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of LITERATURE

EDITED BY HENRY SEIDEL CANBY

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"LE DEFENSEUR"—Cartoon by Daumier

News from Abroad

THERE is Chauvinism and Chauvinism. There is the jingoism of a Hitler, bent on the destruction of all non-Aryan (whatever that may be) influences within the borders of a nation supposedly fair-haired, blue-eyed, Viking from the word "go." This might be called quantitative nationalism, weighing one lump of thought, whatever the quality, against another lump, and discarding in toto the lump that fails to tip the scales. Stephen Decatur's was a quantitative nationalism: a messy concoction cooked up out of great gobs of "right" and "wrong," inextricably mixed. Quantitative nationalism leads to sick headache, blind spots, and the dropsy.

But there is another sort of nationalism that is simply a matter of fair observation. It can be expressed in a form which sounds like jingoism, but which is, as a matter of fact, simple intelligence. When George Jean Nathan emits one of his periodic *Spectatorial* warwhoops about the decadence of criticism, or reviewing, in the British Isles, with a concomitant swelling of pride over the local New York product, he sounds like Mike Fink or Davy Crockett yelling "I'm a ring-tailed roarer; cock-a-doodle-do." But for once the ring-tailed roarer shouts sense.

Two recent visitors to these shores have borne out what *The Saturday Review* said editorially in September of 1932 and what has been a growing suspicion among New York literary editors in general. They are James Truslow Adams, historian, and Ferdinand Kuhn, Jr., one of the London correspondents of *The New York Times*. Each of these men, upon arrival this Spring in New York, complained of the deplorable log-rolling among English reviewers, the growth of an "I'll-scratch-your-back-if-you'll-scratch-mine" attitude. For a long time now it has been notorious that quotations from London reviewers, clipped by New York publishers for blurb purposes, have had little actual value as indications of quality. Indeed, publishers have, more than once, been all het up about getting the American rights to an English book, only to discover, upon inspection of galley proofs or the manuscript, that English reviewing, acclaiming the latest "masterpiece," has led them sadly astray. Yet American publishers continue to use fantastic London judgments for advertising purposes. It can only be a question of time, however, before the public gets on to what it already plain as day to those on the "inside" of the matter.

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The Law for Everyman

A JUDGE TAKES THE STAND. By JOSEPH N. ULMAN. New York: Alfred A. Knopf. 1933. \$2.90.

Reviewed by ZECHARIAH CHAFEE, JR.

John Smith, taxpayer, not only lives in a world of law but he pays for the upkeep of the law's machinery. It is not merely when he goes to the polls on election day to cast his ballot for legislators and judges that he ought to have an interest in the processes that go into the making of the law. It is not only when he has to sue somebody or has to defend a suit brought against him that the law affects his life. Every day and all day he lives with his neighbors in a society governed by law. It ought to be a matter of first concern to him to know the nature of this force which is as essential to his well-being as the clothes he wears or the food he eats.

THE need which Judge Ulman thus describes in his opening pages is admirably met by his book. We have been waiting for such a book for a long time. Except for Mr. Justice Cardozo's "Nature of the Judicial Process" and a few biographies, the intelligent layman who wanted to know something about law found little to satisfy his desire. Much of the current hostility to law is due to this gulf between lawyers and the general public. Other professions are not thus cut off. A thoughtful citizen can learn much about medicine from popular writers like De Kruif, he has innumerable sources of information about engineering, and even recondite subjects like relativity and atomic structure create best-sellers. Law alone remained largely a mystery, but it need be so no longer.

