

# REVIEWS

INTERNATIONAL LAW CHIEFLY AS INTERPRETED AND APPLIED BY THE UNITED STATES. By Charles Cheney Hyde. Boston: Little, Brown & Co., 1945. Pp. LXXXVI, xvii, xv, 2489. Three vols. \$45.00.

IN 1922 Professor Hyde brought out the first edition of his treatise on "International Law, Chiefly as Interpreted and Applied by the United States." Reviewers<sup>1</sup> at once recognized the special value inherent in his method of surveying this branch of law from a national viewpoint. It gives due emphasis to history and practice as well as to principle. And by relating general doctrine to the decisions of one particular jurisdiction it achieves a needed sense of reality. Every lawyer knows the difference between studying, say for example, the law of contract in general and the law of contract as applied in a particular state. It is the underlining of this difference which gives to Professor Hyde's work a substance and practicality which are so often missing in treatises on international law and the absence of which has made jurists like J. C. Gray wonder whether international law was law,<sup>2</sup> and judges like Mr. Justice Roberts deny the very existence of international law.<sup>3</sup>

Since the publication of the first edition, Mr. Hyde has served as Solicitor for the Department of State for more than two years, as counsel in important international controversies, as professor of international law and diplomacy at Columbia University and as an intimate adviser of senior officials of our Department of State. He has gained a unique insight into American diplomatic practice by his association with Mr. Charles Evans Hughes, of whose work as Secretary of State he has written an important account. With this enriched background, he has thoroughly re-written his 1922 work and made it a book of increased value not only to lawyers and judges here and abroad,<sup>4</sup> but to anyone profoundly interested in American history or American government and to any editor or writer who wants to place in perspective world events of the day. For illustration, these volumes give invaluable material on the Monroe doctrine,<sup>5</sup> the history of the principle of self-determination,<sup>6</sup> the withdrawal of diplomatic relations,<sup>7</sup> the treatment of prisoners of war<sup>8</sup> and the procedure of a peace conference.<sup>9</sup>

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1. Book Reviews (1922) 31 YALE L. J. 897, 35 HARV. L. REV. 971.

2. J. C. GRAY, THE NATURE AND SOURCES OF THE LAW (2d ed. 1921) 126.

3. N. Y. Times, July 14, 1945, p. 20, col. 8.

4. See, for example, the recognition of Mr. Hyde's first edition by A. D. McNAUL, LEGAL EFFECTS OF WAR (2d ed. 1944) xx, *et passim*.

5. §§ 85-97, pp. 281-315.

6. § 108, pp. 363-68.

7. § 587, pp. 1656-7.

8. §§ 668-672, pp. 1844-57.

9. §§ 914-918, pp. 2402-9.

It would be superfluous for me to try to summarize here the three volumes of this work, inasmuch as in a concluding "Explanatory Statement"<sup>10</sup> Mr. Hyde himself epitomizes his treatise. It will be enough if, before commenting on particular subjects, I note that the volumes cover all the topics usually embraced in treatises on international law and that for every topic there is a wealth of material derived from treaties, from statutes, from judicial decisions, from digests of executive opinions, from official communications of the President, the Department of State, and other governmental agencies, from occasional speeches of distinguished Americans, from textbooks and from law review articles. No one who had spent less than a lifetime in international law could have made such a useful collection, for most of the material is not readily to be found in indices to periodicals or in formal law publications but requires day-to-day reading and collecting of items that are often wrongly regarded as ephemeral.

