BOOK REVIEWS

CONSTITUTIONAL DICTATORSHIP: *Crisis Government in the Modern Democracies.* By Clinton L. Rossiter. Princeton: The Princeton University Press. 1948. Pp. ix, 322. $5.00.

Constitutional Dictatorship is a comparative and analytical study of the extraordinary methods by which democratic governments effectively safeguard their existence in times of stress—especially in times of war and rebellion but also, and more recently, in times of economic or other social upheaval. The author takes as his thesis that every democracy must have within itself the means of resorting to strong measures in times of crisis. The thesis is an old one; and yet, particularly in the United States and in these days of atomic war, it needs re-examination and restatement.

The author first defines what he means by "constitutional dictatorship." It is the delegation to the executive of extraordinary powers to meet a crisis and the return of these extraordinary powers to the normal governmental agencies when the crisis has been met. One may quarrel, as several reviewers have, with the use of the term "dictatorship"; one may question, as some reviewers have, whether the essential conditions for an effective meeting of crisis through the use of emergency powers are not the political capacity and morality of the people governed rather than the forms and methods devised for the exercise of these emergency powers. Still, the fact remains that the author has delineated very carefully (considering the brevity of his work) and very trenchantly an age-old problem of democratic government and exposed it as one of the acute governmental problems of today.

The author gives a thumb-nail sketch of the role of the *Dictator* in the ancient Roman Republic—from whence, very obviously, the author hit upon the use of the word "dictatorship" in his terminology. He next sketches very briefly the use of emergency powers in the German Republic (1918-1933) under the vexed Article 48 of the Weimar Constitution; the rise and growth of the "state of siege" in France, from the Revolution to its statutory elaboration after the Franco-Prussian War, and the use of general enabling acts and delegated legislation, during the first World War, in addition to the "state of siege"; the doctrine of "martial law," as it early developed in England, and the various emergency measures, DORA and the several Emergency Powers Acts, as well as delegated legislation, as these were employed in Great Britain during the two World Wars and the intervening economic crises; and the use of "emergency" powers by President Lincoln in the first days of the Civil War, by President Wilson during World War I, and by President Franklin Roosevelt during the Great Depression and World War II.

It is true, as some reviewers have suggested, that the author subsumes too many different things under the same rubric. The control over the *Dictator* in ancient Rome was merely the control of public opinion and the political morality of the *Dictators.* The political and social traditions

and the economic conditions of Germany, 1918-1933—in brief, the continuance of "the crisis"—probably contributed more to the failure of Article 48 of the Constitution to permit a restoration of normal government *after* a crisis than did the lack of "forms" and "methods" devised under that Article. The essential difference between the French "state of siege" and the Anglo-American "martial law" stems more from a fundamental difference in the legal systems of the two nations than from basically different postulates. Delegated legislation, and even enabling acts (in France and England) are not merely "emergency" techniques, they are relatively long-established techniques for meeting the legislative difficulties of a modern, industrial society. And, again (but the author recognizes this) except possibly for Lincoln's "Ninety Days," there has been no "constitutional dictatorship" in the *United States,* within the author's own definition of that metaphoric term, despite the exercise of "martial law" upon occasion in some of the *states.*

Still, the author did not propose to write a treatise, either on comparative constitutional law generally or even on this narrow phase of it. He proposed to examine the techniques of "crisis government in the modern democracies," to demonstrate anew the urgent need for preparing *now* for the governmental techniques to be used in *future* crises, to show that the very existence of democracies in these modern days depends on taking such steps *within time,* and to propose the outlines of a solution. In these purposes, Mr. Rossiter succeeds very well, given the small compass of his book and the vastness of his subject. That he has fallen into some historical error is no doubt true; that some of his analyses will not stand up because based on necessary over-generalization is to be expected; that his understanding of the law, and especially of the function of the courts, is hazy and perhaps limited results from the fact that he is not a trained lawyer; that he is somewhat overpowered by the results of his own laborious researches is an obvious function of his youth. But the field of political science and public law has been much enriched by his endeavors—and not only because he seems to have provoked many of the members of the species *Reviewer.*

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LEARNING THE LAW. By Glanville L. Williams. London: Stevens & Sons, Ltd., 1946. Pp. xii, 161. 7s 6d.

A FIRST BOOK OF ENGLISH LAW. By O. Hood Phillips. London: Sweet & Maxwell, Ltd., 1948. Pp. xx, 271, index. 16s.

It is surprising, no doubt, to review in an American legal journal these two volumes published for the guidance of English law students. The study of law in England is utterly different from that in this country; the American law student needs no *vade mecum;* if he does need one there is always Morgan or some of the recent, more ambitious, course materials.

But it can always be interesting to see how things are done elsewhere,

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