Judge Ulman tells "what actually happens when cases are tried in court." His purpose is quite different from Mr. Justice Cardozo's. The latter's book is concerned with legal problems in their final stage, as they present themselves in the calm of an appellate court. Judge Ulman is a trial judge in Baltimore, who spends much of his time presiding over juries and listening to witnesses. He takes us down into the thick of the fight. Here lies his superiority over several writers who have unsuccessfully attempted to expound abstract rules of law to the public. They merely describe a motionless machine, but Judge Ulman shows it in operation and lets us see the wheels go round. During his eight years of judicial experience he has kept detailed note books of the cases that came before him. Realizing as he did that the trial of every case represented a

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Shaking the Pillars of Society*

By CHARLES A. BEARD

NORMAN ANGELL, like Socrates of old, is a very disconcerting person. He goes about asking questions, questions which challenge the current maxims and practices of the great and powerful—and the small and noisy. He does not think that he is God and appointed to "close" history, make a microscopic map of the future, and polish off a world utopia, but he believes that the world is crowded with stupidities, cruelties, and follies which might be abated if not eliminated entirely. For years he has been asking his questions. Why do nations fight? What do they want when they fight? What do they get when they fight? What are they afraid of? Do wars yield any valuable returns to victors or vanquished? What do the big fellows think they are doing when they set armies and navies in motion, now against this nation and now against that? Why is it that so-called educated persons, persons obviously and evidently superior by their own admission, take the lead in cooking up and circulating atrocity stories and other lies that are false and known to be false? Why all this misery and unemployment in a world of technology and high productivity?

Like Socrates of old, Norman Angell is regarded by many quite-proper persons as a bit of a nuisance. Years ago he wrote a book on war, called "The Great Illusion" (recently reissued in revised and expanded form), in which he carefully explained the difference between warfare in the good old days of the Hebrews and Hittites, when one tribe could fall on another, extirpate the men, and carry off the women, the flocks, the he-asses, and the she-asses, and modern warfare between nations knit together by ties of trade, capital investments, and cultural interdependence. He drew the conclusion that in the modern age wars do not "pay" anybody, except armament makers and profiteers. Thus war is shown to be poor "business." For this volume Angell was roundly abused by many of the great and the smart, and generally misrepresented. He was accused of saying that war is "impossible," when as a matter of fact he merely said that it is economically asinine. One of the omniscient Chestertons fell on him, accused him of materialism for considering the "paying" side of war, and explained to a delighted public that men fight for glory, honor, love, and noble motives. Admiral Mahan, who had been preaching materialistic *Machtpolitik* with a vengeance, reversed his pontification, declared that nations do not fight for substantial motives (such as seapower, trade, colonies, and filthy lucre) and bore down heavily on the New Testament virtues of fighting. Meanwhile practical statesmen in general took the position that Angell was a poor simpleton who did not know what he was talking about and proceeded to give a demonstration of the great illusion which cost millions of lives and billions of treasure. When Angell said that wars did not pay, he was called a dirty materialist, and when he argued that burning, poisoning, and disemboweling were not virtues celebrated by Jesus, he was called "an impractical chap." But he paid no attention to the epithets and kept on jumping up in

public forums to ask disconcerting questions of gentlemen in high places.

Long after Angell published his book on the great illusion, Calvin Coolidge could rise at his inaugural ceremonies and say with his wonted solemnity: "The legions which [America] sends forth are not armed with the sword but the Cross . . . We extended our domain over distant islands in order to safeguard our own interests and accepted the consequent obligation to bestow opportunity and liberty upon less favored people." If Smedley Butler did not see the Cross over his head as he wiped up and mopped up in the Caribbean, evidently Mr. Coolidge's party, including most of our well-educated people, doubtless could rejoice in victory *in hoc signo*. Angell's irony had been wasted.

Now he comes back again, hammering away, asking questions. With a kind of pained surprise, he inquires: Has any sensible person believed since 1919 that it would be possible to extract all the billions in reparations demanded from Germany and at the same time put high tariffs on goods imported from that country? How can the United States hope to collect in full the war debts and at the same time shove up the duties on goods imported from the debtor nations to pay the said debts? Does any person in his or her right mind suppose that any manufacturing country can find ever-expanding outlets abroad for its exports and at the same time draw closer and closer its restrictions on imports? Yet many "great" statesmen seem to believe in affirmative answers; at all events, they announce, nay, vociferate, such answers in public places.

