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Book Review: Character Assassination

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of his Corporation Law course—otherwise the Corporation Finance course would greatly overlap.

All this, as has been noted, is hardly Professor Sowards' fault. One can either engraft Corporation Finance onto the classic course in Corporation Law; or one can, as Professor Sowards has done, detach those parts of Corporation Law having to do with raising funds, issuance of securities and payment of dividends, leaving it to the Business Organization men to pick up the remnants, and the complicated questions arising out of intercorporate transactions, the Deep Rock doctrine, and so forth. Some schools are active protagonists of this policy, assimilating Corporation Law to Agency and Partnership in a single "Business Organization" course.

Professor Sowards' cases are well chosen, and well edited. This reviewer would disagree with the practice of leaving out from the head of the case a statement as to how it came out; but this is matter of choice. Many teachers prefer that the students extract the decision from the opinion as a matter of intellectual exercise. A greater degree of subdivision might have been useful in some places. Professor Sowards' notes are so good that one wishes he had given us more of them. There are certain omissions of material: for instance, a selection of papers on the private placement of securities which now is replacing the conventional underwriting agreement as the chief method of financing. The section on civil liability under the Blue Sky Acts might be strengthened by a section on common law liability—the common law remedy is still better in most states than action for civil liability under the Federal acts. Possibly, however, the common law liabilities are left to the course in Corporation Law, and there is historical precedent for so doing.

This reviewer, for one, will watch with great interest Professor Sowards' further development of his ideas in the field. It would appear that he, too, is feeling towards an ultimate goal of assimilating and amalgamating the new material into the classic base so that a course in Corporation Law shall be a complete job. We are at the half-way mark in that process. Professor Sowards' capable case book is a reflection of that fact.

ADOLF A. BERLE, JR.*

New York, New York


This is a serious book by an author who is genuinely concerned about civil liberties and democratic processes. It consists of a brief declaration of the author's faith, followed by chapters on the persecution of

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the Quakers in Massachusetts, the smears directed against our greatest presidents (Washington, Jefferson, Lincoln and the second Roosevelt), anti-semitism, discrimination against Negroes, labor abuses, attacks on religious leaders and liberal religious groups, academic freedom, the author's own libel suit against the Saturday Evening Post and Benjamin Stolberg for calling him a Communist, the Un-American Activities Committee and the loyalty purges, and a popular psychoanalysis of intolerance, with an appeal for the building of One World.

While the sentiments expressed seem to me to be noble ones and a great many if not most, and perhaps all, of the factual accounts are reasonably accurate, there are a lot of things about the book which do not call for unqualified praise. In some ways it is not a very good book.

What the author has done is to bring together all the things in American life about which he feels strongly under the title of "character assassination." There is actually not much in the book on what a lawyer, or anyone else for that matter, could call character assassination. One gathers—in fact the author states—that he is in favor of group libel laws although he never analyzes the problems of group libel, does not inquire how they would work nor, so far as the average reader can detect (assuming that I am an average reader) does he recognize any conflict between group libel laws and the freedom of speech which he so zealously favors. Actually the book would be more accurately titled "What Jerome Davis Thinks and Feels" or "The Gripes of a Liberal in Our Times." What I am trying to say is that there isn't much continuity to the book and it touches on character assassination along with a great many other subjects, more or less unrelated.

By and large the book is not a "scholarly" job, in the ordinary sense of the word. Now the author may very well respond that he didn't intend to do a "scholarly" job—he was writing a "popular" book. And I suspect that is what he intended to do. But he confuses me a little. He quotes all kinds of people and refers to books, writings, studies which I happen to know actually exist, but often without any documentation whatever. On the other hand, at times he will cite chapter and verse, and on occasion give a very good account of his sources, e.g. the chapter on the Negro which is a commendable sociological sketch of the Negro's problems in education, housing, industry, the professions, and health. Sometimes, however, his documentation is, shall we say, quixotic? For example, we are told that exactly 2,149 employees of the Federal government resigned while under suspicion in the government's Loyalty Purge (p. 185). The authority given is the New Yorker. Now I probably like the New Yorker as much as Jerome Davis, but I want a different source for a statistic like that.

On the whole, the book is a curious blend of factual presentation, philosophic discussion and propaganda. Dr. Davis follows the liberal party-line faithfully but he does it with a mixture of a little law, a little politics, a little religion, ethics, sociology, psychology and journalism.
I'm not sure whether he wrote the book for (to use a descending scale) the politicians, the clergymen, the Joe Doakes or the Fowler Harpers. Perhaps it was written for all of us and perhaps that is a good thing.

In an inexcusable sense, this book is not a good one. The format is not good, the proof reading and other mechanical features for which the author presumably is not responsible, leave a good bit to be desired. But it would be unfair not to add the vital point that the book is sincere. It has integrity. And it shows an acute, sensitive awareness of the cancers that are eating at the very vitals of democracy and threaten to destroy us all. In this sense the book is very good, indeed.

**Fowler V. Harper***

New Haven, Connecticut


Future historians of the common law may point out a similarity between the recent migration of continental-trained legal scholars into common law jurisdictions and that which occurred in England after the Norman Conquest when Lanfranc, Theobald and Vacarius brought the Italian legal learning into England. One result of the present migration has been the growing interest of our law schools in comparative law, an interest which for more than a century has been centered almost exclusively in Tulane University of Louisiana. Some law schools, now becoming interested in comparative law, see in it a partial substitute for the no longer fashionable courses in roman law and jurisprudence. Others see its study as a contribution to world political science. Still others see it as a practical adjunct to the study of private international law. But for whatever reason the present "vogue" for comparative law has developed, it is a welcome one which carries forward a tradition set by such men as Kent, Story and Edward Livingston.

Two major difficulties have troubled the path of comparative law as a study in the law schools of the United States: first, the disparity of opinion as to the proper scope and accent of such a course, and secondly, the lack of materials in English upon which to base such a course. Considerable progress has been made in recent years in making available English translations of the basic foreign codal materials together with some of the writings of leading foreign jurists. This is perhaps not the place to pay tribute to these contributions or to those who made them possible. Professor Schlesinger of Cornell University, who possesses law degrees from Munich and Columbia, has now given us the first nationally-published American casebook on comparative law. This review is an

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