BOOK REVIEWS


A brief review of Wharton on Criminal Law appears in the first volume of the old Central Law Journal, published in 1874. Even at that date the treatise had reached its "Seventh and Revised Edition." The notice, to say the least, was laudatory. "It embraces," the reader was told, "the entire domain of Criminal Jurisprudence, [and] it may confidently be affirmed that it is destined to remain as one of the principal works upon the subject of which it treats. . . . While the work retains its former character of practical usefulness, this edition is distinguished by its copious reference to the criminal jurisprudence of other countries. . . . [It] will rank as one of the legal classics of American law, and will be consulted, not only by the busy lawyer and judge in the press of trials, but by the philosophical student, who aspires beyond mere precedent. . . ." A fervid writer of advertising copy could hardly do more.

The fact is that Wharton is a venerable institution, and the latest edition of a work that has attracted readers (and purchasers) for well over a century invites attention. The criminal law, more so than most other branches of Anglo-American law, has been profoundly influenced by treatise writers. Names like Coke, Hale, Hawkins, Foster, Blackstone, and East are still to be reckoned with; and if American names are to be added to the list, that of Wharton must surely be included. It is no small undertaking to attempt a serious evaluation of a five-volume treatise, nor is it an enterprise which I unreservedly recommend to others. But there are certain things to be derived from such self-immolation. First, one would expect to discover something about the nature and character of contemporary American criminal law. What one discovers, I believe, is disquieting. Second, scrutiny of a leading and long-established treatise in the field should throw some light on what lawyers and judges expect and demand in their law books. A profession tends to get the kind of treatises it deserves.

The present edition combines two previous works and is "based on" the twelfth edition of Wharton's Criminal Law and the tenth edition of Wharton's Criminal Procedure. The editor is Mr. Ronald A. Anderson of the Philadelphia bar. The set runs to five volumes: the first three contain discussion of the substantive criminal law, while the fourth and about half of the fifth deal with criminal procedure. The remaining portion of the fifth volume is given over to the index. The volumes are well turned out. The bindings are sturdy and attrac-

\[1\] Book Notices, 1 Cent. L. J. 108 (1874). (Italics in the original.)
tive; the typography is clear and readable. The correction of copy was efficiently performed. Few misprints or errors in citation appear to have survived the editing.\footnote{In Vol. 2, § 593 "representation" should presumably be read for "presentation"; in Vol. 3, § 1345 n.9, the case of United Mine Workers, 330 U.S. 258 (1947) is incorrectly cited; in Vol. 5, § 2213 n.3, Sutherland, Due Process and Cruel Punishment, 64 Harv. L. Rev. 271 (1950) is incorrectly cited.}

Other general features of the work do not so clearly pass muster. The overall organization of materials seems logical enough, but occasional problems are encountered. There is, for example, some avoidable overlapping of material. The chapter on "Offenses Involving Automobiles and Aircraft"\footnote{Chapter 40, Vol. 3, § 969 et seq.} repeats considerable of the discussion in the chapters on homicide and assault. But there are more serious blemishes. The introductory chapters of the treatise deal with certain doctrines relating to the "general part" of the criminal law, problems such as the mental state, mistake of law and fact, the criminal act, and the like. Many of these problems are examined again, as they should be, in connection with discussion of particular offenses. The problem here is not that material is repeated but that the discussion in the introductory chapters is often woefully inadequate, so inadequate that one may wonder what useful function it performs. One good example of such failure is provided by the sections on causal relation.\footnote{Vol. 1, §§ 68-70.} No problem in the substantive criminal law requires a clearer head or more careful articulation. Not only are these sections not characterized by such virtues, but there is surprisingly meager citation of case authority. When these problems are returned to in the chapter on homicide, they are much more adequately handled;\footnote{Vol. 1, §§ 195-202.} although even here greater competence might be desired and expected.\footnote{Other instances of inadequacy of discussion in the introductory chapters are the sections on criminal omissions (Vol. 1, § 67) and the chapter on mental state (Vol. 1, § 60 et seq.), the latter failing to treat such fundamental problems of mens rea as recklessness and negligence.}

The absence of a table of cases is also to be regretted. Not only does the presence of such a table make the lot of the reviewer easier, it serves to compensate for almost inevitable inadequacies of the index. One good way to get into a treatise is to find out what the writer has to say about a leading case. This is not to say, however, that the index to this work is seriously deficient. On the contrary, some experimentation with it leaves me without serious complaint.

The first thing to say about the execution of a comprehensive treatise on the American criminal law is that, if seriously undertaken, it is an enormous and demanding task. The curiously light-hearted attitudes that have characterized the approach of American courts, lawyers, and scholars to the field make the job no easier. What should a comprehensive treatise on the American criminal
law attempt to do? What should be its objectives? What techniques should it employ?

