

## REVIEWS AND NOTICES.

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Sir Basil Blackett approaches the problem of the rehabilitation of gold as a stable measure of monetary value with an expert knowledge gained from special service in the British Treasury during the War, and as Treasury representative in the United States and Canada 1917-1919. But that does not exhaust by any means his training in finance. From 1919 till 1922 he was Controller of Finance at the Treasury, and during a portion of that period he represented Great Britain on the Financial Committee of the League of Nations. For more than five years up to 1928 he was the Finance Member of the Government of India, being responsible for six budgets. On his return to England in the last-mentioned year, he became a director of the Bank of England. Sir Basil is convinced that the doctrine of *laissez-faire*, which English people for a long time regarded as something revealed by high Heaven for the economic salvation of man, was a shallow conceit borrowing its plausibility from the marvellous prosperity which the world enjoyed in the seventy-five years before 1914. That prosperity the author would ascribe to "a fortuitous combination of circumstances, essentially precarious and ephemeral, which has now passed away." Enlarging on the matter, he thinks that the results of a war unparalleled for destructiveness in wealth and an army of the unemployed, which exceeds the number of men mobilised at any one time on all the battlefronts of the war, very cogently demonstrate that "some better method must be found and applied to the ordering of man's economic life than the unregulated competitiveness of human beings guided solely by their own self-interest, however enlightened."

The author explains that his book is an attempt to meet the challenge "for a general programme of national reconstruction" in England, and to make constructive suggestions for rebuilding the national currency system as an integral part of that programme. He thinks there can be no worthwhile scheme of "planned money" where the general level of prices is subject to violent fluctuations; and, again, that there can be no stabilisation of price level without planning in other economic and political fields (p. 21).

Unlearned as one may be in the sibylline books of the dismal science his common sense would tell him that the gold standard could only function satisfactorily so long as there was one supreme and unchallengeable financial centre of the world—and London was such down to our own day. Out of the War New York emerged as a rival to London, playing such a fantastic trick before High Finance as would have made even the angel-nobles of the Tudor monarchs weep. That New York went sour over-night in the process of fermentation has only complicated the problem of the stabilisation of price level. Sir Basil Blackett, like Silas Wegg's interesting brother, leaning the while upon his sword, wipes away a tear for the gold standard—he would be disposed to save it from the scrap-heap if Fate, under the suasion of

\**Planned Money*. By Sir Basil P. Blackett, K.C.B., K.C.S.I. London: Constable & Co. Ltd. Toronto: The Macmillan Co. of Canada. 1932. Price \$1.50.

international approval, would lengthen its span of life. And here the Bank for International Settlements must hog the stage. We quote our author (p. 130, ff.): "The Bank for International Settlements might conceivably, if the various Governments were willing to trust it with adequate powers, become the Central Reserve Bank of the world, and do much to mitigate the effects of those big movements of short term funds from one national financial centre to another which form one of the major obstacles to stability of exchange between national currencies and an international money standard." This conjures up the spectacle of gold as "a dethroned monarch," for if the Bank for International Settlements is to relate the price of gold to an international index of wholesale prices, it will be the price level and not gold that is the real standard of value. But Sir Basil shrinks at the contemplation of this particular suggestion being given practical form: "The responsibility would overwhelm any personnel which could be gathered together at Basle to manage the Bank . . . A Super-Central Bank of the World might be an instrument of a Super-Staté. It is altogether out of harmony with the ideas of the present-day world of independent and sovereign national economic units."

Failing international co-operation of the sort our author would suggest the feasibility of a monetary *entente* between the United States and Great Britain to the end that prices should be raised to the desired level and be kept there, or at least very close to that level. Ancillary to that, stability of exchange between American dollars and British sterling and gold might be maintained. Yet such an understanding Sir Basil thought could not, at the time he wrote, be regarded "as more than a possibility." But are its chances not improved now that the dictatorship of their President is a source of comfort rather than of consternation to the Americans? Then, both these expedients failing, Sir Basil would be inclined to visualise economic regeneration for the world as inhering in a British Monetary Programme which he would formulate in terms embodying only a slight departure from the wording of the Monetary Report of the Ottawa Conference, i.e., (1) Co-operation with other nations in any practicable measures for raising wholesale prices; and (2) establishment of a satisfactory international monetary system. Let us have his own view of the prospects of this scheme: "Each national economic unit should have its own local currency and should declare its intention to keep the internal purchasing power of that currency stable and to maintain a constant price level, and the nations of the world assembled at the International Monetary Conference should undertake to co-operate to the best of their ability in giving practical effect to this declaration each within its own domain." And the author adds that if this policy were adopted and enforced "the problem of reconciling stability of internal prices with active international trade would be solved."