In this second edition Professor Hyde takes American developments up to the late summer of 1941.<sup>11</sup> He, therefore, has occasion to review our attitude during the early part of World War II before the United States was a belligerent. One of the critical problems with which he necessarily deals is the transfer of destroyers to the United Kingdom in 1940.<sup>12</sup> While the author uses language of extreme caution, he evidently does not subscribe to the reasoning of the opinion signed by Attorney General Jackson on August 27, 1940 and commonly attributed at least in part to the present Counsellor of the Department of State, Mr. Benjamin V. Cohen. It is Mr. Hyde's view, as it was Professor Borchard's view,<sup>13</sup> and Secretary of State Day's view,<sup>14</sup> that it is ordinarily a grave offense against the law of nations for a neutral government to sell a man-of-war to a belligerent. But Mr. Hyde satisfies himself that while the destroyer deal "may have constituted American intervention in the European War . . . , that intervention was not necessarily illegal."<sup>15</sup> And by a similar chain of argumentation he refrains from condemning the Lend-Lease Act.<sup>16</sup> As one who supported and supports these actions of the United States, this reviewer would have preferred to have had Mr. Hyde admit that the actions were unlawful and that their justification before the bar of history must rest on grounds other than the law. It does not aid men who must face future crises to be told that in those transactions President Roosevelt and Congress acted according to law, any more than it would aid them to pretend that when President Jefferson bought Louisiana or President Lincoln issued the Emancipation Proclamation or President

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10. Pp. 2428-39.

11. Foreword, p. vii.

12. § 848A, pp. 2234-37. See also § 848.

13. See Borchard, *The Attorney General's Opinion on the Exchange of Destroyers for Naval Bases* (1940) 34 AM. J. INT. L. 690.

14. § 848, n. 9, p. 2231.

15. P. 2236.

16. P. 2237.

Theodore Roosevelt acquired the Panama Canal they scrupulously adhered, in the former cases, to the law of the United States Constitution or, in the later case, to the law of nations.<sup>17</sup>

Since he has taken 1941 as the terminal point of his interest, Mr. Hyde has not had to consider the course of our belligerent conduct in World War II. However, he correctly portrayed the attitude which this country would take in regard to saboteurs and spies in war time.<sup>18</sup> Unfortunately, he was not equally prophetic with respect to the position that this nation would take upon the question of its right to try as criminals those who led the Axis powers into an aggressive war. Since Mr. Hyde did not read the Briand-Kellogg pact as imposing upon individual statesmen personal responsibility to a world tribunal established to scrutinize their conduct,<sup>19</sup> he thought that this nation if it desired to punish the head of a state who had embarked upon an aggressive war would be unjustified in trying him as a war criminal but instead would be remitted to using, as in the case of Napoleon, a mere executive determination to retain him in custody.<sup>20</sup>

Mr. Hyde's admirable discussion of aerial bombardment<sup>21</sup> also deserves note. He wrote at a time when it was already apparent that in World War II there had been appalling deviations from the requirements of international law.<sup>22</sup> And he makes a convincing case for the proposition that only an international entity should be allowed to possess certain types of weapons, among which he would undoubtedly now include the atom bomb.<sup>23</sup>

Another problem arising out of the war on which Professor Hyde has some timely remarks is the right of a belligerent to go beyond a sequestration of, and completely to confiscate without eventual reparation, the local property of enemy aliens resident in the enemy country. Agreeing with Professor Borchard,<sup>24</sup> Professor Hyde asserts that there is no such right.<sup>25</sup> Admittedly

17. In justice to Mr. Hyde I note that he has been more forthright in raising questions as to the validity of the April 9, 1941 agreement between the American Secretary of State and the Danish Minister at Washington, yielding to the United States the right to construct bases in Greenland. § 1383.

18. § 677, pp. 1862-65, see particularly note 10. Because of the 1941 date line of his book, Mr. Hyde refrains from citing *Ex parte Quirin*, 317 U. S. 1 (1942). Compare Mr. Hyde's own article, *Aspects of the Saboteur Cases* (1943) 37 AM. J. INT. L. 88.

19. § 596A, pp. 1680-5.

20. § 919, particularly p. 2411. *Accord*: Milton R. Konvitz, *Will Nuremberg Serve Justice* (1946) 1 COMMENTARY 9; Wyzanski, *The Nuremberg War Criminals Trial*, AM. ACAD. OF ARTS AND SCIENCES, Dec. 12, 1945. *Contra*: TRIAL OF WAR CRIMINALS (U. S. Dept. State 1945). Compare S. GLUECK, *WAR CRIMINALS* (1944) *passim*.

21. § 663, pp. 1822-6.

