BOOK REVIEWS

The Law of Territorial Waters and Maritime Jurisdiction. By Philip C. Jessup. New York, G. A. Jennings Co., Inc., 1927. pp. xxxviii, 548.

Although submitted as a doctor's thesis, this excellent study must not be classified with the multifarious product of relatively immature scholarship which issues annually from the graduate schools of our American universities. It is a work of mature scholarship, executed with unusual thoroughness, and revealing a profound grasp of the subject with which the author deals. It will be ranked among the really notable contributions to the literature of international law.

The author's purpose is indicated in the preface in the following passage:

"Without aspiring to the scope of a digest, an attempt has been made to mirror the existing situation in regard to the law of territorial waters, and to record the complete story of American prohibition enforcement in so far as it relates thereto. An attempt has been made to mould the whole into a useful reference book for student or practicing attorney by frequent cross references, full citation of cases, statutes, etc., and what is hoped to be an adequate index."

It should be said, not only that the author's purpose has been admirably achieved, but that the above statement of scope and aim is too restrained to indicate adequately the volume's real significance.

Dr. Jessup's approach is that of a vigorous realist, impatient with phrases or formulae which obscure a factual situation. Thus he remarks characteristically, at the beginning of his third chapter, that "no legal maxim or shibboleth should be allowed to conceal an accurate description of the facts" (p. 115). (See also p. 76). And he observes, characteristically and wisely, that in view of the divergency of opinion with reference to the meaning of sovereignty it will be well to avoid the use of the term in any projected code or convention (p. 452).

Chapter I deals with the three-mile limit. Here, as elsewhere in the volume, the reader will regret occasionally that Dr. Jessup has not referred more consistently to primary sources instead of relying upon Crocker, Fauchille, Fulton, Moore, Raestad, and others. Exclusive reliance upon primary sources is of course next to impossible in a work of this scope. Perhaps it would be asking too much to ask more than has been given. Certainly the analysis and summary in this chapter of the various national claims to territorial authority in the marginal seas is the best available anywhere. Chapter II treats of jurisdiction upon the seas adjacent to territorial waters. In this chapter, and throughout the book, the author has emphasized most effectively the essential distinction between territorial authority over marginal seas and extraterritorial jurisdiction beyond territorial waters to insure national security. Chapter III deals with the nature of authority inside the three-mile limit. Here the author contends vigorously and with effect that "the belt of the sea within three miles of the coast is as much a part of the territory of a nation as is the land itself."

The next four chapters are devoted to questions arising from the enforcement of the United States prohibition laws. Although necessarily somewhat tentative and imperfectly organized, these chapters are on the whole as well done as could be expected at the present time. Since this part of the subject has yet to reach an equilibrium, and inasmuch as the author

has devoted to it nearly one-third of his book, there is at least one reader who has been encouraged to hope that Dr. Jessup may plan eventually to bring out another edition, in which the law of territorial waters and maritime jurisdiction in relation to prohibition may be organized more systematically in chapters having more of the qualities of permanence.

The chapters on prohibition are followed by a useful chapter on bays. The draft of a convention submitted in the final chapter, following a critical analysis of the various projects prepared by the Institute of International Law, the International Law Association, the American Institute of International Law, and the League of Nations Committee of Experts, is in all respects the most valuable contribution of this kind made in recent years. Articles IV and V will probably be found least satisfactory. But it is a truly excellent project and one which must be considered attentively by every body, private or public, engaged in the laborious business of codification.

The one portion of Dr. Jessup's work which has seemed quite unsatisfactory to the present reviewer is that which deals with the conflict of laws (pp. 133-144). The conflict of laws in admiralty and maritime cases has been somewhat neglected and the topic is in a confused and difficult state. So it is perhaps no very serious criticism to say that in attempting to round out his study by including a brief section on this aspect of the subject the author has not illuminated a troublesome topic.

