Notre Dame Law Review

Volume 36 | Issue 2 Article 11

3-1-1961

Book Reviews

Waldo Beach

James J. Harrington

Rocco L. Puntureri

George P. McAndrews

BOOK REVIEWS

JACQUES ELLUL: THE THEOLOGICAL FOUNDATIONS OF LAW, translated from the French by Marguerite Wieser, New York: Doubleday, 1960. Pp. 140. $3.95. First published in France in 1946, this vigorous statement of a Christian philosophy of law has now been made available in English. A convert to Christianity and a professor of law at the University of Bordeaux, Jacques Ellul has a growing reputation in Christian circles as one attempting to relate Christian categories to the discipline of law; his *The Presence of the Kingdom* caused some stir when it was published here in 1951.

This volume, written in terse and sharp strokes, is an attempt to establish a Biblical foundation for law, countered both to the prevailing positivism of secularism, as might be represented by Kelsen, but also to the natural law tradition. Divine law, for Ellul, is not to be set alongside of natural law or above it, as setting "counsels of perfection," but to supplant it. His case against the natural law is not the usual one, rested on its ambiguity, or that of cultural relativism, but is the Biblical argument, that, since man's "nature" is totally perverted in the Fall (and if this were not so, why the necessity of the Incarnation?), to base a normative theory of law on such corruption is impossible.

Rather, the divine law of revelation, which is the opposition, not the completion, of natural law, is the only authentic starting point. Ellul is at pains to show how natural law and divine law are opposed in spirit at every turn. Biblical "righteousness" or "justice," incarnate in Christ, is the only source and touchstone of law. The right meaning of law can be derived only from the covenant, the parousia, and the final eschaton. He is radically Christocentric.

Even from a quick glance, it is plain that Ellul is spokesman for a radical evangelical Protestant position. His case will be convincing to those who would start within the same circle of faith, and accept his dogmatic categories. There is sharp thinking in this book, and some telling attack on the ambiguities of the natural law tradition (despite his anti-rationalism, he is not above using a lawyer's logic). But his own counter-position raises some fundamental questions of method which cry out for an answer.

What about the use of Biblical categories, taken over so straight into the contemporary debate about the philosophy of law? He assumes finality of the Incarnation, the resurrection, the ascension, the parousia, and the final eschaton as literal, apparently, as indispensable to his position. He bypasses, without mention, the whole question of mythology and "demythologizing" — an issue which any theologian, speaking to a 20th century intellectual community, cannot avoid. How would Ellul's position differ from that of a Fundamentalist? If it does not, then he is involved in ambiguities every bit as serious as those that cling to positivism or to the rationalism of the natural law school.

There is a worrisome issue, too, that clings to his radical Christocentrism. "Jesus Christ has become the righteousness of God. There can be no justice whatsoever, even relative, outside Jesus Christ."[1] What does this imply for a philosophy of law for the devout Jew, or for Eastern cultures? Unless he has recourse to a logos Christology alien to his evangelical spirit, it would seem necessary for Ellul to exclude such not only from salvation but from a modicum of common justice.

Finally, in his anxiety to state vigorously the theological basis of law in revelation, Ellul seems to this reviewer to become preoccupied with the vertical dimension to the neglect of "the second part," the neighbor. The consideration of the living "other," the neighbor, with his complexity of needs and rights, "with limbs that will tear on a rose-bush," is certainly an indispensable part of what constitutes the law. Yet, at least in this book, "the neighbor" is abstracted, almost into a "case" to make a theological argument. Perhaps the living person of the neighbor, whose

1 Text at 42.

claims and counter-claims make up so much of the texture of law, will receive attention in another promised volume, hinted at in closing, on "the content of the divine law."

For now, we can express thanks to Professor Ellul for posing sharp questions, and providing exciting material for the renewed dialogue between Protestant and Catholic philosophies of law. We can be sure that the conversation will not be concluded in agreement on his terms.

*Waldo Beach**

BY THE PEOPLE. 40th Annual Report of the American Civil Liberties Union. New York, 1960. Pp. 81. $0.75. The number, variety and complexity of civil liberties problems which arise each year may, without more, justify the existence of the American Civil Liberties Union, which has been called "the only organization . . . exclusively and continuously dedicated to the protection and preservation of our basic freedoms . . . performing an enormously useful if not absolutely necessary function."[1] Some of the worth of the ACLU as a professional defender of civil liberties may be read in *By the People,* the Union's fortieth annual report. The pamphlet not only recounts ACLU activities in 1960 but also catalogues a large number of the actions of governmental and private bodies which affected civil liberties and analyzes legal actions in which the Union took no direct part.

As always, much of the activity involved freedom of belief, expression and association. The Union testified against two proposed constitutional amendments, both designed to enlarge governmental power to censor "obscene" books.[2] One would have allowed the states to decide questions of "decency and morality." The other would have suspended free speech and free press guarantees from application to books which were found obscene according to the *Roth*[3] definition. The Union's position is that a causal relationship has not been established between reading obscene matter and the commission of crime. Thus, Union officials attacked the former provision on the ground that the words "decency" and "morality" defy precise definition and, by reason of their vagueness, invade constitutional protections. Since the ACLU does not agree with the standards laid down in *Roth,* it feels that the way ought to be left open for the Supreme Court to change its opinion on the basis of new evidence.

Union affiliates and private pressure groups clashed often during the year. The most active and, concededly, most effective of these pressure groups are the local Citizens for Decent Literature organizations. In Northern California, the Union affiliate, while not denying the right of a private group to express its views, opposed the practice of such groups' pressuring newsdealers and distributors by threatening boycotts. The affiliate contended that such acts endanger the constitutional rights of citizens.[4]

The Union objects to the preparation of lists of objectionable material by CDL groups for use by police in clean-up campaigns. This and other techniques resulted in clashes last year between Union and CDL affiliates in Evanston, Ill., Youngstown, Ohio,[5] and San Mateo and San Francisco, California.[6] The recurrence of such incidents is to be expected. Neither the ACLU nor the CDL approves of the trend of recent obscenity decisions. The CDL thinks that the definition should be broadened; the ACLU argues that it should be restricted.

---

* B.D., Ph.D., Professor of Christian Ethics and Director of Graduate Studies in Religion, Divinity School, Duke University.