22. P. 1835.

23. Pp. 1835-6.

24. See for example, Borchard, *Treatment of Enemy Private Property in the United States before the World War* (1928) 22 AM. J. INT. L. 636, 637.

25. § 622 pp 1735-8.

this position is not only contrary to some American<sup>26</sup> and English<sup>27</sup> authorities but is premised on absolute views of property rights which though they have been traditional since the time of John Locke are in some quarters regarded as obsolescent.<sup>28</sup>

A closely allied question is the right under international law of a country to confiscate without compensation all property of a particular class, without discriminating between holdings by its own nationals and holdings by aliens. This is an issue which was to the forefront when Mexico expropriated without compensation the agrarian and oil properties of its citizens and of foreigners. On that issue, as chairman of an American Bar Association Committee<sup>29</sup> and here again as author,<sup>30</sup> Mr. Hyde has taken the position that it is contrary to the law of nations to expropriate private property without making provision for adequate, effective and prompt payment. In this view the American government, through many spokesmen and most recently through Secretary Hull,<sup>31</sup> has so far concurred. Whether, particularly in our foreign policy toward Eastern European countries, for instance, this attitude will continue to prevail, no one can foretell, but in any future controversy the arguments of Mr. Hyde will undoubtedly receive the close attention they merit.

Mr. Hyde has a refreshingly modern approach to the question whether the national government of the United States has constitutional power to enter into an international treaty covering matters which, in the absence of a commitment to a foreign government, would be regarded as within the exclusive power of the several states.<sup>32</sup> The question has come to the fore particularly since the United States has become a member of the International Labor Organization<sup>33</sup> and has thus come under a duty to lay before the Senate, or perhaps the Senate and the House of Representatives, any International Labor Convention which the national government is, under our Constitution, competent to adopt. Mr. Hyde seems to take the stand that since the convention is a genuine international treaty, the Senate is competent to ratify it<sup>34</sup> and if the particular convention is not, as some of the conventions are, self-executing,<sup>35</sup> to enact enforcing legislation. This

26. § 621 especially p. 1733. *United States v. Chemical Foundation*, 272 U. S. 1, 11 (1926).

27. A. D. McNAIR, *op. cit. supra* n. 4, at 125, 126; notes 7-8, 221. See authorities referred to in *Standard Oil Co. v. Markham*, 67 U. S. P. Q. 263, 272, 276 (S. D. N. Y. 1945).

28. H. LAUTERPACHT, AN INTERNATIONAL BILL OF THE RIGHTS OF MAN (1945) 163. Compare Report on the Berlin-Potsdam Conference IV, 3 (Aug. 2, 1945), *WORLD ALMANAC* (1946) 112. *Contra* A. L. I., *ESSENTIAL HUMAN RIGHTS*, Art. 10.

29. P. 710, n. 3.

30. § 217A-§ 217D, pp. 710-25.

31. Pp. 710-1, 714, 718-9, 720-2.

32. §§ 496-502, pp. 1387-1401.

33. P. 132, n. 15.

34. Pp. 1389-90, pp. 1397-8.

35. See opinion of Stone, C. J., concurring in part, *Aguilar v. Standard Oil Co.*, 318 U. S. 724, 738 (1943).

stand contrasts with the, it seems to me, untenable doubts expressed by some of the legal advisers of the Department of State.<sup>36</sup>

Upon the problems of nationality Mr. Hyde has revised his text in the light of the Nationality Act of 1940 and his discussions with the expert of the Department of State, Mr. Richard Flournoy. Because Mr. Hyde does not go beyond 1941 he had no occasion to consider how far *Schneiderman v. United States*<sup>37</sup> would require a modification of his statements upon impeachment and revocation of naturalization.<sup>38</sup> Nor did he have any reason to review recent statutory and judicial developments extending the right of naturalization to Chinese<sup>39</sup> and Arabs.<sup>40</sup> These developments would, of course, require a change in some statements in his text.<sup>41</sup>

