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Book Reviews

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BOOK REVIEWS

THE CONFLICT OF LAWS. By Herbert Funk Goodrich. (Second Edition.) St. Paul: West Publishing Co. 1938. pp. xiv, 624. $5.00.

In reviewing an elementary text, one must be careful not to attribute every limitation of the text to the writer rather than to the vehicle; for it is clear in this case that discoverable restrictions in treatment, generality of statement, often without many necessary qualifications, and dogmatism are due to the fact that the subject is too large for such a small book.[1] All concede that the subject has grown greatly in the last eleven years. For an elementary text the additions are perhaps all that could be expected. Some grammatical or rhetorical improvement of sentences is found. Occasionally a new section or paragraph is added. Here and there a proposition in bold-faced type is shifted: seldom are they rephrased.[2]

A vital contest of the schools lies in some innocent assertions, namely, that "fairness to all parties to a litigation requires a different treatment of a Pennsylvania set of facts presented to a New York court in a New York law suit than is given a New York set of facts identical except that they took place on the other side of a state boundary line,"[3] and, elsewhere, that "the solution must be a just one to the parties; it must be so clear as to be easily understood and applied."[4] Just how to maintain simplicity and clarity in rule and application, under the latter proposition, without sacrificing justice in the individual case, under the former proposition, is not discussed. Application of the principles results in variable interpretations, especially in the conflict of laws where different states are involved, as well as variable solutions of problems of classification and renvoi. At any rate, which of several possible bodies of law would render justice in the best sense of that term in commercial cases is hardly determinable by a body of uniform rules unless they become a good deal more general than they are today. If certainty of rule is more important in commercial law than the inherent justice of the rule (as is often the case) then uniformity is desirable for quite another reason.

In speaking of the renvoi in the first edition, the author says that "out of harmony as it is with our principles of Conflict of Laws, it seems important to know chiefly to avoid its unconscious acceptance."[5] In this edition we find a more liberal view: "The opponents of the renvoi would have looked merely to the internal law of Illinois, thus rejecting the renvoi or the reference book. Yet there seems no compelling logical reason why the original reference should be to the internal law rather than to the Conflict of Laws rule."[6]

A comparison of the work with the first edition may best show its merits. In chapter one a short paragraph on *forum non conveniens* has been added with citations.[7] The four propositions on penal law in bold-face type in the first edition have been recast into one paragraph with little change in the text. A very necessary treatment of the Supreme Court's extension of the Constitution to matters of choice

1. It is extended from 500 to 624 pages and has approximately seventy-five added pages of texts and notes. There was no table of cases in the first edition; in this one the list of cases occupies thirty-seven pages. Also the index has been enlarged eight pages.
2. See, *e.g.*, 2d ed. pp. 137-143; 1st ed. pp. 119-123.
3. P. 5.
4. P. 6.
5. 1st ed., p. 25.
6. P. 13.
7. P. 15.

of law is added;[8] it is unfortunate that it was not given a more extended treatment. The effect of overruling *Swift v. Tyson*[9] by the *Tompkins* case[10] is treated in a very short paragraph.[11] Some of the implications of that momentous decision might well have been pointed out. Domicile[12] is perhaps more fully treated than most other topics in both editions. Two paragraphs on domicile as a jurisdictional fact are new;[13] but little on the whole has been added to this chapter.

Though the chapter on taxation is somewhat enlarged by an extra paragraph here or there, the whole chapter shows how difficult it is to deal with such an intricate subject within such limited space. Vague language and generality and cavalier treatment are the inevitable results of treatment under hornbook restrictions.[14] It is true, however, that the important recent cases on the subject of jurisdiction to tax are discussed, though not always as fully as the reader would like; a short paragraph with respect to the taxation of equitable interests in foreign lands is added;[15] a more interesting way of treating the subject from the standpoint of the student is found in certain sections[16] where practical questions are asked with respect to taxation; and occasionally, the new material deals with the actual facts of recent cases and collateral questions relative thereto.[17] It seems unfortunate that this mode of approach is so seldom used in students' texts in law. Again in the treatment of excise taxes on corporations there is more discussion of cases.[18] Indeed, additions to this chapter seem to tend toward that mode of treatment rather than the more dogmatic one of stating rules and principles. The extent to which an inheritance tax may be levied on personalty at the owner's domicile seemed to be more clearly stated in the first edition[19] than in this one.[20] Naturally, a treatment of recent cases dealing with double taxation arising out of inconsistent findings as to domicile (the *Dorrance* case[21] and others) is added.[22] Also, a little more than two pages are devoted to income tax jurisdiction. Even though this matter is recast and new cases are cited, it seems inadequate even for an elementary text. On the whole, the chapter on taxation is well done, in view of the limitations in space and the necessity for case treatment. In view of the fact, however, that jurisdiction to tax is not strictly a choice of law problem, the space might well have been used for more intensive treatment of other topics.

