of making it too simple for the boys. We’re not that good. And those who are good, and Professors Ballantine and Lattin are among that number, don’t worry about it. Einstein apparently has no fear of laying it out too cold. But maybe relativity is “harder” than the corporate entity. Doubts are arising. Our time is short. Our problem is great. Our capacities are feeble. Possibly we could do more without pauperizing.

One feature of the book completely baffles us: just why the editors saw fit to ruin good problem material by printing it in the casebook. If for the instructors who lack the imagination to make up their own, we don’t deserve such riches, at least without more explicit ponies. As far as the students are concerned, the problem is a problem just once. After that time it’s history. The answer is written in the casebook for the benefit of all who follow. And if it’s written in wrong, you’re just that much worse off for the sanctity of the printed word apparently envelopes the written. On the other hand, we will concede that any device that will provoke student thought in preparation can not be lightly dismissed and there is no denying that the inclusion of problem material does just that. Our query relates to its continued efficacy.

And now the time has come for the flaws and faults. At this point we must, to conform, hedge a little. Maybe it isn’t such a grand job after all. Let’s see, on page 130, note 3, 34 Harv. L. Rev. 28 should read 34 Harv. L. Rev. 288. The ritual is satisfied and we may, we hope, depart in peace.

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Referred to by the editors as “occasional papers of Felix Frankfurter,” Law and Politics—a collection of addresses, lectures, essays, and articles—covers the quarter of a century immediately preceding his ascension to the Supreme Bench. For this reason, Archibald MacLeish, in his introduction, speaks of these writings as an “index to the American future.” The weight of this observation becomes increasingly clear as the reader progresses article by article, and, when taken in conjunction with Mr. Frankfurter’s book, Mr. Justice Holmes and the Su-

1 Archibald MacLeish and E. F. Prichard, Jr.
PREME COURT, 1938, the speculation in the reader's mind is overwhelming that "these reactions are going to be the reactions of Justice Frankfurter when he meets the same problems as a member of the Supreme Court."

In his writings on political questions of the day, Mr. Frankfurter shows an uncanny ability to reverse the phrase, "hindsight is always better than foresight." Historical trends and issues of importance he has recognized long before they became historical, and in his reference to them he has displayed an ability to speak, not in the terms which associated themselves with the issues when they arose, but in the terms of history, in a manner easily grasped and retained. Each article and address has continuity with the others.

Throughout his works, Mr. Frankfurter seems to be clearly in accord with present-day trends in social legislation. He says, "Mass relief has become the primary duty of government and no longer can it be left to man's charity for man." He praises President Roosevelt for "his refusal to starve social services on the false plea of economy," and speaks of due process of law as meaningless when used as a gauge for social legislation.

The reader is impressed that Mr. Frankfurter is a follower of Mr. Justice Holmes' school of judicial method. In the field of social legislation he clearly states that the legislature ought to be given a free hand—to be allowed to use the "trial and error system" to right social evils—until experience shows such legislation to have been unwise. He feels himself clearly in accord with the view that the wisdom of legislation is not a matter of concern for the courts—that power alone is to be the yardstick.

By the same token, Mr. Frankfurter follows Mr. Justice Holmes in the belief that, while legislatures may use their trial and error methods in regard to property rights, the area of civil liberties and freedom of speech is not one for experimentation. There the line of "power" is drawn. Protection of "the social health" and protection of "civil liberties" are two widely separated concepts. In the words of the author "... without freedom of expression even liberty of thought is a mockery ..."

Mr. Frankfurter points out that the layman speaks of THE COURT as though it were an abstraction vaguely connected with the history of

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2 One chapter of this book about Mr. Justice Holmes is reprinted in this collection.
3 See the decision rendered in McCrory v. The Dixie Greyhound Lines, February 12, 1940, in which Mr. Justice Frankfurter and Justices Black and Douglas dissent on the basis of state's rights.
our country. His views on this in the light of his newly acquired position are best expressed in his own words:

"To be sure, the Court is an institution, but individuals, with all their diversities of endowment, experience, and outlook, determine its actions. The History of the Supreme Court is not the history of an abstraction, but the analysis of individuals acting as a Court, who make decisions and lay down doctrines; and of other individuals, their successors, who refine, modify, and sometimes overrule the decisions of their predecessors, reinterpreting and transmuting their doctrines. There is no inevitability in history except as men make it. It would deny all meaning to history to believe that the course of events would have been the same if Thomas Jefferson had had the naming of Spenser Roane to the place to which John Adams called John Marshall, or if Roscoe Conkling rather than Morrison R. Waite had headed the court before which came the Granger legislation."

In dedicating a large section of his work to Three Great Justices, Mr. Frankfurter first points to Mr. Justice Holmes—"the philosopher become king." His criticism of Holmes, most of it being favorable, to be sure, leads directly to a preview of how Justice Frankfurter will decide those same issues when they come before him as a member of the court. That he feels the labor injunction to be an impotent weapon, in the sense that it never accomplishes a final solution of a labor dispute, is not left to the imagination of the reader.

The second of the "Great Justices" is Mr. Justice Brandeis, "the master of fact as the basis of social insight." Mr. Justice Cardozo is the third. Pointing to the great vacancy left by Justice Holmes, according to Mr. Frankfurter, "Mr. Cardozo was the one man adequate to fill the historic place..." In the light of this statement, it is all the more interesting to realize that now it is Mr. Justice Frankfurter who fills that historic place. Holmes... Cardozo... Frankfurter. Certainly it is not possible for many of us to succeed those in whom we place our greatest measure of hero-worship.

Entertaining a personal conviction that the "professional politician" is the type best adapted to true and loyal public service, Mr. Frankfurter in one of his political addresses praised the aims of Senator LaFollette. These aims he expressed as his own...

"... to give deeper meaning and scope to the masses of men, to make the commonwealth more secure and more enduring, by resting it on a broad basis of independent, trained, and contented citizens."

If any one statement could sum up this reader's impression of Mr. Justice Frankfurter's philosophy toward his duty on the bench, it is the above. It is this philosophy that is destined to play an even greater part in indexing the American future in the years to come than it has played in the twenty-five years covered in Law and Politics. E. R. O.