One of Mr. Hyde's passages which has broad interest for students of jurisprudence is his illuminating contrast between the canons of treaty interpretation followed by the Supreme Court of the United States and those adopted by the Permanent Court of International Justice.<sup>42</sup> It is interesting to compare the willingness of the former with the unwillingness of the latter to give an altered construction of a plain text of a treaty because of diplomatic exchanges and correspondence indicating the views of negotiators of the treaty. But it may be suggested that one of Mr. Hyde's arguments in support of the American practice goes too far. He asserts<sup>43</sup> that the American courts properly disregard the common law rule for the exclusion of negotiators' statements inasmuch as "the reason why, according to the common law, declarations of intention could not be given in aid of the interpretation of documents, save under certain exceptional circumstances, was that they were considered as dangerous for a jury, who, not being expert in such matters, might attach to them too great weight." This seems to misstate the reason for the common law parol evidence rule (which incidentally applies in non-jury as well as in jury cases). The parol evidence rule is not concerned with any precautions or limitations based on probative value.<sup>44</sup> It embodies the principle that "when a jural act is embodied in a single memorial, all other utterances of the parties on that topic are legally immaterial for the purpose of determining what are the terms of their act."<sup>45</sup> If the foregoing analysis of the parol evidence be correct, then the difference between the Supreme Court of the United States and the Permanent Court of International Justice is a difference not in evidential but in substantive standards. It is a difference which would warrant draftsmen of future

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36. P. 1398, n. 5.

37. 320 U. S. 118 (1943).

38. § 370, pp. 1125-8.

39. 57 Stat. 600, 601; 8 U. S. C. § 703 (Supp. 1943).

40. *Ex parte Mohriez*, 54 F. Supp. 941 (D. Mass. 1944).

41. § 354, pp. 1095-9.

42. §§ 533B-535, pp. 1478-1502.

43. P. 1497.

44. 9 WIGMORE, EVIDENCE (3rd ed. 1940) § 2400.

45. *Id.* at § 2425.

treaties in inserting in the text a specific provision that the text was (or was not) to be construed in the light of diplomatic exchanges and correspondence. Without such a provision there is a risk that courts of independent authority will constantly differ on their construction of the same document, and that difference may be justicially irreconcilable.

On the whole these volumes in format and in ease of cross-reference are so admirable, that it may not be amiss to note one minor criticism as to citation of authorities. Mr. Hyde deservedly cites opinions of Secretaries of State and Solicitors by the name of their author, for he knows how much the standing of the author of an executive interpretation counts in determining its weight. The principle is no different with judges. And so it is somewhat disappointing to see opinions of lower federal courts cited only by volume and page number without reference to the particular court or (as is admittedly not always necessary) to the particular judge. Just as for Mr. Hyde the words of a Hughes or Hackworth have special value, so for us on the bench the words of a Hand or Hough have particular significance.

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INTERNATIONAL TRIBUNALS PAST AND FUTURE. Manley O. Hudson. Washington: Carnegie Endowment for International Peace and Brookings Institution, 1944. Pp. xii, 287. \$2.50.

THE present volume was written on the joint request of the Brookings Institution and the Carnegie Endowment. They asked Judge Hudson, probably the best qualified expert in the field, to appraise the work of the pre-war international tribunals in terms of the presumable functions of judicial organization in the post-war world. Judge Hudson has mastered the vast task in this relatively small-sized volume, which covers even such rather academic topics as the Proposed International Loans Tribunal and the Proposed International Commercial Tribunals. Perhaps too much emphasis has been placed by the author on the Permanent Courts; other international tribunals did considerably more work. It is more regrettable that the period prior to the Jay Treaty (1794) has been practically omitted. With these limitations, however, the survey offered is quite comprehensive, and its value is greatly augmented by the careful bibliography for which the author pays deserved praise to Mr. Louis B. Sohn (but why omit in the bibliography of a monograph the titles of the articles cited?). Notwithstanding the disclaimer in the foreword by Messrs. Finch and Moulton, this volume is a useful reference book which should find its place in the library of every international lawyer.