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8. Pp. 22-23.
9. 16 Pet. 1 (U. S. 1842).
10. Erie R. R. v. Tompkins, 304 U. S. 64 (1938).
11. P. 24.
12. Chapter 2.
13. Pp. 31-33.
14. For example, see § 42, p. 76 and § 46, p. 86.
15. Pp. 85-86.
16. For example, § 48, p. 89 *et seq.*
17. For instance, pp. 105-106.
18. Pp. 116-120.
19. § 59, p. 106-107.
20. § 58, p. 123-125.
21. Conflicting decisions in New Jersey and Pennsylvania courts. In re Dorrance's Estate, 309 Pa. 151, 163 Atl. 303 (1932); In re Dorrance's Estate, 115 N. J. Eq. 268, 170 Atl. 601 (Prerog. Ct. 1934), *aff'd without opinion,* Dorrance v. Thayer-Martin, 13 N. J. Misc. 168, 176 Atl. 902 (Sup. Ct. 1935), *cert. denied,* Dorrance v. Martin, 298 U. S. 678 (1936), *rehearing denied,* 298 U. S. 692 (1936).
22. Pp. 123-124.

Little change is found in the subject of jurisdiction of courts. Problems of *res judicata* are dispensed with in a very short paragraph at the end of jurisdiction *in personam*.[23] Of course, in the chapter on judgments it is given more consideration.[24] A section dealing with what law determines whether a problem is one of substance or procedure is added to chapter five.[25] This paragraph of half a page does little more than state that the question is one for the forum.[26]

Tort problems[27] on the whole are treated as in the first edition, except that problems growing out of such cases as *Young v. Masci*[28] and *Levy* v. *Daniel's U-Drive Auto Renting Co.*[29] are interestingly discussed. Such interesting discussions are, however, too few. Workmen's Compensation Acts are treated rather fully and more interestingly than before. The progress of the law on this topic since the first edition has been considerable, and its significance has not been overlooked.

The chapter on contract obligations has been extended approximately a half dozen pages; but the citations have been brought up to date. Since the author was unwilling to go into a discussion of the merits of the various theories with respect to choice of law in contract cases[30] little had to be added to what is found in the first edition.

The chapters on marriage, matrimonial property, divorce, legitimation and adoption, property, and administration of estates are substantially the same as in the earlier edition except that a new paragraph is added here and there.[31] In these chapters, as elsewhere throughout the book, new cases, a few articles, and the Restatement have been cited wherever relevant. Both in the first and in this edition the treatment of administration of estates is one of the best. Some extension is seen in the chapter on judgments. A table of cases covering thirty-seven pages is also a useful addition to the book.

On the whole, this edition does a substantial job of bringing the first edition up to date with respect to the extension of old problems, discussion of new ones, the citation of the Restatement and the more important cases which have been decided since the first edition. The book covers the field better than Professor Stumberg's by employing a more dogmatic method of statement of rule and principle. Though it thus gains in completeness, interest correspondingly lags. Neither book does as complete a job as Professor Beale's selections (in one volume) from his three volume treatise. If we must have hornbooks, this is one of the best.

FREDERICK J. DE SLOOVERE†

23. P. 154.

24. Pp. 549-555.

25. "Substance and Procedure" is the title of Chapter 5, p. 187.

26. P. 190.

27. Chapter 6.

28. 289 U. S. 253 (1933). Discussed in text at p. 236.

29. 108 Conn. 333, 143 Atl. 163 (1928). Discussed in text at p. 237.

