspicuous opportunities which men need only freedom to take advantage of, in order to be assured of satisfaction of their reasonable expectations."[4] Security, as used here, means an order of supervised competition in which all acquisitive competitive self-assertion is made to operate with a minimum of social friction and economic waste. It is a security which is based on the assumption that, in the struggle for exploiting opportunities, the progressive increase of the area of human wants and desires, caused by the ever increasing conquest of nature and its resources, is not matched by a corresponding increase in the means of satisfying all these wants and desires. This realization leads to the social axiom that equality necessarily must cease to be equality of opportunity. In view of the restricted means of satisfying all the wants and desires of man, the notion of equality of opportunity gradually fell into disrepute, and liberty became regarded as being incapable of granting man the security of living a full life. Along with this demand for a new type of security emerged a novel concept of society in which all men were to live in ideal relations. And the new concept of security is one that is designed to keep man from disturbing these ideal relations.

Hence, it becomes the new and crucial task of the law, as Dean Pound sees it, to devise a system of liability whereby any disturbance of this ideally ordered society is repaired, and the ideal relations among

3 Text, at 25.
4 *Ibid.*

men maintained by imposing and enforcing increased duties of reparation. The divergence of the new Humanitarian Path from the old Path of Liberty is nowhere more pronounced than in the rise of new theories of liability. Liability in the days when the law was still travelling the Path of Liberty was a consequence of fault. The law simply identified moral responsibility and legal liability: he who culpably caused damage must repair it. But with the coming of a new concept of security new theories of liability were formulated, namely, what Dean Pound calls the "insurance theory" and the "involuntary Good Samaritan theory." In the light of these new theories the term liability has now become co-extensive with the new concept of security, including security against one's own fault, improvidence, ill luck, and even defects of character.

What we are witnessing today is the rise of a kind of humanitarianism which seems to propose the repairing of all loss or waste by every one, no matter what the cause, at the expense of someone else. Under the theory that every one, irrespective of his personal needs, abilities, or contributions, should be guaranteed a full social and economic life, the law is expected to take care of every victim of loss, personal inability, or personal defects of character and will power. In this fashion law is cast in the role of an involuntary Good Samaritan who is suddenly requested to pull the reckless or drunken driver out of the ditch, bind up his wounds, set him on his way, pay his hotel bill while he is recovering and waiting for the delivery of a new and probably better car which is paid for by someone else, and compensate him for the time lost while being waited upon by the whole of society.

This new notion of liability began about the time of World War I when the so-called "insurance theory of liability" was developed. This theory, which is considered a humanitarian improvement over previous liability theories, held that injuries or losses which are the lot of human existence, should be insured against by some form of general sharing of the burden. It was assumed that this could be done by imposing liability immediately upon someone more able to bear the burden or upon someone who could pass this burden on to the general public by recouping it in charges for services rendered or adding it to the cost of production.

The general circumstances of modern industrial employment, to be sure, make the old fault theory inapplicable. Industrial workers, as a class, are less able to bear the burden of the many injuries and hazards incident to their tasks. It is only just that, since modern industrialization has increased both the profits of the employer and the risks of injury to the employee, the employer should also assume, together with the increased profits, a parallel increased liability which disregards completely the element of fault. But the employer, in turn, is also secured against losses arising from his increased liability in that he may pass the loss on to the general public in the form of higher prices and

charges. Dean Pound formulates the new "humanitarian postulate of liability" as follows:[5]

> Men must be able to assume that losses and injuries without fault of any one, which are the ordinary experience of life in society, will be borne ultimately by society by imposing liability for damages upon those able immediately to bear them and to recoup them from the public through charges for services of public utilities or through including them in prices charged for manufactured products.

Thus the Humanitarian Path of the law actually seems to lead to the following legal doctrine:[6]

> In civilized society men are entitled to assume that they will be secured by the state against all loss or injury, even though the result of their own fault or improvidence, and to that end that liability to repair all loss or injury will be cast by the law upon some one deemed better able to bear it.

But is this not in fact an application of the Marxian doctrine: To every one according to his wants; from every one according to his means?

