

LAW AND CONTEMPORARY PROBLEMS

VOLUME I

DECEMBER, 1933

NUMBER I

FOREWORD

The lawyer is a respecter of precedent, at least to this extent: he is under obligation to accompany his departures therefrom with explanation, if not with apology. The American university law schools, in their contribution to the literature of the legal profession, have adhered with lawyerly consistency to an old and honorable precedent, established in 1887 by the first volume of the *Harvard Law Review*, a precedent from which its succeeding volumes and those of the many law school periodicals following it have not greatly deviated, however much they may have amplified and enriched it. *Law and Contemporary Problems* constitutes a marked departure from this precedent. Explanation is called for. This may, perhaps, best be achieved by a declaration of purposes.

Our social order has entered a period of accelerating change. Law is at once a barrier to such change and a mechanism through which it may be effected. Its relation to the problems of today cannot be ignored by lawyer or layman. Moreover, the thoughtful reader has grown wary of the ready pigeon-holing which classifies this problem as "legal," that as "economic," with the implicit assumption that never the twain shall meet. Yet though a "legal" problem may also be an economic, a political, or even a technological one, there persists the obstinate fact that the economist, the political scientist and official, the business man, and the technologist will make contributions to its comprehension or solution which, in all probability, will differ from that of one schooled in the legal discipline. Differences will obtrude, however earnestly the specialist has sought to assimilate the views and data outside the field of his particular competence. Syntheses differ with the synthesist. It is with this fact in view that *Law and Contemporary Problems* is organized in symposium form and that contributions to it have been solicited not only from lawyers but also from those who, whatever their profession, possess the knowledge and experience which vouches for the significance of their commentary on the subject under discussion. The reader, whether lawyer or layman, may profit from contrasts and conflicts as well as from reconciliations.

The subjects selected for consideration will, of course, be those in which the legal factor is prominent, integral either to the problem itself or to its solution. Low-cost housing, agricultural marketing, interstate crime control, our migratory divorce jurisdiction, limitations on testamentary power on behalf of the testator's immediate family, arbitration as a substitute for litigation, the security devices of the installment

seller—these are typical of the topics on which *Law and Contemporary Problems* will be focussed. In the treatment of such topics, no fetish will be made “objectivity.” The expression of opinion and belief, however controversial, will be sought because opinion and belief have themselves a social significance when expressed by competent and thoughtful observers which is independent of their ultimate verification or contradiction by experience. Moreover, in the selection of contributions, there will be no pretense of maintaining a nice balance between the views of the proponents and the opponents of change, between the advocates of this solution or that. To do so would constitute an achievement of doubtful value which limitations of space would seldom make possible.

A word as to the present issue. Plans had been laid for it prior to the entry on the scene of a new factor of major importance, the Food and Drugs Bill, now pending in Congress. The bill represents the first far-reaching effort since 1906 to augment the legal safeguards of the consumer. Whatever its fate in the coming session, its provisions must hereafter be examined by students of legislation in this field. In making room for its consideration, other aspects of the problem had to be discarded, among them, state and local regulatory activities and the valuable work of certain non-governmental bodies such as the Better Business Bureaus. An eleventh-hour disappointment prevented the intended presentation of the drug manufacturers' criticism of the pending bill.

The department of student work usual in “law reviews” will not be included in *Law and Contemporary Problems*, although students of high standing in the Duke University School of Law will be invited to contribute articles on legal subjects. The customary student comment on current decisions will appear as a department of the *Duke Bar Association Journal*, a periodical published three times a year by the Duke Bar Association, a student organization.