30. See, for example, STUMBERG, PRINCIPLES OF CONFLICT OF LAWS (1937). Professor Stumberg's text is not the only one-volume work published since the Restatement. There is also this edition by Dean Goodrich and the single volume of selections from Professor Beale's three-volume treatise.

31. For example, § 148 on Incumbrances, pp. 401-403.

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MAY'S CRIMINAL LAW. Rewritten and revised by Kenneth C. Sears and Henry Weihofen. (Fourth Edition.) Boston: Little, Brown and Company. 1938. pp. 438. $3.75.

The public views the administration of the criminal law as a dramatic battle between prosecutor and defendant's counsel, in which the sole weapons are the charm, lachrymal control and resourcefulness of the respective adversaries. Impressions derived from newspaper columns, in a theatre seat, or even in a jury box are not likely to dispel such a notion. But to lawyers, at least, it is not news that there is another weapon which the combatants prize; one which is effective in preliminary skirmishes, as upon motions to dismiss, and in the epilogue in the appellate court as well as in the trial itself. Such weapon is, of course, a knowledge of the substantive law of crimes. A competent advocate will not minimize its importance. It is forged during the lawyer's academic days, tempered from time to time by an acquisitive contact with the lore of his profession and sharpened to keenest edge for the particular encounter by painstaking research. The present book is at once forge, fire, and whet-stone.

Not further to belabor the metaphor, this book should be particularly helpful to students, for whose use it is primarily intended. Professors Sears and Weihofen have rewritten a text which first appeared in 1881 and was thereafter severally revised by Professor Beale (second edition) and Professor Bigelow (third edition). The arrangement is orthodox, but no less convenient or logical for that. The first chapter, which, in this reviewer's opinion, is the most valuable in the book, is devoted to general principles, the remaining chapters treating *seriatim* of specific crimes, grouped conveniently into offenses against the government, against the person, against a dwelling-house, etc.

The author's treatment of the subject matter is thorough and enlightening. They candidly admit an inconsistency in the cases, where such exists, rather than to indulge in the confusing practice this reviewer has noted in texts and encyclopedias, of stating the "rule" of every case in the text regardless of its inconsistency with other cases. This book is not a mere series of digest sentences strung end-to-end into a semblance of continuity. Here we have a frank statement of conflicting views and an appraisal of their merits based upon a rationalization of the underlying principles.

Nor is the book's usefulness limited to students. The practitioner and the court should also find it of value. Of course it is not encyclopedic and every case in point is not cited but that is not the function of a work of this type. The authors have attempted to note serious departures from common-law principles in particular jurisdictions. The number and extent of statutory and judicial modifications of the common law of crimes render it understandable that some changes have gone unnoticed by the authors. For example, the authors state the common law rule that an act otherwise murder is reduced to manslaughter by the provocation under which the act was done only if the provocation was such as would naturally and instantly produce in the minds of men, as ordinarily constituted, a high degree of exasperation.[1] But no mention is made of New York's rejection of this objective standard and its espousal of the more humane subjective test—whether the provocation did *in fact* produce such a state of mind.[2] But any such omission, even though it be deemed such, is not a serious indictment of a book otherwise characterized by general excellence, but merely serves as a reminder that, particularly in a field subject to such frequent and extensive statutory revision as the criminal law, use of general textbooks must

1. § 169.
2. People v. Caruso, 246 N. Y. 437, 159 N. E. 390 (1927).

always be supplemented by reference to the statute and case law of the particular jurisdiction.

One practice adopted by the authors deserves special commendation. They have followed the growing custom of citing law review articles and notes throughout the footnotes, thus helping to make this vast and invaluable field of legal learning available to the reader. Of all the sources of law, law review material is perhaps the least accessible to the practicing lawyer. Textbooks such as these will go far toward justifying their space on legal shelves by bringing such matter within reach. The authors have even devoted a portion of the text to a summary of various law review articles on the difficult though intriguing subject of criminal attempts.[3] Parenthetical note to those who seek a rationalization to end all rationalization of the law of attempts: The authors provide no new path through the labyrinths of the subject. The crown of victory still awaits your efforts. Be not discouraged, though, when most certain of the goal, the stump that looked like a man, the frustrated pick-pocket or the vengeful Oriental loom suddenly ahead and send you into hasty and disorganized retreat. It was ever thus.

