REVIEWS

THE PILLARS OF SECURITY AND OTHER WAR-TIME ESSAYS AND ADDRESSES.

This volume is a collection of war-time essays and addresses by Sir William Beveridge, the author of the famous Beveridge plan for social security. Although it includes a discussion of a number of subjects outside social security—such as the problems of governmental organization for war in World Wars I and II, security for small nations, the massacre of the Jews—it, nevertheless, may be considered primarily a series of footnotes to the Beveridge plan.

According to Sir William, five giant evils are to be destroyed: want, disease, ignorance, squalor, and idleness. The Beveridge report on social security deals especially with want and to a limited degree with ignorance and disease, but does not strike at the fundamentals of squalor and idleness. The problem of unemployment, for example, lies outside the scope of the Beveridge report, although the success of any program of social security clearly will depend upon the degree to which unemployment is abolished, not only because in a period of full employment social security makes relatively smaller demands on the budget, but also because a larger income is available to meet the requirements of the program.

Sir William justifies the plans for social security in the following words: “The Government even while waging war should be framing plans for peace, plans to abolish the evils from which we have suffered in peace, after we have ended this evil of war. Of course, our Government is doing just that and I happen to have been working for the Government on one side of that—the question of planning insurance against economic insecurity of every kind.”

He justifies the redistribution of income—the inevitable accompaniment of his program of social security—by the view that the object of acquiring wealth is human happiness and that a given amount of wealth will yield happiness the more evenly it is distributed. “The poor man’s last shilling normally meets needs which the millionaire, like everyone else, would regard as more important than the needs on which the millionaire spends his last shilling.”

The volume also presents a concise summary of the Beveridge social security plan. The plan includes: (1) a scheme of all-out social insurance for cash benefit; (2) a general scheme of children’s allowances; and (3) an all-out scheme of medical treatment of every kind for every citizen. The program is comprehensive. Everyone who needs a particular service—a pension, funeral expenses, or medical treatment—will be insured; and whenever payments are

1. P. 36.
2. P. 41.
made, they will be covered by a single weekly contribution paid to one insurance fund. A fundamental principle is that the benefit payment, whether for old age (after an initial transitory period), for medical disability, or for unemployment, will be of equal amount. It will be high enough to provide subsistence and to prevent want in normal cases; it will last as long as unemployment or the disability continues; and no means tests will be required.

An interesting provision is that making the payment of old age pensions conditional upon retirement from work. This condition suggests that Sir William is worried over the possibility of large-scale unemployment and that the pension is offered as a bribe for abandoning the labor market. The provision, therefore, raises an important problem. In periods when total demand is inadequate to give full employment, is it desirable to solve the problem of unemployment by cutting hours, by sending many more millions to school, and by withdrawing people from the labor market at a relatively early age? A program envisioning such objectives is undoubtedly an admission of defeat, for if these people could be employed at their maximum abilities, assuming they wished to remain on the labor market, the national income and the standard of living would be higher than they would be under such proposals for sharing work. Any program of enforced leisure gives us a standard of living less than what we might become accustomed to or might be able to provide under good management.

Taking children's allowances into account, the plan provides that a married man with two children will be entitled to fifty-six shillings a week without the means tests so long as unemployment or disability lasts. To secure these and all the other benefits of the plan, the contribution required of an adult man in employment will be four shillings three pence a week and three shillings three pence of his employer, with lower rates for women and for young persons. By making these payments, insured persons in employment will pay about one-quarter of total benefits received by them, exclusive of children's allowances and national assistance. The other three quarters will come from employers and the State.

A fundamental pillar of the Beveridge plan is the scheme for children's allowances. Benefits are to be paid not only because a family with a large number of children requires a higher income to support the larger family, but also because this is to be a means for keeping the population of the United Kingdom from declining. Sir William is very much impressed by the fact that if England's population had grown between the Napoleonic Wars and the first World War at the same slow rate as the French, the Germans would have outnumbered both the French and the British with disastrous results in World War I. In his view, Britain has a mission, to enforce justice and to bear a torch for civilization. This mission can be fulfilled only if the population is maintained at a high level. It was recently discovered that the higher classes of the British population were producing enough children to provide only forty per cent of the numbers necessary to replace them.
Economic success seems to bring a lower birth rate or, as some hold, a lower birth rate brings economic success. In either case, it is necessary to support those who will have more children. But the program for children allowances under the Beveridge plan does not go far enough. The objective is to provide equal standard of living for equal work, rather than equal pay for equal work. In the upper classes, however, the program of children's allowances does not really make up for the differences in costs between a family with no children and a family with several children.

