

words, and is consequent by a misuse of the contemporaneity requirement.

The desire to define within the field of evidence occasionally meets with the condemnation of practitioners. Academicians are accused of wrongly approaching a subject which requires common sense and on-the-spot decisions. An English lawyer therefore has reason to welcome Professor Morgan's Carpentier Lectures, culminating with the stimulating hypothetical case on hearsay. He will also find satisfaction in assuredly sharing this enthusiasm with his American colleagues.

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A Common Lawyer Looks at the Civil Law. By F. H. Lawson. Ann Arbor: University of Michigan Law School, 1955. Pp. xvii, 238. \$4.00.

Describing his aims, Professor Lawson writes in his conclusion: "I hope I have succeeded in what I proposed to do, to introduce you to this very different world of the Civil Law, and to show you that the leading differences between it and the Common Law world are not differences of method or in the ways of handling source materials, but in the concepts themselves; and again that, although the concepts often differ in their general character, the most significant difference lies just in the simple fact that the two sets of concepts are not the same" (p. 209). This statement of purpose and conviction suggests several observations about the excellent book here under review.

Although *A Common Lawyer Looks at the Civil Law* is useful reading for a student beginning the comparative study of continental legal systems, the book's greatest value is not to the beginner. A truly introductory work needs more institutional detail and probably ought to be pitched on a lower level of sophistication. The basic problem to which the book addresses itself is of extreme difficulty—are the differences today found between the civil and the common law systems essentially the product of economic and social conditions or are they rather more to be explained in terms of the intellectual apparatus and stock of conceptions through which these systems have perceived and ordered reality? The book's great merit is its discussion of the role of concepts in shaping the common and civil laws that we know today.

Concepts shape a body of law in at least two ways. In the first place, concepts and the form in which they are set out have profound implications for a system's general thinking habits. Secondly, concepts and the distinctions they embody suggest certain results and render others, fitting less comfortably in the over-all pattern of analysis, less likely, quite without regard to the particular functional problem to be solved. Professor Lawson illuminates both of these matters.

Many differences between legal thinking on the Continent and in the common-law world are, in some measure, due to the relatively early concern of

European lawyers with a comprehensive, literary statement of a great mass of legal rules—the *Corpus Juris*. As a natural result, the civil lawyer's attention traditionally centered on written texts; the academic lawyer took a place at the center of the system. In the long run, a speculative, rational and systematic approach to legal science was encouraged.¹ The civil law, instead of focusing its attention on the law currently administered in the courts, has thus historically emphasized a general body of rules in the conviction that, though they might not now be, they would in due time become the law in action.

Professor Lawson also discusses in admirable fashion many of the concepts today found in the civil and the common laws, considering particularly the extent to which these concepts have produced results different from those which the systems might have reached through a purely functional approach to the problems to be resolved. The continental classification as a part of property law of many matters that we treat in the law of torts furnishes one example.² In German law, problems handled in the common law under the tort rules relating to nuisance are treated as going to the ambit of ownership and form part of the law of property. "[T]his attitude of mind led German law to limit the remedy, if no fault were proved in the neighbor, to a declaration or injunction" (p. 144). The problems of formation and form in the law of contracts are further areas in which the stock of concepts with which the various systems operate have had profound implications for the solution of practical problem.³

A Common Lawyer Looks at the Civil Law contains abundantly the insights of the learned and wise scholarship of one whose interests led him beyond the confines of his native legal system to a profound study of the legal systems of continental Europe.

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¹ See generally pp. 62-81, 161-69.

² See pp. 143-45.

³ See pp. 113-35, 148-52, 157-73; for another discussion of certain of these problems consult von Mehren, *The French Civil Code and Contract—a Comparative Analysis of Formation and Form*, 15 *La. L. Rev.* 687 (1955).

Transnational Law. By Philip C. Jessup. New Haven: Yale University Press, 1956. Pp. 113. \$3.00.

This little book contains the three Storrs lectures delivered by Professor Jessup at Yale last winter. Within the tradition of those lectures, made great by such as Cardozo, Pound, Becker, Hutchins and Radin, Jessup wrestles with large jurisprudential problems. He focuses attention upon neglected areas of what he calls "transnational law" and suggests an approach which is quite different—and much more sensible—than that of more traditional scholarship.

"Law" for Jessup is composed of all rules and practices which regulate ac-