This reviewer is certain that the law student and the practicing attorney will find this book as useful as he, a teacher of the law, has already found it on numerous occasions.

PAUL B. CARROLL†

CASES ON MORTGAGES. By Morton C. Campbell. (Second Edition.) St. Paul: West Publishing Co. 1939. pp. xxii, 794. $5.00.

This is a second edition of the Cases on Mortgages of Real Property by Professor Morton C. Campbell of Harvard Law School. It is intended to provide material for a course of thirty-two lectures. The editor states in the preface that it has been his practice to select certain chapters for treatment in a particular year, varying from year to year. Recent developments in the law of mortgages furnish the justification for the second edition, namely, the cases of the last few years relating to mortgages for future advances, mortgages of income, seizure of income of real estate through receiverships, and cases dealing with the competition between mortgages of real estate and liens on chattels annexed or attached thereto. A number of late cases dealing mainly with these subjects have been inserted.

Of the desirability of the case method of study there remains little doubt. The cases furnish the background for critical comparative discussion both with regard to the decisions reached by the courts and the basic principles of substantive law involved. Thereby the students are trained in sound reasoning and legal analysis, while, at the same time, they acquire an acquaintance with the actual decisions of the courts.

When Dr. Josef Redlich of the University of Vienna investigated and studied the case method of law teaching on behalf of the Carnegie Foundation, in 1913, he wrote as follows:

"As the method was developed, it laid the main emphasis upon precisely that aspect of the training which the older text-book school entirely neglected: the training of the student in intellectual independence, in individual thinking, in digging out the principles through penetrating analysis of the material found within separate cases: material which contains, all mixed in with one another, both the facts, as life creates them, which generate the law,

3. § 133.

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and at the same time rules of the law itself, component parts of the general system. In the fact that . . . it has actually accomplished this purpose, lies the great success of the case method. For it really teaches the pupil to think in the way that any practical lawyer—whether dealing with written or with unwritten law, ought to and has to think."

Of recent years there has been some criticism of the case method technique, chiefly by those who are not thoroughly grounded in the fundamental principles on which the system rests. The suggestion, for example, has been advanced that attempts have been made to compel it to do more than reasonably can be expected. It has also been suggested that the too constant study of cases gives a distorted perspective on the objects and purposes of law. In the writer's opinion, after twenty-eight years of continuous law teaching, the case method is the most effective and practical device for teaching law, provided the cases are handled in the manner in which they should be.

Professor Campbell's book contains a number of interesting innovations, particularly the use of a great number of hypothetical questions. For example: most case books contain a considerable number of cases dealing with the important topic of "Future Advances." Professor Campbell's book contains one case on this topic, *Ackerman v. Humsicker*.[1] Then, following this case, appear five hypothetical questions with references to a number of authorities which shed light on the problems contained in these hypothetical questions. If the student really is to study these questions, he must read the cases to which reference is made. A serious doubt suggests itself at once whether the library facilities of our law schools are adequate for this purpose. For instance, reference is made to a case in the California Appellate Court Reports, which is also reported in the Pacific (2d), unofficial. If a class contains one hundred or more students, it may be difficult, if not quite impossible, for the student to secure access to the case in the reports. Therefore, to the writer, it would seem advisable to include more cases in the text, even though, perhaps, fewer topics may be covered.

In some instances, the abbreviation of cases by Professor Campbell seems over-accentuated. For instance: *Mooney v. Byrne*,[2] covers about a dozen pages in the New York Court of Appeals Reports. It is recognized as a leading case and is an outstanding instance of fine opinion writing by the late Judge Vann. Professor Campbell cuts the case down to two pages. The question at once suggests itself whether such abbreviation is not too extreme. In Professor Kirchwey's collection, nine pages were devoted to this case, particularly because of the outstanding discussion of the maxim, "Once a mortgage, always a mortgage," which is omitted in Professor Campbell's collection.

It is also highly debatable whether the editor is justified in giving 77 pages of the book to reprinting a form of corporate mortgage.