The critical reader will find relatively few errors of statement or emphasis, although some have been noted. The author says that the United States has exercised customs control within a twelve-mile limit since 1799 (pp. xxxiii, 80, 92). The first American statute providing for such jurisdiction was the Act of August 4, 1790.[1] Of Chief Justice Marshall's opinions in *Church v. Hubbart*,[2] and *Rose v. Himely*,[3] the author says: "By no means can his views in the two cases be reconciled" (p. 84). But the seizures in the two cases were made under different circumstances and the cases presented different issues. In the latter case Chief Justice Marshall was discussing the general territorial principle, while in the former he was discussing an extraterritorial exception. The present reviewer knows of no evidence whatever that Marshall had "altered his opinion" when *Rose v. Himely* came before the Supreme Court. The *ratio decidendi* in *Hudson v. Guestier*,[4] may be asserted with more confidence than Dr. Jessup indulges (p. 85). The case means simply that effect will be given the judgment *in rem* of a foreign court which had acquired jurisdiction of the *res*.[5] The author says that the right of innocent passage is "properly denominated a servitude" (p. 119). Should not reference be made to treatise writers[6] who insist upon greater technical accuracy in the use of the term? It is not strictly accurate to say that *Brown v. Duchesne*,[7] interpreting United States patent laws, is "contrary" to *Caldwell v. Vanvlissengen*,[8] construing the patent laws of Great Britain (p. 190 n.). The arbitrator in the Costa Rica Packet arbitration was F. de Martens, not "M. F. Martens" (p. 62). Reference to "the 13th Hague Convention of 1807" (p. 21) is obviously a typographical error. Other

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[1] 1 Stat. 145.
[2] 2 Cranch 187 (U. S. 1804).
[3] 4 Cranch 241 (U. S. 1808).
[4] 6 Cranch 281 (U. S. 1810).
[5] See Williams v. Armroyd, 7 Cranch 423, at 432 (U. S. 1813).
[6] *E.g.* 1 OPPENHEIM, INTERNATIONAL LAW (3d ed. 1920-21) 203.
[7] 19 How. 183 (U. S. 1857).
[8] 9 Hare 415 (1851).

typographical errors have been noticed on pages 83, 179, 182, 185, 351.

Deficiencies in emphasis or in the treatment of particular topics will of course be found, in one part of the book or another, depending upon the viewpoint or interest of the particular reader. The present reviewer would have liked more careful emphasis upon the distinction between civil and criminal cases in the review of United States practice in respect to foreign ships in port (pp. 178-191). The treatment of civil cases in which United States admiralty courts decline to take jurisdiction as a matter of discretion leaves something to be desired. While the author has presented a strong case for the proposition that the three-mile limit is "an established rule of international law" (ch. 1), it does seem to strain the evidence a bit to say, in disposing of such of the recent liquor smuggling treaties as withhold approval of the three-mile limit, that "these negative provisions offer little if any evidence of the existing rule of international law, whereas the express declaration of six nations is of highest importance" (p. 296). Why, by the way, is there an established rule of international law with respect to the three-mile limit, which seven nations refuse to approve, yet no general principle of international law with respect to the exercise of a limited protective jurisdiction outside territorial waters, apparently because the latter practice is not universal (p. 105)? At this point it would be clarifying if the author would elaborate a little upon what he conceives "an established rule of international law" to be.

Indeed one is tempted to say that Dr. Jessup has been much too modest in elaborating upon the reasons for his conclusions or in discussing his conclusions upon "the low ground of principle." Frequently he states a case, or presents a detailed summary of precedents and practice, and concludes with a terse statement as to the "established rule," "basic principle," "reasonable" course, or "sound" decision (*e.g.*, pp. 208, 219, 253, 344). A little more elaboration of his reasons for thinking a result established, proper, reasonable, or sound would rarely be amiss. With such abundant evidence of the author's scholarship and judgment as this book affords, readers would surely welcome a more ample discussion of the reasons which have seemed to the author most persuasive. Space might be saved for this, if space is a factor, by reducing the documentation.

The volume is equipped, it should be noted, with a complete table of cases (13 pp.), a useful bibliography (8 pp.), and an excellent index (54 pp.).

In concluding, the reviewer would like to express again the hope that Dr. Jessup will some day recast the chapters on prohibition enforcement, when the precedents have settled into something like stability, thus giving the entire study a uniform quality of permanence. The recent issuing (August 15, 1927) of a page of addenda referring to later decisions encourages the hope that this may be contemplated. Thus rounded out and ripened, so to speak, Dr. Jessup's valuable study will be ranked with Fulton's scholarly work among our most useful treatises upon a subject of the first importance.

EDWIN D. DICKINSON.

Probation and Deliquency. By Edwin J. Cooley. New York, Catholic Charities of the Archdiocese of New York, 1927. pp. xv, 544.

