

January 1934

## Review of “Ante el Momento Constituyente Espanol. Experiencias y Ejemplos Americanos,” By Dr. Rodolfo Reyes

L. L. Bernard

Follow this and additional works at: [https://openscholarship.wustl.edu/law\\_lawreview](https://openscholarship.wustl.edu/law_lawreview)



Part of the [Law Commons](#)

---

### Recommended Citation

L. L. Bernard, *Review of “Ante el Momento Constituyente Espanol. Experiencias y Ejemplos Americanos,” By Dr. Rodolfo Reyes*, 19 ST. LOUIS L. REV. 361 (1934).

Available at: [https://openscholarship.wustl.edu/law\\_lawreview/vol19/iss4/2](https://openscholarship.wustl.edu/law_lawreview/vol19/iss4/2)

This Book Review is brought to you for free and open access by the Law School at Washington University Open Scholarship. It has been accepted for inclusion in Washington University Law Review by an authorized administrator of Washington University Open Scholarship. For more information, please contact [digital@wumail.wustl.edu](mailto:digital@wumail.wustl.edu).

provisions of the several codes of fair competition, the texts of the principal codes and summaries of all minor codes."

In the 50-page *Introduction* to the Handbook, integration of the included material is undertaken. The organization is as follows: *Part I, the National Industrial Recovery Act*, in which are gathered the text of the Act, its legislative history, and a suggestion of the outstanding problems, constitutional and administrative, which its administration presents; *Parts II, Codes of Fair Competition: Formulation, Administration, and Enforcement*; *Part III, Code Provisions Analyzed and Compared*; *Part IV, President's Re-Employment Agreement*; *Part V, Regulation of the Petroleum Industry*; *Part VI, State Recovery Acts*, including texts and analyses of the several state laws passed to expedite N. R. A.; *Appendix I, Codes Approved in 1933*, giving texts of 25 principal codes and quite adequate summaries of the salient provisions of the others; *Appendix II, Organization and Personnel*.

Mr. Mayers has gathered and selected his material with care. His topical analyses or indices are complete and contribute largely to the value of the Handbook as a convenient source book. His analyses of the Act and its problems, if not profound, are sagacious and helpful. As a bringing together of material which otherwise would have to be sought in widely varied sources, the Handbook is a welcome relief to the student, casual or professional, of the developments of N. I. R. A. A semimonthly supplement service, the N. R. A. Reporter, keeps the volume up to date.

HARRY WILLMER JONES.

Washington University School of Law.

---

ANTE EL MOMENTO CONSTITUYENTE ESPAÑOL. EXPERIENCIAS Y EJEMPLOS AMERICANOS. By Dr. Rodolfo Reyes. Madrid: Cia. Ibero-Americana de Publicaciones, 1932. 126 pp.

The learned professor of constitutional law in the University of Mexico has put into this small volume (1) the historical and practical experience of Mexican constitution makers for the benefit of the Spanish architects of a new public legal order and (2) a detailed argument for the use of judicial guardianship (amparo) as a means to the protection of individual and public rights not adequately covered by due process of law in the routine court procedure. Thus the amparo of the courts as practiced in Latin American countries is invoked only upon petition of the injured party; is exercisable only when a constitutional right has been violated through the regular procedures of legislation, administration, or court procedure; always limits the decision to a concrete case and does not generalize legal principles; and has the legal effect of returning the rights of the petitioner or the situation to the condition existing before the violation of the constitutional right. It is in reality a political power lodged in the courts, which are in this case made superior to either the executive or the legislative branch of the government, because of the opportunities these two latter powers have for exceeding their lawful limits and the temptation they are under of doing so. Such an abuse of powers on the part of the judiciary is held to be prevented by the particular and non-generalizable character of each judicial act of amparo. The author

discusses the advantages and the disadvantages, the application and uses of this judicial guardianship, and especially as a substitute for the English *habeas corpus*, in some detail. The insight into Mexican constitutional history and law afforded by this little book is considerable.

L. L. BERNARD.

Washington University.

---

LA DESOBEDIENCIA. By Dr. Diego Vicente Tejera (Hijo). La Habana: Jesus Montero, Editor, 1933. 156 pp.

Dr. Tejera is one of the ablest modern students of sociological jurisprudence. His productivity is remarkable. Furthermore, his outlook is not merely theoretical, but his aim is highly practical. He combines the concreteness of the searcher of codes and cases with the broad outlook of the legal reformer who wishes to make his vast learning—for Dr. Tejera's learning is both vast and profound—useful in constructive legislation and in the socialized administration of justice. The present work is a study in the sociolegal aspects of the disobedience of officials engaged in the interpretation and enforcement of the law. In tracing the history of this type of crime he finds that it is a product of the régime of constitutional governments which followed the French Revolution. Recognizing the power of the recalcitrant or corrupted administrative officials and judges to nullify laws to the detriment of public interests, he presents digests of the laws of most of the leading countries covering the crime of disobedience, and particularly of the laws of Cuba, pointing out various effects of such disobedience and remedies therefor. An interesting section of the volume indicates when such disobedience in enforcement may have favorable public effects, especially in cases where lawyers and criminals sabotage the laws by means of formal overt compliance, but insidiously pervert law and justice under the pretense of conformity. In such cases he would give some leeway to courts and administrative officials in order to allow them to enforce the spirit rather than the mere letter of the law. In his commentary on legislation and the codes, the author makes frequent and penetrating references to the social scientists of different periods and countries who have contributed to his theme.

L. L. BERNARD.

Washington University.

---

CRIME, LAW AND SOCIAL SCIENCE, by Jerome Michael and Mortimer J. Adler, New York: Harcourt, Brace & Co., 1933. Pp. xxix, 440.

This volume by Messrs. Michael and Adler is one of the most significant books of recent times in the fields of social science and law. No one who is active in law or is concerned through some other discipline with the problems of human behavior should forego the authors' clear analysis of the related functions of the several branches of the social studies. In relation to criminal law and criminology the writers' appraisal of the work which has been done and their estimate of what is needed are essential to understanding a subject that has been enveloped in a fog of hazy concepts and misty emotionalism.