Much of the discussion in the book centers around financial issues. Several questions are asked by Mr. Sumner, a member of British Parliament, who is concerned over the increasing costs of public services arising from the war. He finds that the Beveridge plan will cost the Treasury £86 million additional after the war and £254 million additional by 1965. In all, the taxpayer will be responsible for a more than £500 million annual charge for social security. Charges resulting from the war, such as public debt, payments to veterans, and the like, will put an additional burden on the budget of £550 million; and the total budget will be £1600 million as compared to £700 million in the pre-war period. These additional war services will require sixty-five per cent of the additional taxes levied in the war period. On the basis of this rather unhappy financial situation, Mr. Sumner suggests that the Beveridge plan, which provides that the people who are not in need shall still receive benefits, would not be acceptable to the country.

Sir William Beveridge insists, however, that the means test which might make this plan more acceptable to public opinion must go. He is concerned lest, as a result of the redistribution of income resulting from an ambitious program, adequate savings will not be forthcoming. The well-to-do will save less, and the masses, if confronted with a means test, will not take up the slack, for under a means test adequate savings disqualify for benefits. Here there is an interesting conflict between what one might call the classical and the Keynesian viewpoint. Lord Keynes, of course, would not be much worried concerning the inadequacy of savings. He feels, for example, that savings are likely to be too large rather than too small. He would probably be pleased that social security would tend to reduce savings and stimulate spending. Sir William on the other hand, is still impressed by the need of large savings.

The financial capacity of the country to carry a social security program as envisaged by Sir William will be determined in no small part by the level of income in later years. Much will depend upon the amount of unemployment. Sir William suggests and plans his program on the basis of one and one-half million unemployed or roughly ten per cent of the working population. This compares with an unemployment of about fifteen per cent before the war and one to two per cent in recent years. If one allows for a relatively small amount of unemployment, continued increases in productivity, and an approach toward equilibrium in the international position of the United Kingdom, the burden of the Beveridge finances would not be too great. Additional outlays involved
might be financed almost wholly out of the savings resulting from an elimination of unemployment.

It is well known that the British Government has not accepted the proposals of the Beveridge plan, although it has already offered a scheme for medical insurance and accepted also certain other suggestions in the plan. Among other things, the Government has introduced children's allowances (though on a lower scale than proposed), a comprehensive health service, unified health and unemployment benefits, granted funeral benefits, squeezed the approved society system, and adopted a comprehensive insurance program. It will not accept, however, the principle of variation in benefits with changes in the cost of living or commit future governments to very heavy expenditures for pensions. In assuming a uniform payment on pensions the Government plan as compared to the Beveridge plan, tends to increase payments in early years and reduce them later, effecting a large financial burden in the early post-war years when other needs will be very pressing. The major disagreement arises, however, over the question whether the Government should provide a national minimum for subsistence and whether this should have priority over all other government expenditures other than those for national defense. On this issue, the Government does not agree with Sir William Beveridge.

Sir William also has some interesting comments on state planning. In the post-war period, the fundamental problem will be to maintain a high level of employment; and in order to achieve this objective, it is necessary to have central planning and a fluidity of economic resources. The war has demonstrated that it is possible to have full employment and a high national income. No one should lose sight of the lessons which have been learned as a result of the war. Above all, wastage must go. It is difficult to reconcile this general position with the notion that we must also reserve freedom of movement and freedom of choice of useful occupations. If all State powers are to be used to maintain employment, it may be necessary, in order to assure that the worker and the tools are in the places where they are needed, to move workers into areas or necessary occupations. Sir William does not make clear, moreover, the origin of the demand which will assure full employment at a high level.

Though we are told that needs are adequate, we are not told that these needs must be expressed in terms of effective purchasing power. Social security is only one means of bringing about a better distribution and perhaps an increase of demand. Sir William, in fact, dismisses such projects as public works and construction of hospitals on the grounds that they cannot be eaten. Above all, he would encourage exportation and the movement of resources to export industries. This assumes, of course, that other nations will be willing to accept British exports. Undoubtedly, the United Kingdom will have to reestablish its export position if it is to maintain its pre-war high standard of living. It has lost a large part of its total capital resources and also of its shipping. In the past, these have been used to pay for at least one-third of her total imports.
If the necessary raw materials and food are to be obtained chiefly from abroad, British exports must once more attain a high level. Yet at a fairly high level of exports in the pre-war period, a position of full employment was not attained. It is also a little optimistic to suppose that trade restrictions and bilateralism will disappear when the war ends; and if they do not, Britain will have to find other means of maintaining a high level of employment. Some of these other means may not be consistent with a high standard of living. They may, for example, require relatively unproductive public investment and perhaps also more dependence on domestic agriculture. Yet a higher standard of living may be attained in this way than Britain would be able to maintain if she depended wholly on a revival of her export trade in a restrictionist world, for at least she can be assured full employment of economic resources.