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The original purpose of the book, namely, to aid by constructive suggestions the formation of the post-war international judiciary, has been largely frustrated by the recent creation of the International Court of Justice. As it is well known, the disjunction of the new and the former permanent court is the outcome of Russian hostility against everything connected with the League of Nations. Now the problems arising from the disjunction have become prominent in the matter of international tribunals. The possibility of a development of this kind the author, whose preface is dated August 1944, could hardly take into consideration. Still he touches upon the Soviet dislike of arbitration, giving as explanation a *bon mot* by Mr. Litvinoff (pp. 44, 240). There is much more behind this dislike. Even the Tsarist régime had been unfavorable to arbitration of Russian rights, and Soviet political philosophy added weighty reasons of principle. Experiences in the only international arbitration in which the Soviet Government was a party—the Lena Goldfields case<sup>1</sup>—were most discouraging.

In other respects, too, a more searching appraisal would have been desirable. The performance of the Permanent Court of International Justice was not impressive as far as judgments are concerned (perhaps the advisory opinions are the more auspicious phase of the Court's work). During its eighteen working years (1922–1940) the Court rendered only 32 judgments in about 25 cases most of which were politically of minor importance. The author comments on the judgments merely by saying "each was important to the parties [how could it be otherwise?] and some were of wider significance." Regarding the compulsory jurisdiction of the Court, the author refrains from any comment concerning the very unfavorable statistics on this point. There is nothing to question the author's remark that the Court's work has been "generally hailed with satisfaction throughout the world," but it may be observed that we have not yet an investigation of this issue. A Columbia student paper, examining public reaction to a particular advisory opinion, has recently brought to light the interesting fact that the New York Times and the London Times not only register American and English comments, respectively, but also those coming from other countries. This fact would seem to facilitate further investigation along the lines indicated.

ARTHUR NUSSBAUM†

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1. 3 NUSSBAUM, INTERNATIONALES JAHRBUCH FUER SCHIEDSGERICHTSWESEN IN ZIVIL-UND HANDELSSACHEN (1926) 429 (reproducing part of the informative award in the English original). Cf. also LAUTERPACHT, ANNUAL DIGEST OF PUBLIC INTERNATIONAL CASES (1929–30) 426.

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TOWARD IMPROVING PH.D. PROGRAMS. By Ernest V. Hollis. Washington, D. C.: American Council on Education, 1945. Pp. xii, 204. \$2.50.

"TOWARD Improving Ph.D. Programs" is the latest in a series of American educational studies published by the American Council on Education in Washington. Dr. Ernest V. Hollis, the author—who is currently a specialist in the United States Office of Education—has utilized in his study a considerable amount of statistical and questionnaire material gathered by the Commission, to which he has appended his own interpretations and conclusions. He has acted upon the very reasonable premise that the influence of graduate schools in the United States upon Ph.D. recipients leaves much to be desired and has arrived at several rather conservative though not insignificant suggestions which deserve notice. What is not very satisfactory about Dr. Hollis' book—and the fault runs through the entire book—is the inapplicability of the statistical tables to those suggestions. If a reading of the statistics related to his conclusions, their meaning whether original or no would be satisfactory, but it does not. In themselves charts dealing with past employment opportunities for and distribution of, the graduate student are worthwhile even when they are partly vitiated by indeterminate factors. But their inclusion, along with the somewhat undigested and conflicting opinions of numerous college presidents, deans, professors of the Arts and Sciences, professors of Education, and others, mars the general effect.

Perhaps it will appear unfair to criticize adversely where statistics bearing on employment possibilities and reasonable observations on higher education are both included, but the implied juxtaposition of the two so pervades both Dr. Hollis' book and his own personal approach to education that the ideal graduate school is pictured as an institution which will best satisfy the demands of employers of industrial chemists, of government analysts, of teachers not called upon to practise research, and of research scholars not called upon to teach. Although the successful fulfillment of employers' requirements would be a fortunate and right thing for any graduate school, such a goal ought to be subordinated to the much larger conception of the University as an agent for advancing knowledge within and beyond its own walls. To examine the graduate school by first appealing to the employment situation and to employers generally distorts by granting too much to the immediately practical the true idea of a university.

In these days of utilitarian propaganda few people would deny that institutions of higher learning have important responsibilities to society which should guide their program. The question to be asked is to what extent the University should be allowed to determine the benefits of education in its own terms. Is it right that university authorities after studying one of Hollis's employment tables should decide to take money away from the classics department and invest it in physical education and home economics?