1 O'Meara, *Introduction* to FRAENKEL, THE SUPREME COURT AND CIVIL LIBERTIES v (1960).

2 Text at 9.

3 Roth v. United States, 354 U.S. 436 (1957).

4 Text at 11.

5 *Ibid.*

6 Text at 13.

With respect to film censorship, the report notes with approval that the Legion of Decency is continuing its program of clarifying its principles and practices. Still, the Union disapproves of some of the uses to which the list is put. The mayor of one Massachusetts town,[7] according to the ACLU report, serves as the community's film censor, condemning films, without having seen them, solely on the basis of Legion ratings. In another town[8] in the same state, no films condemned by the Legion are shown pursuant to an agreement between the mayor and the local exhibitors. The Union also disapproves of the use of economic boycotts of houses which show objectionable films. Private groups ought to be free to inform and persuade their members with respect to viewing films, but should not, by preventing the exhibition of certain films, force their standards upon the entire community.

How much does a citizen have a right to know about the activities of public bodies? The Illinois affiliate of the ACLU applauded the decision of the Chicago City Council to allow radio and television coverage of its meetings.[9] The Union supported an amendment to the Administrative Procedures Act which would have made clear the fact that the public information section of the act does not provide statutory authority for withholding government information.[10]

But the Union also opposed a Senate bill which would have allowed the public access to all papers filed in federal courts. Since the material is eventually made public when some phase of the action is heard in court, the public's access to the information is guaranteed. In addition, a person ought not be exposed to "public obloquy or scorn without a fair opportunity to meet the bare allegations."[11]

Similarly, the Union opposed the releasing of the FBI report on the Mack Charles Parker case after two grand juries refused to return indictments. "To do so . . . would be directly contrary to the constitutional principle that accusations against people are to be handled through the judicial process. . . ."[12] The New York Civil Liberties Union sponsored a bill in the state legislature to prevent grand juries from making public presentments attacking persons or policies without charging the commission of a crime.[13] The ACLU also opposes[14] the photographing or televising of trials on the ground that the public trial is for the benefit of the accused. If a witness is made more nervous or anxious because of the presence of cameras and microphones, the purpose of the trial is partially frustrated, without a corresponding advantage in increased public knowledge.[15]

The line as to where the public's right to information ends is admittedly not easy to draw. The ACLU tends to advocate greatly increased dissemination of information about the activities of public bodies except where a given individual will almost surely be hurt by the disclosure.

Correspondingly difficult is the problem of determining whether labor union dues ought to be used for political purposes. The Union's position is that such use is protected by the first amendment guarantees of freedom of speech.[16] A distinction is made between special assessments for political activities and the use of regular dues for such purposes. In the former case, the Union believes that dissenting members ought not to be required to contribute. But where minority

7 *Id.* at 17.
8 *Id.* at 19.
9 *Id.* at 22.
10 *Id.* at 21.
11 *Ibid.*
12 Text at 50.
13 *Id.* at 68.
14 *Id.* at 70.
15 See Cedarquist, *Televising Court Proceedings, a Plea for Order in the Court,* 36 NOTRE DAME LAWYER 147 (1961).
16 Text at 42.

members have had a full opportunity to participate in the decision-making process, their civil liberties are not denied where the decision is to use union dues for political activities.

The Union does not deny that labor union meetings are often a far cry from open forums, but it suggests that the remedy lies not in the stifling of group opinion but in making union meetings more democratic. It is submitted, however, that the question is not whether group opinion would be stifled but whether a person who has joined a labor organization, whose objectives are essentially apolitical, should be forced to pay for the expression of partisan political opinions with which he does not agree.[17]

Not surprisingly, much ACLU activity was devoted to preserving or erecting an absolute wall of separation between church and state. The Civil Liberties Union of Massachusetts opposed a bill in the state legislature providing for state payment of tuition to parents whose children attend non-public schools;[18] the Florida Civil Liberties Union is supporting litigation designed to end religious practices in the state's public schools.[19] The New York Civil Liberties Union is backing an appeal of a ruling by the State Education Commissioner that a school board can pay for transportation of pupils to non-public schools regardless of the distance travelled.[20] The affiliate's claim is that providing transportation for pupils to go 35 miles to school, as some have chosen to do, violates the constitutional requirement of separation of church and state.

The ACLU of Oregon is supporting the suit of three taxpayers who object to the constitutionality of a state law requiring local school boards to furnish free textbooks to parochial school children. The judge on the lower court held that the decision in the *Everson*[21] case was binding, although he personally could not agree with it. If transportation, which he felt directly aided the religion taught in a parochial school, was to be permitted, then an indirect aid, secular textbooks, must also be permitted. On the other hand, the Greater Philadelphia Branch of the ACLU approved the use of public funds to provide health services to non-public schools, since the failure to do so might lead to inferior non-public school health services, thus constituting discrimination on the basis of religion.[22]

This latter position is almost indistinguishable from the position of those who argue that forcing parents of children in non-public schools to shoulder the double burden of school taxes and private tuition violates the requirement of equal protection of the laws.[23] If lack of adequate health services at a parochial institution tends to dissuade parents from sending their children there, and thus inhibits religious liberty, does not requiring parents of parochial school children to support two school systems, in fact, do the same? It is not argued that this is best as a matter of policy, but if constitutionality alone is considered, could not the Philadelphia affiliate have similarly supported free lunches, textbooks, or bus service? Could not the same argument be used to justify the state's providing to parochial schools virtually every service provided to public schools?

Not all of the activities of the Union were directly connected with challenges to individual civil liberties. Much attention has been drawn to the report of the ACLU Academic Freedom Committee dealing with the effects of massive private and government grants for research projects.[24] The study questioned whether

17 Interestingly enough, the report includes an acknowledgment of a contribution of more than $200 from a labor union. *Id.* at 76.
18 *Id.* at 29.
19 *Id.* at 28.
20 *Ibid.*
21 Everson v. Board of Education, 330 U.S. 1 (1947).
22 Text at 29.
23 See Gorman, *A Case for Distributive Justice,* in RELIGION AND THE SCHOOLS 34 (1959).
24 Text at 23.

the universities ought to allow themselves to lose such a large measure of their autonomy by devoting great energy to projects whose objectives are largely determined by outsiders.

Among the problems discussed were the "necessity of obtaining security clearances for faculty members; the neglect of the humanities in favor of the physical sciences; the burgeoning of so-called programmatic team research at the expense of the highly individualistic investigator; the magnetic influence over even greater funds exerted by well-established institutions."[25]

Considerations of space permit only this brief suggestion of the variety of Union activities. Wherever there are people who need to be protected, even from their democratic governments, the ACLU has devoted every effort to securing to them their rights. The fact that those aided by the Union are usually not espousing popular causes only serves to reinforce the argument that the protection of the rights of minorities most surely preserves the rights of the majority.