Why is it that politicians can say in public, "Water runs cheerily up hill," to the tune of thunderous applause? Angell takes a look at the people in a British industrial town crowded with proletarians

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Next Week, or Later

LETTERS OF GEORGE E. WOODBERRY

Reviewed by John Erskine

* FROM CHAOS TO CONTROL. By SIR NORMAN ANGELL. Halley Stewart Lectures for 1932. New York: The Century Co. 1933. \$2.

The Law for Everyman

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culminating moment in the life of somebody concerned therein, he made his notebooks a vivid record of what happens to men when they come into court, as witnesses, lawyers, or litigants, and so far as he could, why it happens. The liberal use of these notebooks in the present book gives the reader a keen sense of personal contact with the events described.

Five very interesting chapters deal with jury trials, especially in personal injury cases. Judge Ulman is accustomed, when the jury goes out, to consider the evidence carefully and write down what his verdict would be if he were trying the case without a jury. Later he compares this with the actual verdict of the jury. He has been impressed with the extent to which the results agree, but when they differ he endeavors to understand the reason. This process enables him to make many thoughtful comments on the jury system. He discusses the occasional disregard by jurymen of the legal rules laid down by legislatures and judges. We ought to be concerned with what really happens in court, not what is supposed to be happening there. The fact is that on matters like contributory negligence the jury often apply their own law, not that of the books. This makes for uncertainty, but may be a social safety-valve. At all events, jury-made law is just as important as judge-made law because most cases are not appealed. Judge Ulman recognizes that juries are affected by emotions peculiar to themselves, but he is careful to point out that judges in their turn are not governed by pure reason. It is simply that their emotions are driven in another direction by a different past experience. The judiciary consists in large measure of former successful lawyers who have been tied more closely than jurymen into the world of vested property interests, and hence he thinks their sympathies are more likely to run that way. This view leads him to make some stimulating reflections upon the power of a trial judge to take cases from

or grant new trials. One surprising conclusion of Judge Ulman is that the law is not always, as is commonly supposed, more favorable to the plaintiff than to the defendant. In several cases where he himself would have given a large sum, the jury brought in a small verdict or even found for the defendant. Judge Ulman thinks the explanation is, that juries are composed of persons whose incomes and range of experience do not enable them to comprehend the extent of the plaintiff's loss.

After a chapter for substitutes for court trials, such as arbitration and workmen's compensation, a device which might well be extended to automobile accidents, Judge Ulman under the heading "I Object" takes up some of the rules of evidence, so unpopular with laymen. His explanation of the reasons for excluding irrelevant testimony is excellent, but he gives insufficient treatment to the rule shutting out hearsay evidence. He praises the Maryland statute (also adopted in New York and elsewhere), which allows the introduction of complex business records without requiring every bookkeeper, foreman, and clerk who was concerned in their compilation to take the stand, as used to be the rule. But Massachusetts and Rhode Island have legislation which goes much farther, and lets in any statement material to the dispute which was uttered or written in good faith by a person who died before he could testify. It would be valuable to have Judge Ulman's opinion whether other states should not follow a course which has proved so satisfactory.

Two succeeding chapters contain a clear account of equity proceedings—too often obscure to laymen, with some telling remarks on the "shadow-boxing" of divorce suits; and a discussion of the power of courts to declare statutes unconstitutional. Judge Ulman reviews his own mental processes when he had to decide whether the Maryland Public Service Commission could validly refuse a ten-cent fare for the Baltimore street railways. He furnishes a telling rebuttal to the arguments of Mr. Jerome Frank and other writers that judges really decide cases as they wish and then conceal this fact under

legal terminology. "Try as I might, I could bring myself to no other conclusion" except to find for the railways, in which he was later upheld by a majority of the Supreme Court, but, he says, "I still wanted to decide the other way." Clearly his own inclinations were toward the position taken by Justice Brandeis in his dissenting opinions.

Criminal trials occupy two chapters. They contain a strong argument for effective probation work, and relate how a convicted hold-up man with a good previous record was sent home under supervision to become later an asset to society, when he would have been an expensive liability in the penitentiary and afterwards a menace to public security. Especial interest attaches to the case of the murderer, Duker, which has received much prominence in the press. Judge Ulman tells how he sentenced Duker to death although in truth mentally irresponsible, because Maryland had no adequate institution where he could be confined for life. Governor Ritchie commuted the sentence. The considerations which determined several other sentences are well analyzed by the judge.