This volume is of interest not only for the bold and courageous manner in which Sir William deals with the problem of social security, but also because it reflects the more advanced economic views that are prevalent in high circles in Great Britain today. Many note rightist tendencies in the United States in the last few years, while the general movement seems to be to the left in the United Kingdom. It is possible that Congress, the newspapers, and the radio do not reflect the attitude of the American people on these issues. To the casual observer, at any rate, it seems that we are going to the right and the British, in the midst of this all-out war, seem to be going to the left.

This volume contains the most up-to-date thinking on private and public planning, state control of economic resources, and attitudes toward private control of means of production. In general, support of private enterprise will not be found nearly so great as in the United States. Advances in planning and controls may reflect in part the greater blows struck by the war in the United Kingdom and in part the fact that after four or five years of war, the public has become much more accustomed to governmental controls and governmental allocation of economic resources as well as to governmental attempts to induce an equitable distribution of income. Egalitarianism has been tasted by the masses; and indigestion has not followed.

SEYMOUR E. HARRIS †

MORTGAGES DEEDS OF TRUST AND OTHER SECURITY DEVICES AS TO LAND.

Professor Glenn in the volume and quality, but not the subject matter of his writings reminds one of the late Sir William Holdsworth. Since becoming a member of the University of Virginia faculty, Professor Glenn has averaged one treatise-volume each two years in addition to numerous law review articles and participated as an adviser on the Restatement of Security. His life is

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an exemplification of the advice of Arnold Bennett on How to Live on Twenty-Four Hours a Day. Like Bennett, Mr. Glenn reads widely and takes a friendly and generous part in the activity of his community. Like Bennett, also, when he works, he works. He shares his time with others, but he indulges himself in no profitless minutes of indolence. Given an intelligence and habit of industry, the results are a matter of mathematics. Ten pages a day, with Sundays off, means over 3,000 pages a year—a three-volume treatise. Professor Glenn has done only half so well up to this time, but now that he has struck his stride, perhaps he can accomplish even more.

Professor Glenn is a gentleman, a lawyer, and a law teacher. He has a sound professional training. While not a research worker in history, he enjoys reading about past days, especially about what judges and lawyers were doing in times long departed. He has an excellent memory. He writes as if he were conversing with the reader, not so much as a monologue, but as if taking account of the listener's observations and arguments. His books have made a journey through his head, and a very good head it is. He has an enthusiasm and a respect for law and a liking for real lawyers. He has his prickly prejudices and makes no concealment of his aversions, but he is mellow and urbane, especially in the present volumes. Perhaps, like the late Lord Fisher, Professor Glenn may have once said of his opponents, "Damn them," while now he merely sighs, "Poor idiots." His observations about the preference clauses of the Chandler Act are, for example, a model of Christian charity.

The comparative brevity of Professor Glenn's treatise, about 1750 pages, exclusive of index and table of cases, is accomplished by the elimination of long quotations from judicial opinions. While he has cited practically all important cases as well as leading judicial discussions and has included his own comments on many statements of judges and others, he has wisely recognized that there are law libraries for the further edification of brief-writers and students. His familiarity with the Restatement of Security is reflected in the correlation of many passages with the rules accepted by the Restatement in respect to pledges and suretyship. He has also included much helpful material about the relation between mortgage foreclosure and bankruptcy. The volumes contain numerous references to railroad and other corporate mortgages, but the author has tried to indicate the application of general principles of mortgage law to the corporate situations, rather than to compete with specialized works on corporate indentures. There is adequate treatment of the characteristic features of English mortgage practice, in respect to both early law and the contemporary devices of land security in Great Britain. Particularly valuable are the chapters on American moratory statutes and decisions under them and on mortgage receiverships. Since the bankruptcy courts have taken over corporate reorganization, the problems of the equity receivership can perhaps best be studied in relation to mortgages.

