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Cataldo, Gillam, Kempin, Jr., Stockton, & Weber: Introduction to Law and the Legal Process

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INTRODUCTION TO LAW AND THE LEGAL PROCESS. By *Bernard F. Cataldo, Cornelius W. Gillam, Frederick G. Kempin, Jr., John M. Stockton,* and *Charles M. Weber.* New York: John Wiley & Sons. 1965. Pp. xiii, 880. $9.50.

The primary purpose of this book is to teach laymen the fundamentals of law. The authors apparently believe that law is too important to be left to lawyers alone, and that, as a result, the academic community bears the responsibility of giving legal instruction to laymen. The Ford Foundation has given financial support to this endeavor to meet that responsibility.

It is an implicit assumption of *Introduction to Law* that one need not become a lawyer in order to achieve an adequate understanding of how law works. The validity of this assumption is certainly open to question. While there is probably little disagreement in either the law schools or the academic community as a whole as to whether an educated layman *ought* to understand the workings of law, it is debatable whether an understanding of this kind *can* be instilled in such a person outside the traditional framework of legal education. Nevertheless, in the years to come, both law teachers and other educators have the opportunity to test the validity of the authors' assumption through classroom experimentation. Such actual experience might well provide an empirical basis for determining the potentialities and the limitations of legal education for lawyers as well as for laymen.

The authors' methodology is a radical departure from the casebook approach traditionally taken by the law schools. Instead of requiring the student to analyze cases, memorize precedents, and follow prescribed pathways in reasoning, the book leads him on a fascinating descriptive tour of legal institutions and their historical development. The tour begins with a presentation of the institutional, jurisprudential, and historical aspects of law and legal systems; in this connection there are chapters on "Nature, Meaning, and Sources of Law," "Legal Reasoning, Growth of Law," "Federalism and the Legal System," "Puzzles in Pluralism," and "Judicial Procedure." Next, the authors demonstrate the historical and social impact of the law's response to economic and social problems through an examination of the law of contract. The tour concludes with a brief, nut-shell treatment of the law of agency and tort.

Lawyers who received their formal legal education through casebooks may frown on a descriptive, textbook presentation of law; they may say that an approach of this kind is like fiddling without a fiddle. Yet these same lawyers stoically accept the enormous consumption of classroom time and the key-hole perception of law which are inherent in the casebook method. *Introduction to Law* deserves a more open-minded reception.

The authors' pedagogical approach is suggested by the following passage from their work:

> *Modern Developments*
>
> Conflict-of-laws rules are traditionally formal and exclusive in character. The search is always for "the law of the place." The accompanying assumption is always that finding the law of the place ends the matter. That law, and that law alone, controls. There is, however, a marked trend away from that dogma. The new view is variously called the contacts theory, the interests doctrine, the center-of-gravity concept. It originated in contract cases, but has

been extended to torts, and argues that a state other than the locus may have a closer and more vital connection with a transaction and the parties than does the locus. If so, the theory concludes, the local law of that state should control, rather than the local law of the locus. The Uniform Commercial Code and the Conflict of Laws Restatement both adopt this view. The latter declares: "The local law of the state which has the most significant relationship with the occurrence and with the parties determines their rights and liabilities in tort."

In a current case that illustrates the newer view, a motorist and his guest, both New Yorkers, took a weekend trip to Canada. A collision in Ontario caused injury to the guest, who sued his host, the driver, in New York. By statute in Ontario and several of our states, but not in New York, a driver is immune to suit by his guest. The court compared the relative contacts and interests of the forum and of the locus and concluded "that the concern of New York is unquestionably the greater and more direct and that the interest of Ontario is at best minimal." It decided that the Canadian statute did not bar the present suit. One judge dissented and criticized the court for "extending the principles of extraterritoriality as though we were living in the days of the Roman or British Empire, when the concepts were formed that the rights of a Roman or Englishman were so significant that they must be enforced throughout the world even where they were otherwise unlikely to be honored by 'lesser breeds without the law.' "

The authors show judicious scholarship in their case analyses and discussion, and carefully document their propositions of law with appropriate citations. Case problems are included at the end of each chapter as student exercises.

In the collaborative authorship of the book, each author prepared certain chapters, and although the finished work shows remarkable unity, it appears that the concepts may not be presented in a sequence appropriate for the building of a proper substructure of student understanding. Viewed as a whole, however, it seems to this reviewer that the authors have created a new and worthwhile instrument for teaching law to laymen, and that the impact of their work on legal education—for prospective lawyers as well as for laymen—will be of major proportions.

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