No one will quarrel with Dean Pound when he points out that relief from the burden of poverty, relief from want, relief from fear, insurance against frustration where men's ambition outruns their powers and faculties, are laudable humanitarian ideals. But much of this, Dean Pound concludes, is beyond practical attainment and certainly beyond practical attainment through law.

In his third lecture Dean Pound, in discussing what he calls the Authoritarian Path of the Law, insists:[7]

> So far the authoritarian path is more suggested as the one still to be laid out than as yet taken; one which may go on parallel with the humanitarian path or which humanitarian path may join to make the path of the future, or one of which the humanitarian path may prove but to be the beginning.

Underlying this authoritarian idea is the notion that a maximum of concern for the individual life calls for a maximum satisfaction of the whole scale of human wants by a maximum of power of public officials. Authoritarian, then, means an extreme of unchecked power of officials and magistrates who take the whole domain of human welfare for their province in order to solve all economic and social ills through their activities. This, Dean Pound insists, is really the service state rather than the "welfare state." The latter term seems to Pound a boast because "Governments have always held that they were set up to promote and conserve public welfare."[8] The service state is advocated by those who believe in a benevolent, but at the same time, allegedly

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5 *Id.* at 44.
6 *Id.* at 45.
7 *Id.* at 49.
8 *Id.* at 52.

omnicompetent government which helps men instead of leaving them free to help themselves. Modern society, to be sure, in its enormous complexity demands public services beyond those the state, designed only to maintain order and repair injuries, could perform. Administrative agencies promoting the general welfare have come to be a necessity and have come to stay. What one must reject is the idea that all public services must and can only be performed by the government—the notion that regimented cooperation for the general welfare is the paramount task of the law.

Bills of rights are a characteristic feature of American constitutions. They are in essence prohibitions of government action infringing upon guaranteed rights and upon guaranteed reasonable expectations involved in living in civilized society. They are laws, or as Dean Pound puts it, "part of the constitution as the supreme law of the land, enforceable in legal proceedings in the courts at suit of those whose rights are infringed." [9] These bills of rights are generically and materially different from mere preachments such as "the release from the bondage of poverty," which is at best a declaration of "good intentions," legally binding on no one and unenforceable by any who is not released from the "bondage of poverty." Since such preachments cannot be enforced, even if they are regarded by their authors as being part of the supreme law of the land, they actually enfeeble the whole constitutional structure and tradition. For being unenforceable they lend themselves to the development of a general misapprehension that no constitutional provision is really legally enforceable and hence may be disregarded at any time in the interest of some extreme political policy.

A state which, through promissory preachments, tries to relieve its citizens of want and fear, without being able to relieve its individual citizens of those many features of human make-up which lead to poverty and fear, actually can do no more than deceive its people. Promissory preachments creating expectations of the politically, legally, and economically impossible are not only bound to undermine all respect for the law, but are also definitely a step in the direction of totalitarianism or an allegedly omnicompetent state. And such an omnicompetent state demands omnicompetent bureaus whose theory it is that, in the "perfect" all-regulating state, human energy and individual initiative shall not be allowed to "go to waste" by letting individuals engage in the presumably "futile effort" to employ themselves in callings in which, in the opinion of the bureaucrats, they cannot possibly succeed.

Dean Pound concludes:[10]

> If the path of liberty has ended or is to end in a blind alley, and if the humanitarian path is but a detour leading the law into the authori-

[9] *Id.* at 55.
[10] *Id.* at 68.

> tarian path, the Marxian prophecy of the disappearance of law in the ideal society of the future is likely to be fulfilled.

However, he is unwilling to concede that what was found for civilization while the law was treading the Path of Liberty will be lost:[11]

> We shall not make a wholly new start in the humanitarian path. The humanitarian path will not be a mere by-pass to the authoritarian path. The path of the future will find a broader objective in the direction indicated by the humanitarian path. It will find a sure starting point where the Path of Liberty has seemed to end and will go forward toward the fullest development of human powers in what may prove to be the path of civilization.

