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Book Reviews

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BOOK REVIEWS

ECONOMICS OF NATURAL GAS IN TEXAS. By John R. Stockton, Richard G. Henshaw, Jr., and Richard W. Graves. Austin, Texas: Bureau of Business Research, University of Texas, Research Monograph No. 15, 1952. Pp. xiv, 316. \$5.00

This book leaves much to be desired. With minor exceptions it is good only where it quotes at length from acknowledged authorities or impartial private or public agencies. It tells nothing really perceptive about the economics of natural gas and certainly nothing new, and very little old, about the economics of natural gas in Texas. The book is weak because of the superficiality with which it treats many subjects and reduces itself to absolute anemia by ignoring some important subjects altogether. For example, it is difficult to see how any economist worth his salt can write an entire book about an industry which has played so strategic a role in revolutionizing the economic topography of an area greater than pre-war Germany, an industry whose prodigious accomplishments include the dramatic quadrupling of marketings within a short fifteen-year period and the expansion of installed transmission capacity from 2.7 billion cf. in 1946 to 9.4 billion cf. in 1952, without its containing a single paragraph on capital formation in that industry. One wonders what great forces of self-restraint combined so successfully to prevent three economists from telling the story no other single economist could have kept to himself from telling, namely, the dramatic and exciting story of entrepreneurship in the Texas gas and oil industry, the story of the relation of that industry to the industrial arrival of Texas, and the states leadership in the industrialization of the South.

But now to get on to some specific points. With 30% of the nation's natural gas being recovered as a biproduct of oil operations, there was for years considerable indiscriminate waste of gas by burning it or dissipating it into the air. Since 1945, however, the cycling process for returning gas to the ground has resulted in nearly a 50% reduction of this wastage. In addition, cycling has increased the total gas and oil supply available to the nation by aiding in maintenance of proper subterranean pressures. The pressure problem raises important questions of public policy, connected as it is with the matter of maximizing national gas and oil yields. It must be understood that best results cannot be obtained unless there is government regulation of some

kind. In states with anti-trust laws it may be unlawful for competing operators on the same pool or on adjoining pools to cooperate for the protection of correlative rights and for the maximization of their aggregate yields through proper withdrawal and cycling policies. Either there must be cooperation, which the public could not afford to permit if unsupervised or unregulated, or there must be outright regulation and establishment of government standards. Government withdrawal from jurisdiction on this matter would inevitably lead to higher than normal prices and lower than possible long run resource yields.

But on the point of government regulation, the book does a conspicuously dull job. Neither the problem, theory, extent, nor necessity of regulation get adequate hearings. Suggested programs of federal regulation are copied word for word from legislative recommendations made by gas and oil interests at Federal Power Commission hearings. On Texas regulation per se, a brief historical review is made. There is no adequate analysis and the economics of state regulation is virtually ignored. What analysis there is is weak and unconvincing. For example, the authors say that it is fortunate that the F.P.C. has refused to extend its jurisdiction to the gas production operations of petroleum companies since to have done so would have resulted in substantial gas wastage. As they put it:—

“The Federal Power Commission allows companies subject to the act only a 6% or 6½% return on property subject to its regulation. If by virtue of oil production the producer had already recovered this investment in the particular properties involved, he might well be forced by the Commission to give away his gas on the theory that he had already received his maximum return. . . . It is clear under these circumstances, producers would not be encouraged to find markets for their casinghead gas (that is, gas produced as an oil recovery by-product). As long as the oil companies were under the threat of federal regulation, huge supplies of natural gas would have been cut off the market, and this would have cost eastern gas users much of their potential gas supply.”

But this ignores earlier statements by the authors that in Texas, for example, the state now prohibits the wastage of gas through burning or dispersal into the air. Hence if the companies don't market the gas they are compelled to return it into the ground where it remains for future use. The potential supply is not reduced. Second, the really efficient use of the gas accruing to oil operations requires further investments against which the combined gas-oil yields of the companies would be computed.

This, combined with proper F.P.C. pricing, would make it extremely unlikely that all the allowable yield could be earned by oil operations alone. Besides, the elasticity of demand for oil with respect to other fuels is such that the oil companies will in time be forced into the gas business in order to maximize their yields on total operations.