This is by far the most important work that has been contributed by anyone engaged in the work of probation. It presents a splendid mark to be aimed at in this field. And perhaps the chief recommendation of this book is that its aim is entirely practical and, the reviewer believes, practicable. It is high time that such sound conceptions of service, which

specialists have been preaching now for some years, should be so strongly advocated from such an authoritative source. The fact that Mr. Cooley has long been a chief probation officer himself, in actual charge of the handling of thousands of cases, and that he offers from his own experiences many illustrative samples of accomplishment and failure, makes his book immensely more valuable.

To the onlooker it seems almost incredible that such highly specialized work with human beings as probation connotes should be in the hands of untrained people. There is so much at stake in this very definite therapeutic effort, at stake for society and for the individual, that Mr. Cooley's book appears to strike first and foremost the note of common sense necessary in the situation. That he should introduce chapter after chapter showing the complexities of human nature and the many interactions of environmental forces is inevitable. It raises at once the tone of probation service from hack work and blind effort to that of, as Cooley himself rightfully says, "a dignified profession, demanding special aptitudes and intensive training both on the part of the executive and the probation officer."

Mr. Cooley has not allowed himself to be led off into useless adumbrations about theories of the causations of crime; in most wholesome fashion he keeps his feet firmly on the ground while presenting various immensely practical outlines for making social diagnoses, studies of the individual, processes of adjustment, etc. Nor does Mr. Cooley attempt to draw alone from his own experience; he shows himself to have read widely and wisely and introduces much of the best that others have offered.

It is impossible to present in short space even a sketch of the contents of Mr. Cooley's well organized book. It will have to be sufficient to state that in its presentation of method, material, bibliography, appendices dealing with probation laws and regulations, and in its outlook on the whole probation field, it is incomparably the most scholarly and practical book that has appeared on its subject. It is not at all extravagant praise to say that this book should be mastered as a text by all probation officers and all judges who utilize the method of probation. This book is bound to be of service for classes in sociology and, moreover, there should be thorough acquaintance with it by students in law schools—those who tomorrow will be in the position to prescribe probation.

WILLIAM HEALY.

La critique du témoignage. Duexième édition. Par François Gorphe. Paris, Librairie Dalloz, 1927. pp. 470.

In evaluating a critique of evidence, one must keep in mind the general procedure in the jurisdiction in question, and the encumbering rules that develop therefrom. These rules crystallize in ways perhaps unintended when they were first created. M. Gorphe is writing with French jurisprudence in mind; in order to understand him, and to see wherein American procedure can profit by his discussion, it is necessary to clarify, at the outset, the difference between the two approaches to the problem of justice.

In practise the Anglo-American system seems based upon a desire to maintain in court an atmosphere of fair play, so that neither contestant may gain any undue advantage with the twelve very ordinary men who must unanimously select the winner. When one of the contestants is offering odds, such as his life or liberty against practically nothing, the rules give him a compensating advantage. He is not obliged to testify; the burden of proof is on the other party; the jury must be convinced beyond reasonable doubt, etc. The theory is that competition between

prosecutor and accused will, in some mysterious way, result in identifiable truth, and, as a corollary, justice. That, in fact, the system as a system of justice is not above criticism, is too well known to call for comment here.

In France the state is, theoretically, not a prosecutor, but a seeker of truth, the judge actually conducting the case, summoning witnesses, etc., instead of being just an umpire in a game. The jury plays little or no part except in certain political cases where the government is involved as a party to the suit, the jury being used as a guarantee against undue pressure by the government on one of its branches, the judiciary. The absence of a jury and a prosecuting attorney changes the problem of the law of evidence completely. Instead of insuring fairness by keeping twelve good and true men from being influenced or confused by issues beyond their comprehension, the problem becomes one of aiding the judge in sifting and evaluating testimony so as to get at the facts on which he is to make his decision. Instead of examination and cross examination, designed to trap the witness into inconsistencies that will discredit him with his peers, we have a patient questioning by a judge whose aim is to help the witness to a calm recollection of his observations of the events in question. How superior that is to our system can not be deduced *à priori*. At this distance it seems to have some elements of superiority; but human nature is the same on the continent as in the British Isles, and no doubt the professional evader of justice has his developed methodology of escape in the one place as well as the other. In fact we may assume that the machinery creaks a little from the book that M. Gorphe has written.