The final chapter on "Appeals" is not quite so good as the others, probably because its subject lies less within Judge Ulman's own experience than the rest of the book. Indeed, the strength of most of what Judge Ulman writes here lies in its first-hand nature. Both the facts related and his general reflections upon them have the vigorous freshness that comes from personal knowledge. The public will find here what they have long sought, and lawyers will profit greatly from the views of a judge who can see both sides, out of the courtroom as well as in.

Zechariah Chafee, Jr., the author of "Freedom of Speech," is Professor of Law at the Harvard Law School.

And Out the Other

IN ONE EAR. By FRANK SULLIVAN. New York: The Viking Press. 1933. \$1.75.

Reviewed by JOHN LARDNER

HIS publishers inform the public that Frank Sullivan is the frost on the pumpkin, the laughter of innocent children at play. To the limited number of persons who know him intimately, Sullivan has never been a minute ice crystal or a juvenile chuckle. He is an awkward, serious fellow who goes through life observing phenomena and taking notes. Readers affect to laugh at his work, but the truth is that Sullivan strips the tinsel from the ugly commonplace of American life. He is as real an influence as Arthur "Bugs" Baer and considerably more real than Dreiser or "Moon Mullins." He has been in turn a stevedore, a milkman, a paid informer, a professional Texan, and a yogi. His new book represents, if anything, the sum total of his experience.

Ostensibly "In One Ear" is a collection of familiar essays, after the manner of Lamb and Hazlitt. Many of them, as Mr. Sullivan candidly acknowledges, have appeared in more or less the same form in various magazines. The funniest, if you wish to run with the mob and measure Sullivan by the yardstick of humor, is "Honorary Gun Moll," a mystery tale in which all the characters but one are killed off. To name this character would be to give away Mr. Sullivan's secret, and a stern code of ethics prevents the reviewer from revealing that the guilty party is 'arrison, the butler. (Conan Doyle has the same plot in one of

his inimitable Sherlock Holmes stories. Mr. Sullivan says he has never read Doyle. The *Saturday Review* is not a court of law.)

The next best, as the reader will agree when he finally learns to distinguish one essay from another, is "Dear Old Paris." To this caption Mr. Sullivan adds the subtitle "Memories by One Who Has Never Been There but Has Heard and Read Plenty about It." The piece is very funny, if you can laugh off the author's bitter tirade against the people who refused to give him a passport. Lovers of Schopenhauer will enjoy "No! A Thousand Times,



FRANK SULLIVAN IN ACTION
By Old Doc Seuss

No!" and "Dixie Nocturne," while those who doubt the value of capitalism will find reassurance in "One Year Later" and "The Lesson of the Grand National." No institution or creed is safe from the vitriol of Mr. Sullivan's pen. Heroes are unmasked and idols trampled underfoot in the persons of Colonel Yancey Maffie, Dr. Axtel Wurzer, Marlene Dietrich Quick Wallingford, and Inspector McCooferty.

"In One Ear" is a valuable addition to any man's bookshelf. In his frequent asides to the reader, which do nothing to check the pace of the book, Mr. Sullivan represents himself as a stay-at-home, an idle spectator, content to let the world go by. The evidence does not bear him out. He seems to have been everywhere and done everything. His humor is universal and scrupulously clean. He borrows from Shakespeare, but Shakespeare was a notorious borrower himself, as Mr. Sullivan points out in a note to the Swan of Avon's heirs. As long as the present order endures Mr. Sullivan may not be widely appreciated, but he has his own little following. It consists of four bloodhounds and a posse of six men. According to the last reports, they have him trapped in a cellar in North Carolina.

John Lardner, son of Ring Lardner, is heading the posse of six men in search of Frank Sullivan.

Apropos of Robert Graves's modernized abridgement of "David Copperfield," which he has not read, G. K. Chesterton says to a correspondent of the *London Observer*: "Certainly, as a whole, I think all this modernizing is ridiculous. I entirely disagree with all this sort of altering. The best of the Victorian novels is, I think, that they are so full of padding, and that is what made them so comfortable. . . .