In an introduction to the report, the Executive Director of the ACLU, Patrick Murphy Malin, notes that:

> for forty years . . . [the ACLU] . . . has been enthusiastically grateful for this nation's democratic government and free society; neither the democracy nor the freedom is complete, but both are wide and deep. The task of the Union has been, and still is, simply to preserve and improve both democracy and freedom by defending the central constitutional safeguards which keep power in check."[26]

By legal actions and informational campaigns, the ACLU will continue to subject to public scrutiny all actions which it regards as challenges to these constitutional safeguards. The merit of such activity scarcely needs elaboration. There are those who object to specific stands taken by the Union. They can either support the ACLU for the greater part of the work which it does or find other means of defending civil liberties. In any event the remedy would seem to be a more vigilant watch rather than none at all.

James J. Harrington

THE SMUT PEDDLERS. By James Jackson Kilpatrick. Garden City, New York: Doubleday & Co., Inc., 1960. Pp. vi, 323. $4.50. The "slow rotting of the social fabric"[1] has been one of the great issues of this past decade and may be the great issue of the 1960's. The deterioration brought about, or contributed to, by photographs, magazines, books, and motion pictures is a recurring topic[2] under the general heading of obscenity. One should not add mere volume to this mass of literature, but should write upon the subject only if he has something to contribute in the way of clarification, analysis, or theory.

Mr. James Jackson Kilpatrick undertook only to record the recorded. Indeed, instead of clarifying the concept of obscenity he demonstrated that he did not comprehend what he was recording.

In Part I of his book, Mr. Kilpatrick sought "to convince the most skeptical of what obscenity means"[3] by descriptive writing. If his readers read certain passages from books treating the subject of sex, and looked at photographs of children

25 *Ibid.*
26 Text at 2.

1 Text at 289.
2 Particular attention is called to the following: Note, 35 NOTRE DAME LAWYER 537 (1960); Note, 33 NOTRE DAME LAWYER 436 (1958); Desmond, Book Review, 32 NOTRE DAME LAWYER 547 (1957); Recent Decision, 30 NOTRE DAME LAWYER 469 (1955); Recent Decision, 29 NOTRE DAME LAWYER 633 (1954).
3 Text at 67.

14 and 15 in acts of perverted intercourse, or of women with animals, or of men engaged in sodomy, Mr. Kilpatrick thought they would be convinced of the *fact* of obscenity. This process, unfortunately, does not lead the reader either to the existence or to the essential content of obscenity. It demonstrates merely that certain treatments of sex are repugnant to nearly everyone. Nearly all men would say that these ought not to have been written. But the reason men can agree on this is that they have applied, no matter how intuitively, a uniform standard of some sort to the described facts. They have made a judgment. In other words, hard-core obscenity (what everyone agrees ought not to be written) is not a descriptive fact, as assumed by Mr. Kilpatrick, but a conclusion.

However, seeing hard-core obscenity as a descriptive fact, he goes on to say the great problem lies in determining what treatments of sex are obscene. In this he misses the point, for the great issue is determining what is obscenity (nature), not what is obscene (content). The latter problem exists only to the extent that the former is not solved.

The analysis of the nature of obscenity is rare in legal writings and nonexistent in *The Smut Peddlers.* It has, however, been necessarily undertaken by the moral theologian.[4]

Sex is a mystery and, like every mystery, has two elements, one visible, the other invisible. The visible element is biological: everyone is either male or female; the invisible, hidden, and mysterious element in sex is its capacity for *creativeness,* a sharing in some way of the creative power by which God made the world and all that is in it.[5]

> Purity is the reverence paid to this mystery of sex. . . . Those who speak of sex alone concentrate on the physical or visible element, forgetting the spiritual or invisible mystery of creativeness. . . . In the sacred act of creating life, man and woman supply the unity of the flesh, God supplies the soul and the mystery.[6]
>
> Experience bears out the definition of purity as reverence for mystery. No one is scandalized at seeing people eat in public, or read in buses, or listen to music on the street, but they are shocked at dirty shows, foul books, or undue manifestations of affection in public. . . . It is . . . because these things involve aspects of a mystery so deep, so personal, so incommunicable, that we do not want to see it vulgarized or made common. We like to see the American flag flying over a neighbor's head, but we do not want to see it under his feet. There is a mystery in that flag, it is more than cloth, it stands for the unseen, the spiritual, for love and devotion to country. The pure are shocked at the impure because of the prostitution of the sacred; it makes the reverent irreverent. The essence of obscenity is the turning of the inner mystery into a jest. . . .[7]
>
> Purity is a vision, the seeing of the soul in the body, a holy purpose in the flesh.[8]

This detailed view of the nature of obscenity is consistent with the short analysis of it by D. H. Lawrence quoted on the first page of Mr. Kilpatrick's book: "The insult to the human body, the insult to a vital human relationship!"[9] It is possible that Mr. Kilpatrick failed to realize the depth and significance of the statement he quoted.

Although not perceiving the nature of obscenity, he may still have realized its effect. In Part IV Mr. Kilpatrick says what is involved, or so it seems to him, is a "slow rotting of the social fabric."[10] However, this is inconsistent with his statements in Part III, where he appears to agree that no one is grievously harmed by an unmarried young man finding "vicarious release in the arms of a *Playboy* play-

4 *E.g.,* SHEEN, THREE TO GET MARRIED (Dell ed. 1954).
5 *Id.* at 124-25.
6 *Id.* at 124-26.
7 *Id.* at 127-28.
8 *Id.* at 129.
9 Text at 1.
10 Text at 289.

mate" or by middle-aged men finding a "bang in filthy pictures or prurient paperbacks."[11] If he really believes that obscenity involves a "slow rotting of the social fabric," it would seem that the proper conclusion is not that no one, but that everyone, is harmed.

Obscenity in fact shakes the very foundations of democracy[12] — democracy understood in this connection in its philosophical sense, as a system of government which recognizes the inherent worth of man.[13] The obscene is an attack both on the existence of a "holy purpose in the flesh,"[14] an existence from which the dignity of man springs, and upon a "vital human relationship," the family.[15] The family is the training school, the novitiate, for democracy. Nowhere is the dogma of the worth of man better practiced than in the family.[16] "Everywhere else man may be reverenced and respected for what he can do, for his wealth, his power, his influence, or his charm, but in the family a person is valued because he *is*. Existence is *worth* in the home."[17]

One wonders whether, had Mr. Kilpatrick understood the nature of obscenity, he would have wanted to have close cases involving obscenity decided in favor of free speech, as he advocated in his book, stating that the inclination should be to side with freedom and not with suppression.[18] It seems that siding with censorship in the doubtful cases is more consistent with freedom, in the long run, than a decision for the more immediate freedom of speech, which is, in the area of obscenity, the freedom to destroy democracy itself, the fountainhead of freedoms.