Anton-Hermann Chroust *

TRANSFORMING PUBLIC UTILITY REGULATION. By John Bauer.[1] New York City: Harper and Brothers, 1950. Pp. xi, 376. $5.00.—Dr. Bauer's opinions, as an eminent authority in the field of public utility economics and regulation, is entitled to the greatest respect. In the preface, in this his latest book, he indicates his thesis that existing private organization and public regulation have failed badly to meet the requirements of adequate public service.

First, Dr. Bauer claims that in the past the fundamental difficulty had been the judicial failure to recognize *cost,* which could be ascertained with accounting exactitude, as the basis for rate-making. Instead, he argues, the courts had accepted the criterion of *fair value* as the basis for making rates. Furthermore, such *value* could only be determined by expert opinion or through judicial decisions. In other words, exact and direct regulation of rates by commissions was superseded by quasi-judicial administration by administrative bodies closely following the dictates of the courts. This disregard for the *cost* principle in rate-fixing precluded effective rate control by the commissions, and inaugurated an era of cumbersome lawsuits.[2]

Secondly, it is Dr. Bauer's claim that under this system of regulation the public interest was left unguarded. He lists a whole category of regulatory shortcomings: *i.e.,* the public was not adequately represented in the rate cases, the commissions did not have sufficient funds to obtain efficient legal or technical staffs, and, worst of all, the organization of the commissions was unsatisfactory. Many of the ap-

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11 *Id.* at 68-9.

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1 Director, American Public Utilities Bureau.

2 Text, at 116.

pointees had neither the ability for nor interest in their positions.[3] Further, privately owned utilities promoted their aims with zeal and enterprise, while no effective organization protected the public.[4]

In Part II of his book, Dr. Bauer discusses the *FPC v. Natural Gas Pipeline Co.*,[5] and the *FPC v. Hope Natural Gas Co.*[6] cases. These new decisions, he states, overruled the *fair value* theory, and emancipated regulation from "nearly fifty years of controlling and strangling Supreme Court decisions." [7] The effect of these decisions was to firmly establish the presumption that rates fixed by a regulatory body were just and reasonable. Judicial review of an administrative order fixing rates could now be had only on a conclusive showing of confiscation.

Dr. Bauer is presently alarmed that this new declaration of judicial noninterference with the regulatory process will receive a setback through Supreme Court reversal, unless there is a transformation of public utility organization and regulation. The main problem now—the fixing of reasonable rates by commissions—involves (1) equitable dealing between investors and the public, and (2) non-discrimination between different classes of consumers. The satisfactory solution of this problem, Dr. Bauer suggests, can be accomplished if every large city would establish a utility department charged with the responsibility of maintaining reasonable rates and promoting the public interest.[8] These departments would represent their communities in the state commissions, which should have not only the powers to fix rates, but which should be elevated to the level of an effective planning agency in the interests of the public.[9] Dr. Bauer's scheme also involves the cooperation of management of the utilities. Their cooperation should be enlisted in a manner that would benefit the common good.[10] He also indicates that along with these proposed changes there is a need for coordinating state and federal regulation, especially in the gas and telephone industries.[11]

It is suggested that it is unlikely that the Supreme Court will cancel the gains made by the regulatory authorities. *Cost* as the basis for rate-making is now an accepted feature of regulation, and the courts today fully realize its distinct advantages. Dr. Bauer's criticism of the role of the state commissions in protecting the public interest is quite valid. Not all, but many of them are not overly zealous in their

3 Text, at 133.
4 *Id.* at 136-7.
5 315 U. S. 575, 62 S. Ct. 736, 86 L. Ed. 1037 (1942).
6 320 U. S. 591, 64 S. Ct. 281, 88 L. Ed. 333 (1943).
7 Text, at 141.
8 Text, at 295.
9 Text, at c. 14.
10 Text, at c. 15.
11 Text, at c. 16.

defense of the public interest. One important writer on public utilities made a similar observation eight years ago, stating that "The failure of a commission to serve as the alert and ever-active defender of the public interest leaves the consumer interest unrepresented and unprotected." [12] It is unfortunate that several years later these conditions persist.