The point of all this seems to be that the authors have chosen a flimsy basis upon which to take their stand against federal regulation. The chapter on "Competition Among Fuels" is full of good material that might have been effectively employed to sustain the authors' views on this matter, but it is ignored. Furthermore, had there been the kind of thoroughgoing analysis of capital formation and the process of economic development in the industry that there should have been, even better supporting material against F.P.C. jurisdiction have been uncovered. And going beyond this, had the authors taken even a cursory look at the economics of entrepreneurship and industrial location in the industry, their case might have been clinched, at least for the present.

In fact, the failure to discuss the problems and theory of industrial location is a major shortcoming. The industrial boom of Texas is a magnificent landmark in American capitalist development. It is an inspiring spectacle. But reading this book one is hardly aware that anything unusual has happened. On industrial location the book says only that "It is quite appropriate that the petrochemical industry should pick Houston, Texas, which is right in the middle of the greatest oil and gas region in the United States, to be its capital." What is natural about it is not clear. There is no indication that the problem of location received any real attention whatsoever. There is no indication that it has occurred to the authors that there are many "natural" areas for industrial development that have not had Houston's experience, and many areas that, in spite of the absence of favorable conditions, have in their time had the Houston experience. Why this is true is not examined. Furthermore, there is no mention of the very interesting confluence of circumstances and events by which much of Texas' industrialization came during the war with the aid of R.F.C. funds when the Texan, Jesse Jones, was R.F.C.'s head. Finally, there is no indication that the authors are familiar with the important work of Walter Isard and his Harvard group on the dynamics of industrial location.

To be sure there is a discussion of the relation of taxes on raw

materials to economic expansion in industries using these materials. The opportunities for demonstrating the real importance of this consideration are abundant in a growing area like Texas. But this requires original research and analytical effort that the authors have not undertaken. Instead they have contented themselves to quote an elementary economics textbook to the effect that taxes deter industrial growth.

But this is not the only place where resort to textbook simplifications substitutes for rigorous economic analysis and case-study realities. On the question of government regulation of residential consumer gas prices, the authors object by saying that if we will allow the "free operating law of supply and demand" to work in its ineffable way, consumer utilities in the use of competing fuels will be balanced and gas prices will be what, presumably, nature intended them to be. There are good reasons for wishing for the "free market" determination of these prices, but the authors' examination of these is but a retreat to the doctrine of supply and demand as if it possessed some inherent beneficence. The economist will recognize the truth when he is told, as is the case here, that the companies are fortunately large enough to be able to afford not to sell unless the price is right. In other words, somebody has control over supply, and hence price. But if that is so, then the plea for leaving price determination to "free supply and demand" forces, with the clear implication that this will be accomplished if government simply keeps hands off, is sheer blindness or absolute chauvinism.

The vitally important problem of resource conservation gets wholly inadequate treatment. It is obviously not enough to talk about resource wastage at the source of the resources. The biggest wastes by far occur at the consumption levels. The National Resources Committee report on *Energy Resources and National Policy* (U. S. Govt. Printing Office, 1939), to which the authors do not refer, has demonstrated this with a finality that leaves one appalled. To ignore it entirely while making pious declarations about resource conservation is not an altogether satisfactory allocation of our human, paper, and ink resources.

It is not at all a satisfactory arrangement for the book to have spent an entire chapter on tax policy and one on resource conservation without ever having mentioned depletion allowances. The chapter on taxes is also unsatisfactory for its sketchy comparison of Texas resource taxation with other states. This subject gets only one page of undocumented prose. For a book with

eighty-seven statistical tables, thirty-eight charts, nineteen illustrative drawings, and a statistical appendix, one might reasonably expect at least a small table comparing state gas and oil statistics. But we get none of this. Furthermore, instead of Bureau of Census, Internal Revenue Department, or State of Texas tax reports being used, we are treated to a few excerpts from a report by something called the Texas Legislative Council. This lack of rigor, this satisfaction with the use of secondary and pressure-group sources where primary data is amply available, is repeated endlessly.*

Finally a word should be said about the economic future of natural gas. Although gas discoveries are becoming more frequent as the intensive search for oil continues, particularly in the deeper subterranean areas, and although gas has finally become economically competitive with bituminous coal, the industry's future may not be as bright as it would appear. Principally this is due to two facts: 1) gas cannot easily be stored at the point of consumption, and, with the seasonality of its demand, that means industrial users can never depend on an adequate supply during the winter months; 2) atomic energy discoveries may in the not too distant future drive a hard competitive bargain with other fuels. For example, with coal at \$5.00 per ton and natural gas at 21¢ per 1,000 cf., the equivalent heat basis of one pound of uranium is now worth about \$8,000.00. This is indeed a provocative, and for the gas industry, a disturbing fact.