The twelve chapters of the first volume, after a historical introduction—though historical references are by no means confined to the first chapter—
take up both regular and irregular mortgages, as well as other equitable security interests in real estate, and the interest of the mortgagor and mortgagee with particular attention to junior interests. The volume concludes with seven chapters on payment, redemption, and foreclosure, and with a chapter on jurisdiction of the federal courts in bankruptcy matters.

Volume two contains seventeen chapters. Seven continue the treatment of foreclosures, including conflict of laws, Statutes of Limitation, moratoria, receiverships, remedies against waste, and the position of the mortgagee in possession, with a final chapter in this section on statutory redemption. There follow nine chapters concerned with transfers by mortgagors and mortgagees and with discussion of the relation of the mortgagees to third persons. This section includes a chapter primarily dealing with mechanics' liens and construction mortgages. Volume three discusses chiefly the recording acts and priorities as affected by such acts. In this section are chapters on future advances, after-acquired property, and tax liens.

Professor Glenn might have been more rigorous in adhering to Hohfeld's terminology in respect to the meaning of right, power, privilege, duty, and liability; but he is to be commended for the degree to which he accepts and uses these terms in the Hohfeldian sense—a terminology approved by the American Law Institute. The author also follows, on the whole, the Institute's position that security is an interest and that each form of security should be defined in terms of the resulting interest created. While Professor Glenn describes rather than defines a mortgage, the sum of his description is that a mortgage is an interest in land acquired for the purpose of security either by a transfer or other transaction cognizable by law. This understanding is broad enough to justify the convenient inclusion in a book on mortgages of the numerous equitable security interests in land which arise where no formal mortgage instrument has been executed.

It is captious in reviewing a treatise to lay undue emphasis upon omission of some of the reviewer's favorite topics, but mention of some of these may be helpful to the author as suggestions for ultimate revision. For example, in his discussion of the important New York case of Brainard v. Cooper, Professor Glenn seems to me to omit the most interesting point, namely, whether the mortgagee or another who has purchased at a foreclosure sale in which the holder of a junior interest has not been joined is bound to account for the profits obtained during his possession in determining the amount that the junior lienor must pay to redeem. In other words, does the purchaser obtain interests both of mortgagor and mortgagee or is he as to the junior lienor only a mortgagee in possession? The New York court required an accounting for profits, influenced, it seems to me, by a too technical reading of a New York statute. The better rule, I submit, is stated in the Nebraska case of Renard v. Brown, not cited by Professor Glenn, where the court held the purchaser

1. 10 N. Y. 356 (1852).
2. 7 Neb. 449 (1878).
acquired in respect to the junior lienor the interests of both mortgagor and mortgagee. Another matter which would seem to deserve somewhat more comprehensive treatment than Professor Glenn has accorded it, concerns the record of conveyances by those who at the time of record are not in the chain of title. Such a discussion might have been connected with *Loscy v. Simpson.*

In addition to topics herefore mentioned, the lawyer will find the treatment of deeds of trust, after-acquired property, future advances, assumption of mortgages and their assignment of exceptional acuteness. Professor Glenn is also sound, in my opinion, in accepting the majority opinion that a negotiable instrument controls its mortgage security irrespective of the state of the record.

Provocative passages in Professor Glenn's treatise are numerous and will be the subject of much subsequent argument in law review notes and articles. In the case of scholarly writings of such length and scope, it would be a desirable innovation if the reviews at the time of its first appearance, necessarily prepared after a first and hurried reading, could be followed a few years later by a more studious discussion, the product of continuous use and mature reflection. In the meantime it is apparent that the Bar, students, and law teachers are again the debtors to Professor Glenn for a worthy contribution to the literature of the law.

JOHN HANNA†

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So low is the degree of public acceptance of subsidized housing for low income families in this country that a contemporary book which for the most part simply restates the case for public housing can be appropriately characterized as important. Such a book would be an anachronism in any modern European nation; here it is timely. The public housing movement introduced into the United States as part of the New Deal's public works program by now seems almost to have spent itself. The accomplishments of the United States Housing Authority have never been widely advertised or appreciated, and public housing finds itself under increasing attack by organized lobbies. During the war years, moreover, the program is necessarily shelved somewhat to accommodate the need for housing war workers. In current discussions of post-war planning even disinterested civic groups are losing sight of basic objectives in their tendency to emphasize urban redevelopment, and friends of public housing have to work overtime to establish themselves as an integral part of the immediate post-war picture.