In spite of the theoretical informality of French procedure he finds that rigid rules of exclusion have grown up which handicap French justice. Certain classes of criminals are not permitted to testify, as though being a witness were a privilege, not a duty. In civil cases pecuniary interest is still a bar, and second cousins of the principal may take no part in a suit as witnesses. Following this logic of exclusion M. Gorphe sees no reason why third and fourth cousins should not also be barred from testifying and all, instead of merely some criminals. Conversely if people who spit on the sidewalk, or any child of Adam is allowed to testify, there is no common sense objection to admitting the testimony of everyone.

Being prepared to admit the world into the court room, if it knows anything about the facts to be tried, M. Gorphe is cautious in evaluating the evidence presented, and the balance of the book is a critique of that testimony in the light of modern psychology and psychopathology. Voluntary and involuntary errors are analysed both from the standpoint of the individual testifying, and the class of fact observed and remembered; errors due, on the one hand to individual idiosyncracy, and on the other to what may be called the normal illusions of the ordinary, prudent, reasonable man.

In the section on psychological tests and lie detectors, both psychological and physiological, the conventional warning is sounded against too ready acceptance of results. The experiments made in class and laboratory are effective only in so far as they simulate reality. The true emotional situation of a person accused of crime can not be adequately reproduced in a psychological test tube, and the number of actual courtroom experiments is not yet large enough to be conclusive. The physiological lie detectors have not been perfected to a point where they may be generally used. The graphic record of respiration, blood pressure, pulse rate, electrical charge, etc., fluctuates too easily, and from too many causes to render it satisfactory at the present state of its development.

Intelligence tests are in a different class, of course. They have been

widely used in all sorts of practical situations, and while they are far from being fool proof, their stage of evolution is in advance of that of the various lie detectors. Their relevancy to the court room must wait, however, until they have been correlated with the kind of activity that takes place there. Their value in discrediting a witness whose memory for a certain class of fact is shown to be defective, or whose intelligence rating is so low as to render his judgment of a certain situation dubious, is obvious, and their present perfection in those fields is such that they may already be used with some discretion and scepticism. The trouble is that the measurements are not yet refined enough to make prediction based on them accurate without a fairly large probable error. This would prevent the tests being used freely in America, but not in France.

M. Gorphe might have gone on to point out another serious objection to the uncritical use of the tests. The lie detectors, for instance, both psychological (free association) and physiological depend for their efficacy on the emotional state attendant upon any change in habit or custom, or inhibition of a response that would usually be associated with a given stimulus. Reporting as accurately as memory will allow seems to be one such habit; reporting something different, therefore, is accompanied by an emotional disturbance. Telling the truth seems to be another; hence the emotional disturbance accompanying lies made up out of whole cloth.

Granting the validity of these assumptions, it is at least theoretically possible that, in the professional perjuror, a habit of reporting what he is told to report will become as firmly fixed as a habit of reporting observations is in one whose business is not perjury. The former would register no emotion in retelling the lie he has learned. Furthermore, since conscience and individual conduct are regulated by group mores, our professional perjuror would feel no emotion whatever in acting according to these customs, even though they be different from those of organized society, to which, by definition, he does not belong.

There is also the possibility of training, which has already inured the professional to the delicate technique of the rubber hose. Any psychological procedure would necessarily become publicly known, and the game of outwitting justice would be on again in full force. It is unfortunate, but true, according to a recent study, that the intelligence of the average burglar is about equal to that of the average psychologist. The result therefore would be the old see-saw battle between the bullet and the bullet-proof vest. It is submitted that, the element of surprise gone, simulation on the part of the trained witness would reduce us to what is little better than the present battle of wits between the cross-examiner and the recalcitrant witness.

The rest of the book is a judges' manual of psychiatry and psychology. The special virtues and vices of various clinical and normal types are described in so far as their condition affects their veracity, powers of observation or memory. The very young and very old; the defective; the sexes; primitives and professors; the neurotic, psychopathic and psychotic; the normal human animal under stress of various emotions; pathological liars; epileptics; all are discussed, and their credibility quotient is well documented from both psychological and legal sources.

The accuracy of the senses in the observation of normal people is then presented; the valuelessness of subjective certainty on the part of a witness; the difficulty of judging time, speed, distance at certain angles; the oath; leading questions, etc. Normal psychology is handled just as abnormal. M. Gorphe has read widely, and, on the basis of that reading, has made a brave effort to warn the judges of what to be watchful in the witness on the stand. Of the various recommendations with which the

book closes, the one of most interest to us is a plea for closer coöperation between the law and the sciences of behavior.