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MEMOIRS. By Herbert Clark Hoover. New York: The Macmillan Company. 1951, Volume I, Pp. xi, 496; 1952 Volume II Pp. vii, 405 and Volume III, Pp. xv, 503. \$5.00 per volume, \$15.00 per set.

In his *Memoirs*, Herbert Hoover recounts his experiences in private and public life from his birth in 1874 until 1941. He has presented the material in these volumes topically rather than chronologically in order to present a clearer picture. At the risk of being captious one might say that such a method provides

*For a revealing and genuinely useful study in this general area, see Bain, *The Economics of the Pacific Coast Petroleum Industry* (Berkeley, California. 3 Vols. 1944-47).

dull reading, but Hoover allays these suspicions by his pleasant style. Francis Bacon's *caveat* that "some books are to be tasted, others to be swallowed, and some few to be chewed and digested" leaves Mr. Hoover pretty much in the clear because the *Memoirs* are as delectable as they are digestible. Furthermore, it cannot be said that the book bristles with hindsight, for the greater part of it was written somewhat contemporaneously with the times in which Mr. Hoover lived; he does not flog a horse which is very dead.

The first volume, covering his boyhood, professional career, and experiences of World War I, is by far the most entertaining; here he writes with charm and humor. In the succeeding two volumes, especially volume three, Mr. Hoover becomes contentious in style and very much so in content. At times the last volume is downright dull. Hoover's philosophy was, in part, molded from experiences on an Iowa farm where he spent his youth; where the mortgage was an ever present source of anxiety and a damper on youthful ambitions; where farm families were their own lawyers, labor leaders, engineers, doctors, tailors, dressmakers, and beauty parlor artists; where he picked potato bugs at one cent a hundred; where the Quaker religion exemplified extreme religious individualism, the reflex of which was economic individualism; and where the only Democrat in the village fell under the influence of liquor and thus "was tolerated and . . . served well and efficiently for a moral and political example."

After graduation from Stanford and as a mining engineer—"I failed in only one course"—he began at the very bottom of the industry by pushing an ore cart in the depths of a mine for \$2.00 a day, on a ten-hour night shift and a seven day week. But fortune soon smiled. In 1895 he secured a position with the West's top engineering firm. At twenty-three he was earning \$600.00 per month working in Australia for a London firm of international renown. In 1901 Hoover became a partner in the London firm and enjoyed the luxuries England had to offer. He traveled widely, circling the globe five times. In 1908 he set up his own firm with offices spread throughout the world. Of his meteoric rise. Mr. Hoover succinctly remarks: "Had it not been for the First World War, I should have had the largest engineering fees ever known to man." Doctoring sick industrial concerns, reading burial services over others—this had become his forte.

In 1914 Hoover's engineering career came to an abrupt end

—"I was on the slippery road of public life." Thus follows in the remainder of his first volume a review of his experiences as head of the Belgian Relief Commission from 1914 to 1920, as Food Administrator in wartime Washington, connections with Relief and Reconstruction in post-war Europe, and the treaty of Versailles. Of Belgian Relief he says: this became the first Food Administration of a whole nation in history. Hoover intimates that Winston Churchill thought him to be a spy working for the Germans. In wartime Washington, as Food Administrator, Mr. Hoover sought to stabilize prices through controls on buyers and processors. He warded off demands for direct rationing and fixed retail prices by saying we would not be Prussianized. To the possible surprise of some, Hoover was the first to suggest the excess profits tax, in 1918.

His comments on Europe's post-war problems suggest that he is not one to lightly change his views. In the 1920's he said: "ours is the only government which has poured out billions in compassion . . . The other nations knew this and traded on it." The victors in World War I sought to pool Allied and American economic power to be used as a political lever. Hoover wanted to cooperate but steadfastly advised against entering any pool. He relates some prescient thoughts about the impossible state of affairs in Europe at that time: that "when [nations] lay down their arms and surrender upon promises and assurances that they will be no longer attacked and that they may have food . . . , and then find that the worst instrument of attack upon them is maintained—then hate never dies." The food blockade was a crime of statesmanship for which, Hoover hints, Churchill was partially responsible. In this cauldron of hate statesmen were no longer guided by reason.

