

point of view in this subject. Kelsen states the background in his prologue. He says that returning European and Latin emphasis upon natural law is the result of a search on the part of the capitalist element in our culture to find a stable and authoritative defense of their privileges to take the place of the old "divine right" theory; while the proletarian rejection of both state authority and legal systems is in defense of their struggle to overthrow the existing economic order and to establish one of their own. His own viewpoint of the philosophy of law seeks to steer clear of both of these "defense" philosophies and to study law as it is, as an historical institution and as a functional mechanism for adjusting social conflict. This view the author adopts in essentials and justifies it by means of a historical treatment of theories of the law. He emphasizes especially the neo-Kantian school and in particular the legal philosophies of Stammler, del Vecchio, and other seekers after absolutistic naturalistic norms. On the basis of his criticism of these fallacious attempts to establish a naturalistic fundamentalism in law, the author adopts a more relativistic view, but escapes legal chaos by appealing to the historical fact and the unity of law inherent in consensus and practice and precedent. But he always considers law as an adjustment mechanism, not as a revelation nor as a metaphysical absolute.

L. L. BERNARD.

Washington University.

---

FRANCISCO DE VITORIA, FUNDADOR DEL DERECHO INTERNACIONAL MODERNO; AND FRANCISCO SUÀREZ (1548-1617). By *Camilo Barcia Trelles*. Valladolid, Spain: Sección de Estudios Americanistas, Universidad de Valladolid, 1934. 2 vols. Pp. 229, 178.

These two separate works by the distinguished Spanish historian of International Law and professor in the University of Valladolid, Barcia Trelles, were in each case first delivered as lectures before the Academy of International Law at The Hague and later published in French and Spanish. The author maintains that Vitoria, rather than Grotius, was the true founder of modern international law and that Spain rather than Holland was the cradle of this science. Spain's early development of world commerce and her conflicts with other west European powers upon the seas forced this development upon her legal and diplomatic leaders. He justifies the inclusion of Suàrez among the sixteenth century authorities on international law on the ground that his theories were taught then at the University of Coimbra, although his work on the subject was not published until 1612.

Anyone who is familiar with the research and authorship of Barcia Trelles in his chosen field will be prepared for the brilliant and highly systematic treatment he gives to both these men, on the historical and critical side, as well as the exposition of their theories of international law. He never forgets to be a social scientist while at the same time he is a legal technician.

L. L. BERNARD.

Washington University.