Subordinate points that may bother the reader are that in a work of concern to the whole nation the author states certain constitutional principles and calls them basic[19] when they are so regarded only by the South, and then proceeds to conclude that the problem of obscenity is one for the states to handle — federal censorship, in his opinion, being dangerous.[20] Federal control is dangerous, it is submitted, only because federal censorship can be effective in dealing with a national problem, a problem beyond the practical, if not the legal, power of the states.

It is hoped that future works on this subject will reflect the volume of research that *The Smut Peddlers* does, but that they will exceed the present work in applying constructive thought to the discovered materials.

Rocco L. Puntureri

SELECTED PROBLEMS IN THE LAW OF CORPORATE PRACTICE. Edited by Thomas G. Roady, Jr., and William R. Andersen. Nashville, Tenn.: Vanderbilt University Press, 1960. Pp. viii, 423. $10.00. With the ever-increasing importance of the role of the corporation in our society and the concomitant need for attorneys well acquainted with the legal implications of this movement, this collection of articles should be a welcome addition to any attorney's material on the subject. The series brings up to date the law fronting on many of the major problems in this area and the impressive list of authors gives added impact to the scholarly treatment of past events and the forecast of and recommendations for new directions.

---

11 Text at 224.
12 Id. at 145. Judge Goodman is quoted as saying, "If this be importable literature, then the dignity of the human person and the stability of the family unit, which are the cornerstones of society, are lost to us." United States v. Two Obscene Books, 92 F. Supp. 934, (N.D. Cal. 1950).
13 SHEEN, *op. cit. supra* note 4, at 171.
14 *Id.* at 129.
15 Text at 1.
16 SHEEN, *op. cit. supra* note 4, at 171.
17 *Ibid.*
18 Text at 287-88.
19 *Id.* at 87.
20 *Id.* at 290.

Miguel A. de Capriles[1] opens the book with a cursory survey of the development of corporate law from 1944 to 1959. He emphasizes recent decisions dealing with corporation democracy and corporate accountability to stockholders and the peculiar problems of close corporations. Perhaps the decision most indicative of a judicial trend in this area is *Perlman v. Feldman*[2], setting a principle of absolute accountability for profits realized from the sale of corporate control. In spite of *Perlman*, the author seems to feel that much more can be done in this area. "A few judicial decisions have suggested new directions in the path of managerial accountability, but it cannot be said that substantial progress has really been made toward a socially responsible capitalism." [3]

Paul J. Hartman[4] tackles the difficult topic of "State Taxation of Income From A Multistate Business." After a review of recent decisions[5] and statutory enactments,[6] Mr. Hartman concludes that much remains to be done in clarifying the present confusing state of judicial pronouncements. In an analysis of the *Northwestern-Stockham* decisions, he reasons that the Supreme Court has devolved a commerce clause distinction on net income taxes based on form rather than substance—a conclusion that appears justified from the decisions.

> The constitutionality of net income taxes from business that is exclusively interstate, when called into question on commerce clause grounds, therefore, seems to depend entirely upon statutory formula. A tax levied directly "on" the net income from a multistate business will be sustained even if the business is exclusively interstate, if fairly apportioned to business done within the state so as to avoid multiple tax burdens by other states. That is the teaching of Northwestern-Stockham case. On the other side of the shield, a tax measured by net income will fall before the commerce clause where the statute is less felicitously drawn so that the subject of the tax is treated taxwise as the untouchable privilege of engaging in interstate commerce.[7]

What has already been done by the courts and the legislature to clarify the ambiguous terminology so common in the law of corporate taxation is minutely discussed and types of judicially acceptable "apportionment of income" by the various states are reviewed, with an emphasis on the need for uniform legislation. A similar close study of recent developments concerning corporate gross income as a measure of state taxation is presented.

The author, borrowing the words of an authority in the field of constitutional law, appears to agree that "the states can tax interstate commerce if they go about it in the right way." [8] This searching review should be of value to legislators and attorneys faced with this perplexing problem.

The applicability of various sections of the Internal Revenue Code to "collapsible corporations" is treated by Boris I. Bittker.[9] The complex statutory restrictions placed on this popular tax-evading arrangement are outlined and alternate provi-

---

1 Professor of Law and Associate Dean, New York University School of law.

2 219 F.2d 173 (2d Cir. 1955), *cert. denied*, 349 U.S. 952 (1955).

3 Text at 19. This is discussed somewhat more optimistically in Rostow, *To Whom and for What Ends Is Corporate Management Responsible?* in MASON (Ed.), THE CORPORATION IN MODERN SOCIETY (1960); see Book Review, 36 NOTRE DAME LAWYER 105, 105-06 (1960).

4 Professor of Law, Vanderbilt University.

5 *E.g.*, Northwestern States Portland Cement Co. v. Minnesota, 358 U.S. 450 (1959); Williams v. Stockham Valves & Fittings, Inc., on certiorari to the Supreme Court of Georgia, argued Oct. 14-15, 1958. In each of these two cases, a state imposed on a foreign corporation a net income tax on that portion of the net income of the corporation's interstate business which was reasonably attributable to its business activities within the state. These taxes were held not to have violated either the commerce clause or the due process clause of the federal constitution.

6 *E.g.*, 73 Stat. 555 (1959), 15 U.S.C. § 381 (Supp. I, 1959).

7 Text at 35.

8 *Id.* at 93; Powell, *Contemporary Commerce Clause Controversies over State Taxation*, 76 U. PA. L. REV. 773, 774 (1928).

9 Southmayd Professor of Law, Yale University.

sions for those willing to walk the tight-rope provided by Congress in Section 341(e) are discussed in detail.

An article by Walter W. Brudno,[10] "Tax Considerations in Selecting a Form of Foreign Business Organization," takes on added importance in the face of a growing outward flow of capital from the United States—a good deal of which is destined for investment in foreign enterprises. A rather comprehensive analysis of the tax advantages of the forms of corporate structure available for the conduct of foreign enterprises is presented. He traces preferential treatment afforded by Congress to certain types of foreign enterprises (*e.g.*, Western Hemisphere trade corporations, United States possessions corporations, and China Trade Act corporations). The variety of available forms is staggering, but Mr. Brudno appears to have been able to trim the fat from the meat and has come up with an ordered outline, and a scholarly treatment, of this increasingly important field.