Sir Basil's plan for an international monetary system may be commended to the consideration of the impending international Economic Conference. If the experiment of the Federal Reserve Board of the United States in stabilising dollar prices—which Sir Basil thinks contributed to the development of the crazy Stock Exchange boom which blew up in 1929—is cited against the project, such criticism might be met with the contention that, to quote the author, "it was adopted only as an objective subsidiary to the maintenance of the international gold standard." With the gold standard abandoned and out of the way, this project as above outlined might

have good chances of success. Why bemoan the gold standard anyway? There is no absolute standard of value, any standard must be subject to the laws of demand and supply. Hitherto gold has proved itself the most convenient in practice; if in the process of the economic reconstruction required by the present age something better can be found, the gold standard must go.

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LORD CARSON.\*

The legal profession will read with great interest and profit the late Mr. Edward Marjoribanks' *Life of Lord Carson*. It is, however, unfortunate for the success of the book that the Canadian edition should appear under the title "Life"; for the book is in no sense a biography. It is rather a series of views of Lord Carson as an advocate and lawyer, and from this point of view it certainly provides excellent and stimulating reading. It is possible, here, to trace Carson's developments, from somewhat unpromising beginnings, until he reached a place secure among the great advocates of his day. In addition, there will emerge something in Carson's legal career which has often been obscured. To those of us who have known him personally there was never any doubt about the fact that Carson was something more than a successful advocate, especially with a jury. Mr. Marjoribanks has indeed done excellent service in emphasizing that Carson was a fine and learned lawyer and jurist, a man of uncommon knowledge in the law, a legal student all his days. It is well that a record should be given from this point of view, as his reputation has most unjustly suffered in this connection. Indeed, even in the dramatic pages of the book, such as those which deal with the Oscar Wilde, the Ben Tillett, the Gilbert, the Jameson Raid, the Chapman, the Slater Agency, the Archer-Shee Cases, the initiated will see, behind the drama, the workings of one of the acutest legal minds of his generation. It is true that there emerges a picture of a consummate advocate and cross-examiner, but this must not be allowed to minimize Carson's place as one of the great legal minds of a period great in legal minds. On the other hand, we venture to think that in places the distinguished author exceeds all bounds not only of good taste but of facts. Carson loved to do battle with his peers—but they were his peers. No one, except an uncritical hero-worshipper, could write as the learned author sometimes does of Carson's supposed self-confidence, of his supposed blatant assurance, of his supposed conviction that he could "put it across" in a speech or a telling set of questions. Mr. Marjoribanks at moments allows his supreme admiration for Carson in politics to warp his judgment of Carson in law. An impression of the super-advocate, the super-lawyer, could not be further from the facts. First of all, those of us who knew Carson in those days, knew that he was not fool enough to think that his great contemporary leaders at the bar were men inferior to himself. Not only did he respect them, but he was wise enough to prepare with the greatest and most minute care to meet them, and his personal pride and professional joy in his work were made worthy

\**The Life of Lord Carson*. By Edward Marjoribanks. With a Preface by the Right Hon. Viscount Hailsham. Toronto: The Macmillan Company.

for him by the knowledge that he was opposed by men of tremendous power both in intellect, learning, and advocacy. Mr. Marjoribanks has got a good deal of this out of line with the true situation. Indeed, some of his statements seem to be those of imaginative devotion, unless, indeed, Carson told them to the learned author. This we refuse to believe, for Carson never reached the dizzy height of believing that the great leaders whom he regularly opposed could be brushed aside in court with some strange legal sleight-of-hand, which Carson never possessed and never claimed to possess. Carson's success was due to his learning, his constant and thoughtful reading, his meticulous preparation, his uncanny skill in seeing the long point in a case and in sticking to it, his carefully developed study of human nature. It is mere nonsense to ask us to believe that he was a conceited superman before whom great opponents went down like ninepins. It is to be regretted that a book of fascinating interest should thus be marred. However, the profession will not be deceived by the exaggerations, and they will find in the book a narrative of extraordinary interest and of dramatic intensity. It closes on the eve of 1910, when Carson became the advocate in earnest. It may be well for Carson's place in history that Mr. Marjoribanks will not write the account of his later career. Indeed, perhaps, those years were better unrecorded.