Dr. Bauer's suggestions for reshaping the regulatory machinery merit serious consideration. But, the regulatory authorities will never be able to adequately guard the public interest unless the private enterprises cooperate in attaining this objective. So far there has been very little indication of this spirit of cooperativeness on the part of the utilities. The same sort of cooperation is essential between the national and state authorities, for under our system of federal and state regulation there is bound to be an overlapping of jurisdiction in many situations. As an illustration, the Federal Power Commission regulates the wholesale rates for natural gas and the states control the retail price. For the most part wholesale rate reductions have led to related adjustments in local rates, the result being accomplished largely through the cooperative efforts of these two regulatory authorities.[13]

Dr. Bauer's book is not a militant one. It is thought provoking, and should be read by everyone concerned with the regulation or management of utilities.[14]

*Louis C. Kaplan**

LIFE INSURANCE AND ESTATE TAX PLANNING. By William J. Bowe.[1] Nashville: Vanderbilt University Press, 1950. Pp. 92. $2.10.—This slight volume, a sequel to the author's *Tax Planning for Estates*,[2] emphasizes the role of life insurance in minimizing the federal estate tax

12 See BARNES, THE ECONOMICS OF PUBLIC UTILITY REGULATION 193 (1942).

13 See 52 STAT. 821 (1938), 15 U. S. C. § 717 (1946) as amended, 61 STAT. 459 (1947), 15 U. S. C. § 717f (Supp. 1950), which empowers the Federal Power Commission to confer with any state commission regarding rate structures, costs, practices and classifications involving natural-gas companies. The Commission is also authorized to hold joint hearings with the state commissions, and avail itself of the cooperation of the state commissions.

14 Unlike some of his other books this one was written "mainly for non-technical people," and should, therefore, not be forbidding to those persons who dread wading through a mass of highly technical materials.

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2 BOWE, TAX PLANNING FOR ESTATES (1949).

burden. In the foreword to the book appears a quotation from Joseph Trachtman's monograph on estate planning [3] which reads in part as follows:

> Life insurance is often the greatest single asset in an estate and it is a very important factor in planning large as well as small estates. The methods by which it may be used to solve problems are countless and often neglected.

The foreword then goes on to state that many of the problems and many of their solutions will be found in these pages. Since "these pages" amount to less than one hundred in number it is scarcely surprising that actually comparatively few of these "countless" problems receive treatment therein. In fairness to the author, however, it should be stated that he is in the present work concerned with tax planning as distinguished from the broader field of estate planning. The distinction between the two fields is clearly noted at the outset of his *Tax Planning for Estates*.[4] On the other hand, by reason of the fact that the estate tax is in question, the author has found it necessary to devote a considerable amount of the limited space at his disposal to matters other than life insurance, for example, the general operation of the important marital deduction and the troublesome question of valuation.

A reader with the fond belief that the arrangement of life insurance should be left to the life insurance salesman, or that federal taxation should be considered only when a return is required to be filed, will receive a salutary revelation from the author's discussion of the plight of the sole or principal owner of a successful business as to what to do to avoid disastrous results to his estate at death. The press recently announced that a well-known construction firm with an annual gross income of $4,000,000 went on the block at an asking price of $3,000,000. When the president and principal owner of the company died, he left his estate to his daughter without enough liquid assets to pay death taxes. Hence the business had to be sold. The author shows how insurance should be handled in such a situation. He states that:[5]

> A little tax knowledge can cause a lot of harm. This is especially true in arranging for the ownership and disposition of life insurance policies. Very special and highly technical rules determine the impact of federal estate, gift, and income taxes on the proceeds of life insurance. In addition, the peculiar nature of an insurance contract and the various "incidents of ownership" therein are not always clearly understood. For these reasons it is not strange that all-too-frequently the tax consequences of particular arrangements as to the ownership of the policies and the payment of the proceeds at death are either overlooked or misunderstood.

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3 TRACHTMAN, ESTATE PLANNING 70 (2nd ed. 1949).

