

Book Reviews

FROM THE PHYSICAL TO THE SOCIAL SCIENCES, by *Jacques Rueff*. Baltimore: The Johns Hopkins Press, 1929. Pp. xxxiv, 159.

In a prefatory note to the volume here reviewed, reference is made to the "effort now being made in many quarters to borrow from the physical sciences their more exact, objective, and fruitful methods for use in the social sciences. This latter is a movement so far-reaching that it may very well come to characterize the history of thought in the period just ahead of us." If the prophecy made is to come true, a technique for applying these more "exact, objective and fruitful" methods must be devised. It is fair to assume that this volume purports to suggest the way to such a technique.

Of the result, the least that may be said is that it is enormously interesting and stimulating. The legal reader may find the introduction more so than the matter it introduces. The text proper, by M. Rueff, consists of an acute analysis of the thinking process or the scientific method—perhaps the two are synonymous—with an application thereof to various physical and social sciences. No one interested in the process of *thinking* on any subject will fail to find new light here. The style is a model of compactness. Ideas are stripped bare and set forth simply, yet clearly. Indeed, the skill with which M. Rueff has made subtle and elusive things appear obvious is sometimes misleading.

Is there here, however, any definite contribution towards the solution of legal problems? That is necessarily a question which each individual reader must answer for himself. Many will think not, and the reviewer is inclined to agree. For a more specific application reference must be made to the introduction, by Messrs. Oliphant and Hewitt. Here is set forth at some length an attitude at present rather widely current in some quarters towards conventional legal methods. "So far as most lawyers, judges and legal scholars are conscious of methods employed in their work, they avow three types of approach to the legal problems with which they deal. For convenience let them here be called the *transcendental*, the *inductive* and the *practical* methods respectively." The naming of these types alone would justify the book. Each is explained and criticized. The criticism is severe, yet the justice of much of it cannot be gainsaid, nor can the need for it be doubted. The tendency of lawyers to cling to traditional methods is notorious, yet in no field of learning should traditions be more carefully scrutinized. Here they are brought out into the searching and, on the whole, unbecoming, light of publicity. To whatever extent the individual reader may feel all the criticisms justified or the contrary, he can hardly fail to be led to a tonic reconsideration of his own method of approach in the light of these criticisms.

The reviewer confesses frankly that a few of the criticisms seem to him excessive or ill-taken. He would not, for example, admit that principles, *i. e.*, generalizations based upon experience, are to be wholly disregarded

in judicial decision, nor that the general validity of a particular principle may be destroyed by showing it, in a given case, to conflict with another principle of general validity. Again, he would not admit that common sense is to be discredited as a criterion simply by showing that it often is not used "methodically." This is to criticize not common sense but human fallibility. Most of all he regrets the lack of any specific setting forth of a new and better approach. Considering the purpose of the introduction, the lack seems more glaring here than in the text proper. Messrs. Oliphant and Hewitt pose a hypothetical case, state and repudiate accepted methods of solving it—and practically leave the matter there. Destructively, they are specific; constructively, they deal in generalizations. Certainly, to this extent, their work is disappointing.

Granting that there is fundamentally only one process of handling a scientific problem, be it mechanical, psychological or social, can the materials of the so-called social sciences ever be as "exact" or as "objective" as those of the physical sciences? (Surely no technique can be more exact or objective than the materials with which it must deal.) This seems to the reviewer the ultimate question. It has been well, even brilliantly, raised in this volume; and a question once raised is at least half answered.

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THE CASE OF THOMAS J. MOONEY AND WARREN K. BILLINGS, (Abstract and Analysis of Record before Governor Young, of California), by *Henry T. Hunt*. New York: National Mooney-Billings Committee, 1929. Pp. 445.

Another Christmas has come and gone, and still Mooney and Billings rot in California penitentiaries. Of their innocence of the crime for which they were convicted and sentenced there is not the slightest doubt. That they were railroaded into prison by means of perjured testimony has been conclusively demonstrated. Every important official connected with the trial of Mooney, except the prosecuting attorney and one of the ten living jurors has urged that the injustice which was done to the defendant be remedied so far as that is possible. The trial judge in particular has been unceasing in his efforts to undo the wrong in which he was an unwitting participant. Several sets of impartial investigators, including one especially appointed for that purpose by President Wilson, have concluded that the verdicts against the two men should not stand. Yet three successive governors of California, in the face of the evidence and these opinions, have refused to act in order to vindicate the fairness of the government of California. Governor Stephens, who was in office at the time the men were sentenced, commuted Mooney's original death sentence to life imprisonment upon the urging of President Wilson, but there the matter has rested ever since. Governor Young, the present incumbent, after himself examining a large part of the record in the Mooney case, has referred the matter to a special advisory commission which, no doubt, will sooner or later render its report.