"I should say that in Dickens the good and the bad are so intermixed, in every page almost, that you could not make anything like a proper book of it if you were to cut it down."

My Father

By VIRGINIA MOORE

BECAUSE of him I cannot say this world
Is weary, or a failure, or a fraud,
Or that a lovely vessel must be flawed,
Or that the hopeful mind is not as brave
As any splendid action that we laud.

Because of him I cannot say the fall
Is sad, or that the winter is too hard,
Or that the spring by transiency is marred,
Or that the summer in its natural fields
Already by the coming frost is scarred.

Because of him whose mind is more my sire
Than body, and whose heart has been my grace,
I cannot say that man, whom years efface,
Is not the strong effacer in the end
Of all that's selfish, trivial, and base.

Armed in Cunning

THE DARK INVADER. By CAPTAIN VON RINTELLEN. New York: The Macmillan Co. 1933. \$2.50.

Reviewed by HAMILTON J. SMITH

WITH the possible exception of Captain Yardley's "The American Black Chamber," none of the many books about espionage in the World War has so direct or significant a bearing on America as "The Dark Invader," by Captain Franz Rintelen von Kleist of the German Navy. I might add that in my opinion the only other book which matches it in interest is Martha McKenna's "I Was a Spy."

If von Rintelen's story is completely true this book is a document of the utmost historical importance. In any case it is an astonishing and thrilling account based on fact. For years I have had personal knowledge of many of the events, and I read from page to page with growing wonder at their brazen acknowledgment in print.

Von Rintelen came to this country to check the flow of munitions to the Allies. U boat warfare, if as complete as the German Navy had hoped, might have accomplished it. But, according to von Rintelen, all did not run smoothly with the German high command. Von Bethmann-Hollweg believing first that England would never declare war, and afterwards that her entry was a mere gesture, opposed plans for "ruthlessness." Later, on the protest of Ambassador Gerard, and after consulting the Kaiser, assurance was given the United States that U boats would be called off; but the Chancellor lacked courage to give the order to von Tirpitz. Von Rintelen learned of the promise to Gerard from the American naval attaché and repeated it. Von Bethmann-Hollweg denied it, according to von Rintelen, and the truth came out only when the written document was found in the State archives.

The greatest hindrance to German victory was the supply of munitions held by the Allies. It had to be stopped: and von Rintelen set sail to find a way broken through the British blockade. Under the protection of a forged passport, he landed safely on the coast. He began a series of activities which alone could have made our entrance into the war inevitable.

It soon became apparent that his original plan to buy up the American supply of munitions was impossible, and other means had to be devised. He fell in with Dr. Scheele, the inventor of the cigar-shaped detonator that contained two chambers for acids which, when mixed, were explosive and highly inflammable, and could be timed to go off by means of regulating the thickness of a copper disk separating the chambers. He used an interned liner for his factory and built up an organization for placing the detonators on many ships. He hints that it was one of these self-destroying bombs which sank the *Lusitania* and another which caused the destruction of Black Tom in New York Harbor.

It was also von Rintelen who approached Huerta and suggested to him in the Hotel Manhattan an attack by Mexico on the United States, and a Mexican alliance with Japan, in which event the United States would have need of her own ordinance. The Zimmerman correspondence, it will be remembered, was one of the chief causes of the final break, and inflamed public opinion to the highest extent. Another of his attempts was to rouse the Irish-American citizens against England.

Suddenly and without explanation von Rintelen was recalled. With no little animosity he blames von Papen, accusing him of using his name openly in cables. He was taken off the steamer in England and made a prisoner of war. The British Intelligence office had the German secret code in their continuous possession, and all of his activities in America were known. When we entered the war, he was sent to the United States, thrown into the Tombs, and sentenced to four years in Atlanta at hard labor.

Such espionage, carried on with the full knowledge and under the direction of important members of the German diplomatic corps (as the contents of a briefcase which was stolen from Dr. Albert by