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#### THE SCIENCE OF LAW.\*

As Professor Hibbert admonishes us in his preface that the work in hand is the result of more than thirty years of university teaching, it cannot fail to command the attention of seekers after knowledge. He admits that he is an "Austinian" by training but adjures us to concede, by reason of his criticisms of his master, that he is not a bigot. Those who study his book will agree with us that the author makes good his claim in this respect; for instance he does not hesitate to speak of Austin's separation of Jurisprudence into 'General' and 'Particular' classes as "a curious aberration," and also feels obliged to apologise for the dethronement of Austin in the sphere of legal theory by pointing out that "Austin's early life was spent in the army—which tintured his views on the nature of law with the idea that a law must be enacted by a determinate person".

While the book is valuable for enumerating and discussing the mistakes that other jurists than Austin have been guilty of by the common consent of our time, the author sometimes errs on the constructive side himself. He is not afraid to modify the accepted definition of Jurisprudence as "the Science of Law" by inserting a provocative adjective into the collocation of words used, so that the definition should be "the science of National Law" and not other.

Surely that is going further than Austin did in breaking up the science into classes. It implies that there are as many kinds of jurisprudence as

\**Jurisprudence*. By W. Nembhard Hibbert. London: Sweet & Maxwell Ltd. Toronto: The Carswell Company Ltd. 1932.

there are nations possessing systems of law. The point we make is supported by the author's own explanation of National law. At p. 8 he says: "The term appears unobjectionable, since it carries its own meaning with it, namely, the law of a nation." And again at p. 58: "National law is law which is enforced by a sovereign against his subjects and in some cases against persons who, not his subjects, are within his territory." Then it is correct to speak of English jurisprudence, French jurisprudence and German jurisprudence. But that is to make the term synonymous with law. As we understand it the term Jurisprudence is strictly used in contradistinction to Law, implying a synthesis of juristic principles commonly prevailing in civilised communities and underlying all systems of positive law. Professor Hibbert has strayed into the ways of confusion by trying to make the term *national* law take the place of *positive* law. He confesses a prejudice against the latter, and he is led into a fallacy by it. He says that originally positive law was the antithesis of the law of nature, because it indicated that its rules were expressly set or declared while those of the law of nature were not, and when the law of nature became identified with the law of God, positive law came to mean human law. Proceeding with his argument he says: "Some human laws are enforced by a political superior called a sovereign, and others by a superior who is not a political superior [citing later on in the work a regulation made by the London County Council as an example of the latter]; the former are national laws, the latter not, and therefore the term 'positive law' does not appear to be an appropriate term by which to indicate national law." Resisting the temptation to argue that a regulation of the London County Council would very properly fall within Professor Hibbert's category of national law (See Jennings' Local Government Law, p. 43), we shall rest content with pointing out that if it is conceded for argument's sake that laws, in the sense he uses the word, can be made by a 'non-political' superior, such laws would be human laws equally with those made by a political superior. Then, in view of our author's concession that positive law has come to mean human law, why attempt to unsettle the competency of the word "positive," the use of which has long had the sanction of French and German jurists of repute and, as Anson says, signified the sort of law with which Austin "delighted to torture himself and his readers." Apparently Professor Hibbert took his cue from Sir John Salmond, but that author makes no better case for the outlawry of the word in question—and he would substitute 'civil' for 'positive', which Professor Hibbert is unkind enough to say is "useless as the term is used with so many meanings."

Professor Hibbert's treatment of the vexed question of 'Sovereignty' yields little substantial ground for us to differ from him. In the third chapter of his book there is to be found much instructive comment on the various views and opinions of Sovereignty entertained by European and American publicists. We must, however, express our regret that he somewhat dims the general clarity of his comments on the Statute of Westminster, 1931, by the dark saying (p. 68): "As regards the Dominions the position appears to be that of a *system of confederated estates*." (Italics ours).

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