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Book Reviews

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BOOK REVIEWS

SOVIET CIVIL LAW; PRIVATE RIGHTS AND THEIR BACKGROUND UNDER THE SOVIET REGIME. Comparative Survey and Translation of: The Civil Code; Code of Domestic Relations; Judiciary Act; Code of Civil Procedure; Laws on Nationality, Corporations, Patents, Copyright, Collective Farms, Labor; and Other Related Laws. By Vladimir Gsovski. Michigan Legal Studies, University of Michigan Law School, Ann Arbor, 1949. 2 Volumes. Pages 1815. \$15.00.

In these two volumes the author, Vladimir Gsovski, has thrown a penetrating beam of light on the little known but much talked about Soviet Union. This comprehensive presentation of Soviet Civil Law is an admirable achievement, written with profound knowledge and understanding, and will doubtless be a standard reference book for years to come. The work is divided into three sections: a general survey, special topics of civil law, and finally, the basic codes of Soviet private law today.

In the general survey, Gsovski lays a historical background to the origin of Soviet Law by reviewing important events in the late nineteenth and early twentieth century. That, apart from its social and political background, Soviet Civil Law cannot be understood by the Western mind is axiomatic, for, as the author points out, it is a product of compromise, of trial and of error. And, although distinct traces can be found of the struggle from which it was born, yet, taken as a whole, it has no precedents; nor does it fit exactly into any anticipations of Socialists, Marxians, or non-Marxians which ante-date the Russian Revolution. Thus, Gsovski's careful, unprejudiced survey of the influence of the times as revealed by the excerpting, the expelling or the changing of the political theories of the communist state are matters of no little moment to the student of the legal and intellectual development of our generation.

One of the fundamental principles of Soviet jurisprudence has

been the repudiation of the continuity of prior laws. In spite of much big talk, it has never been carried out with as much vigor as it has been proclaimed. Even in a revolutionary society it was found difficult to completely dispense with prior legal knowledge and customary law. The author points out that "...the Soviet system reveals at present, along with its completely novel features, many elements characteristic of pre-revolutionary Russia, the capitalist world, and Western democracy. Certain elements of the old order have shown a tendency to increase in number and importance during the last ten years."

But he adds further that although these traditional institutions bear old names and old faces, yet their application in Soviet law is of a different nature than customary in Anglo-American or continental European juridical circles.

In our post-war world, when the air in the United States reverberates with shouts against Governmental controls and serious accusations of radicalism and Sovietism, the industrialist and the laborer might well pause to reconsider their stands and redefine their terminology. Gsovski points out that the majority of industrial and commercial establishments now in operation in Soviet Russia are not only government owned but also government controlled and are patterned in their operation on the large American corporate bodies whose ramifications extend vertically as well as horizontally. The author heaps additional coals of fire on the furnace of thought when he adds that inefficiency of either management or labor involves not only the loss of material benefits and the possible loss of job but prosecution in court as well.

In the second section of the work, dealing with special topics of civil law, Gsovski has properly emphasized the amount of light shed by legal writers, judicial decisions, and political manifestos on Soviet private law. He has shown the often strongly opposing views on a given subject, and has stressed the difficult task before Soviet jurists who must reconcile a large number of scattered and ever changing regulations, many of which are directly con-

trary to each other. "As a matter of fact," the author repeats dolorously, "various principles have been applied at different times and on different occasions. It is difficult to predict which principle will prevail in the future."

Samuel Johnson once stated: "It is one of the maxims of civil law that definitions are hazardous." This appears to be particularly pertinent in the Soviet Union where an accepted interpretation of a legal scholar in one decade is an anathema in another, and to refer to it may well lead one into being suspect of evil intentions against the state. The fates of their predecessors have taught many jurists that the operation of the law in the Soviet Union depends to a good part on the immediate objective of government policy. Gsovski offers a number of highly interesting and suggestive views on why Soviet jurists wish to close their eyes to the contradictions in their statements. He also gives an enlightening picture as to the information and misinformation available to the jurist in Soviet Russia.

The third and final section of the work gives the translation of the basic codes interpreted in Volume 1. This is the first English translation made of the Soviet Civil Code, and for this alone is of utmost importance. With the excellent commentary in the first volume and the efficient keying of the two volumes by means of footnotes and comments, the work is of the greatest value to the more international minded among the lawyers of the English speaking world.

In a work of this nature and magnitude it is often difficult for the author to cull the substance from the excessive philosophical verbiage which must be covered. At no time has Gsovski faltered, and his precise, clear style has clarified for the reader many of the oft-times annoying passages of the doctrines of Marx, Engel, Lenin, and other communist and Soviet writers.

The appendices reveal an excellent, up-to-date bibliography (account is taken of the peculiar Soviet situation). The format

of the books is excellent; the print is clear and easy on the eyes; and the index is good.

This review has not attempted to fathom the deep currents of the two books, but has merely dipped into the surface of their contents, hoping to indicate that they make a universal contribution to understanding and accommodation. All in all these two volumes are to be recommended not for diversion, not for conversation, but for thoughtful consideration.

*Ann Van Wynen Thomas.**

LANGUAGE AND THE LAW. By Frederick A. Philbrick. New York and Dallas: The Macmillan Company, 1949. Pages vii, 254. \$3.75.