That this plea comes from the legal profession is heartening; that it comes at a time when psychology, but lately out of the philosopher's study, is on its way to the physicists laboratory is little short of tragic. The philosopher, seeking a clew to purely philosophical problems, introspectively, invented the psychological elements, the faculties. The modern psychologist in the laboratory is experimentally looking for the indestructible atom, the primitive reflex. The one is about as relevant as the other, as far as human behavior is concerned. Somewhere between the library and the laboratory lies the group of phenomena that should have been reflected upon in the one, and experimented with in the other.

The law has been dealing with these phenomena in its own way, trying to control them before it learned to predict them. That some human affairs have gotten along as well as they have shows the soundness of part of the rough and ready legal psychology; that others are in such a wretched state, shows that there is still much to do. But what? The present attempt to take over psychological concepts and apply them to legal situations is futile. The legal profession has had its own bitter experience with that sort of thing. Yet that is all that has happened to date. To the lawyer's question the psychologist, with a scratch of his head has counter-questions—"Is it memory? Is it cognition? Is it conditioned reflex or psychopathology? If not, perhaps it is not psychology."

To date the net result has been a few parlor tricks at which the learned lawyers naturally look askance. The problems raised evolved no new technique; a number of experiments that had been tried in other fields were taken over, and the impatient professors wondered why the rules of evidence did not change over night to admit their new stunts. For once the traditional conservatism of the legal mind stood it in good stead.

The medical profession, more than a quarter century ago was in the same predicament that the law is in today. Finding no help in psychology it went ahead and created its own. Some of the most significant developments in abnormal psychology have come from these pseudo-sciences developed by medicine, and laughed at by psychologists until they were able to stretch their conventional concepts to cover the new, revolutionary ones created by the various psychiatric schools.

Legal psychology, too, will have to develop a methodology of its own, and out of it, may come as significant contributions to normal psychology as medicine has made to abnormal. The first step is to make explicit the implicit psychological assumptions of the law. These assumptions will have to be tested out, not alone by comparing them with the assumptions of modern psychology, but by observing their working out macroscopically, in actual situations that in the beginning will defy microscopic analysis. The first question is not "How does memory function in the law?", a question that assumes the existence of a psychological solution to a legal problem. The difficulties must be expressed and answered in legal terminology before they are analysed psychologically. "Is an oath a guarantee of truth? What is the effect of damages, of punishment, of allowing a husband to testify against his wife?"

The technique, in the first instance, will have to be anthropological rather than psychological. It will be a study of ourselves and our legal institutions instead of a study of primitive society, an approach somewhat similar to that of Malinowski in his *Crime and Custom in Primitive Society*. Later, perhaps, a clinical, and much later, a laboratory technique will develop. But not until many gross observations of men and women in legal situations

have defined the problems of legal psychology, and made it possible for a genuine science to emerge.

In the absence of a genuine science such books as that of M. Gorphe are valuable as substitutes. The need of a legal psychology can be measured by how far short of satisfactory such treatises fall for the legal profession at large.

DONALD SLESINGER.

Stock Without Par Value. By Cornelius W. Wickersham. Albany, Matthew Bender & Co., 1927. pp. xxvi, 188.

No-Par Stock. By Carl B. Robbins. New York, The Ronald Press Co., 1927. pp. ix, 228.

No-par stock has received too little attention from students of corporation law and economics. Its popularity among bankers and promoters, and its enormous growth as a financial instrument have led to a situation in which business practice has far outstripped legal theory. Meanwhile, the whole conception of corporation law has been undergoing a quiet revolution as men fix their attention less on legal entity than on the economic units and enterprises clothed by the corporate form. Evolution of corporate theory must be determined not inductively but by synthesis of many empiric studies of the corporate mechanism. Consequently the bar is indebted to Mr. Wickersham for his modest and penetrating little treatise.

Mr. Wickersham is no prophet. He confines himself to studying the situation as he sees it, always in terms of the classic conception of corporations as entities artificially created by the state. One gathers that his first contact with the subject lay through the difficult line of taxation. Possibly for this reason his discussion of that problem is peculiarly interesting. But this led him further into the underlying theory. The history of the institution of no-par stock is briefly set out; there follows a concise examination of the principal statutes authorizing this form of security, with appropriate discussion of the economic difficulties encountered; and he then attacks the three major questions involved, namely, consideration for the issue of no-par shares; capital of the corporation when formed; and taxation.

