

REVIEW AND COMMENT

Better Than "Call Home the Heart"

A STONE CAME ROLLING, by Fielding Burke. Longmans, Green and Co. \$2.50. (Book Union Choice for December.)

MORE than thirty years ago, Olive Tilford Dargan, who now writes under the name of Fielding Burke, published her first book, a collection of plays in verse. Other books, both of plays and lyrics, appeared during the next two decades and she became known as a poet with a strong love of natural beauty. From such of her verse as I have read, I gather that she was always a humanitarian, but certainly the reader was less conscious of her social sympathies than of her intense and perhaps mystical preoccupation with nature.

Then, three years ago, *Call Home the Heart* was published. In its early chapters it showed a rare ability to portray the beauty of the Carolina mountains and what seemed to be a thorough understanding of their people. But the novel did not fall into the mistake that has vitiated so much regional literature: it did not try to set forth the dead past as if it were the living present. On the contrary, it bravely carried its characters from the mountains to the industrial towns of the South, and showed how new forces were creating new problems. It did more than that: it selected types of experience that indicated how these problems could be solved. The humanitarianism of the early work had grown into revolutionary passion.

Call Home the Heart was a sincere and moving novel, but its faults were obvious. The description of its industrial struggle seemed incidental, an episode between the heroine's departure from the mountains and her return. That she should was natural enough, but the emphasis was unfortunate. Moreover, the impression that the strike was only of secondary importance was heightened by the fact that the author was unmistakably much more at home in describing the mountains than she was in describing industrial conditions and labor organizations. No one could doubt the genuineness of Fielding Burke's revolutionary sympathies, but they were not given integrated expression in the book.

Whatever its faults, *Call Home the Heart* was, in its own right, a remarkable novel, and it was even more remarkable in the light of its author's previous work. It is, then, as extraordinary as it is pleasant to report that *A Stone Came Rolling* is a much better book than *Call Home the Heart*, and is strong precisely where its predecessor was weak. Not only is the struggle of labor an integral part of the book; it is handled with knowledge and insight. Fielding Burke understands the economic problems of southern in-

dustry, the difficulties that face organized labor and the tactics that are being evolved to meet those difficulties. From this point of view, *A Stone Came Rolling* is a challenge to the revolutionary novelists who have allowed themselves to be beaten by ignorance: Fielding Burke has shown that writers can learn.

The novel is not, of course, a strike handbook, but simply the story of a group of southern people, especially Ishma Hensley, the heroine of *Call Home the Heart*, her husband Britt, and Bly Emberson and his family. The strike that takes place in Dunmow is a crucial event in their lives and, therefore, Fielding Burke makes it her business to describe the strike intelligently. But she is primarily interested in the characters, as she should be, and she handles them beautifully. Britt, who was a little shadowy in *Call Home the Heart*, emerges very clearly in this novel and shares the honors with Ishma. Bly Emberson, a manufacturer who wants to be good and is beaten by the system, is a character worthy of a place beside them. And the whole picture of life in Dunmow is firm and well-rounded. One of the incidental weaknesses of the first novel was the unconvincing portrayal of the upper class; here even the most reactionary employers are real persons.

The great quality that Fielding Burke has in both her novels is warmth, and it is a quality that is too often lacking in revolutionary fiction. One never feels for a moment that she is outside the struggle she portrays; she is in it, heart and soul. The reader

cannot help but respond to her admiration for Ishma, her tenderness towards Britt, her respect for Bly Emberson. These are real persons to her, and she makes them real to us, and makes us feel about them as she feels. Her dislikes are as strong as her loyalties: she understands Verna Emberson but detests her; she shudders at the stinking hypocrisy of most of the clergymen; she is grieved and angry at the treason of some of the workers. And her revolutionary hope is real, too; one feels it as a living, irresistible force in her life.

It is perhaps only in the matter of language that Fielding Burke betrays the fact that her literary powers developed in an earlier day than ours. Her appreciation of natural beauty is certainly an asset and one is glad that she is not, like some of our writers, ashamed to express the emotion that a lovely scene arouses in her. But her imagery sometimes seems too purely romantic, and in describing emotional crises—the death of Britt, for example—she occasionally comes to the very edge of the gulf of sentimentality. This is a minor criticism, though justice requires that it be recorded. Its chief significance is that it reminds us of the Olive Tilford Dargan who had written for twenty-five years before Fielding Burke appeared. It reminds us that Fielding Burke has come by a more difficult path than most of our young writers have had to follow, and the fact that she belongs, as she indubitably does, with men and women who were not born when her first book was published is a tribute to the creative force of the revolutionary movement, to the power of the poetic imagination and to Fielding Burke.