The cases are well chosen, and there can be no doubt that the student can acquire a thorough knowledge of the law of mortgages of real estate from this collection, but it is obvious that the collection differs radically from the classic type of Harvard Law School case book as originated by Langdell in 1871, and as so well developed later by Ames, Keener and Gray. It was these men who actually determined the form and type of case book which has been used so widely and effectively for so many years in our American law schools. Whether the novelties and innovations which are recently being injected in the teaching of law furnish a sound norm for legal instruction only the future can disclose.

The practical efficiency of Professor Campbell's collection is greatly enhanced by a collection of articles relating to the subject of mortgages, a complete table of cases,

1. 85 N. Y. 43 (1881). At p. 498 in the case book.
2. 163 N. Y. 86, 57 N. E. 163 (1900).

both in the text and footnotes, and a detailed index referring to pages of text, footnotes and to problems.

I. MAURICE WORMSER†

CASES AND MATERIALS ON THE LAW OF CORPORATIONS. By Henry Winthrop Ballantine and Norman Dunham Lattin. Chicago: Callaghan and Company. 1939. pp. xxxii, 917.

This is a new casebook on the subject of business corporations and contains many novel and interesting cases. The editors actually have used these materials in the class room, and state that they have endeavored to develop the topics functionally for teaching purposes. Considerable emphasis has been laid on corporate finance, including issue of shares, subscriptions, stock structure, capital requirements, dividend restrictions, and the purchase by a corporation of shares of its own stock. On the other hand, some classic subjects have been treated very lightly, including *de facto* corporations, powers of corporations, and the entire topic of *ultra vires,* on the ground that the editors feel that they are not as "fruitful" as the problems which involve corporate finance.

An unusual feature of the casebook is the first chapter, which considers, in outline form, the subjects of "partnerships", "joint stock companies" and "business trusts". Here are found a number of cases which ordinarily are taken up in courses in the law of partnership, and the theory of the editors seems to be that this material should furnish an approach to the subsequent chapters which are devoted to corporation law. Of course, in the discretion of the instructor, the first chapter might be omitted.

An interesting feature of the casebook are the numerous notes written by the editors, some of which cover several pages, and which are fully annotated. This departure from the orthodox type of casebook seems warranted, since otherwise it is quite impossible to cover the subject in a casebook within the time limits which are ordinarily devoted to this subject. Various "problems" also are inserted, together with references and citations which will assist in their solution.

The selection of cases is well made, on the whole, although there are, perhaps, too few English cases. Many recent leading New York cases are included, such as *Clark v. Dodge,*[1] and *Matter of Morse.*[2]

The footnotes are thorough and cover not only law review articles and cases but also recent texts and treatises, technical and popular. An index and a table of cases cited in the text and footnotes add to the usefulness of this casebook. Undoubtedly it will prove to be a good working book for teaching purposes, although it is a far departure from the classic type of casebooks.

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1. 269 N. Y. 410, 199 N. E. 641 (1936).

2. 247 N. Y. 290, 160 N. E. 374 (1928).

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WHEN CIVIL LAW FAILS. By Robert S. Rankin. Durham, N. C.: Duke University Press. 1939. pp. 224. $3.00.

This is a study of the use of martial law in the United States by a professor of political science at the University where it was published. It appears to be the first extended discussion of this subject since the appearance of Charles Fairman's "Law of Martial Rule" in 1930. It thus supplements the previous volume, although it does not measure up to it in accuracy or judgment.

Fairman's volume was organized by legal concepts and by application; this is organized on the historical or chronological basis. Although the two, in a great measure, cover the same field, there are such clear differences between the two as to make them supplementary rather than to permit us to say that the newer in any sense replaces the older book.

Fairman's book was particularly interesting in its assembled discussions of concepts of Anglo-American law regarding the rule of force established under the necessities of the moment, with something of historical origins and much beneficial use of material from the Civil War period, the Boer War, and the days of Irish insurrectionary activity. It is particularly valuable in indicating the principles which may be applied after the emergency has passed for redress through criminal or civil action for acts performed under the cover of martial authority.

This new volume attempts to show a sequence in the development of American thought on the subject of martial law and the suspension of the *habeas corpus* act. It discusses at some length the key cases and incidents which have affected the course of American opinion and law on the subject. Separate chapters give detail on the Jackson incident in New Orleans, the *Luther v. Borden* principle,[1] the *Milligan* case,[2] and the twentieth century uses of martial law in labor disputes. It carries the narrative past the date when the Fairman treatise appeared, and is particularly interesting in its discussion of the newer use of martial law to close factories (which is what strikers want) rather than to keep them open and to protect the strike-breakers (which is what the operators want).

