BOOK REVIEWS


The selections in this book speak for themselves. There is sound advice to the beginning student and the young lawyer from Albert J. Beveridge, serious and religious, with little reference to the sparkle and originality that contributed to the greatness of John Marshall. There is Zane's informative essay, "The Five Ages of the Bench and Bar of England," reprinted from *Select Essays in Anglo-American Legal History*. There are some two hundred pages, called "Elements of Law," by Munroe Smith. These include an essay on jurisprudence by him but consist mostly of the editor's notes on lectures by Professor Smith. Apart from the reprinted essay, this is a panoramic history of law with about ninety pages devoted to English and American law. Again, the material is helpful and informative.

Dean Pound is represented by an outline "Introduction to American Law," his noteworthy "Survey of Social Interests," and the essay on "Interpretation of Statutes" written as an introduction to Professor de Sloovere's *Cases on the Interpretation of Statutes*. Professor Wambaugh's "How To Use Decisions and Statutes" is reprinted from *Cooley on Brief Making*; and with it goes Professor Goodhart's useful and well known essay, "Determining the Ratio Decidendi of a Case."

A lively and stimulating note is contributed by Dean Wigmore's "Jury-Trial Rules of Evidence in the Next Century." The editor includes his own survey of opinions on "Prelegal Education," drawn from a Report to the Section of Legal Education and Admissions to the Bar of the American Bar Association made in September, 1944. Finally there is a reprint from Mr. Charles B. Stephens' Report of the Special Committee on the Economic Condition of the Bar of the American Bar Association, 1945, giving a useful brief analysis of the factors which one may consider in determining where to begin his work as a lawyer.

The selection is sober and should contribute to a student's sense of security. For those mature young men who are now entering law schools it would seem more useful to emphasize the relationship between the still problematical social developments of the day and the developing law. The reviewer would prefer, for an introduction to law, a selection arranged around Maine's chapter on Contract in *Ancient Law*, Dean Pound's "The New Feudalism," and selections from the Rushcliffe Report.

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This little brochure of some thirteen thousand words falls into three approximately equal parts, consisting of an "objective" presentation of the logical essence of (1) Kant's theoretical philosophy, (2) Kant's practical philosophy, and (3) certain aspects of Kant's philosophy of right. The first two-thirds are presented, not so much for their own sake, as because they supply an indispensable frame of reference for the third part, which alone corresponds to the title of the work.

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The third part simply follows Kant's own attempts to apply his philosophical principles to the subject of jurisprudence, distinguishing sharply the moral and judicial points of view, showing on what grounds compulsion and external necessity properly form a part of justice, on what grounds the social contract can be regarded as a normative idea, and how far and why Kant's conception of a kingdom of ends is significant for a philosophical understanding of jurisprudence.

Throughout, the author abstains from historical explanation of any sort, from discussion of alternative scholarly interpretations, and from thrusting himself in any way into the picture he presents. We are offered, quite simply, the distilled essence of Kant's own words, with the thought that (1) they form a consistent system of inter-implying propositions, and (2) that it is worth while to present them in this way at this time. There is just a suggestion that commentators who have ventured to criticize Kant's attempt to apply his philosophy to matters of jurisprudence have failed to render complete justice to the severe consistency of the philosopher's thought.

Precisely for what class of readers this careful condensation of Kant's thought is intended, remains undetermined. It can hardly be designed for beginners, whether in the study of philosophy or in the study of law. To appreciate the objective accuracy, and indeed to apprehend the philosophical significance, of the author's severely condensed account, a reader would have to be pretty well acquainted already with Kant's work. Could it be intended for use as a sort of source book, containing accurate material for discussion, interpretation, and development by more advanced students, working under a yet more advanced scholarly leader? For full appreciation of its significance, the work surely cries out for some such expansion and interpretative development.

As to how he would like his brochure to be understood and used, the author keeps his own counsel. In the severely modest and limited problem he has set himself, of presenting an objectively accurate sketch of Kant's system in its relation to jurisprudence, he has doubtless been successful. But how far, and for what purposes, such a sketch, however accurate, is worth publishing at the present day, remains a question.

Any university library, for instance, contains on its shelves some such book as Caird's *Critical Philosophy of Immanuel Kant*, published originally in 1889, Caird's account (vol. II, pp. 292–350) contains, not merely Kant's views presented in his own way, but also a distinguished interpretation in terms of the principles of modern idealism. This goes beyond the letter of Kant's words and corrects certain mechanical weaknesses of Kant's excessively abstract logic. It brings out sympathetically the full significance of the Kantian message. There are several similarly helpful and reliable treatments in all modern languages; and they are all pretty well known. The present reviewer has no doubt that the author of this brochure is well acquainted with what every university library has on its shelves, and that he must himself realize that he is in no way adding anything whatever to the extant literature on Kant. What he has published might, conceivably, be regarded as a reliable reference book for advanced students of jurisprudence. But, in that case, would it not be still better for them to refer to some one of the many extant treatments which provide, not only the evidence, but a positive and constructive interpretation of it?

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