*The Seven Myths of Housing* by Nathan Straus, former Administrator of the United States Housing Authority, may constitute the opening gun of a

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3. 11 N. J. Eq. 246 (1856).

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campaign to get for public housing its rightful place in the public eye. The acknowledgments in the preface read significantly like a roll call of the intelligentsia among its supporters; the reprint in the appendix of Professor Myres S. McDougal’s excellent analysis of tax exemption for public housing, which appeared in last year’s Yale Law Journal,¹ is both appropriate and useful. This is one little book with a serious purpose, and it has succeeded in presenting a readable and convincing account of the accomplishments of the United States Housing Authority and of the arguments for an extension of the public housing program. It is undoubtedly the most important book in housing since the appearance of Catherine Bauer’s classic work, Modern Housing, in 1934.

The title of the book was inspired, so the author explains, by his experience as a lecturer encountering again and again the same misconceptions about the purposes and accomplishments of public housing. The inspiration fortunately provides an adequate organizational framework for a comprehensive exposition of relevant facts and ideas. The “myths,” which are exploded in turn by systematic presentation of irrefutable facts (the charts are a wonderful aid to the discussion), are: that slums do not exist outside of large urban areas; that public housing has not cleared the slums; that public housing is costly and extravagant, as the Government cannot build economically; that public housing does not rehouse families from the slums; that slum dwellers themselves make the slums by slothful living habits; that public housing competes with private enterprise and will bankrupt the country; and finally, that the Government should proceed by buying up slum properties, which controversial issue is also entitled a “myth.” Most of these misconceptions are familiar as such, and the undertaking to wither them under the glare of hard facts can only be lauded.

On the controversial question of how the Government should proceed to attack the problem of the slums, Mr. Straus is known for his thesis, which he defended with vigor when Administrator of the national public housing program, that slum clearance can best be accomplished indirectly through siphoning off the population of the slums. Rehouse the slum dwellers on low-cost land in outlying areas, thereby deflating values in the depopulated slum area, thereby preparing the ground for a replanning of the slum at minimal cost and maximum convenience. He takes issue with the supporters of the bills pending in Congress which would provide federal money for wholesale purchase of slums and blighted areas by municipalities for replanning. It is estimated that such a scheme of federal aid to urban redevelopment would properly require about forty billion dollars. Mr. Straus regards this as an unconscionable handout to slum owners, who are deserving of no more consideration than purveyors of tainted meat. Moreover, he regards the plan as extravagant, since slum values will drop drastically to a manageable value once the population,

¹ McDougal & Mueller, Public Purpose in Public Housing: An Anachronism Reburied (1942) 52 Yale L. J. 42.
their income-producing factor, is lost to the public housing projects. Finally, he attacks the plan as calculated to create new slums by failing to provide accommodation for those cast out of the razed slum area, hence overcrowding adjacent areas with resulting blight. Accordingly, Mr. Straus is of the opinion that urban redevelopment should wait—wait until an adequate program of public housing has got under way.

An interesting sidelight for lawyers is the fact that extensive residential areas are today substandard according to the definition of local ordinances of even forty or fifty years ago; yet these safeguards contained in the law are in large part a dead letter. In war-time the plea is that a shortage of materials prevents compliance; before the war, the ordinances were not enforced because cities shrank from the consequence, boarded up tenements and people on the streets. Once there is a reservoir of houses for families of low income, Mr. Straus contends, government will no longer shrink from enforcement of standards. There is much to be said for his argument. But one would prefer to see more of a disposition to dovetail with the rehousing program an orderly plan for the rehabilitation of blighted neighborhoods. A mad dash out of the city to build up the countryside can give rise to substantial problems too, which are perhaps a little too cavalierly dismissed.

It is indeed hard to find weaknesses in the book. Many may rightly regret, however, that what promises to be a classic text on public housing fails to make reference to its possibilities—and, so rumor hath it, accomplishments—along the lines of mixed housing. As an aroused public in New York City gasped last Spring, when the Metropolitan Life Insurance Company announced plans for an all-white housing project, Stuyvesant Town, to be subsidized in part by the City's taxpayers, public housing may be the sesame providing the entering wedge for breaking down segregation between white and Negro (to say nothing of other racial) neighborhoods. Surely, this burning social issue has blistered the days of the United States Housing Authority from its inception; we should have been interested in learning of this experience and of Mr. Strauss's views as to the possibilities. Surely he, who is decidedly forthright on all else, could not be afraid of the question.