Mortimer M. Caplin[11] has two articles, "Subchapter S and Its Effect on the Capitalization of Corporations" and "Subchapter S vs. Partnership: A Proposed Legislative Program." This reviewer must admit that a study of Subchapter S leaves him feeling like the Olympic diver who has just left the diving board and is now frantically waiting for the pool to fill with water. Mr. Caplin discusses the tax amendments of September 2, 1958, which enable certain "small business corporations" to elect not to be taxed as corporations. Perhaps it is significant that the author follows his first article with a second one proposing legislative modification and clarification of Subchapter S. By his ordered attack Mr. Caplin leads the reader to agree with his conclusion:

> Technically, subchapter S contains many structural weaknesses and complexities. Also, its distinctions are often indefensible and inequitable. Despite only one year's experience under these provisions, Congress would be justified in striking it from the Code as bad law, not worthy of retention even in modified form.[12]

After an adequate survey of pre-incorporation tax considerations, the book takes up the issues presented by the "Initial Capitalization and Financing of Corporations." Chester Rohrlich[13] discusses at length the various types of corporate financing available and traces their history through both judicial and legislative pronouncements. The advantages and disadvantages realized from the different types of financing are highlighted, and noticeable trends in the law relating to this topic are discussed. The article is sufficiently footnoted to permit a more detailed study of any provision; the article itself, while not sacrificing accurateness, retains the ordered clarity desirable in a work of this sort.

The editors felt it desirable to include a section dealing with "The Corporate Guaranty" because of the mushrooming importance of this topic in this era of subsidiary and affiliated corporations. Arthur M. Kreidmann[14] traces the common law development of the corporate power to guaranty (*e.g.*, performance, loans, etc.) and then enumerates the various state statutes permitting this type of activity and placing restrictions on it. The focus of judicial and legislative scrutiny of this field has been on the "benefit to corporation" theory and apparently the history of the topic is wound up in an interpretation of what this benefit entails. Mr. Kreidmann comprehensively treats the New York statute and reviews public policy considerations. The state statutes abolishing the defense of ultra vires, frequently used in the past by corporations seeking to evade their suretyship obligations, and the scanty case authority in the jurisdictions which have such statutes, are noted.

---

10 Former Editor, *World Tax Series,* Harvard Law School's international program in taxation.

11 Professor of Law, University of Virginia, recently appointed Commissioner of Internal Revenue.

12 Text at 210.

13 Adjunct Professor of Law, New York University.

14 Member of the New York Bar.

Edward R. Hayes[15] takes up the power of state legislatures to change common law attributes of corporations. This topic brings into consideration three constitutional doctrines: police power, due process and obligation of contracts.

> Three principal approaches have been suggested. One is that under its reserved power the legislature may not make or authorize a majority to make any changes that will affect the contract between the shareholders themselves (unless perhaps as to matters where public interest overrides) but may change or authorize changes only in the contract between the state and the corporation. A leading spokesman for this view is Justice Stern. A second approach is that the legislature may make or permit a majority of the stockholders to make any changes except those which will deprive a stockholder of some vested right. Among those supporting this view was Justice Layton. The third approach is that the reserved power of the legislature is part of the tripartite contract between state, corporation and shareholders, and therefore the state or a majority of the shareholders when authorized by the state may make any change as to corporate attributes without impairing any obligation of any aspect of that contract.[16]

Mr. Hayes uses these three approaches in appraising the attributes inherent in a common law corporation and which of these attributes the legislature has the power to change. His treatment of the subject is a valuable source of background information for those corporation attorneys faced with the effect of future legislation on corporate contractual affairs. An aside on the courses of action to be recommended by corporate counsel is presented in "Corporate Law Department Communications—Privilege And Discovery," by Thomas R. Hunt.[17]

The history of privilege in this area, the initial reluctance of courts to recognize the dual role played by a corporation counsel, and the resulting circumscribed bounds to attorney-client privilege in the corporation are displayed with gratifying clarity. It is suspected that this clarity might be somewhat obscured in actual practice, but, nevertheless, the article will be a handy reference item for those concerned with this problem.

Three articles deal with the subject of executive and employee compensation and related fields: "Stock Options and Other Executive Incentive Arrangements" by Charles W. Steadman;[18] "Executive Compensation: The Taxation of Stock Options," by Jack D. Edwards;[19] and "Deferred Compensation Plans: Qualifying for Non-Qualified Treatment," by James F. Neal.[20] No matter which way he likes to have his toast buttered, the attorney should be able to find something tailor-made to his particular problem in one of these three articles. It is interesting to note that even the authors disagree as to the need for and equitable considerations influencing the use of stock option plans with tax advantages.[21]

As the title of the third article indicates, it deals primarily with tax considerations applicable to those deferred compensation plans not qualifying for special

15 Professor of Law, Drake University.

16 Text at 292-93.

17 Member, Legal Department, Hercules Powder Co., Wilmington, Delaware.

18 Attorney, Marshman, Hollington & Steadman, Cleveland, Ohio, and Steadman, Collier & Shannon, Washington, D.C.

19 LL.B., Harvard Law School.

20 Associate, Turney & Turney, Washington, D.C.

21 Text at 327. "The fact remains that it is an absolute necessity for American business to develop a pool of executive talent. This then has produced a need for effective incentive devices to replace those which have traditionally been used. The form of such devices may generally be described as 'deferred incentive compensation plans.'" But see text at 368: "These general economic considerations may be stated more specifically in terms of horizontal equity. The failure to include option profits in ordinary income is discrimination in favor of the managing class. The income tax is intended to be a 'neutral' tax in the sense that all people with the same amount of income shall have an equal tax liability. This principle is violated when a segment of the taxpaying public can claim preferential treatment for part of its earnings." And, at page 370: "A complete end to preferential treatment for option profits is desirable. Economic considerations do not require preferential treatment. Giving them such treatment does violence to principles of equity, and is an unnecessary drain on treasury receipts."

treatment under Sections 401 through 404 of the Internal Revenue Code of 1954. The do's and don'ts of proper tax planning are discussed and "caveats" are interjected in those gray areas commonly found in corporate taxation.

Twenty pages of the book are devoted to a critical survey of "New Books and Recent Scholarship" by F. Hodge O'Neal[22] and two research associates at the Duke University School of Law.

Certainly the authors have managed to compile handy reference material for the attorney whose practice includes corporate problems. While the entire law of corporations is too complex to be captured in a single book, many problems of pressing urgency to corporate counsel have been researched and reduced to proper size in this text.