Volume two deals with Mr. Hoover's eight years as Secretary of Commerce and four years as President. He was immensely popular upon his return to the United States. Some people even sought his nomination as President in the 1920 elections. His story is reminiscent of President Eisenhower's recent experiences. Hoover relates how he had been so staunchly nonpartisan during the war that he had standing in neither political party: "Some thought . . . I had a Democratic complexion." This was so because he had been one of President Wilson's chief lieutenants and had urged the election of Congressmen who supported the President's view on foreign affairs in the elections of 1918.

In the 1920 elections his name was placed in primaries, both Republican and Democratic, despite his protest.

Harding asked Hoover to enter his cabinet as Secretary of Commerce. During those eight years the department was administered in exemplary fashion. It tackled major reconstruction and development problems. The new Secretary's policies were considered liberal—development of water works, abolition of the twelve hour day, the St. Lawrence waterway, and others. After calling for these in a Boston speech, Hoover noted, "the applause would not have waked a nervous baby."

Hoover considers his Administration a success: the continued reconstruction and development measures, the tariff which protected our farmer, the bank reforms, the Federal Power Commission, and the Reconstruction Finance Corporation largely refuted the charge of critics who contended that our economic system was one of *laissez faire*. This dog eat dog philosophy had died long ago in the United States, said Hoover.

In the latter part of volume two Mr. Hoover outlines his philosophy of international relations: that cooperation with the moral forces of the world to preserve peace was our purpose; that Europe was "infested with age-old hates and fears, with their offspring of military alliances and increasing armament;" that he had no desire to see the United States involved; that America's concept had always been arms for defense, not for aggression; that "with great ocean moats between us and possible enemies, our principal military needs . . . were naval and air forces;" that we could thus rely on relatively small skeleton armies capable of immediate expansion.¹ This is not, he says, isolationism. As nearly everyone is aware, Mr. Hoover has been consistently re-affirming these basic principles which were formulated after World War I.

In the last volume, describing the depression and the rationale of Roosevelt's new leviathan, Hoover assumes the role of the polemicist who, while exploring the metaphysics of the depression, marshals his evidence as though it were to determine his proper niche in history. He assigns no less than three direct causes for the Great Depression: First, the Federal Reserve Board's low interest rate and expansion of credit "must assume the greater

1. The new Secretary of State, John Foster Dulles, in a recent article, drew a striking similarity of view here, to-wit: "Today atomic energy, coupled with strategic air and sea power, provides . . . vast new possibilities . . . to stop open aggression . . . these old methods [of a strong, stationary military force are] quite inadequate to match the 20,000-mile scope of the present military peril."

responsibility" for the stock crash. Second, the economic situation began to decline in all but a few of the world's leading countries before it began in the United States—Mr. Hoover believes we would have passed out of the slump shortly had no foreign influences intervened." Third, "apprehension over the heterodox economics, currency tinkering, and other policies announced by the New Deal interrupted" recovery. Our "rotten banking system," which Hoover tried again and again to reform, and the psychological phenomenon of the whole country being "mesmerized by the idea of speculation," were also factors involved. The former President is, of course, often criticized as having attributed the Depression to the wrong causes. Critics say he is like the botanist who studies the species "apple" and confines his research to the fruit itself with no concern for the tree that bore the fruit nor the climate that alters its quality.³

Hoover sought to cope with the catastrophe by the use of agencies of self-help in the community, by seed-loans, by indirect price supports, and by indirect relief. The run on the banks, Hoover charges, could have been stopped by ten words from Roosevelt.

Henry Adams' sage remark that "Truth in politics might be ignored as a delusion" would find sympathetic acceptance in Hoover, since he fails to hide his bitterness against the Democratic Party for having directed such a campaign of personal abuse against him in 1932. In the final section, "The Aftermath," covering the period from 1933 to 1941, the New Deal is treated as an attempt to impair our institution of American freedom and as a devious attempt to revolutionize the American system by inept economic action. This was Planned Economy cross-bred from Socialism, Fascism, and Free Enterprise. The collectivization began with making Congress a rubber stamp; then followed managed currency, court packing, centralization of relief in the national government, thought control and smear.