The public housers have excellent ammunition with which to pitch into the post-war struggle. No such increase in real wages as would eliminate the need for subsidies for decent housing is anticipated; and the savings which can be effected by large scale government building, both through bulk purchases of standard parts and through low interest charges, are impressive. Mr. Straus is inclined to make a modest appeal on the basis of the merits of public housing as an ideal public works program. But there is something niggardly in this view, however correct, just as there is something niggardly about his view that the villains responsible for the slow march of public housing are the real estate and allied interests. Public housing has yet to capture the imagination of the American people; it is their resistance to anything new in govern-
ment enterprise that is the real enemy. They have yet to be awakened to the merits of a public housing program. This is why this book is so important. There should be more like it.

Shirley Adelson


This is an interesting book on a timely subject. The author discusses the question of the State's right to demand through its constituted agents the property and services of its citizens or subjects in time of war, or in preparation or anticipation thereof. This right differs from expropriation, which is the taking of the property of individuals by the Sovereign in the exercise of eminent domain, in that in requisition there is the element of urgency and the inability to satisfy the demand in the market place. It is therefore an extraordinary remedy, usually exercised to meet the emergencies of war or other national disasters and is justified only by the pressure of necessity. It is an old right in somewhat modern garb, for the right to seize property and conscript the individual in time of war is as old as war itself. Mars has never been mindful of the "Four Freedoms," nor the half a dozen other freedoms equally important.

In ancient times armies took what they needed in time of war; modern States take what they are likely to need in preparation for war. While some thought is given today to compensation or remuneration, there is little recourse to judicial processes. The remedy is cursory, drastic, and essentially administrative in character. The individual counts for little; if his property, or services, or both are deemed necessary for the defense of the State, demand is made and appropriation occurs. Until war involved entire populations, the taking of property was mainly confined to the army and navy. Today there are no such limitations. Private property and individuals of all classes and ages may be conscripted. The right of requisition as such appears to have arisen in France after the disastrous Franco-Prussian War of 1870. France had emerged from the smoke and destruction of the Empire and the vagaries and bloodshed of Communism, and had in reasserting and reestablishing her sovereignty established the Third French Republic. Three years later the Law of July 24, 1873, was enacted. As was stated by its proposers it sprang "from the reality of things that the right of the army to appeal to the inhabitants to satisfy its needs is not one of those which can be discussed: because it is, has been, and will always be the right of necessity." 1 The law was amended and expanded by subsequent legislation notably in 1877, 1917, 1920, 1935, and

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1938; its scope and application was further extended by numerous decrees having the force and effect of legislation passed by Parliament.

Starting primarily as a war measure in preparation for war it has come to pass that all property, individuals, business enterprises, transportation, etc., are of no avail against the demands of the State. Laws formerly limited for the most part to the billeting of troops and the taking of horses, mules, and live stock with the necessary harness and fodder, have been so extended as to include the taking of all buildings, railroads, steamship companies, industrial and commercial establishments, and even to include the feeding, clothing, lighting, and heating of the civil population and the control and direction of all mines, commercial, and manufacturing activities. The legislator does not hesitate to restrict and direct personal liberty when such restriction is deemed necessary or desirable to the military interest. Prime Minister Briand before the World War had broken a railroad strike by mobilizing all railroad employees and placing them under martial law. A similar series of strikes, that paralyzed the water traffic on the Seine, led to a similar exercise of requisitory powers by a decree in 1919, which was more definitely formulated in a law passed the following year. As the clouds of war gathered and the present war became more imminent, there was an intensification of the government's power and authority to prepare the population for war. No one was surprised, therefore, when in the winter of 1938-1939, Mr. Daladier used such powers to break an impending general strike that threatened the safety of France on the eve of war.

The history of requisition in Italy was similar. The law of 1865 seems to have been the first to authorize the exercise of requisitory power for the public utility. In 1879 and again in 1893, there was a notable expansion of powers to be used in "urgent and not postponable" circumstances, including many situations other than war, such as floods, inundations, and other cases of "force majeur." The law of 1913 extended the requisitory power by permitting its use not only in case of total or partial mobilization, but also in case of the imminence of mobilization; and when Italy joined the Allies in 1915, a royal decree empowered the military authorities to have recourse in the interest of national defense to requisitions of supplies for the royal army and navy and for the related services.