GRANVILLE HICKS.

May It Please the Court

HISTORIC OPINIONS OF THE UNITED STATES SUPREME COURT: Selected With a Preface and Introductory Notes by Ambrose Duskow. The Vanguard Press. \$4.50.

THE belief that God made man in his own image is giving way before scientific investigation; today it is pretty generally acknowledged that men fashion gods in their own likeness. In time, idolatrous Constitution-worship will vanish and we will understand that the constitution has been molded to fit socio-economic circumstances. For, despite pretense, that document did not spring full-blown from the minds of the Founding Fathers; it was born out of a series of practical compromises in a convention of competing property-holders and it has grown in scope and meaning through amendments and court decisions, with later generations of

property-holders exercising the dominant voice in shaping changes and interpretations.

Neither the property-holders who wrote the original document nor those who have shaped its growth were permitted to do their work unchallenged. Dissident elements forced the inclusion of the first ten amendments before they would agree to ratification and their successors have made their influence felt: Andrew Jackson's frontiersmen, Abolitionists, Populists, Socialists, Muckrakers and, more lately, the forces of organized labor. The character of property has changed too since 1787; it has passed through successive stages of individual holdings, simple corporations, monopoly and finally to that intricate, almost mysterious, maze of wealth-holding that we call finance capitalism. Those changes have been reflected in court decisions and a sensitive historian might even trace America's development through a close study

of the constitution and the interpretative rulings of the United States Supreme Court.

Theoreticians make a great show of tracing back to the English Common Law the right of the Supreme Court to determine the constitutionality of congressional legislation. But that is only legal pettifoggery; it is easy to prove that there is no warrant in Anglo-Saxon law for that exercise of power. The Supreme Court's assumption of authority grew out of far more tangible considerations. It happens that the judiciary is less responsive to popular will than the legislative and administrative branches of our government. Unpopular presidents and recalcitrant lawmakers can be defeated at the polls but Supreme Court justices are appointed for life—they can override public sentiment with some impunity. It is significant that the Union League recently called pointed attention to the life terms of the justices and excused its distrust of Congress on the ground that "members are elected for comparatively short terms and . . . on many occasions have bowed to what they considered the will of the majority." For reasons of their own, legislators and presidents have connived at the Court's usurpation of power; it offers an opportunity to pass the buck when an upsurge of popular sentiment forces the passage of a law to which the dominant group is hostile.

Once it had assumed the right to declare laws unconstitutional, the Supreme Court had in its possession the power to nullify any measure which the justices chose to frown upon. It has chosen to exercise that right so often that even the suggestion that it has no such right is labeled radical, even Communistic. Of course, apologists for the Court never suggest that its power is exercised to defeat popular will; they pretend that it is used to defend ancient rights and liberties and scare-mongers are forever drawing doleful pictures of what would happen if legislators had the right to determine constitutionality.

A survey of decisions collected in this volume will convince the reader that the Court's privilege of vetoing legislation has been used far more for the protection of property than for the preservation of liberties. *Marbury vs. Madison*, Mr. Doskow's first case is in point, as the lawyers say. Angered by the sedition legislation of the John Adams administration, the voters turned the Federalists out and elected Thomas Jefferson and his Democrats. Reform was in the air and Federalists used the lameduck Congress to pass laws to preserve control of the judiciary. The case that arose to test one of these laws was unimportant but Chief Justice John Marshall, a Federalist, seized the occasion to advance a qualified decision that the Court had the right to declare legislation void when, in its opinion, a law violated the constitution, a decision arrived at only through an express disregard of procedural rules.

The way had been opened and Marshall

gradually extended the doctrine. In the *Dartmouth College* case he brushed aside the will of the New Hampshire legislature to hold that the constitution forbids the impairment of contractual obligations. He disregarded public opinion again when he laid the basis for the national banking system in *McCulloch vs. Maryland*.