Whether the reader doubts the former President's "Olympian objectivity," or whether he is distinterested in knowing that the "Chinese used the cupelation process to separate the lead from the silver," he is, nevertheless, again reminded by this reviewer

2. Many will disagree with Mr. Hoover's contention. For instance, one can find statistics showing that our industrial production in 1930 was down 26 per cent. from the 1929 average, whereas abroad it was only down 13 per cent. for the same period. However, the beauty of statistics is that they can be made to testify with equal veracity on both sides.

3. For this view one might see Louis M. Hacker's *American Problems of Today* (F.S. Crofts & Co., 1938).

that the *Memoirs* are excellent. In addition to adding the life experiences of a President to his general store of knowledge, the lawyer will be pleased to read a bit of lore on English property law. In obtaining a house during his London stay, Mr. Hoover covenanted to stand seized so long as he kept his cows from wandering in High Street and his laundry from hanging within view of his neighbors.

FRANCIS J. MAGILL

THE SPIRIT OF LIBERTY, Papers and Addresses of Learned Hand.
 Edited by Irving Dilliard. New York: Alfred A. Knopf, Second edition, 1953. Pp. v, 285. \$3.50.

There is a vast depth of insight and understanding in this book. Learned Hand has long been recognized as one of the outstanding jurists in America, but Irving Dilliard has enabled us to see Judge Hand as a philosopher too. This collection of papers and addresses portrays a man of wisdom, compassion, and dignity. The reader should be most grateful for being permitted to share, even in a limited way, in the life of this noble gentleman.

The key to Learned Hand's philosophy, by his own admission, lies in that famous statement by Oliver Cromwell—"I beseech ye in the bowels of Christ, think that ye may be mistaken." These words Judge Hand would have placed "over the portals of every church, every courthouse and at every crossroads in the nation." Wisdom, in his opinion, is a fleeting object. We never begin to know very much about many things. When we realize that our depth of knowledge usually penetrates only slightly below the surface, we are willing to adopt a central belief of live and let live. What a free society needs is not certainty, rigidity, and an oppression of diversity, but rather tolerance, humility, and skepticism. One of the principal dangers to a free society comes from the conformist. He who refuses to experiment, demands that custom be considered tantamount to truth, and accepts prejudices as scientific evidence, is more to be feared than the "outrageous." Hand is scathing in his denunciation of modern advertising which does not provide "a favorable soil for liberty." The use of stimulus-response psychology is just a rather moderate variation of totalitarian methods—Fascists and Communist. Man is already "extremely sensitive to authority". What he needs is a wisdom which develops within him a spirit of liberty.

But how are we to acquire this wisdom? Here is the crucial question and Judge Hand is magnificent in his answer. He may place too much emphasis on the process of formal education, but in "the preparation of citizens for their political duties" we must look to the humanities—history, literature, art, poetry, philosophy, and music. Here the free man can gain some comprehension of his heritage. The understanding which he gains in his study and research should develop deep appreciation of the necessity and value of liberty in a democracy.

"It [Liberty] rests in the hearts of men, in the belief that knowledge is hard to get, that man must break through again and again the thin crust on which he walks, that the certainties of today may become the superstitions of tomorrow; that we have no warrant of assurance save by everlasting readiness to test and test again."

This knowledge ". . . will go far to dull the edges of uncompromising conviction." More specifically, Learned Hand advises the judge that "the words he must construe are empty vessels into which he can pour nearly anything he will." Consequently, judges—and might we not include all lawyers—need at least a "passing acquaintance" with the great minds of western civilization—Plato, Hume, Kant, Machiavelli, Maitland, Acton, Carlyle—to name only a few.

But do not believe for a minute that Learned Hand is a utopian who sees mankind achieving a greater degree of perfection as the centuries pass by. His concept of human behavior is in *The Federalist* tradition. "Man may be a little lower than the angels, but he has not shaken off the brute." Again, "conflict is normal; we reach accommodations as wisdom may teach us that it does not pay to fight." In his address on "Sources of Tolerance", Judge Hand enters into a most interesting discussion of Jefferson and Hamilton. Each had a different concept of human nature, but Hand concludes that Hamilton's concept was more realistic and correct, primarily because the latter believed that society develops conflicts which must be balanced and accommodated if peace is to be maintained. Jefferson may well have erred in his belief that only an agrarian society could preserve liberty, but his emphasis on the freedom and dignity of the individual is the foundation of a free society. "It is the faith," says Learned Hand, "in the indefectible significance of each of us, inherited, if I understand it aright, from one who lived and died some 1900 years ago in Palestine."