4 BOWE, *op. cit. supra* note 2, at 7.

5 Text, at 13.

The first chapter of the book deals with types of planning, good and bad. Some of the chief tax pitfalls in the handling of life insurance are illustrated by cases showing what not to do. While Section 22(b)(1) of the Internal Revenue Code provides for the exclusion from gross income of the proceeds of life insurance contracts received by reason of the death of the insured, on the other hand, Section 22(b)(2), provides for the inclusion of such proceeds in gross income, to the extent that the proceeds exceed the consideration and the premiums paid, where there has been a transfer of the policy for a valuable consideration. The author shows how life insurance proceeds may quite unnecessarily be made subject to income tax by disregarding the provisions of Section 22(b)(2) of the Code. He discusses the case of *Golden v. Commissioner*[6] to explain how the life insurance proceeds may even be made subject to additional income taxes. A trap for the unwary with respect to the gift tax is also discussed as well as a case in which gift tax is incurred without resulting in income or estate tax benefits.

In the second chapter the author comes to grips with Section 811(g) of the Code, which deals with the inclusion of life insurance proceeds in the gross estate of the decedent. His valuable discussion of this subject is concluded with an historical note on the estate taxation of insurance, which, unfortunately, like several other long notes in the book, is in fine print, the bane of existence of those whose lot it is to deal with insurance or taxes in daily practice.

Insurance and the marital deduction under Section 812(e) of the Code are treated in Chapter III. The material in this chapter is cross-referenced to the discussion in the predecessor volume, *Tax Planning for Estates.*

Only after the reader has passed the half-way mark will he come to a discussion of Practical Planning with Insurance. Unquestionably he will find therein practical advice of a high order, but this reviewer is disappointed at the brief treatment given.

Survivor-purchase agreements and the use of insurance in connection therewith are treated in the fifth chapter. The final chapter is entitled A Warning, and deals with valuation problems where there are restrictive agreements for the sale of assets.

The attractive format of the book is similar to that of its predecessor volume. The typography is pleasing with the exception of the aforementioned fine print.

It appears that the author's purpose was not to supply an exhaustive text, but rather a readable introductory guide to a very difficult but eminently practical field. In the opinion of this reviewer he has succeeded in accomplishing this purpose.

Roger Paul Peters *

[6] 113 F. (2d) 590 (3rd Cir. 1940).

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PATENT PRACTICE AND MANAGEMENT FOR INVENTORS AND EXECUTIVES. By Robert Calvert.[1] Scarsdale, New York: Scarsdale Press, 1950. Pp. xi, 371. $5.00.—This one volume work has been written in a very interesting and attractive style to make it easily readable and understandable for inventors, executives, and businessmen who do not possess a background of legal training. The author's purpose primarily is to express fundamental concepts and considerations in a simple and straightforward manner which avoid discussions of legal intricacies or niceties that might distract the non-legal reader's interest and attention from the basic theme. He has succeeded admirably in that purpose.

The author has used a narrative or explanatory approach with liberal use of illustrations at points where the going might otherwise be difficult. Citations of authorities are few in comparison with the usual text on a legal subject, and occur principally in cases where recent developments of the patent laws are being considered. This work gives the over-all picture of patent laws and patent problems and, because of that characteristic, it can also be recommended as a text for use by lawyers in general practice who wish to secure a comprehension of patent fundamentals, or for young men just entering the field of patent law.

Perhaps the outstanding characteristic of the book is its faithful adherence to its title. Problems of a strictly business nature which are encountered by inventors and engineers in all phases of patent practice and management are discussed. The very first chapter is entitled, What to Patent. Here the author considers policy as to filing applications for patents in cases of marginal patentability; he relates the probable patentability to the prospective users of inventions in order that they may accurately determine their business policy. In other words, this is a consideration of the executive or inventor at the policy level rather than at the legal level.

Considerations of *esprit de corps* and proper recognition of an inventor are discussed at substantial length.[2] One factor specifically considered is the effect of the improper designation of "inventor" upon the morale of a development organization. Reference is made to the provision of incentive in large organizations to stimulate invention by executives and engineers.[3] This includes a brief review of the incentive plan practices of certain companies, and some practical comments on various plans are offered.

Contained in this book is an interesting discussion of the patent rights of employers and employees, and the provisions of contracts of

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1 National Counsellor of the University of Oklahoma Research Institute and Vice-President of Technical Societies of New York.