George P. McAndrews

ATOMS AND THE LAW. By E. Blythe Stason, Samuel D. Estep, and William J. Pierce. Ann Arbor: University of Michigan Press, 1959. Pp. xxvii, 1512. $15.00. The purpose of the research project which necessarily preceded the publication of this work was to investigate the principal legal problems being created and likely to be created by peaceful uses of atomic energy. Interest is centered on tort liability and workmen's compensation for radiation injuries, federal and state statutory and administrative regulation of atomic energy, and the international aspects of this activity.

Part I, *Tort Liability and Radiation Injuries,* is concerned with the legal aspects of damage from radiation to property and persons, but only insofar as such damage occurs as a result of peaceful uses of atomic energy. No consideration is given to the damage caused by atomic or hydrogen bombs. This part begins with a scientific explanation of the atomic structure and stabilization process. It notes that new discoveries are constantly being made, and new theories evolved. The lawyer in this field will have to keep abreast of these developments, as they may have a decisive impact on such legal questions as negligence, causal relation and proof of damage.

In chapter I, "Origin and Types of Radiation Injuries," the writers acknowledge that the details of neutron reactions are too complex for statement,[1] even if it can be assumed that they fully understand what is now known; but they believe that some basic knowledge is fundamental for the lawyer who is to engage in the legal problems of atomic enterprise. The reader will become familiar with the concepts of ionization, gamma rays, alpha and beta particles, and the absorption process. At this point Glasstone's SOURCEBOOK ON ATOMIC ENERGY[2] AND PRINCIPLES OF NUCLEAR REACTOR ENGINEERING[3] are among the scientific materials cited and relied upon. In the measurement of radioactivity, such terminology as radioactive half-life, biological half-life, curie and roentgen are explained. The measurement process is essential to the evaluation of the risks incurred and the discovery of negligence in atomic energy activities.

Chapters III and IV of Part I examine the crucial question of what general rules of tort liability will or should be applied to these situations. Landmark cases such as *Palsgraf v. Long Island R.R. Co.*,[4] *Rasmussen v. Benson*[5] (where the court permitted recovery for all damages claimed, even though this included the sickness and death of a dairy farmer resulting from worry over possible harm to his customers from poisoned feed carelessly furnished by the defendant), and *In re*

22 Professor of Law, Duke University.

1 Text at 14.
2 *Id.* at 17; GLASSTONE, SOURCEBOOK ON ATOMIC ENERGY (1950).
3 *Id.* at 82; GLASSTONE, PRINCIPLES OF NUCLEAR REACTOR ENGINEERING (1955).
4 *Id.* at 90; 248 N.Y. 339, 162 N.E. 99 (1928).
5 *Id.* at 92; 135 Neb. 232, 280 N.W. 890 (1938).

Polemis & Furness, Withy & Co.,[6] are analyzed and analogized at length. Strict liability conceptions built on *Rylands v. Fletcher*[7] are not omitted.

In chapter V, "Enterprise Liability in Atomic Energy," an attempt is made to ascertain the potential liability of designers, manufacturers, wholesalers, retailers and suppliers of goods and services in the atomic energy industry. The authors acknowledge that this is difficult[8] and recognize that the theories of liability in this field are in a state of ferment.[9] As the law now stands, there is a state of confusion between the basic concepts of tort and contract and the application of each in any given fact situation.[10] Out of this confusion the authors draw one conclusion: There is a marked tendency to provide compensation to persons injured by defective chattels or services by the imposition of a type of "enterprise liability," apparently on the assumption that suppliers can shift the economic loss through price increases and by obtaining liability insurance coverage. The importance of determining liability under existing legal doctrines is noted to be obvious, to wit, to appraise the possibility of obtaining recoveries for persons injured by atomic radiation and also to be able to advise entrepreneurs of sufficient insurance coverage. In determining the existing legal doctrines the authors review the frontier cases, *Winterbottom v. Wright*,[11] *Thomas v. Winchester*,[12] *Huset v. J. I. Case Threshing Machine Co.*,[13] *Carter v. Yardley & Co.*,[14] and *MacPherson v. Buick Motor Co.*[15] Insofar as these cases demonstrate the necessity of giving warning, or adequate directions for use, to purchasers of products, they are on point.[16] The philosophy underlying the resurrection of this judge-made law implies a commitment toward common law rules and away from statutory rules in the atomic energy enterprise.[17]

The study predicts that, although a good deal has been learned about the danger of atomic radiation and how to guard against injuries to persons and property—as is clearly indicated by the almost phenomenal safety record of federal atomic energy operations—there will be many instances of injury as the peacetime industry develops and widespread use of radiation sources become common. This reviewer has been unable to locate a recorded case on this question, but there can be no doubt that a very real fear of injury exists among atomic energy planners.

Part II, *Workmen's Compensation and Radiation Injuries,* is primarily an examination of selective workmen's compensation acts from the standpoint of atomic energy and radiation injuries. The general conclusion drawn is that present statutes are inadequate to protect employees suffering from radiation injuries; workmen's compensation laws should be amended to accommodate radiation injuries to the existing statutory patterns, the authors suggest. An entirely separate compensation system is not considered necessary.[18]

Part III, *State Regulation of Atomic Energy,* presents a brief survey of the principal types of state and interstate regulations likely to have application in the development of an atomic energy industry, both for the generation of electric power

6 *Id.* at 93; 3 K.B. 560 (1921).
7 *Id.* at 637; 3 Hurl. and C. 774, 159 Eng. Rep. 737 (1865); L.R. 1 Ex. 265 (1866); L.R. 3 H.L. 330 (1868).
8 *Id.* at 725.
9 Compare Henningsen v. Bloomfield Motors, Inc., 32 N.J. 358, 161 A.2d 69 (1960).
10 Of interest on this point is GILLAM, PRODUCTS LIABILITY IN THE AUTOMOBILE INDUSTRY (1960), reviewed in 36 NOTRE DAME LAWYER 103 (1960).
11 Text at 726; 10 M. & W. 109, 152 Eng. Rep. 402 (1842).
12 Text at 726; 6 N.Y. 397 (1852).
13 Text at 727; 120 Fed. 865 (1903).
14 Text at 728; 319 Mass. 92, 64 N.E.2d 693 (1946).
15 Text at 728; 217 N.Y. 382, 111 N.E. 1050 (1916).
16 See also McClanahan v. California Spray-Chemical Corp., 194 Va. 842, 75 S.E.2d 712 (1953).
17 Text at 76.
18 *Id.* at 845.

and for other industrial uses. Proposals of future legislation and suggested state legislation, predominantly in the field of health and safety, are of importance.