The capstone of this arrogant seizure of power came in the *Dred Scott* case. In that case the Court gave its blessings to slavery only by overturning a law that had been in force for years: the Missouri Compromise. It took the Civil War to abrogate a decision in which the force of property interest was crystal clear: five of the judges who sat on the case were slaveholders, two were southern sympathizers. The law was held invalid by a vote of seven to two. Even more revealing is the fact that the pro-slavery justices violated court rules to communicate their decision in advance to pro-slavery President James Buchanan.

There is no room to review all of the decisions in this book but the cases that arose under the Fourteenth Amendment deserve mention. The amendment was ratified under the belief that it protected rights of Negroes and Congress passed a series of laws known as the Civil Rights Acts penalizing discrimination. The Court promptly held the laws unconstitutional. But the amendment was quickly utilized by corporations to thwart attempts at regulation; today it is a bulwark against public ownership.

The Court has not scrupled to use its power to defeat other popular reforms; it bowed to corporation influence in the income tax cases, it fashioned the trust-busting Clayton Act into a weapon against organized labor and with consummate irony it has forestalled all attempts to abolish child labor and regulate working hours by keeping up the fic-

tion that it is preserving individual liberties.

Everybody knows that the Supreme Court has never worked too smoothly. Its history is studded with dissents and reversals of former rulings. These dissents and reversals have reflected both the pressure of public opinion and cleavages in the ranks of supporters of capitalism. For example, the N.R.A. was held unconstitutional by a unanimous vote, a unanimity achieved because the conservatives, like Justices Butler and McReynolds, oppose all regulation of business and because liberals, like Justices Brandeis and Stone, were moved by fear that N.R.A. was crushing the small business man for whom they speak.

Put in this bald fashion it may appear that the Supreme Court is all-powerful and that only a complete overturn of government will suffice to curb its often vicious defense of property rights. It is necessary to emphasize the fact that the justices are only men wearing black robes, sometimes moved a little by humanitarian considerations, and that they, consciously or unconsciously, temper their decisions to the time.

In a certain sense the early strengthening of property rights by the Court was progressive because it gave capitalism the room to develop. But capitalism has been outgrown and every move to strengthen it now is made at the expense of the workers and middle-class folk. The tightening of class lines is making the Supreme Court more and more an arena for the struggle between the forces of progress and of reaction. Workers and their allies cannot hope to win final victories in a Court which is an integral part of an outgrown system. But they must take to heart the profound observation of Mr. Dooley: "The flag may not follow the Constitution but the Supreme Court follows the election returns." LOREN MILLER.

Capitalism's Ally

I BREAK STRIKES, The Technique of Pearl L. Bergoff, by Edward Levinson. Robert M. McBride and Co. \$2.50.

IN AMERICA, Boris Pilnyak once wrote, everything is O. K. A man breaks a leg, a bill is paid, the wife walks out on him—it's all O. K. And so is Pearl Bergoff, strikebreaker extraordinary, O. K. with those that rule America; not a particularly pleasant fellow to be sure, but O. K. You've got to have him, like you've got to have straw bosses, advertising copy writers and aldermen who let public contracts. As counsel for Bergoff explained so lucidly at a hearing attended by your reviewer and the author:

If the strikebreaking business is a nefarious business, then it is nefarious for business and industry to hire strikebreakers. Some of the largest corporations in the country have called on my client; and they still call on him for his services.

It is Bergoff's peculiar type of "services"

to the social order that Levinson traces with painstaking thoroughness, from the turn of the century when the Red Demon was employed as a "spotter" by the Brooklyn Heights Railroad to his currently parlous state. Trailing Bergoff one gets revealing flashes of the stormy development of the American labor movement. McKees Rocks; Bayonne; St. Louis and the Anti-Horse Thieves Association that ran the strikebreakers out of town; Ludlow; West Virginia; the national textile strike of 1934. New York's bitter subway and elevated strikes. Sober, calculating Christian gentlemen at the head of powerful concerns toss millions into the fight to smash down labor and Bergoff finds easy pickings as corporation after corporation calls upon Bergoff for "his services."

Some day in a socialist America children will study the history of our period. A special course, Capitalist Villainy, will undoubtedly be given. Somewhere in that study there