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JURISPRUDENCE-ITS AMERICAN PROPHETS, by Harold Gill Reuschlein. The Bobbs-Merrill Company, Indianapolis, 1951. Pp. xvii, 527.

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writing, however legible, to be convincing as working papers; explaining their role, to the extent it is not already done, would be a small price to pay for complete legibility.

Oehler's book is satisfying on another and minor score; the term "equity of creditors" is used only as a section heading, and debts and proprietary items on the balance sheet are generally referred to by Oehler as interests of creditors and interests of owners. It has seemed regrettable to me that as the use of the term "liabilities" is generally being contracted and rendered more meaningful in balance sheet terminology by excluding from it proprietary items, another corruption is developing in its place, namely the use of the term "equities" to cover both creditor and owner interests. Such use of the latter term is particularly confusing in reorganization law and accounting where the respective interests of creditors and stockholders have come to be referred to as debt claims and equity claims. I suppose if the use of it in this fashion has historical justification it lies in the analogy to the "equity of redemption" notion developed in connection with mortgage foreclosures in courts of equity. In the light of this history, it seems somehow anomalous to refer to the claim of a first mortgage bondholder as an "equity," yet this seems to be the effect of a classification of balance sheet items into "proprietary and non-proprietary equities."

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JURISPRUDENCE—ITS AMERICAN PROPHETS, by Harold Gill Reuschlein. The Bobbs-Merrill Company, Indianapolis, 1951. Pp. xvii, 527.

This work presents the views of some seventy different American writers in a loosely-constructed, badly proof-read, but on the whole remarkably faithful paraphrase. The task the author took on himself was truly a formidable one. Long articles had to be summarized in a few sentences, whole books in a couple of paragraphs. To accomplish this condensation without committing egregious blunders is itself an achievement of some importance.

But the book displays more important qualities than mere industry and breadth of coverage. The author has a remarkable

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talent for a sympathetic and understanding presentation of views with which he disagrees. He makes no use of a device that has become almost standard in jurisprudential polemics, that is, a snide undercutting of the opponent's position in the process of restating it. Instead he lets each writer in turn put his best foot forward, and where criticisms are offered, which is seldom, they are expressed modestly and at the conclusion of the discussion.

Professor Reuschlein divides his book into three sections. The first—largely a summary of colonial thinking about law—bears the title, "The Ante-'Taught Law' Period in the United States." The next section covers the period of "taught law" from its beginnings to Holmes and Pound, passing in review such men as Wilson, Kent, Story, Livingston, Carter, Gray, Hohfeld and Brooks Adams. The final section, devoted to "Our Contemporaries," opens with chapters on "The Fatherhood of Holmes" and "The Pre-emptive Roscoe Pound." For a better understanding of Pound the author includes a summary—running about twenty-five pages—of the views of the European writers who chiefly influenced Pound's thought.

Other "contemporaries" are grouped together as forming schools or movements of thought. "The Realists" include Bingham, Arnold, Llewellyn, Green, Frank, Radin, Yntema, Douglas, Felix Cohen, Lerner, Nelles, Powell, Rodell, Laski and Garlan. (Cook and Oliphant are given separate treatment under the heading, "The Scientific Method.") Next in numbers to the Realists are "The Neo-Scholastics," all of whom are of Catholic faith with the, should I say, possible exception of Mortimer Adler. (Though Robert Hutchins makes a one-paragraph appearance under this heading, Reuschlein disclaims any intention to classify him as a "neo-scholastic.") The final heading is a new one borrowed from Jerome Hall, "Integrative Jurisprudence." Its representatives (besides Pound, who has already been discussed) are Cardozo, Patterson, Cairns, Morris Cohen, Hall, Cahn and your informant, who is very happy indeed to find himself in such good company enrolled under so attractive a banner.

Of the remaining "contemporaries," some apparently proved too difficult to classify and therefore appear under separate headings. This is the case, for example, with Stone, Frankfurter, Vanderbilt and Walton Hamilton. (I personally would have

been inclined to put Hamilton under the Realists and to give a separate heading to Arnold, who often deplores the blindness of the "mere realist." But this is a small matter, especially since Reuschlein seems to attach little importance to his own classifications and does his best to convey what is truly distinctive about each man.) A scattering of writers are grouped by two's and three's under somewhat vague headings, such as "The Reign of Law" and "Law in a New and a Different World," the latter standing as a common rubric for the very different and very new legal worlds of Northrup and Lasswell-McDougal.

Even a book that discusses seventy professed and unprofessed legal philosophers is bound to leave somebody out and any reviewer of such a book is equally preordained to criticize the author's judgment as to who is worth talking about. I cannot, for example, suppress the question, why, among the neo-scholastics, are the windy effusions of Ben W. Palmer discussed for four pages while the moderate and thoughtful writings of Miriam Theresa Rooney are passed over in silence?