Part IV, *Federal Statutory and Administrative Limitations upon Atomic Activities,* is written by Courts Oulahan, now on the legal staff of the Atomic Energy Commission. This section of the study notes that the Atomic Energy Act of 1954[19] establishes the broadest control ever exercised by the federal government over any one industry in the United States. This legislation was an outgrowth of the Atomic Energy Act of 1946.[20] Oulahan discusses the procedures used by AEC, with particular regard to the philosophy and provisions of the Administrative Procedure Act[21] and to special problems of administrative law which have arisen under the atomic energy statutes.[22]

If Oulahan were preparing this article for publication now, no doubt he would wish to discuss *International Union of Electrical, Radio and Machine Workers, A.F.L.-C.I.O. v. United States,*[23] a recent decision of the United States Court of Appeals for the District of Columbia Circuit, in which Oulahan participated, as special assistant to the general counsel of AEC. The case concerned an order of the commission which in effect continued a provisional construction permit issued to the Power Reactor Development Co.,[24] to begin work on the largest but not the first "fast breeder" reactor in the United States. The installation was to be on the shore of Lake Erie, 30 miles southwest of Detroit. Petitioners were national and international labor unions and some of their members. They had intervened in the proceedings before the commission, contending that the order would result in the construction of a reactor which, under present technological conditions, was inherently unsafe. The unions feared a hazard which would place their members in danger of an explosion or other incident. Also the petitioners contended that fear of a possible atomic catastrophe, in itself, would have the effect of depressing values of property owned by them. On appeal, a majority of the Court of Appeals agreed with them; the commission's grant of a construction permit was set aside because of insufficient safety findings.[25]

The commission had found, for purposes of granting the provisional construction permit, that a utilization facility of the general type proposed can be constructed and operated without undue risk to the health and safety of the public. The commission acknowledged that it had not been positively established that a "fast breeder" reactor of the general type and power level proposed can be operated without a possibility that significant quantities of fission products would be released in the atmosphere. The commissioners expressed confidence that future scientific developments would enable it, in the future, to find that the reactor could be operated without undue risk. As to these points Judge Edgerton, speaking for the majority of the Court of Appeals, stated:

> The economy cannot afford to invest enormous sums in the construction of an atomic reactor that will not be operated. If enormous sums are invested without assurance that the reactor can be operated with reasonable safety, pressure to permit operation without adequate assurance will be great and may be irresistible.[26]

Judge Burger, dissenting, emphasized that judges are hardly in a position to de-

19 68 Stat. 921 (1954), 42 U.S.C. § 2011 (1958).
20 60 Stat. 755 (1946), 42 U.S.C. § 1801 (1958).
21 60 Stat. 237 (1946), 5 U.S.C. § 1001 (1958).
22 Text at 1219.
23 280 F.2d 645 (D.C. Cir. 1960).
24 *Id.* at 646: A Michigan membership corporation organized "to study, develop, design, fabricate, construct and operate one or more experimental nuclear power reactors . . . to the end that there may be an early demonstration of the practical and economic use of nuclear energy for the generation of electrical energy. . . ."
25 *Id.* at 652.
26 *Id.* at 650.

termine whether or not our economy can afford a large investment for peaceful uses of nuclear energy. He further suggests that American history is to the contrary, and refused to assume that the members of the AEC would permit an operation dangerous to the public because $40 or $50 million are invested in a project by men who know from the outset they are engaged in a scientific gamble.[27] This case will be reviewed by the United States Supreme Court.[28]

Lawyers interested in disputes such as these — and other similar questions in the field of administrative law — will find Oulahan's work in this book an enlightening introduction.

Part V, *International Control of Atomic Energy,* principally concerns the proposed International Atomic Energy Agency and the role of the Soviet Union in international cooperation for peaceful use of atomic energy.

Chapter II, by Horace W. Dewey,[29] indicates that the Soviet Union approves the "intergovernmental regional organization open to participation by all interested European states"[30] but that it bitterly assails "closed grouping of several states on the basis of existing military blocs in Europe."[31] In the Appendix, among other items, are some interesting excerpts from *Pravda.*[32]

While the size of this book might deter the unenergetic, its pages make easy, informative reading. One glance at the Table of Contents,[33] and the Analytical Table of Contents,[34] suggests the completeness with which this project was published. The kaleidoscopic nature of this book renders much of the manuscript outdated upon publication, but the project itself represents an unusual attempt by lawyers to anticipate future problems. It is for some future reviewer to determine whether or not they have been successful.[35]

William J. Gerardo

27 *Id.* at 654.
28 The Wall Street Journal, Nov. 15, 1960, p. 4, col. 2.
29 Assistant Professor of Russian, University of Michigan.
30 Text at 1408-09.
31 *Ibid.*
32 Text at 1508.
33 Text at ix.
34 Text at x-xxvii.
35 The Wall Street Journal, Jan. 5, 1961, p. 4, col. 3, "Three Die in Blast at Atomic Test Reactor in Idaho; No Public Danger From Radiation":

> "The explosion is likely to focus anew public attention on the safety problems involved in locating atomic power plants near big population centers. AEC records indicate these were the first fatalities resulting from an explosion involving an atomic reactor."

BOOKS RECEIVED

ADMINISTRATION OF BEVERAGE LAWS

ALCOHOLIC BEVERAGE CONTROL. An official study by the Joint Committee of the States to Study Alcoholic Beverage Laws.
Washington, D.C., 1960. Pp. xii, 114 (paperback).

BIOGRAPHY

BENJAMIN HARRISON: HOOSIER WARRIOR (Through the Civil War Years, 1833-1865). By Harry J. Sievers.
New York: University Publishers, Inc., 1960. Pp. xxx; 374. $6.00. The first in a three-volume history of Indiana's only president. The second volume came out in late 1959.

BLUE LAWS

SPACE-AGE SUNDAY. By Hiley H. Ward.
New York: The MacMillan Company, 1960. Pp. v, 160. $3.95.

CANON LAW

THE SACRED CANONS (2 vols.). By John A. Abbo and Jerome D. Hannan.
St. Louis: B. Herder Book Co., 1960. Pp. 871-I; 936-II. $19.00. This two-volume work is a complete, up-to-date commentary on the Code of Canon Law of the Roman Catholic Church. With the exception of procedural laws, which it presents in condensed form, this work covers all the disciplinary norms of the Church as contained in the Code and in subsequent decisions of the Holy See.

CIVIL LIBERTIES

*BY THE PEOPLE. 40th Annual Report, American Civil Liberties Union.
Washington, D.C.: ACLU, 1960. Pp. 80. $.75 (paperback).

COPYRIGHTS AND ANTITRUST LAW

COPYRIGHT AND ANTITRUST. By Joseph Taubman.
New York: Federal Legal Publications, Inc., 1960. Pp. viii, 217. $8.50.

