

denounced as immoral. Partiality and intervention have been clarified. No wonder that armaments have steadily increased and wars appear imminent. The result of these unfortunate contradictions has been to extol force and war in the name of peace, to characterize neutrality as an invitation to war, and sanction and intervention as peaceful devices.

Whether we agree with Messrs. Borchard and Lage or not, we cannot deny the force of their facts nor the clarity of their arguments. They are to be congratulated on a work which must have a powerful influence on the future of International Law.

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THE FUTURE OF THE COMMON LAW. Cambridge: Harvard University Press, 1937. Pp. x, 247. \$3.00.

THIS LITTLE volume contains the prepared addresses delivered at the Conference on the Future of the Common Law held at the Harvard Law School in August, 1936, as a part of the tercentenary exercises of that University. The subject matter of the Conference was sufficiently broad to include many and various types of law so long as all came from a single original source, the English common law. The various speakers were assigned topics which would show the operation of the common law in different places. Thus, Sir Maurice Amos discussed its influence—as well as that of the civil law—in the British Colonies and in Scotland, Lord Wright considered its status in England itself, while Justices Stone, Davis, and Hanna set forth its present and future condition in the United States, Canada, and Ireland respectively.

In view of the plan of the Conference, which thus emphasized the spread and extent of the common law, it was natural that the addresses tended to be descriptive and informational, rather than analytical or controversial. A considerable body of useful and interesting information was thus conveyed. Naturally it was of matters known in a general way to common law lawyers. But to have the similarities and the contrasts so strikingly portrayed as parts of one entire picture gives a persuasive view of the vitality and force of the common law, hardly to be obtained from a separate examination of each item. To this extent certainly, the Conference seems most successful.

Almost all the speakers accepted a broad and inclusive content for the term "common law." It was held to embody the various types of living law now operative in the countries whose judicial systems are modeled upon those of England. Thus, the effect of modern social and economic conditions upon the law was recognized. Characteristically, Justice Stone was particularly clear-spoken here as well as upon the notable influence of the academic law teachers upon its growth. Practically all the speakers stressed the importance of legislation in the development of the common law. Lord Wright had some very illuminating things to say about the work of the Law Revision Commission, of which he has been chairman, in its proposals for correction by statute of defects in the common law. Justice Stone raised the query why statutes

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should not operate beyond the confine of their literal language to become a basis for new precedents, just as judicial decisions have so served, referring to the doctrine of "the equity of the statute" under which the principle of the statute is applied to other cases not within its exact terms. American lawyers will be most interested in his ideas as to the revivifying of the common law through the growth of administrative law, in ways similar to those achieved by equity in times past. Those who now view with alarm the destruction of our liberties coincident with the growth of efficient and expert governmental agencies should be reassured by the equanimity with which the Justice views the past record of such agencies in this country:

"It is a record which encourages us to believe that our concern for the future should be not so much to secure for the citizen the adequate protection which, under the Constitution, cannot be denied, as to secure a more unified system of administrative procedure and to make certain that court review, whether by constitutional or statutory requirement, shall not go beyond that need, and shall be made available at such time and in such manner as will not unnecessarily impair the efficiency of the administrative agency, or duplicate its work by courts."

Justice Davis of Canada took occasion to emphasize the denial of the doctrine of supremacy of the courts in Canada and the assertion of the sovereignty of Parliament, which he asserted was "an impressive contribution of the common law of England to the power of parliamentary institutions in Canada." His emphasis was deliberate to show the contrast between the situation in his country and that obtaining in the United States. He pointed out that it was of the genius of the British people that this power had seldom been abused, and, in any case, was subject to immediate correction by the electorate. The alarms felt in this country at proposals to unshackle the legislative power seem remote indeed from the picture of Canadian governmental activity which Justice Davis so calmly and temperately painted.

In view of all the doctrines, new and growing as well as old, thus properly included by the speakers as a part of the common law, it is perhaps to be regretted that Dean Pound at the outset, in defining the common law, took special occasion to exclude the American realists from its sacred precincts. The movement for viewing the law as it is realistically, and not as the rationalistic expressions of judges would have it seem to be, actually stems from the Dean himself in the days when he made sociological jurisprudence a new and an exciting and important thing. Of course, there may be exaggerations of statement by individuals, as the Dean suggests, but that is hardly likely to lessen the effect of the movement, which will not detract from the force and validity of the common law, but, by pressing for its honest adjustment to present day conditions, will make it a truer expression of the needs of the modern society. As such, the movement has its place in forces affecting, even promoting, the future of the common law, along with the others so well stressed in this volume.

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