Throughout his book, Professor Reuschlein urges the necessity of a closer integration of law with the other social sciences. He discusses at length most of the ambitious programmatic articles that play on this theme. But what of some of the actual accomplishments in this field, such as the work of Beuscher at Wisconsin, Hale at Columbia, Rostow at Yale, and Cavers at Duke and Harvard, particularly in the latter's founding and editorship of Law and Contemporary Problems? Were these left out because jurisprudence is tacitly assumed to include promises but not achievements? Even if the intent were to restrict the discussion to programmatic pronouncements, one misses the names of Beutel and Simpson, who are certainly more significant and have presented more workable projects than, say, Lee J. Loevenger.

Finally, one is startled to see the statement on page 314 that, with the exception of Jerome Hall, "juristic writers, when confronted with the problem of crime, seem unable to get an idea on the subject," so that "all recent advances in criminology have been made by psychiatrists and sociologists." Surely this is a bit stiff in view of the work of Wechsler, Harno, Dession, Warner and the Gluecks.

Albert Schweitzer has said that at a time marked approximately by the beginning of the present century philosophy

ceased to be philosophy and became merely the history of philosophy. Now that the realist movement has largely exhausted its contribution, there is a considerable danger, it seems to me, that jurisprudence will become merely the history of jurisprudence. The last decade has seen the publication of a great many general treatises on jurisprudence, by Stone, Bodenheimer, Friedmann, Paton and others, including now Reuschlein. By and large these books, though not free from avowed or unavowed editorial comment, are discussions of what other people have said. They are, in short, histories of jurisprudence, not jurisprudence.

All of this is by way of leading up to the suggestion that Professor Reuschlein take as his next task, not writing another book about what other people have written, but a thorough presentation of the neo-Thomist point of view to which he personally subscribes. It seems to me that such a work is badly needed. Reuschlein speaks repeatedly of a resurgence in recent years of the neo-Thomist legal philosophy, yet he nowhere attempts to define just what that philosophy is. When one turns to the writings on both sides of this question one finds that they are largely polemic and even vituperative in character and center about an attack on or a defense of Holmes.

As I read these articles, which have been so numerous in recent years in the American Bar Association Journal, I keep asking myself, just what is this neo-Thomist legal philosophy that is creating such a stir? I know, of course, that Catholics are likely to have certain views concerning legislation affecting divorce and contraception. But can this outcropping of religious views into the legislative field be called a legal philosophy? Christian Scientists in a number of communities have opposed the fluoridation of the municipal water supply. No one supposes on that account that there is a Christian Scientist philosophy of law.

What does the neo-Thomist philosophy say about such questions as the interpretation of statutes, the proper role of the judiciary, or the methods of reconciling freedom and control in our complex modern society? I find no coherent answer to questions of this sort in the published professions of this philosophy. It may be answered that the binding cement for the whole neo-Thomist jurisprudence is to be found in the writings of St. Thomas himself. Though there are some startling things

in St. Thomas on such subjects as monsters and angels, I personally have found him full of useful wisdom on matters of law and government. But curiously most of the neo-Thomist writings in the legal field are almost destitute of reference to St. Thomas himself, who taught, as I read him, that positive law is a human thing intended to promote the happiness of human beings.

Though Professor Reuschlein found it necessary to fill in the European background of Pound's thinking by a long digression, he apparently felt no need for a similar introduction to the neo-scholastic philosophy, and there is no real exposition of what St. Thomas thought to be found in the book. What I hope is that Professor Reuschlein will next attempt a book that will present us with what may be truly called a neo-Thomist philosophy of law. The publication of such a book might convert the seemingly endless exchange over the grave of Holmes of epithets like "absolutist," "relativist," "authoritarian," and "positivist" into a serious discussion of intellectual issues.

In closing I do not wish to leave the impression that Professor Reuschlein's professed adherence to the neo-Thomist legal philosophy in any way impairs the utility of his book for those who think they would find that philosophy uncongenial. On the contrary, the outstanding quality of the book, as I have already suggested, is its scrupulous fairness and the faithfulness with which it presents all points of view.

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LOUISIANA WORKMEN'S COMPENSATION LAW AND PRACTICE, by Wex S. Malone. West Publishing Company, St. Paul, 1951. Pp. 740. $15.00.

Workmen's Compensation is a problem subject in the law schools. As the pressure on the curriculum has increased, only a small remnant may be found, sometimes in the course on agency and sometimes in torts. There remains a large uncovered field of great importance to millions of workers and of great interest to the 4000 or 5000 lawyers largely engaged in dealing with industrial accidents. In the absence of law school teaching, it is imperative that clearly written and carefully prepared treatises should be available. Since there is no uniformity in the statutory

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