

ture, culture; Professor Pound prefers civilization.) Kohler answers: abstract justice must give way. Stammler's answer would be, that the question is fallacious, for Right is of the very substance of Culture.

The latter half of the book is devoted to the pursuit of the issue thus indicated. The statement thereof takes another form. In cases where we can know what is unjust, independently of knowing what is good for society, the courts are bound to follow the rule, "No known injustice for whatever social good." But where the injury complained of is not severe, the courts have wavered, occasionally invoking the doctrine of "balancing of injuries," namely, that a little injustice seems to be sanctioned for the sake of a considerable social utility. Professor Hocking favors the latter doctrine, holding the apparent sanction to be fallacious.

The problem involved is one of a definition of justice or of injustice. But it is necessary to define the nature of rights in order to arrive at a concept of justice. This is the most suggestive part of the work. Only a bare mention of the leading points is possible here.

Good-will of an individual towards his fellows and the public welfare is the primary condition of every presumptive right. The presumptions of the law are creative; they are aimed at conditions which it is desirable to bring about. Good-will is essential. The justification for these creative presumptions must rest in some facts concerning human nature, for "presumptive rights are the conditions under which individual powers normally develop." Rights are not primarily a series of conditions for the performance of functions, but conditions which promote the development of powers. Man has only one natural right—to become what he is capable of becoming.

Now the character of the individual human will seeking a concrete good, and the claim which this seeking makes upon every agent which can affect it, provide together a standard for the law. Developing human powers or faculties are the primary concern of right. Thus "the scale of values among rights is to be determined by the closeness of their bearing on the development of mental power in individuals." It comes down to a matter of "working out the system of human instincts within what we call 'the will'." This is the measure proposed by Professor Hocking. The final chapter outlines the application of the foregoing principles, turning on the existence of the two great presumptive rights, the right to liberty of the person and its activity, and the right to security of property.

This book contains the distilled essence of a theory which is to be elaborated in a later volume. The author invites criticism of the principles herein set forth.

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FEDERAL INCOME AND ESTATE TAX LAWS, CORRELATED AND ANNOTATED. By *Walter E. Barton* and *Carroll W. Browning*, members of the Washington, D. C. Bar. pp. XXIV and 707. Washington, D. C.: John Byrne and Company, Third Edition, 1926.

The first edition of this work, published in 1922, was a pioneer in the method of presenting the changes in the Federal Income Tax Laws by means of placing the corresponding portions of the law opposite each other in parallel columns. This method is a great improvement over the usual method of showing such changes, such as having the text of one law in ordinary type, that of another law in italics, and that of another law in bold face type, and so on. The result of the adoption of the usual method is inextricable confusion, but the work of Barton and Browning presents the corresponding sections of the Acts of 1916, 1917, 1918, 1921, 1924 and 1926, for purposes of comparison in a very clear manner.

Innumerable examples could be given of cases where rulings or decisions under one law have been exactly applicable and binding under another law, and, on the other hand, of cases where a ruling under one law has been without effect under another law because of change in the corresponding section. This is very important and disregard of the changes has in practice caused faulty advice to be given.

For example, under the Revenue Act of 1924 where a taxpayer paid the tax, he debarred himself from appealing to the Board of Tax Appeals on any question concerning the tax so paid, whereas under the Revenue Act of 1926 different wording is found in the law and the construction is that the taxpayer may pay the tax and appeal to the Board of Tax Appeals and, if successful, obtain a refund of the tax.

Again, there are certain circumstances where the income and expenses of two or more corporations are consolidated for the purpose of arriving at the net income of the group. Under some of the revenue acts this was mandatory and under others of the revenue acts this was optional with the corporation. Furthermore, the requirements which must be met for corporations to be deemed affiliated, have varied considerably. The result is that rulings under one law and with respect to one year are not necessarily binding under another law or with respect to another year, and it is necessary in the case of each ruling to determine the exact wording under which it was given. The book of Barton and Browning furnishes an easy method of making this comparison.

The revenue acts prior to 1916, including also the Civil War revenue acts, are given in the book, but are not shown in parallel columns. It would hardly be practical to do this because the early laws were so brief and there would be so few corresponding sections compared with the later laws.

It will be apparent from the foregoing that the book is designed for experts, rather than for the casual taxpayer. In its narrow, specialized field, it will prove quite valuable.

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LAW FOR THE HOME OWNER. By *John B. Green*, of The New York Bar. pp. xiv and 404. New York: The MacMillan Company, 1926.

Mr. Green in preparing this valuable work is confronted with the difficult problem of presenting in an elementary way, for the use of the layman, the combination of legal situations and problems that enter into the building of a home. The various steps of home building from the legal aspect are carefully treated. He deals with the acquisition of the site, title and contract being treated; the building, mechanic's liens, mortgages and kindred subjects; rights of property owners, easements and nuisances; taxes and assessments as well as insurance and the duties of municipal corporations. Each phase of the various subjects being given a concise treatment.

How well the book fits into its place as a guide to the average home builder could be best determined by the layman reader. To the professional reader the task appears to have been admirably done, but it may be that the average home builder would find parts of the book too technical for beneficial comprehension. Such chapters as those dealing with, "Easements and Licenses," "Mortgages," "Passing of Title," and "Deeds and Covenants," might come under this category.

Aside from the layman reader the professional man will find it well worth his time to give it a careful reading. Points which appeal to him may be examined further through the many cases which are found cited on almost every page. If the average home builder finds parts of the book difficult it will nevertheless have value in that it will serve to put him on his guard and lead him to seek professional advice and prevent legal mishaps in home building.

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