CORPORATE LAW

MERGERS AND MARKETS: An Economic Analysis of Case Law. By Betty Bock.
New York: Nat'l Industrial Conference Board, Inc., 1960. Pp. 143. (Paperback).

*SELECTED PROBLEMS IN THE LAW OF CORPORATE PRACTICE. Edited by Thomas G. Roady, Jr., and William R. Andersen.
Nashville, Tenn.: Vanderbilt University Press, 1960. Pp. viii, 423. $10.00.

ESTATE PLANNING

ESTATES AND TRUSTS (3rd ed.). By Gilbert T. Stephenson.
New York: Appleton-Century-Crofts, Inc., 1960. Pp. xii, 441. $6.00.

INTERNATIONAL COPYRIGHTS

THE MOVEMENT FOR INTERNATIONAL COPYRIGHT IN NINETEENTH CENTURY AMERICA. By Aubert J. Clark (doctoral dissertation).
Washington, D.C.: The Catholic University of America Press, 1960. Pp. ix, 215. $3.50 (paper bound).

INTERNATIONAL LAW

SOUTH AFRICA AND THE RULE OF LAW.
Geneva: International Commission of Jurists, 1960. Pp. 239.

INTERNATIONAL PUBLICATION

BERLINER ILLUSTRIRTE.
Berlin, West Germany: Ullstein, 1961. Pp. 137-242. This is a special edition for the United States of a Berlin magazine that has not been published by a free press since the late 1930's. "It is our message of friendship, a renewed Berlin pledge in the cause of liberty. This is the first edition of the BERLINER ILLUSTRIRTE in many long years. The magazine first appeared on the streets of Berlin in 1890, produced by the House of Ullstein. In 1935 the Nazis seized the B.I. and made it an instrument of Hitler's brown tyranny over Europe. . . . We Berliners know that we cannot defend Berlin with sweat and printer's ink alone. But we are proud of our right of freedom of speech, today above all when tyrants in this same city wish to strangle us into silence. For this reason the re-born House of Ullstein produces this special edition, and we send it to people who have already proved they are our friends. This is both the story of Berlin and our way of expressing gratitude to all in the free world who have remained true to us."

PUBLIC POLICY

CURRENT LAW AND SOCIAL PROBLEMS. Edited by R. St. J. Macdonald.
Toronto, Canada: University of Toronto Press, 1960. Pp. 204.

INSURANCE AND PUBLIC POLICY: A Study in the Legal Implementation of Social and Economic Public Policy. Based on Wisconsin Records, 1835-1959. By Spencer L. Kimball.
Madison: University of Wisconsin Press, 1960. Pp. xii, 387. $7.50 (with full documentation); $6.00 (regular edition).

*THE SMUT PEDDLERS. By James Jackson Kilpatrick.
Garden City, New York: Doubleday and Co., Inc., 1960. Pp. vi, 323. $4.50.

TAXATION

TAXATION OF LIFE INSURANCE AND ANNUITIES. By Samuel J. Foosaner.
Mundelein, Ill.: Callaghan & Co., 1960. Pp. xiii, 380. $20.00.

* Reviewed in this issue.

LOOKING BACK TO 1960

These distinguished authors appeared in THE NOTRE DAME LAWYER in 1960:

Donald N. Barrett, Professor of Sociology, University of Notre Dame

Charles E. Black, M.D., consulting pathologist

Louis F. Bartelt, Jr., Assistant Professor of Law, Valparaiso University

George G. Bogert, Professor of Law Emeritus, University of Chicago

John J. Broderick, Assistant Dean, Notre Dame Law School

John E. Cosgrove, Assistant Director of Education, AFL-CIO

Archibald Cox, Solicitor-General of the United States

Arthur C. Dwyer of the New Jersey Bar

Osmond K. Fraenkel, General Counsel, American Civil Liberties Union

Charles O. Gregory, Professor of Law, University of Virginia

Howard D. Hamilton, Professor of Political Science, Indiana State Teacher's College

Richard M. Lyon, Professor in the College of Commerce, University of Notre Dame

Bernard D. Meltzer, Professor of Law, University of Chicago

Daniel O'Connell, Reader in Law, University of Adelaide, Australia

Joseph O'Meara, Dean, Notre Dame Law School

John J. Monigan, Jr., of the New Jersey Bar

Sylvester Petro, Professor of Law, New York University

John E. Powell of the District of Columbia Bar

Robert E. Quinn, Chief Judge, United States Court of Military Appeals

Harris Wofford, Jr., Associate Professor of Law, Notre Dame Law School

David McCord Wright, Professor of Economics, McGill University

These highlights were presented in THE NOTRE DAME LAWYER in 1960:

LABOR UNION POWER AND THE PUBLIC INTEREST—1960 Symposium, featuring seven nationally-recognized experts and a staff-written survey on Public Intervention in Labor Disputes.

THE NOTRE DAME CONFERENCE ON CIVIL RIGHTS—Proceedings and commentary on a conference that brought state and national legislators to the Notre Dame Law School to discuss civil rights legislation.

THE UNITED STATES COURT OF MILITARY APPEALS AND INDIVIDUAL RIGHTS IN THE MILITARY SERVICE, by Robert E. Quinn, Chief Judge, United States Court of Military Appeals

AUTOMOBILE ACCIDENTS AND AUTOPSY PROTOCOL, by Charles E. Black, M.D.*

CIVIL AND CRIMINAL LIABILITY FOR THE UNAUTHORIZED USE OF CREDIT CARDS**

THE AGENCY SHOP AND STATE RIGHT TO WORK LAWS

SHIPS SUITORS AND STATE STATUTES** —A survey and commentary on the activity of the United States Supreme Court and personal injury and wrongful death actions in admiralty, by two members of the New Jersey Bar.

CHURCH-STATE RELATIONS IN THE UNITED STATES, 1958-1960—A staff-written survey on divorce and adoption, obscenity, church gambling, zoning laws, schools, taxation, Sunday closing laws and tort liability.

RECENT DECISIONS covering significant judicial activity in every state and updating such critical areas as the law of charitable immunity and recovery for pre-natal injury.

LEGISLATION AND ADMINISTRATION notes analyzing new statutes and administrative decisions on the state and national levels.

NOTES, staff-written surveys of fringe areas in the law.

BOOK REVIEWS AND BOOK SURVEYS

Single copies of the five issues published in 1960 available for $1.50 each; subscriptions $5.00 per year
*available in reprint form for 65c **available in reprint form for 40c

THE NOTRE DAME LAWYER
Notre Dame, Indiana