

REVIEWS

SIMEON EBEN BALDWIN. By Frederick H. Jackson, with a foreword by Charles E. Clark. New York: King's Crown Press, Columbia University, 1955. Pp. xvi, 291. \$5.00.

It gives me special pleasure to review the biography of Simeon E. Baldwin for the *Yale Law Journal*. This is chiefly because of the character of the man; but it is also because of our long personal association and because of the debt that this writer and the Yale Law School owe to him. In his foreword to the volume, Judge Clark quotes from a tribute to Baldwin published in the *Journal* at the time of his death, and correctly attributes that quotation to me. Since it is now nearly thirty years since those words were published, few of today's readers of the *Journal* have seen them. They will bear repeating here:

"He was confident, definite and inflexible; and yet his modesty and sense of proportion are strongly witnessed by his unswerving loyalty to this law school, a loyalty expressed even in his last will and testament, in spite of its departure from at least one of his long supported policies. Such a man is the man to live with. He is the man whose memory will be kept green; partly, indeed, because of his ideas and his unusual achievements, but even more largely because of his life and character. The Yale Law School will be proud to continue to build upon the broad and massive foundations laid by this man throughout his long and noble life."¹

Baldwin had reorganized this school after the Civil War, just thirty years before my own entrance as one of his students in 1897. During those years he was certainly the school's leading spirit; for a while he even carried its financial responsibility. (In my first year as an instructor in 1903, my salary checks were signed "Simeon E. Baldwin.") As a law student I was well aware that he was my most effective instructor, especially when he was compelling us to analyze and discuss the fifteen important cases that formed a part of his material in the course on constitutional law. The weakness of his instruction was that he gave us no opportunity to study the "wrong" decisions or to make our own comparisons and form tentative, independent opinions. His lectures were, in consequence, very formal and rather tedious. Neither he nor his associates made me aware of the evolutionary development of law as a human institution.

My personal acquaintance with Judge Baldwin (always known to me by that title in spite of his two terms as Governor) lasted for another period of nearly thirty years, 1897-1926. I never approached him personally as a student, but it was he who wrote offering me a position as instructor. From 1903 to

1. *Simeon E. Baldwin*, 36 *YALE L.J.* 680, 682 (1927).

1912, he attended faculty meetings, gradually taking a less active part in them. During that period, the case method had been adopted in practically all courses, even while he served on the Curriculum Committee. He was very considerate of younger men and placed no obstacles in their way. After I discovered that his eyesight was such that he could not easily recognize anyone on the street, I took the initiative in speaking to him; in every case I was rewarded by a cordial word and a brilliant smile. During my first year as instructor, he gave a reception in his home in honor of Sir Frederick Pollock, who had delivered the Storrs Lectures. I was greatly impressed by the skill that he displayed as host, moving rapidly about making introductions, regrouping his guests and stimulating conversation.

During the last thirteen years of his life, Baldwin took almost no part in the affairs of the Law School. During that period, its character became greatly changed. Its students were all college graduates and its faculty consisted almost wholly of full-time teachers and research scholars. Yet the school's growth was laid, as Professor Jackson's volume shows, upon foundations for which Baldwin was largely responsible. He had organized post-graduate work leading to advanced degrees; and he had listed in the catalogue many courses in economics, history, political science and Roman law, given by men of the University faculty. These courses were never taken by many law students; but the effects of uniting these subjects with the study of law were such that the entire professional curriculum assumed a graduate character. The undergraduate law school became a graduate law school.

In spite of my long contact with Baldwin and knowledge of his work as teacher, writer, lawyer, judge, governor, and organizer of learned societies, I found much in the present biography that was previously unknown to me. Of course this is especially true of his earlier years, the details of which probably will not greatly interest the general reader. Baldwin's career does not present striking episodes that would arouse wide popular interest and acclaim. He did, indeed, come to be regarded as "the first citizen of Connecticut," as his father, grandfather and great-grandfather had been before him. His life and work covered many fields, and he had influence in each of them: education, religion, politics, history, law and other matters. But in none of them did he become a national figure. After recounting all these varied and successful activities of his subject, Professor Jackson says: "With all of these accomplishments to his credit, it is somewhat perplexing to understand why, a generation after his death, Simeon E. Baldwin is so little remembered. One explanation may be that he dispersed his energies too widely, that he did not specialize in law or history or international relations to a sufficient extent to become a truly great figure."² With this the present reviewer agrees. The biographer adds that there were unfortunate "breaks" that worked against his lasting fame; without them he might have been a Justice of the Supreme Court of the United States, a United States Senator, the President of Yale, "or even the President of the

United States."³ No doubt there is some truth in this estimate also. Lesser men than Baldwin have occupied all these more glittering positions. Another reason given is that "to the world he was austere and somewhat forbidding."⁴ He did indeed seem so to me for a good many years.

Probably the best explanation is the last one given by Professor Jackson: "Perhaps a final reason for the rapid decline of Baldwin's fame is his lack of sympathy for many of the movements which were gaining success in his day."⁵ Some of these "movements" took place in the major fields in which he played a part: education, the judicial development of law, and government policy. This lack of sympathy is illustrated by his controversy with Theodore Roosevelt, arising out of a case in which Baldwin had decided that the Federal Employers' Liability Act was unconstitutional,⁶ a decision later overruled by the United States Supreme Court.⁷ It is clear that Baldwin did not fully appreciate the evolutionary process in the development of law and social mores and the part played therein by the judiciary. And his blindness was more than simple dislike of some of the directions in which the evolutionary process was taking us. There is no doubt that some of the developments that Baldwin disliked are being discredited in the further process of evolution; but there is no reason to expect that this will add anything to his fame or stature.

Still, the personality and the accomplishments of Simeon E. Baldwin were such as to merit fully the present biography. It is brief, it is well-documented, and it presents a true and interesting picture of an able, versatile and exceptionally honorable man.

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CAPTAIN DREYFUS. By Nicholas Halasz. New York: Simon & Schuster, 1955. Pp. 268. \$3.50.

IT was obviously more than accident that turned Nicholas Halasz' attention to the Dreyfus case. This nineteenth century *cause célèbre* is a good detective story, but more important it provides a compelling object lesson for our own security-troubled times.

Alfred Dreyfus was a promising young member of the French general staff in the mid-eighteen nineties, devoutly loyal to his nation and to the army which was his life. He was also a Jew. In 1894, at a time when France was suffering a particularly severe bout of domestic and international jitters, the French

3. P. 214.

4. P. 214.

5. P. 214.

6. *Hoxie v. New York, N.H. & H.R.R.*, 82 Conn. 352, 73 Atl. 754 (1909). Baldwin was a Justice of the Connecticut Supreme Court of Errors from 1893 to 1907, and Chief Justice from then until his retirement in 1910.

7. *Second Employers' Liability Cases*, 223 U.S. 1 (1912).

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