Judge Hand sees the necessity of government, although he has no particular reverence for it. The institutions of government perform an invaluable function when they find “. . . a passable accommodation between the vital and self conscious interests of society.” But he has no sympathy with the “cult of the common man.” The majority can be just as tyrannical as the dictator or the oligarchy. Judge Hand sees the legislature as the most important institution in democratic government as here major accommodations are made, although law is often “the result of compromises of conflict long since dead. Furthermore, these laws are enacted in legislative halls at “the insistence of a compact and formidable minority.” The politician is one of the key individuals in a democratic society because it is his responsibility to make “. . . a prayerful attempt in each case to make some compromise that will, for a substantial time if possible, effect a settlement”, and thereby provide a method for bringing about necessary change through peaceful means. But, as might be anticipated, Judge Hand also believes that the judiciary has a prominent role in free government. “A constitution is primarily an instrument to distribute political power,” and the judge must keep watch over the distribution. Moreover, the courts must see that the rules (or principles) used by the various branches and levels of government in carrying out these powers are not violated. Learned Hand’s intelligent conservatism displays itself when he contends that the courts must prevent factions from “. . . pressing political advantage to ruthless extremes”, and in his belief that we must “. . . plant our feet upon the foundation of the common law.”

Judge Hand has a profound admiration for the institution of law and the lawyers and judges who are so influential in the weaving of the social, economic, and political fabric of American life. But he is too wise to be uncritical. Law, itself, compels some conformity and if made too extensive might be stifling. Still, he often strongly implies that the legal profession has not shown itself to be sufficiently adaptable to change. In “The Speech of Justice” he states explicitly that “the lawyer must learn to live more capaciously or be content to find himself continuously less trusted, more circumscribed, till he becomes hardly more than a minor administrator . . .” The lawyer, to generalize, must show “. . . some—but not too much—reserve toward change”, and, in this characteristic, he believes the legal mind has often failed. It has represented the propertied interests, from

which it came, and forgotten, or refused, to mediate the brooding conflicts which threaten peaceful change in a free society. Judges have usually been men of "strong wills, set beliefs, and conventional ideals." Often, they believe their own predilections, usually those of the economic variety, to be obvious laws of nature. Learned Hand, in contrast, considers the wise judge to be a detached man (Benjamin Cardozo, for example).

Several penetrating sketches of jurists and lawyers are included in this collection. Learned Hand's deep admiration for Mr. Justice Holmes is most apparent, but I believe the most worthwhile portrait of a judge and the judicial function is found in the article on Thomas Walter Swan. Other personality sketches are of Mr. Justice Cardozo, Chief Justice Stone, Mr. Justice Brandies, Charles Evans Hughes, (the latter two were politicians as well as jurists), and a few others.

There is truly a vast amount of discernment in these papers and addresses, but the proof of the pudding receives its real test in the eating. Judge Hand says little about foreign policy directly, but his analysis of the disappearance of the "old frames of reference" (isolationism, small nation-states, etc.) is interesting; his belief that a world may not be able to remain at peace when it is "half free—half slave" is well worth careful consideration. In the field of political and civil liberties, he takes a firm stand against the hysteria and fear that is pervading the United States today. He believes that it would be preferable to have a few traitors escape detection than continue to undermine our essential spirit of moderation. We are creating an atmosphere in which neighbor is distrusting neighbor and where loyalty is becoming the peculiar test of friendship. Judge Hand questions the concept of segregation. His letter concerning Christians and Jews should be read carefully by all prejudiced persons, which means by all of us.

For centuries men and women have been discussing what Aristotle meant by the Good Life. Learned Hand presents that philosophical problem in such a manner that the reader believes the Good Life has truly been achieved.

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TRIAL JUDGE. By Justice Bernard Botein.* New York: Simon & Schuster, 1952. Pp. 3 to 337.