2 Text, c. 5.

3 *Id.*, c. 6.

employment respecting the assignment of inventions, with emphasis upon these contracts, their propriety and advisability.[4] Also, the patent policies of different types of institutions are thoroughly examined by the author.[5] Among features which he discusses are the policies of the Government with respect to its employees, officers and enlisted men, and the general policies of certain universities with respect to both the faculty and students.

The procedure and organization of the Patent Office form the subject of a very interesting chapter,[6] which is illustrated by photographs taken at the Office. The discussion of the problems of the Patent Office Examiners, their aims and purposes in performing their duties, will be enlightening to those individuals who have never been in direct contact with this Office. This chapter should be helpful in orienting the thinking of inexperienced inventors and businessmen when they must deal with the problems which occur during the prosecution of patent applications.

The author has undertaken a discussion of the law relating to the use of information received in confidence.[7] He expresses the caution with which business organizations must proceed with disclosures of information concerning a new development which has not been made the subject of a patent application. This is a subject of which there is a great diversity of opinion in the decided cases in the different federal circuits and in the various state courts. The fundamental concepts which underlie the diverse theories expressed by the courts are analyzed by the author in an easily readable style.

Another subject discussed, which customarily is not covered in textbooks on patent law, is the application of the tax laws to research, invention, and patents.[8] The author examines a number of common situations in which tax problems can arise, and states the rules which apply. As tax considerations usually receive careful attention in the planning stage of a business deal, the author's approach to the subject can afford guidance as to the relative merits taxwise of alternative business procedures relating to patents.

Another point of departure from the subjects usually included in patent texts is the discussion of foreign patents.[9] Consideration is not limited strictly to the provisions of the patent laws of foreign countries. Where the foreign laws are discussed, it has been done in an integrated manner so as to bring out the advantages and disadvantages of foreign patents as viewed by the American inventor or businessman.

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4 *Id.*, c. 7.
5 *Id.*, c. 8.
6 *Id.*, c. 12.
7 *Id.*, c. 14.
8 *Id.*, c. 27.
9 *Id.*, c. 28.

The text concludes with a liberal glossary of terms,[10] which generally has been overlooked by authors writing for the non-legal reader. The work also includes an appendix of forms [11] which should prove of interest to the reader, and which relate to such subjects as license agreements and employee bonus agreements. To render the work complete it concludes with a subject index [12] and an index of authorities.[13]

While the features of the book as herein discussed impress this reviewer as worthy of special mention, it is not to be inferred that the author has failed to meritoriously discuss the more common legal problems and characteristics of patents. He examines the most critical and important of these problems in an interesting and informative manner throughout. Without deviation he has kept his eye on his goal of thoroughly informing the businessman and engineer while adhering to a style which will sustain reader interest.

*Eugene C. Knoblock**

BOOKS RECEIVED

A HALF CENTURY OF MUNICIPAL REFORMS The History of the National Municipal League. By Frank Mann Stewart. Berkeley and Los Angeles: University of California Press, 1950. Pp. xi, 289. $5.00.

CASES ON CONSTITUTIONAL LAW. Fourth Edition. By Noel T. Dowling. Brooklyn: The Foundation Press, Inc., 1950. Pp. xxxv, 1273. $8.50.

CHALLENGE OF DELINQUENCY, THE. By Teeters and Reinemann. New York City: Prentice-Hall, Inc., 1950. Pp. xi, 819. $7.35.

ECCLESIASTICAL POLITY. By Richard Hooker. Chicago: The University of Chicago Press, 1950. Pp. 83. $1.00.

FEDERAL INCOME TAXATION, Cases and Materials. By Surrey and Warren. Brooklyn: The Foundation Press, Inc., 1950. Pp. xxxiv, 1166. $9.00.

FOUR SCORE FORGOTTEN MEN: Sketches of the Justices of the U. S. Supreme Court. By Tom W. Campbell. Little Rock: Pioneer Publishing Company, 1950. Pp. v, 424. $5.75.

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10 *Id.*, c. 29.
11 *Id.*, c. 30.
12 *Id.*, at 362-71.
13 *Id.*, at 356-61.
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