We find in this discussion and exposition of a clear trend of thought, changing with the changing times, and the changing social and economic circumstances of governmental activity, from the *Milligan* case to the present. In the Coeur d'Alene disorders, it was made plain in *In re Boyle*[3] that a state governor's authority and judgment were beyond question. In West Virginia, we saw the introduction of "qualified" or "preventive" martial law in *Moyer v. Peabody*[4] and in *Ex parte Lavinder*.[5] In Montana, it was felt that a mere disturbance could not be called a war and that there was difference in legal effects between war and insurrection. *Ex parte McDonald*[6] limited the activities of governors to "qualified" martial law. The executives had been allowed pretty free rein;[7] now their activities were being restricted. Their militia now began to be considered as used merely in aid of civil officers.[8] Militia were being used for control in economic matters. *Sterling v. Constantin*[9] made the entire procedure more

1. 7 How. 1 (U. S. 1849).
2. *Ex parte* Milligan, 4 Wall. 2 (U. S. 1866).
3. 6 Idaho 609, 57 Pac. 706 (1899).
4. 212 U. S. 78 (1908).
5. 88 W. Va. 713, 108 S. E. 428 (1921).
6. 49 Mont. 454, 143 Pac. 947 (1914).
7. Luther v. Borden, 7 How. 1 (U. S. 1849).
8. Bishop v. Vandercook, 228 Mich. 299, 200 N. W. 278 (1924).
9. 57 F. (2d) 227 (E. D. Tex. 1932).

fully reviewable by courts than ever before, even the initial executive declaration of a governor. It thus institutes new opportunities for legal action, and new necessities for practicing lawyers to familiarize themselves in detail with this somewhat occasional subject, through the channels opened by the Fairman volume and this one.

It is a convenient guide, assembling facts not readily found elsewhere, but it must be used with caution, particularly in interpreting cases.

Your reviewer has noted typographical errors, though of little consequence, on pages 117 and 129, and a colloquial use of "while" on page 136. He regrets that the table of cases contains no reference to pages in this volume where the cases listed are mentioned or discussed.

The bibliography appears to be adequate, and to have made excellent use of the various general and legal periodical discussions of this subject of the half century last past.

ELBRIDGE COLBY†

NEO-NEUTRALITY. By Georg Cohn. New York: Columbia University Press. 1939. pp. 388. $3.75.

Following its excellent four-volume work on neutrality under the able editorship of Professor Jessup, the Columbia University Press has here had translated and issued a study of modern predicaments in the field of international neutrality written from the stand-point of the traditionally neutral Baltic states.

Neutrality is so unfixed, so much a matter of policy and practice in various circumstances of opposing powers, so little a matter of law, that it is impossible to be exact and definite. This volume, however, in addition to making proposals for the maintenance of neutrality, summarizes in great and intricate detail the quasi-legal contradictions between assumptions of neutrality and assumptions of combined League of Nations action against aggressors in the event of hostilities. "The (sanctions) system of Article XVI has long been practically obsolete; even more so are the principles of traditional neutrality," says the author. The neo-neutrality which he proposes would be an *ante-bellum,* peace time, practical and ideological mobilization of the influence of traditionally neutral states against war-like efforts in all its forms. It is a militant, armed pacifism, acting through practical as well as philosophical channels. It has gained great credence in the Baltic states, and by its publication here under the auspices of a University long associated with effort for international conciliation is obviously being proposed for the New World also.

ELBRIDGE COLBY†

READINGS IN JURISPRUDENCE. Edited by Jerome Hall. Indianapolis: Bobbs Merrill Co. 1938. pp. xix, 1183. $6.75.

Somewhere, someone has said that in dividing a literature for digestion, one may proceed by cutting it in the fashion of a currant cake or a Gruyère cheese, taking the sections in succession and the currants or the holes as they come. Or one may cut it as wood is cut—following a grain. In this work on Jurisprudence, Professor

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Hall has preferred to divide its literature into sections, each of which exhibits the grain of a particular idea. His various chapters have to do with separate theories, whether the contributors be drawn from Plato, in the years before Christ, or Pound in the modern era. This method, of course, contributes to the simplification of the subject and is more useful than a chronological division would have been, lumping the ancients together, no matter what their subject matter, and the mediaevalists and moderns likewise.

