REVIEWS

CASES AND MATERIALS ON THE LAW OF FUTURE INTERESTS. By Ashbel Green Gulliver. West Publishing Co., 1959. Pp. xiv, 624. $10.00.

THREE weeks after beginning to teach Dean Gulliver's materials I commented to my class that one value of the materials was illustrated by the fact that we had disposed of *Pells v. Brown* in approximately thirty minutes of high level discussion whereas formerly I had found it necessary to devote a full class period to explanation, and then at least another period to discussion and questions about the case. A student immediately asked in a slightly aggrieved tone: "Why aren't all casebooks prepared in this way?" True to the Socratic method, I replied, "Why aren't all treatises written like *Wigmore on Evidence*?" Understanding nods from around the class indicated clearly that for once, at least, the Socratic method had made the point in conclusive fashion.

Anyone fortunate enough to have studied under Mr. Gulliver will open this book expecting magnificent scholarship, lucid presentation, affectionate, but extremely analytical, treatment of the cases frequently relieved by wit and humor and, above all, an acute awareness of, and sympathy for, the problems of the law student, and infinite pains taken to assist the student in understanding. He will not be disappointed in any respect, but it is in the matter of student rapport at the highest scholarly level that Mr. Gulliver makes his unique contribution to the teaching literature in this field. Others have noted the difficulty of the subject matter and its uncongeniality to present day law students steeped in functional criteria and sociological considerations, but Mr. Gulliver is the first to do more than make token efforts towards meeting the problem. His idea of presenting the entire scope of the course in superbly accurate and lucid text prior to taking up the cases fascinates and stimulates the good student, and gives to the poorer student factual relief from the horrors of student scuttlebutt. Nor does he drop his concern for student problems with a "now-you-have-been-warned" attitude when he embarks upon the case material.[1] Frequent references to earlier material and further elaboration in notes and in the introductions to later chapters encourage the student to review appropriate sections of the introductory chapter for further insight into the cases being studied. And Mr. Gulliver does not hesitate to carry his aid-to-the-student thesis to its logical conclusion: in Chapter 3, where he is dealing primarily with the knotty problems of the classification of future interests in a transferee, he follows each case with a detailed "brief" of the case and an equally detailed analysis of all facets of the opinion. He thus affords the student an opportunity to read and reread accurate comments about the case, and elim-

1. Compare Dean Gulliver's sixteen page presentation of *Archer's Case*, *Pells v. Brown*, and *Purefoy v. Rogers* (pages 211-227) with Professor Mechem's note: "The three cases of Archer, Pells v. Brown, and Purefoy v. Rogers, all discussed in the principal case and set forth in the footnotes, constitute the basic trinity of common law authority in this area. They should be mastered, compared, classified, and not forgotten." MECHEM, CASES ON FUTURE INTERESTS 13 (1958).

inates the danger of omissions or misinterpretations constantly present in the best of class notes. Finally, the "nonessentials" in the materials— the analogies to Alice in Wonderland, the student parodies of poetry and lyrics, and Mr. Gulliver's own wit and humor—leaven the ponderous trust dispositions and court opinions and, by example, encourage the student to follow Mr. Gulliver's advice to "Keep (or develop) a sense of humor about the subject."[2]