Although it would be a logical action, I hope not. Hollis' corollary to the idea of University responsibility, namely that "the graduate school should continuously adapt its program to the social uses which prospective doctors of philosophy can make of the information and insight gained in their study" might, outside the narrow confines of his statistical material, be a good one. However, on an educational plane "social uses" should not be equated with employment distribution and possibilities. Deans poring over his figures will find that more than 7, 8, and 12 percent of the men and women who received Ph.D.'s in the 1930's in the Classics, in Germanic Studies, and in Art and Archeology respectively were not gainfully employed in September 1940, a relatively high proportion, yet the universities would hardly be assisting knowledge—and incidentally society—by further emphasizing the very popular field of chemistry at the expense of the other three. Yet, even without such charts and graphs and figures the tendency in that direction is very strong. It will perhaps help educators to face the statistical evidence calmly if they realize how inaccurate the figures are in presenting the situation. For example, one table concerning the employment problem reveals that 17.6 percent of Bryn Mawr's Ph.D. recipients in the 1930's and 26 percent of Radcliffe's were subsequently not gainfully employed, which would seem to prove that a greater percentage of Radcliffe's doctors than Bryn Mawr's are wasting their educational substance cooking for their husbands. That 22,509 graduate students acquired Ph.D.'s in the 1930's should doubtless give us pause, but that 3.8 percent of them were later unemployed has little meaning. Hollis, while attempting to tell us how much cooking was involved, merely discloses other incalculable factors.

According to some of his figures a small percentage of the students have after receiving their degrees become "improperly" employed. To brighten up an otherwise difficult and technical style Hollis cites as examples the cases of a Ph.D. in Greek, who after contact with the material world became a retailer of bakery products, and of an historian operating a flower shop. Such misfits, if such they be—and one cannot be sure that they are from their occupations alone—considering the time and effort spent upon them in graduate school, are regrettable, but I suppose inevitable, and should not have much bearing on programs of higher education. Wayward Greek scholars are not important problems.

Outside the statistical framework of the book Hollis' treatise deserves consideration. Although the extracts he presents from questionnaires answered by educators and lay employers are naturally, in so complicated a problem as education, often conflicting and contradictory, one important common denominator remains and as such merits some attention. Almost all those questioned suggested that the University be more careful to equip the graduate student with fundamental knowledge of his subject even at the cost of less intensive knowledge in a narrow field. Comprehensive knowledge in a very particular area, although eminently desirable, seems often to imply that the student's education is superficial in related fields.

Concerning the scope of graduate work and the scholastic program in detail Hollis exercises his own judgments, which are more satisfying than his analyses of figures and questionnaires. After pointing out in his opening chapter the original forces that have defined doctoral work, he discusses two of the greatest problems confronting the graduate schools and their interpretation of the Ph.D. degree, the demands for greater training in the more purely vocational fields such as human nutrition, home economics, library science, education, and agricultural specializations, and the transfer of primary responsibility for productive scientific research to non-university agencies. Regarding the first problem he states that orthodox graduate schools do not yet publicly acknowledge that the bachelor's degree has lost its meaning as the basis for admission to graduate work and the master's degree its significance as a proving ground for doctoral candidates. To judge from his other statements Hollis means by this that it is unreasonable—and possibly anti-social—to require an expert in physical education to be acquainted with the classical languages, with French, and with English history, which might all be a part of the normal B. A. program. If that be his meaning—it is difficult to see any other—it would signify a degradation of the graduate school to the level of vocational education. Such procedure might well interfere with Hollis' own plea for Ph.D. recipients with broader backgrounds. "The present artificial barriers to scholarly but practical programs of study" as he terms the language requirements may really be a method of ensuring that competent and educated men enter the newer fields. The author himself dismisses in the case of education the escape from the problem to be found in substituting a new degree for the Ph.D.; he states that the prestige of the traditional degree renders the newer Ed.D. somewhat unsatisfactory in marketing value. In that dismissal it seems to me incorrect to impute the prestige of the Ph.D. to tradition only. Surely the assurance that the doctor of philosophy has a satisfactory B.A. should enhance the prestige of the more advanced degree.