However, the utility of presenting Jurisprudence as a subject of such great scope as Hall does, is less easily understood. The wide range of his selections emphasizes the rambling nature of this science as moderns see it. For example, the author has devoted a chapter to the syllogism,[1] the study of which was considered, years ago, to be the province of logic. There is also a selection from Coffey's works, dealing with the nature of analogy.[2] One breathes *Deo gratias* for the reference to Coffey. So few modern writers in law schools seem to be aware of him. Nevertheless, we remember that analogy was studied years ago in the college course of dialectics. Other pages are devoted to Poincare's "Dissertation on Science and Hypothesis"[3] which once was thought to be the realm of epistemology. Another excerpt having to do with the psychological study of judicial opinions[4] is included. This might ordinarily be considered within the domain of physiological psychology rather than jurisprudence. Within that part of the volume which is entitled, "Philosophy of Law," there is much that never gets into the realm of philosophy at all. For example, in the readings from Pound on the "Interpretations of Legal History," it is difficult to find any extended discussion of a philosophical type. They seem to be historical rather than philosophical. The same remarks seem applicable to other selections in that section.

One of the simplest but most illuminating things this writer ever learned is that words fall within the category of artificial rather than natural signs. Convention governs. One may properly use any word in any significance provided one makes clear the import of one's terms. The word "jurisprudence" then, can mean whatsoever Professor Hall wants to make it mean. Hence one may not quarrel with him for having included all these discussions under the heading of Jurisprudence. It can cover a discussion of law and of any related disciplines which might be used in the investigation of legal problems. But in the division of labor among the various departments of legal research, Hall's "Jurisprudence" is a glutton for punishment. Perhaps Hall has made his field as wide as it is, because he realizes that the modern American law student often comes up to the study of the law without any prior philosophical study at all. Logic, ontology, natural theology, and ethics are simply imposing polysyllables to him. He is the victim of the modern college faculty which prefers the less exacting disciplines of economics, sociology, etc. It may be that Hall feels that if any sense is to be made out of the discussions of some of the problems truly appropriate to Jurisprudence, it is necessary to insert a little of the learning in general philosophy, which college courses have not been equipped to give. The scholarship of Professor Hall is equal to the task and in this we are fortunate. However, we wonder why (if Hall insists on excursions to related fields) some more extended reference to the pertinent arguments of natural theology are not included, for example, reference to the proofs of God's Intelligence, which is the basis of Divine Plan and natural law?

1. Chap. XII.
2. Pp. 561-563.
3. Pp. 684-687.
4. Pp. 1128-1131.

Would it not also have been helpful to expand the critical notes? What will happen when a book of this type is placed in the hands of an average law school student, or even in the hands of the average student in the graduate divisions of the law schools of this country, if he is allowed to take it or leave it as his immature mind directs? The inability of those not trained in a college course in philosophy to scratch the surface of a jurisprudential problem, makes the writer apprehensive. When the Summa Theologica of St. Thomas Aquinas (on natural law)[5] is placed beside the superficialty of Holmes' uninspired remarks on the same subject,[6] one is not sure that the modern student will really grasp the significance of Aquinas' treatment. Will he be able to overcome the urge to take the easy way out and dismiss natural law with the flippancy of Holmes? Would it not have been most helpful if the editor had expanded his critical notes so as to indicate in all cases his agreement or disagreement with the ideas expressed, with summaries of his reasons? It would help the student to develop the critical approach if the editor more frequently exposed the soundness of certain of the selections as compared with the others. As it is, it seems that a student will likely enough find himself in the forlorn position of the scholar of the Rubaiyat:

> "Myself when young, did eagerly frequent
> Doctor and saint and heard great argument
> About it and about; but evermore
> Came out by the same door, where
> in I went."

Let the teachers do this—is that the answer? Yes, that is possible, but how great a contribution it would have been, to have Professor Hall's own estimate of the status of his several selections in the hierarchy of valuable literature.

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5. Pp. 27-39.
6. Pp. 259-261.

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