The end of the war saw further extension. As in France, we find more and more extension of state control and direction. Mining and oil drilling, agriculture, the merchant marine, housing—all came under control for the purpose of solving the innumerable problems occasioned by the rapid demobilization of a large number of men. Economic, industrial, and agricultural problems were enormous and required a firm hand and intelligent handling. It is doubtful whether the task could have been performed by other than authoritarian rule of a people wholly unprepared for self-government.

The Fascist Regime was largely an intensification of what had gone before, a general bringing together of the entire field of property, individual rights and
industry. As Mr. Wise says, "Fascism, however, worked little change either in the theory of requisition or in the objective scope of its application. The seed of the laws enacted by it may be found in the parliamentary laws or royal decrees of the World War. Changes were made along broader lines which have had notable repercussions for requisition: the vastly increased powers of the executive, the increased emphasis on the social duties inherent in the private right of property, the subjection of the individual to the ends of the state, the belief that war is the primary instrument for the achievement of those ends." 2

One cannot say that the attempt to fit the power of requisition into some scheme intended to protect the rights of property as well as those of the individual has been a success. The social right that inheres in the personal right to acquire property and demands its protection has received scant consideration. And the same may be said of other individual rights. Ruskin long ago declared that "whether we force man's property from him by pinching his stomach, or pinching his fingers, makes some difference anatomically; morally, none whatever." 3

In France, some attempt was made to delegate this task to the courts, but the ordinary law courts and the procedure followed there were not efficient instruments to protect private property and individuals from unjust and unjustifiable seizure. In Italy a Council of State was entrusted with the supervision of administrative activities of the State, but with no better results. In both countries the power and arrogance of government agents and representatives had their way. Once more the "hokum" about the superiority of human rights over property right was exposed, and it was shown that when the State sets to work to disregard the rights of property the rights of individuals do not long survive. This is one of the most fundamental and important problems of administrative law.

JOSEPH DU VIVIER


ALTHOUGH "monumental" is the word which Professor Wright's two volumes bring immediately to mind, it is not the best word available. The work might be better and more literally called a "mine of information," an equally hackneyed phrase, but much more descriptive of true value as an inexhaustible source of information, statistics, and interpretation. The books are not easy reading; in one sense obstipation would result if any attempt were made to read them straight through. But as a summary and index to the voluminous literature on the many-sided problem of war, as a description of the role of

2. P. 187.
† Member of the New York Bar.
war in history, and as a documented analysis of the relationship of war to human institutions, the work is without rival.

A sizable group of colleagues and assistants have collaborated with Professor Wright for almost twenty years to produce the thousand odd pages of text and the four hundred pages of appendices, tables, and statistics which comprise the two volumes. Detailed analytical tables of contents for each volume, subject, and author indices make the work eminently usable. Accepting the fact that war has definitely become a problem for modern civilization, Professor Wright first examines war in relation to history and the variations in war at different stages in "organic history." These variables include the drives, the functions, the techniques, and the theories governing warfare under animal, primitive, historic, and modern conditions.

The second volume begins with an attempt to apply the scientific method to the study of war and to derive some valid generalizations as to the future of war. Emphasis is laid on the different points of view possible towards war, on the necessity of evaluating the variety of thinking—legal, sociological, psychological, or just plain wishful—which exists about war. All the factors in government and society, the institutions of both, and the relations between nations and the people within a nation which contribute to or condition the existence of war are carefully examined. The last fifty pages offer very modest and practical suggestions for the control of war through intelligent analysis and subsequent planning on a variety of fronts.

The book studies war as a social phenomenon, affecting all of society in its every aspect. This is not Machiavelli coldly calculating the value of war for the ambitious statesman, nor is it Clausewitz providing a national mission, a philosophical justification, for the profession of his class. Here is rather the social scientist of the twentieth century, drawing upon every field of knowledge for his evidence and documenting his material with every conceivable type of comparative statistics. The result is a credit to the scholarship of our time and a hope, in these dark days, of better things to come.

THOMAS C. MENDENHALL II


This volume gives a somewhat simplified, but excellent summary of the views of Professor Pound on the basic problems of a science of law. In three lectures the eminent author ably discusses three questions: Why Law?, What is Law?, and What Can Be Done Through Law? The book contains hardly anything that has not been said by the author in previous works; but it sums up trenchantly what has been scattered through his numerous studies of the nature of law phenomena, of their variety, of their functions, and of their

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origin and growth. Throughout a discussion of these problems, the author keeps a sound course between several extreme theories. He rejects a Marxian as well as a purely formal and idealistic interpretation of law. In a few cutting statements he shows the fallacies of these and other theories of law. According to Pound, law is psychologically generated by two basic drives of human beings, their aggressive or self-assertive and their social instincts. Law's main function is to keep a balance between these forces. Socially "law is experience organized and developed by reason, authoritatively promulgated by the law-making or law-declaring organs of a politically organized society and backed by the force of that society."¹ Within this broad definition he describes the varieties of the lawyers' ideas of law and its characteristics. In his last chapter he pointedly outlines the limitations and imperfections of law-control and the contemporary crisis of law.