The rediscovery in academic and journalistic circles, under its Greek title of Semantics, of the art of the meaning of words has given rise to a shelfful of books designed to warn against the pitfalls of language, to instruct the reader in turning language to his own ends, or perhaps to realize a profit from the current interest in the subject. Notable are Ogden and Richards' *The Meaning of Meaning*, published in 1923 for the scholarly, and Chase's *The Tyranny of Words*, brought forth in 1937 for more popular consumption. To other volumes of lesser merit should be added Mr. Philbrick's most recent publication.

Dependent in his profession almost entirely upon the effective use of written and spoken English, the lawyer needs not to be told of the importance of the meanings of words. Few know better of the ambiguities which lurk within the shades of meaning of seemingly plain language. Few have encountered so closely the devastating effect of passion and prejudice aroused by the use of words. Mr. Philbrick's topic is one which should appeal to the lawyer-reader.

The lawyer's problems in the use of words may be divided roughly into three: to convey unmistakably information concern-

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ing present things or past events; to state fully and unequivocally the present intention of the party or parties to a legal transaction; and to persuade another to react favorably in a matter in controversy. Mr. Philbrick is concerned almost entirely with the third of these, that sometimes entitled Forensic English. Here he offers practical suggestions, with examples, along divers lines: suggesting that the lawyer has no doubt as to the justness of his client's cause or to the invincibility of his case; reiterating facts gracefully; flattering subtly; suggesting favorable interpretation of words of ambiguous or shaded meanings; and avoiding disastrous metaphors.

The author does best in his treatment of "bias-words," those designed to distract attention from fact and reason and to induce an emotion favorable to the speaker's cause. The path is well-trodden. With government and international affairs resting in great measure upon mass communication, all are familiar with emotional appeals predicated upon choices of words. The word-pairs to be suggested are legion. Samples would include: statesman—politician; aroma—odor; information—propaganda; scholar—professor. We have favor-courrying words which defy definition: liberal, enlightened, progressive. That lawyers long have employed bias-words may be admitted. That they need further instruction in the art may be doubted.

Slightly more than half of Mr. Philbrick's book is taken up with historical examples. We meet three old friends, *Queen Caroline's Case*, *Tilton v. Beechr*, and *People v. Carlyle Harris*, together with a newcomer, *Rex v. Greenwood*. While it is pleasant to renew old acquaintances and to make new ones, interest lags as small mice are brought forth from mountains of quotation. Skilful editing, even at the cost of salable pages, should result in a more pleasing product.

The ethical quality of the book is troublesome. Early (at page 33) the author gets himself on record that "the theory . . . that there is such a thing as justice that exists independently of human

minds, and that the business of the law is to find out what it is, will not stand examination." Thereafter justice is forgotten. One puts down the book with the feeling that one has read a handbook on legalistic obfuscation coupled with helpful hints on how to win friends and influence people. The book will do little to advance either the law or the administration of justice, but it may help sustain the Christmas book trade.

*A. L. Harding.**

CONSERVATION OF OIL AND GAS, A LEGAL HISTORY—1948. Edited by Blakely M. Murphy. Chicago: Section of Mineral Law American Bar Association, 1949. Pages xvii, 754. \$3.00.

Here at last is a volume that tells simply, succinctly and accurately what conservation of oil and gas is all about. It is a *must* in reading by those who would be informed on the whys and where-fors, the methods and objectives of all our efforts in the U. S. to get over better results in the production of oil and gas.

First of all, there is a section on the fundamentals of reservoir behaviour. This tells what makes the thing tick. You know, nature will help you in wondrous ways if you will understand and respect her natural laws—but she takes terrific toll when her laws are not understood and abused.

So we had to find out through trial and error experiments how to fully utilize the forces of nature in the reservoirs of the earth where oil and gas are found.

An understanding of these natural laws and the engineering principles applied to them is absolutely necessary if one is to intelligently pass legislation on oil and gas production, or sanely regulate same or wisely judge and pass on such statutes, rules and regulations pertaining to the enlightened control of these forces in the oil and gas reservoir.

*Professor of Law, The Law School, Southern Methodist University.

Actually when fully understood and allowed freedom of proof by test under production, the reservoir can be as carefully controlled as any other mechanism.

There need be no mental hazard any longer attached to oil and gas conservation.

This book brings to the reader the entire picture needed to clear the air.

I ought to know what I am talking about on this score because nearly seventeen years of my life have been spent in daily endeavor to make clear or to understand what we were trying to do in oil and gas conservation.

A person has to be something of an engineer, and a lawyer and fair and open-minded to fully understand conservation.

This book lays all the needed facts clearly before the open-minded reader.

It seeks to sell nothing but understanding of the basic truths about oil and gas production control.

The Interstate Oil and Gas Compact is discussed. Its aims and objectives are covered.

The Interstate Oil and Gas Compact is one of those highly successful joint enterprises where states and Federal activities have been blended without clash.

The Interstate Oil and Gas Compact, of which I am proud to have been one of the authors, has successfully occupied that no-man's land between State and Federal jurisdiction and has defended the states against Federal encroachment in the control of oil and gas production within the boundaries of the sovereign states.

The Compact is a waste prevention treaty between the oil and gas producing states entered into by and with the consent of the Congress. The state governors and regulatory authorities and the state attorneys general are empowered and authorized to meet and work together to prevent waste in the production of oil and gas.

The success of this plan of state cooperation points the way for further state solution to their own peculiar problems without Federal legislation other than consent to the Compact. It's worth reading.

*Earnest O. Thompson.**

*Member, Texas Railroad Commission.