At the front of every American courtroom, upon a raised dais, looms a long, hardwood bench behind which is seated a mature, dignified figure robed in solemn black. His clothing and his position set him apart from and above every other person in the courtroom. He commands the courtesy and respect of lawyers and laymen alike. To many he personifies justice, integrity, wisdom, and dignity. What manner of man is this judge whose words become law for his fellow men? What are his inner thoughts as he presides over the bloodless conflicts of modern trial? What tactics, what behavior, what methods of persuasion are most likely to impress him favorably? Is he a sacrosanct and secluded individual venturing into public scrutiny only when necessity demands his utterance of wise counsel, or is he really just another human being, subject to the foibles of humanity, and not aloof to the feelings, the problems, and the shortcomings of other men? Justice Botein of the New York Supreme Court has produced a creditable and enlightening book in attempting to answer these and similar questions.

Beginning with his appointment to the Supreme Court and his first uncertain steps as a Justice, the author has provided a narrative description of his ten years on the bench. The book is geared to the understanding of laymen, but is of special value to lawyers because of the author's insight into the thought processes of trial judges. Although small, the volume is liberally sprinkled with illustrative incidents from actual trials, and is occasionally spiced with a well chosen quotation of a tasty historical allusion.

Since the meat of the book concerns the judge's role in a trial, Justice Botein early states his belief that the primary duty of the judge is to "steer" the trial with a gentle, but firm, hand toward the result most likely to produce justice without transgressing legal principles. The judge is not a mere referee whose sole function is to keep the contestants striking above the belt-line defined as the minimum standard of fair trial. Nor is he an inert observer overseeing a battle of wits for survival of the shrewdest. The purpose of a trial is to elicit the truth concerning issues in controversy. A judge must sometimes act affirmatively to insure that neither litigant is denied his day in court; yet he must preserve for each the technical safeguards provided by the tradi-

tional rules of evidence. A mind at once provoked to assert itself but inhibited by a sense of impartial self-restraint characterizes the judge in court. Most trials, according to the author, are private squabbles in which the respective litigants are more anxious to publicly demonstrate their Pharisaic righteousness than to make a more profitable but less dramatic settlement.

Of exceptional interest was the chapter entitled "Trials and Tirbulations." Here Justice Botein discussed the most exciting trials in his court and evaluated tactics used by different attorneys in terms of their effectiveness to convince judge and jury. The chapter is a lesson in trial practice. Another chapter relates especially dramatic occurrences in Justice Botein's trial court. In treating the problems of settlements, and of pre-trial conferences, the author reveals how heavily the court favors out of court disposition of cases, especially in large urban areas where court calendars are crowded. He discusses the factors which enter into adjusting the amount of a settlement, relates how he as a judge tries to encourage settlements, and states his evaluation of pre-trial conferences. It is interesting to note the extreme informality of the pre-trial stages of a case, and the friendly basis upon which attorneys and court cooperate in negotiating compromises.

Of less practicaly importance, but of genuine human interest to the practitioner is the chapter narrating Judge Botein's experiences with "The Child in Court." More a social than a legal problem are these courtroom orphans. The judge's task in salvaging from the carnage of a wrecked home the kind of normal childhood environment essential in the development of useful adult citizens often proves all but impossible. Judges are reluctant to grant the many uncontested custody orders without full investigation of the fitness of the applicant seeking custody of the child, but courts as presently organized have neither the time nor the facilities to conduct the kind of investigation that would assure decent homes for all the children whose care is committed to them.

The problem of corrupt influence upon the courts is treated with emphasis upon the necessity of maintaining our judicial system untainted by even a hint of venality. Justice Botein expresses his firm conviction that the overwhelming percentage of judges, whether in federal, state, or local courts, are honest and upright men. However he quotes a statistical poll purporting to show that about one-fourth of the American people have very little confidence in the incorruptibility of our judicial officers.

One senses a feeling of abashed astonishment in the author's attempts to rationalize these figures. He finds it hard to comprehend how so many people could be so ill informed on the rectitude of the judiciary. The reader is left wondering why lawyers and judges remain oblivious to the need of their profession for an active campaign to improve public relations.

Generally, Justice Botein's book is light, entertaining reading. His approach is factual and conversational, with an occasional interjection revealing his personal philosophy of law. From a practical standpoint the book could not be represented as a treatise of substantial or original contribution in the field of court practice. However, the reader is treated to incidental references which in sum total, provides an effortless refresher course in the fundamentals of evidence and trial tactics.

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