Though the reviewer deviates from Professor Pound's views in a number of important points, he finds the volume valuable, essentially sound, and stimulating. Most of Pound's criticism of several extreme theories of law is pointed and valid. Very important is his analysis of what in law is lasting and endures, and what is temporary and passing. Especially refreshing is his opposition to the contemporary disciples of Thrasy machus and Georgias, to the partisans of a replacement of law by a regime of administrative orders, and to an excessive relativization of law values. In his acid criticism of their inadequacies he gives us a wise warning of the dangers they contain for our society and for humanity at large.

PITIRIM A. SOROKIN †


This work is a commentary upon Articles 42-56 of the Hague Regulations of 1907, constituting section 3 of the Annex to Convention IV respecting the laws and customs of war on land. These Articles are the basis of such law as we have concerning the powers of the military occupant, and his relations to the local inhabitants, especially in the matter of requisitions and contributions.

It may seem strange that so important a subject should be left to a regulation of such ancient lineage, for Articles 42-56 of the Hague have come almost unaltered from the Brussels Declaration of 1874, which in turn made large use of Liebers' Code, General Orders 100, for the Government of the Armies of the United States in the Field, 1863. These Articles are distinguished by their respect for private property, and their purpose to keep the invader or military occupant from impairing the rights of private property in occupied territory.

¹ P. 62.
† Professor of Sociology, Harvard University.
The author, one of our leading authorities on state succession, has prepared a useful commentary upon these Articles while under great pressure for speedy production. The extent to which he has analyzed the European literature and practice on the subject and especially on the distinction between public and private property is to be highly commended. He also points out the weaknesses and gaps in Articles 42-56, ambiguities and generalities which expose the victim to serious abuse. Possibly he indicates that some of the distinctions may have outlived their usefulness. If so, this is greatly to be regretted, since the distinctions between private and public property are the very bases of western legal conceptions. He might have emphasized the ambiguity of Article 56, which ostensibly assimilates the property of municipalities to private property in general, whereas it is probable that only municipal public property dedicated to religious, charitable, educational and scientific purposes was to be treated as private property. The author's discussion of occupation during an armistice, as distinguished from active war, is enlightening. He has examined the latest jurisprudence of the Mixed Arbitral Tribunals and other national and international sources.

Military occupation has become one of the most active and debatable subjects in international law. But for the Hague Regulations power politics might have left the occupant without restraint. Hence, it is of special importance that the limitations on the military occupant be studied and analyzed. Dr. Feilchenfeld's contribution is of major importance.

EDWIN BORCHARD


Mr. Juran's pamphlet is aimed at improving the organization, procedure and personnel of the national administrative agencies. It has substantial virtues: an urbane temper; an awareness that the problems discussed are common to all large-scale organizations and are not due to a particular party, group, or doctrine; and a recognition of the setting of management problems within the wider scope of public interests and Congressional decisions. Its limitation is self-imposed, and recognized by its author; it is a limitation of scope and depth.

The problems of bureaucracy can be most clearly comprehended when we see them as continuous from the emergence of the modern state out of the King's Household, and as always rooted in political objectives and relationships that take precedence over considerations of effective management. Mr. Juran's account of the "myth of the single central agency" shows that he appreciates the latter point, and can write with good humor.

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He modestly emphasizes that his proposals for improvement are already applied here and there and have been put forth by many others. They represent for the most part orthodox management techniques. Hence, we would have been more grateful for an appraisal of some sample management units, devices, and procedures now to be found at Washington, such as the Division of Administrative Management of the Bureau of the Budget, and an operating department and bureau unit of this kind. There are obvious difficulties in getting an effective working relationship between such auxiliary and staff aids and the operating officials responsible for the substantive job. It is by no means clear in any given situation what is the proper place of the management function, however attractively stated it may be on paper. But Mr. Juran's approach is in such refreshing contrast to most writing on this topic that we can well be content with what we have here and ask for a sequel.

JOHN M. GAUS†

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