In a state of society in which the more complex and practical scientific research has been transferred away from the university campus Hollis suggests that graduate school faculty members will have to devote more of their time and talent to preparing others for research than to doing research themselves and that less emphasis will have to be placed on the student's independent contribution to knowledge. Whatever the solution there is bound to be a radical change in the approaches to education in the natural sciences. The issue seems to involve either less emphasis in the universities upon the more practical scientific research or government subsidization and all the consequences such a policy might entail. Dr. Hollis refuses, I think out of deference to his governmental position, to urge the latter course.

In his conclusion Hollis pleads for greater cooperation from and integration of the various departments in the graduate school, an overhauling of dissertation procedure, and a more responsible approach to the individual student's character and overall development. That the graduate school like

its parent institution the university should always strive towards easier understanding and communication between departments seems clear; aside from the somewhat unfriendly result of English and Chemistry professors shooting off on arbitrary tangents into intellectual space, departmental isolation retards the exploration of unknown areas between the humanistic studies and the various sciences. An overhauling of dissertation procedure provides greater room for controversy. To avoid the dilemma between the demand to produce a thesis making an original contribution to knowledge on the one hand and the difficulty of choosing an interesting worthwhile topic on the other Hollis would place greater emphasis on cooperative research. He states that research techniques (by no means adequately taught at present) and "the development of human qualities essential to working effectively with others" would be gained thereby. And, what he does not suggest, work requiring mass production, armies of students plowing through nineteenth century obituaries and the like, would be accomplished. No doubt the results might have real value as discoveries, but the gains to the student would certainly be limited. What the student needs far more are opportunities for developing individual initiative and there seem no other ways to acquire that than to make one's own individual and original contribution, however small. Hollis' suggestions concerning cooperative scholarship do not solve the problem.

Perhaps more weight should be given to the imaginative exercise of selecting research topics. Admittedly imagination in such matters unless latent in the student cannot be presented to him, but surely what imagination is present should be constantly stimulated by professorial enthusiasm and explanation toward the meaning of scholarship. Too often that is omitted. So much can be learned only by writing a dissertation; some students find in the attempt that they cannot write them; others discover that they must employ much more than fact-finding abilities. The professor's task, at least negatively speaking, is to avoid stifling the student's enthusiasm by guiding him into progressively interesting and significant channels. Too frequently the English student in graduate school is successful to the degree that he can digest the routine of collecting unimportant facts, known and unknown, without reference to their applicability to wider problems. Such procedure deadens the imagination and makes more difficult the job of realizing what worthwhile scholarship is.

To teach graduate students successfully a professor ought to have contributed enthusiastically to scholarship himself rather than to have looked upon it merely as effort toward advancement. (That rule, to a lesser degree, ought also to be applied to the teaching of undergraduates.) Hollis, mistakenly, I think, tends to minimize the essential connection between teaching and research, which is certainly more than the artificial one of environment. Failure to appreciate that connection is an illustration perhaps of his utilitarian approach to education. He scarcely seems aware of the fact that the concentration of the science teacher upon teaching only may include contra-

dictory elements. Actually, teaching and research seem to involve different experiences which in operating upon each other are mutually beneficial. The one contributes ideas to the other in the absence of which the single field becomes unimaginative and lacking in intellectual variety.

Hollis makes much of the failure of many graduate schools to provide adequately for the developing personality and the social welfare of the student, who beyond his role as scholar is forgotten. Many who may be able to satisfy scholastic requirements are not fitted for reasons of personality to be teachers or industrial and governmental research workers. Those basically unfit should be prevented from entering graduate school; others should be introduced to a larger range of social experience than that to be acquired in the library stacks. Hollis is certainly right in decrying the denial of responsibility in such matters which are sometimes made by college authorities. Unlike the undergraduates the graduate student, who is by the nature of his rather confining work in as much need of social guidance, is often neglected and becomes less a citizen of the world than when he embarked upon his course of study. Instead of fitting him for his future work, his education may actually retard him. Prospective teachers especially are sent out to teach without adequate training in the arts of communication. What is learned through the illustration and example of the graduate professor tends frequently to be the wrong prescription for undergraduate teaching. Recognition of that fact, Hollis feels, should be acted upon. There should be a sense of responsibility for the general well being of the student beyond that for his purely intellectual development.