This book offers to the instructor teaching materials of far greater flexibility than those hitherto available in this field. With the basic concepts and historical development carefully analyzed and presented in full, with recent statutory modifications as well as modern leading cases reproduced verbatim, and with the questions in analytical footnotes raising the issues involved, the instructor is relieved of many hours of straight lecturing. He may, in using this book, wish to follow the most obvious procedure of assigning for class discussion the questions put in the footnotes to the principal cases; if so, he can adjust the classroom work to either a sixty-hour or a shorter course. Material may be omitted, assigned for outside reading, or covered rapidly in class with reasonable confidence that any interested student can gain comprehension of it. For the same reasons, this book is also a boon to those of us who dislike being strait-jacketed by published teaching materials.[3] An instructor who believes that a third year law student should be required to read and assimilate difficult material on his own and without the constant prodding of class questioning[4] is free to proceed with his teaching with the assurance that the student has the essentials available to him in lucid and accurate form. A teacher interested in the problem method of instruction can find time for it and is free to choose his problems from modern cases not referred to in the casebook.[5] Even more important to him will be the easy variation of problems to fit his current interests in the field[6] and the varying caliber of his student groups, without creating an unfortunate student impression that much of the course material is being slighted or entirely ignored. And the instructor concerned with the use of "heirlooms" and other thought-stultifying shortcuts so popular with students can similarly vary his offerings by augmenting the

2. Page 4.

3. Among our most common problems are: a thousand or more pages to be "covered" or excised to meet the limitations of teaching time, and a welter of problem notes with case citations encouraging students to scan headnotes in the library for "the answer" rather than thinking and analyzing materials—and, at a minimum, demanding considerable class time in merely verifying answers.

4. I am one of them, and have no difficulty in covering the complete book in a forty-two hour course, with several hours devoted to problems.

5. Mr. Gulliver avoids the aggravating and futile device of indiscriminate collections of decisions in the footnotes, referring instead to outside texts where the cases may be found.

6. During the past year I have been particularly interested in the application of the Rule Against Perpetuities to options to purchase in long term leases and have used Wing v. Arnold, 107 So. 2d 765 (Ct. App. Fla. 1958), and Neustadt v. Pearce, 145 Conn. 403, 143 A.2d 437 (1958), as class problems. Student interest was productive; see Note 13 U. FLA. L. REV. 214 (1960).

materials with recent cases to the extent he feels necessary to make it a "new" course.

Mr. Gulliver is obviously sincere when he says in his Preface, "The main stimulus [for this book], however, has been the enthusiastic reception of students who have taken this course." If he has been complimented by his students, he has more than repaid them by complimenting future generations of law students with his most careful attention to their problems and his infinite patience in directing his scholarship towards aiding them in solving these problems. His teaching colleagues in this field are indebted to him for giving us a means of expressing our like concern for our students, and at the same time leaving us a flexibility in which to emphasize our individual interests and judgments as to matters of current interest and importance in this fascinating area of the law.

HENRY A. FENN†

PLANNING FOR FREEDOM: THE PUBLIC LAW OF AMERICAN CAPITALISM. By Eugene V. Rostow. New Haven: Yale University Press, 1959. Pp. x, 437. $6.00.

To those who insist on viewing planning as the *opposite* of freedom, the title of Dean Rostow's book will unquestionably be looked on as an anomaly—perhaps a travesty. In the taxonomies of conservative and liberal alike, planning carries the connotation of delegating to central political authorities functions which, in the absence of planning, individuals would carry out for themselves. Orthodox conservatism characteristically deplores this delegation of functions on the grounds that it reduces the area of individual freedom; orthodox liberalism applauds it on the grounds that the social purpose attained more than compensates for the loss of individual freedom involved. But both, at least where economic matters are concerned, are prone to argue or concede that as planning increases individual freedom must inevitably, in some measure, recede.

The central thesis of Rostow's book—in many ways a great book—is that the special brand of economic planning developed in the United States has found its source in our hallowed principle of liberty under law: planning here has been *for* freedom rather than an *encroachment on* freedom. This has resulted primarily because virtually all the ingredients of what might legitimately —albeit loosely—be called "planning" have come about through the vehicle of public law. But Rostow's conclusion follows in part because of the traditional American concept of freedom: it has not been identified with the older English-laissez-faire-in-contrast-with-the-state-dominated-approach-of-German-law movement, but instead has implied a society of consent. The body of public law governing our economy, enacted with the consent of the governed, is consistent with this concept of freedom.

We turn now to the objectives and ingredients of American economic

†Professor of Law and Dean Emeritus, University of Florida.