Mr. Wickersham is perhaps unduly cautious in drawing conclusions. For example, in connection with consideration, he states forcefully that shares may not be fictitiously issued. He implies, though he does not state, that where no-par stock is already outstanding, and a new issue is sold, the relation between the value of the previously outstanding shares and the new issue may well determine whether or not the new issue is fictitious—as where outstanding stock is worth $100 and a new issue is offered for $10. Mr. Wickersham notes the Delaware cases holding that new stock may not be issued at different prices to different people at approximately the same time without a justifiable business reason. It would seem safe to conclude that the same line of reasoning must be applied to the case of a new issue where an old issue is already outstanding. One regrets that there is no discussion of stockholders' rights to subscribe to new issues—the principal tool heretofore developed by the law to meet this situation. Such a discussion might lead to the conclusion that there was an inherent anomaly in the loose statutes permitting successive issues of no-par stock at different prices and at the same time allowing the stockholders to be deprived of their right to subscribe. But this omission is a necessary defect of the descriptive method which Mr. Wickersham employs.

Similarly, in treating capitalization Mr. Wickersham limits himself to discussing the corporate capital from the standpoint of the state without undertaking to go beyond the artificial rules set up by statutes. Here, of course, corporation law is simply floundering. Necessarily the effect of striking off par value has been to throw questions of capitalization back upon the combined wisdom of the directors and their expert accountants. The statutes can only indicate when dividends may be paid and when not. At present the thought seems to be that the true test must be the economic test, and the accountant must be the judge. Mr. Wickersham summarizes what the legal decisions have said, again with severely descriptive intent. But here he does unveil his own mind a little, pointing out (p. 118) that capital must be what the subscribers to the enterprise pay in, and that statutes and judicial law should be adjusted on that basis. This leaves open, of course, the range of problems raised by "paid-in-surplus"—an attempt made by many bankers to free part of the original subscriptions from the rigid rules governing preservation of capital.

It is difficult to conceive that the task Mr. Wickersham staked out for himself could have been better done. He aimed to state the result of the law to date and he has done so with terse brevity. It remains for us to hope that he will some day write with the same pithy clearness his own suggestions as to lines of development. Meanwhile he has provided the bar with an invaluable handbook.

Mr. Robbins is more ambitious in his project, and perhaps because of that fact is less successful. Writing with the outlook of an economist, he endeavors to analyze no-par stock from the standpoint of the corporation, shareholder, the corporate creditor and the public, coming to the conclusion that the underlying theory of no-par shares is sound; that the laws are defective; and that by appropriate amendment of statutes, many of the difficulties could be removed. This throws him back on his accounting practice, which must furnish the basis of the improvements to be made. But here he runs into the same difficulty which has puzzled accountants since no-par stock first appeared, though where the shining lights of the accounting profession have gone astray, it is hardly fair to expect Mr. Robbins to produce a solution like a rabbit out of a hat. His book would be valuable if its only merit was the exposure of certain accounting errors persistently made (pp. 138-141). Mr. Robbins' creed is that a corporate balance sheet must make an accurate division of the corporation's net worth into stated capital and surplus. Now definition of stated capital has been much debated without a result; but that is exactly the question which must be solved before Mr. Robbins' suggestion can be made effective. This reviewer has contended elsewhere that the amount paid in must be the primary measurement of stated capital—a conclusion with which Mr. Wickersham agrees. Mr. Robbins contends (p. 149) that subscriptions to no-par stock cannot be at either a premium or a discount because there is no nominal value upon which premium or discount can be calculated. Unfortunately, the lawyers have got beyond that, and will enter on corporate books subscriptions to no-par stock at so much capital and so much paid-in-surplus—claiming thereby to accomplish exactly the result which Mr. Robbins believes impossible. It would seem to be the province of the economist and the accountant to say that the easy solution provided by the lawyer is simply unsound, since it consists virtually in lying about the "economic capital." Instead, it is Mr. Wickersham, the lawyer, who implies that the practice is unsound; while others believe even that courts, always sensitive to economics, may ultimately pronounce invalid agreements by which part of the real consideration for shares is freed from capital account.

Mr. Robbins' book is good enough so that one wishes it could have been better. It should exercise a corrective influence on corporate accounting to some degree. But the real problems lie deeper, and remain to be solved. Their solution probably will be incident to the completion of the revolution now going forward in corporation law; and it is to be hoped that Mr. Robbins in further studies will be present or accounted for when the next phase of the discussion emerges.

A. A. BERLE, JR.

REVIEWERS IN THIS ISSUE

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