Altogether Mr. Hollis' book despite its materialistic approach is probably worth the reading for anyone interested in the problems of advanced education. Having once admitted the assumption that the graduate school must adapt itself to "social uses" it goes on to discuss certain techniques and immediate goals. Those in themselves are worth noting. One need only realize that the pursuit of those more superficial problems will not answer the question of the university's place in society.

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FOOD OR FAMINE: THE CHALLENGE OF EROSION. By Ward Shepard. New York: The Macmillan Co., 1945. Pp. x, 225. \$3.00.

"MODERN man has perfected two devices, either of which is capable of annihilating civilization." This sounds like the introduction to an article on the atomic bomb, but Ward Shepard had something quite different in mind when he wrote *Food or Famine: The Challenge of Erosion*. He goes on to say that one of these devices "is total war," and the other is "world soil

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erosion. Of the two, soil erosion is the more insidiously and fatally destructive. War . . . destroys the social environment. . . . Soil erosion destroys the natural environment which is its foundation. . . . The reconstruction of the world's broken-down soils and river systems is the most gigantic and complex economic task confronting men."

Such a statement may sound extreme when one considers the problems presented by the exhaustion of minerals, the density of population in countries such as India and China, and the rivalry of nations for the control of resources and markets. Nevertheless, there is a terrible menace in the statement that erosion is "in progress on more than half our land surface—on more than a billion acres of the less than two billion acres in the continental United States. . . . Over 100 million acres of our best cropland (have) been irremediably ruined for further cultivation." Moreover, of the 400 million acres now in use about 150 million have been "so severely damaged as to make farming difficult or unprofitable." Still more impressive is the fact that farming, grazing, and lumbering have made it possible for the rain to carve over 200 million gullies in the United States.

Having frightened us by such figures, the author states his main purpose. He "attempts to answer the question: What kind of cooperative social action must be undertaken to rebuild and stabilize our land and water resources in order to keep the good earth permanently fruitful?" Before answering this question he points out that the river valley is the natural geographic unit with which we must deal. It is the whole valley and not a part which must be considered. It is useless, for example, to spend hundreds of millions of dollars on the lower Mississippi River and at the same time permit millions of tons of soil to be swept off the upper parts of that river's valley and deposited lower down. Nor is it sensible to attempt to prevent erosion without also taking measures so that the right use may be made of the entire watershed. In practically every river valley the land should be scientifically divided into parts devoted to farming, to grazing, and to forestry. At the same time provision must be made for water power, water supply, transportation, and the location of industries and cities. In other words all the activities of each main river valley must be coordinated.

This brings us to a most interesting problem. What kind of organization will best carry out such broad policies? Shall we rely on private enterprise, on the government, or on some combination of the two? Shepard's solution has a political and social as well as economic significance. He does not want "bureaucratic hierarchies whose function is to do the things they think people need." What we need is some way of organizing people so that they will do these things for themselves. The soil conservation districts set up by the federal government supply the best model. Their peculiar feature is that they are set up by vote of the land users, both owners and tenants. Boards of supervisors chosen in this way cooperate with federal, state, county, educational, and private agencies. Governmental advisory experts work with the elected supervisors in setting up rules for preventing erosion

and restoring the land to its former productivity. Shepard believes that some such method of cooperation between many types of agencies can be applied to the development of entire river valleys. It is his considered conclusion that "considering that the earth can continue to be inhabited by man for endless ages . . . the value of a given acre of land is literally infinite, and the amount of money we can afford to spend to conserve it is limited only by its potential long-range productivity and by the amount of human energy available to conserve it. . . . Land deterioration can no longer be tolerated."

One of the great legal problems of the next generation will doubtless be the framing of methods by which to secure the fullest and most fruitful combination of private initiative and public responsibility in developing the possibilities of the land from which we all draw our means of support.

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