

time, the positivists fostered a peculiar brand of anti-United States feeling wherein the colossus of the North was regarded as both the enemy and the model. The *gringo* came in for profound analysis and detailed discussion in the pages of the leading positivistic journal. It is also interesting to observe how the positivists (predominantly mestizo, anti-religious, and anti-reactionary) justified joining forces with the wealthy, reactionary *criollos* and the reactionary clerical (religious) faction.

In these two volumes, Leopoldo Zea has made a monumental contribution to the study of Mexican affairs. Those interested in government, history, education, or philosophy will find these books of great value.

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El derecho constitucional panameño. Antecedentes, doctrinas y soluciones.
By J. D. MOSCOTE. (Panama: Star and Herald Company, 1943.
Pp. 512, vii. Paper.)

American jurists usually approach constitutional law through the case method, in which principles are defined in terms of their practical application. Tracing the historical development of these principles and measuring their value by the yardstick of philosophical ideals completes the pattern of the American process of scholarship. The Latin-American jurist, however, frequently obscures the living constitutional law of his country in abstract theory. This is the methodological path Professor Moscote has chosen to wear a little deeper, albeit with precise and sometimes brilliant literary style. His study—the seventh volume he has published on law and government—analyzes article by article the Constitution of Panama of 1941, comparing it with the earlier document of 1904, and various other modern American and European instruments of government. He carefully traces the background of each article, subjects it to the light of modern liberal theory, and occasionally offers mild criticisms of particular provisions.

The weakness of Professor Moscote's volume is in its emphasis on the theory and philosophy of the constitution to the exclusion of its functional meaning in government. The failure to relate theory to practice renders understanding of the constitutional law of Panama difficult, if not impossible. The relationship of the philosophy of individual rights and guarantees to Duguit's sociological jurisprudence and to provisions in the constitutions of Mexico, Ecuador, and Uruguay, for example, is interesting; but it would be important to indicate precisely the extent to which individual rights and guarantees enjoy practical meaning in

Panama. Have the courts defined freedom of speech, press, assembly, and religion? Does the executive branch offer impartial protection of these rights? The author gives such questions no consideration whatever, which seals much of his discussion into an academic vacuum. To use another illustration, few would deny the importance of the unconstitutionality of legislation in the field of constitutional law (pp. 445-455), yet the author is intrigued only by the theory of judicial review, not by the actual problem in Panama.

The author correctly declares that one of the most important reasons for the failure of the 1904 constitution was the breakdown of the principle of separation of powers. Government became dominated by the executive, and the legislature was completely incapable of holding him responsible for his acts (p. 19). Despite this penetrating observation, the author fails to relate it to the provisions in the Constitution of 1941 making the executive branch partly responsible to the legislature. (When the new constitution of Panama is signed sometime this year, in all probability the principle change will be the incorporation of a system of parliamentary government.) It is true that Professor Moscote is aware of the trend toward responsible government in the Latin American countries, but he apparently does not see its importance in his own country. In mentioning Latin-American constitutions that have contained clauses permitting the parliamentary system, he emphasizes the Constitution of Ecuador of 1929 (a poor example), but does not even refer to the Cuban document of 1940, the principal feature of which was a semi-parliamentary system. He is, moreover, completely wrong about the Uruguayan Constitution of 1934 when he declares that the parliamentary system provided for in that document is a condensation of European experience with the system (p. 220). This view, of course, overlooks the experience of Uruguay in parliamentary and semi-parliamentary government, which goes back to the earliest constitutions.

Full credit must be given for Professor Moscote's high standing in Latin-American scholarship, his careful research for this volume, and his clear style. He has presented an excellent background and philosophy of the Constitution of 1941, and historians will find the work of considerable merit and value from this standpoint. His appreciation of other constitutional systems is keen, although it is unfortunate that he does not know Haines, Corwin, and Willoughby as well as Garner in American constitutional law. The only justifiable criticism of the work is that it does not present the constitutional law of Panama as a working system.

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