One possible approach to the undertaking is to present the current law as the product of historical development. The criminal law is more than legal history. But that historical analysis can be employed as a useful instrument of organization and articulation is abundantly demonstrated by a recent edition of the English treatise, *Russell on Crime*, edited by Professor J. W. Cecil Turner of Cambridge University. The feasibility of placing comparable reliance on the historical method is much less clear to the American writer, however, who must be concerned with the law, not of one, but of fifty-one jurisdictions, each presenting a course of development in some measure unique. Nevertheless, there are broad areas of American statutory and case law in which understanding depends on some considerable knowledge of the historical development of doctrine. Such knowledge is not often supplied by the present edition of the Wharton treatise. The work, of course, indicates at several points that change has occurred with the passage of time; but there are many other areas of apparent conflict and confusion which could be rendered less confusing by noting the dates of the cases under consideration. I suspect that this simple expedient would go some way toward reconciliation of American cases dealing with doctrines of "impossibility" in the law of criminal attempts. A greater emphasis on evolution and development would, even more clearly, have enhanced the discussion of corporate criminal liability.

Another device for explication and analysis of legal doctrine is the comparative-law method. The methods of comparative analysis, if not the label, are familiar to the American lawyer, operating as he does in a country governed by a federal system and characterized by an unusual proliferation of jurisdictions. One might expect to find in an American treatise a ready willingness to extend the scope of the comparative technique to a reasonable selection of foreign materials. A reviewer of Wharton writing eighty-five years ago could remark on "its copious reference to the criminal jurisprudence of other countries." However true this may have been of the seventh edition, it is surely no longer a characteristic of these volumes. Indeed, foreign materials have been so rigorously excluded that there remains only the most insignificant handful of citations to even English statutes and cases. This is carried to such lengths as to exclude from the discussion of larceny by bailee and larceny by trick the

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8 E.g., Vol. 1, § 12 (public welfare offenses); Vol. 1, § 217 (self-defense); Vol. 3, § 1318 (perjury); Vol. 5, § 2232 (habeas corpus).
9 See Vol. 1, §§ 78-79.
11 Among the citations of English cases and statutes are those in Vol. 2, § 912 n.3; Vol. 2, § 704 n.19; Vol. 4, § 1507 n.1; Vol. 4, § 1602 n.18. An English periodical is cited in Vol. 2, § 589 n.7.
12 Vol. 2, §§ 467, 477.
citation of such basic cases as *The King v. Pear* and the *Carrier's Case*. Such neglect of English and Commonwealth materials is doubly unfortunate. Given the peculiar course of historical development in this country and in England, much of the early English authority has a greater relevance to American law than it does to the modern English criminal law and procedure. Moreover, for reasons that invite further investigation and reflection, judicial discussions of the substantive criminal law in England and some of the Commonwealth countries provide, in many respects, a richer literature than our own. Not only are these discussions often more articulate and carefully reasoned, but many significant points ignored or hardly noticed in the American opinions have been given full consideration abroad. For the most practical of considerations, therefore, such resources ought not to be ignored in an American treatise. An English case in point may be better than no case at all.

But whatever the organizing principle or the particular techniques of execution, it might be agreed that a treatise has a critical and analytical function to perform and that a work that fails or is seriously deficient in these respects has little to offer a reader who has available to him the resources of the legal digests, encyclopedias, and citators. That the Wharton treatise in its earlier editions aspired to be more than a "case-finder" is indicated by our nineteenth-century reviewer who confidently predicted that the work would "be consulted not only by the busy lawyer and judge in the press of trials, but by the philosophical student, who aspires beyond mere precedent." That the publisher and editor of the present edition of Wharton were not moved by similar aspirations is not left to inference. An advertising brochure issued by the publisher says: "It does not enter into the field of philosophical concepts and abstract principles." And in the preface, the editor asserts that "... the work avoids long rambling discussion. It states the rule of law, cites authority, and when appropriate or helpful, explains the rule of law." There is to be no nonsense in these volumes, let theory and philosophy fall where they may.

The promise of the preface is realized in the material that follows. No extended discussion of any branch of the law can be wholly innocent of theory and analysis. But here the theoretical presuppositions are never laid bare and the analysis, which is unrelated to any articulated or systematic theoretical framework, is partial and unsatisfactory. There is a brief opening chapter entitled the "Social Basis of Criminal Jurisprudence" in which an effort, not wholly unsuccessful, is made to summarize what has been said about the theories of punishment. The approach is eclectic and the discussion expresses a reasonable and healthy skepticism. But it is hardly more than a gesture, for it bears little relation to the content of the chapters that follow. One is reminded of

14 *Y. B. Pasch*, 17 Edw. 4, f. 9, pl. 5 (1473).
15 Vol. 1, p. vi.
Morris Cohen's analogy of "the chaplain's prayer that opens a political convention, graceful and altogether unexceptional, but hardly determinative of subsequent proceedings."  

