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Review of “Great Legal Philosophers: Selected Readings in Jurisprudence,” By Clarence Morris

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works. This of course is in a sense a defense not only of what is reported in the present volume but of the entire University of Chicago jury study project. It is an argument that it is better to do a bit of discreet tampering with judicial processes, with a minimum of interference or practically no interference with their actual operation, than it is to remain in ignorance of how they actually operate, and that this is particularly true when a body of untested legend has grown up around a portion of the judicial process concerning which there are vigorous demands for reform. The point is that purported reforms based on ignorance are as unwise as lethargy based on ignorance. The acquisition of reliable information should be a prerequisite to either action or inaction.

Delay in the Court serves as a model for the acquisition of such information. It specifically provides the information as to one particular area, it describes a technique whereby other congested court systems can be studied in the same manner to the same end, and it provides inspiration for other studies of equal quality on other aspects of the judicial process. That is a great deal for one small book to do.

ROBERT A. LEFLAR†

THE GREAT LEGAL PHILOSOPHERS. Edited by Clarence Morris, Philadelphia: University of Pennsylvania Press, 1959. Pp. 571. \$9.00.

Two decades ago the teacher of jurisprudence had little choice of materials for class use unless he was willing to take the heroic step of gathering his own. Professor Hall's pioneer *Readings in Jurisprudence* (1938) apparently demonstrated a need which could be satisfied in various ways and induced the casebook press, and jurisprudence teachers generally, to bring out the same profuse offerings that had long confronted teachers in more routine fields. Since that time we have had readings by Cohen and Cohen, Fuller, Simpson and Stone, Snyder, and Dr. Wu, besides textbooks by Julius Stone and by E. W. Patterson. With this variety of choices for a course that seldom, I suppose, enrolls students in great numbers, the publishers must have incurred losses, and one would think that even tastes as peculiar as jurisprudence teachers' must have been satiated. And this raises the question whether there was need for Professor Morris' *The Great Legal Philosophers*. In my opinion, little promising as the prospect may have seemed, there was. This book consists of extracts from twenty-two of the greatest philosophers and legal philosophers, and reaches from Aristotle to Roscoe Pound. The arrangement is substantially chronological, so that after Aristotle each philosopher writes

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in the context of his predecessors. Nearly every one of the writers is represented by enough material for the reader to draw at least some critical conclusions and to decide his own preferences. None of the preceding readings, so far as I know, followed precisely this genetic arrangement, or offered this historical perspective, while including enough of each writer to exhibit his general view of law and legal philosophy. In Hall and to a smaller degree in Cohen and Cohen, the arrangement is partly chronological, but the extracts are briefer, and include many more writers, so that, necessarily, none of them are covered as thoroughly as the twenty-two in Professor Morris' book. Consequently, I think the statement holds that this book offers a selection enough different from others to make it a worth while addition to the materials in the field. Indeed, for the teacher (and student) who definitely prefers a historical approach it is likely to be the best of all.

The philosophers have been well chosen to bring out the various battles of ideas that have raged and are raging in legal philosophy. The absence of Plato is something to regret, but Plato offers the compiler nearly impossible choices, for he must either pick scraps that are nearly unintelligible standing alone, or print huge sections of *The Republic* and *The Laws*. Even in a book as large as this Aristotle is almost a necessary preference. At any rate, with Aristotle, Aquinas, Locke, Kant, and Hegel, the schools of idealism are well represented. Hobbes and Hume, on the other hand, have their chance to develop the empirical criticism of idealist theories. The arrangement permits one to follow the argument from Hobbes to Locke, and from Hume to Kant, and then to observe, for example, the clashes of Bentham with Kant on the one hand and Savigny on the other. Professor Morris has included enough of the ethical theories and the critiques of them to keep the crucial moral questions constantly before the reader's eyes and to raise in his mind over and over again the problems of the relation between ethics and law. In teaching the book I have found the students at least as concerned about the ethical questions as about the purely legal ones.

Extracts from Austin represent the positive school, from Ehrlich the institutional, and from Dabin the Neo-Thomist school. Holmes, Dewey, Cardozo and Pound are the American representatives. This list of writers is not exhaustive, but it is enough to show the scope of the offering.

As its title suggests, the book contains legal *philosophers*; its emphasis is not modern,—rather, it stresses the recurrent problems, and the development of ideas. This is one of many perfectly valid objectives of a course in jurisprudence, and with this criterion in mind the book is a very good one. Professor Morris has been particularly happy

in his selection of passages that bring out the shifts in emphasis and the conflicts in ideas from age to age, philosopher to philosopher.

Among the many books of readings now available this one, it seems to me, would be perhaps the best beginning for the practicing lawyer who wishes to study the philosophic background of the material of his profession. Such a reader, who is proceeding more or less at his own will, might well delay his study of the current writers, while he acquaints or re-acquaints himself with the classics of the field. The length of the extracts from each writer would give him a good chance to discover what men stir his imagination and are worth his further study. Not entirely incidentally, the book is beautifully printed on large double-columned pages and is provided with an index that looks impressively complete and usable.

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