The absence of any particular theoretical vantage point means that, inevitably, the treatise fails to perform effectively its critical function, and this in a field having greater need of constructive criticism than almost any other. Again, this is not to say that the work is barren of any expressions of critical judgment. The reader is told, for example, that the distinction between offenses *mala in se* and *mala prohibita* is "manifestly nonscientific" and inadequate for the tasks assigned it in the substantive criminal law. At another point there is properly forthright insistence upon the necessity of procedural regularity in juvenile court proceedings. The treatise is also on sound ground when it urges that reasonable belief of the defendant should provide exculpation when he kills to protect the life of a third party, even when the party defended is not a close relative of the defendant. Some of the critical judgments are more dubious. Thus, it is asserted that cases holding that a search warrant is not rendered void by the absence of a supporting affidavit or complaint state the "better" rule, but no reasons are given as to why it is "better." More serious, and perhaps reflecting the absence of a sound theoretical orientation, is the treatise's support of the general American position that converts bigamy into an offense of absolute liability. The chief reason advanced for this is apparently that bigamy entails serious and unfortunate consequences. But as much could be said of other serious felonies, and yet we have not accepted the proposition that the mens rea requirements should be generally abandoned.

But expressions of critical judgment, good or bad, are not the chief characteristic of the work. On the contrary, the treatise is remarkable for its tolerance and passivity in the face of absurdities in the current law. Thus, the treatise, without complaint, reports decisions holding that a defendant suffering from hallucinations is to be exculpated only if the facts, thought to exist because of the operations of a diseased imagination, would be sufficient to relieve him of liability if they actually existed. "This," as Professor Sheldon Glueck pointed out long ago, is founded on the naive assumption that the reasoning of a mentally ill person with respect to 'mistake of fact' is the same as that of a mentally sound one." Again, in the discussion of burglary there is no disposition to challenge the undiscriminating legislative extension of the offense to chicken houses, rabbit pens, or tents, whether or not the latter are used for habitation. What principle of social utility justifies the elevation of

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17 COHEN, LAW AND THE SOCIAL ORDER 192 (1933).
18 Vol. 1, §§ 17, 26.
19 Vol. 4, § 1477.
20 Vol. 1, § 218.
21 Vol. 4, § 1545.
23 Vol. 1, § 40.
24 GLUECK, CRIME AND JUSTICE 101 (1936).
theft or attempted theft in such places to the level of one of the most serious and severely-punished felonies? Nor is there any apparent inclination to challenge the rationale of the "breaking out" provisions of other burglary statutes. Remarkable equanimity is also preserved in the presence of the confidence game statutes, statutes so vague in their provisions that even a long process of judicial interpretation has failed to provide reasonably specific definitions of the scope of liability created.

The determination to eschew "abstract principle" not only diverts the treatise from sober consideration of what the criminal law ought to be, it leads to error and inadequacy in its presentation of the law as it is. Some of the chapters, of course, are better than others. On the whole, the procedural materials seem better handled than matters of substantive definition, possibly because the demands of close analysis are ordinarily less insistent in the former than in the latter. Throughout the work occasional sections can be found that reach an adequate level of performance. The discussion of res judicata in the criminal cases is one of these. There is good development in the sections devoted to larceny as a continuing defense. One might also mention the sections on the knowledge requirement in cases of receiving stolen goods, the character of deception in false pretenses, and extradition.

But such instances of competence do not occur frequently enough. Sometimes discussion of entire areas is skewed and distorted by an inadequate general view of the topic. Perhaps the most important factor in the development of the law of theft, for example, is the dramatic expansion of the notion of "trespassory taking" climaxed by its abandonment in certain statutory offenses like embezzlement. The treatise makes insufficient use of this development as a focus for organization and analysis of the theft materials. Other organizational vagaries abound. Thus, although a division of the discussion is given over to the topic of "Asportation," problems of asportation are rather indiscriminately inserted in the divisions labelled "The Taking." Moreover, one of the most important of theft topics, that concerned with the consolidated theft statutes enacted in several jurisdictions, is given hardly more than a passing glance. In other parts of the treatise the lack of adequate analysis results in gross and egregious errors. Thus the treatise is surely wrong when it suggests that the defense of coercion or duress is recognized because a defendant

28 Vol. 2, §§ 484-486. 31 Vol. 4, § 1632 et seq.
23 Thus the section on larceny of lost goods (Vol. 2, § 459) is included in a division headed "The Mental State." No doubt, the lost goods cases present peculiar mens rea problems. But would these cases not be placed in clearer relation to the entire body of theft mens rea problems if they were considered as part of the development of the "trespassory taking" idea?
operating under duress is incapable of the "voluntary act" required by the law of crimes. This cannot be true, else how explain, as the treatise itself points out, that the defense of coercion is often said not to lie in homicide cases? If courts have attempted to relate the duress doctrine to the "voluntary act" requirement, it is the obligation of a competent treatise to deny and reject these assertions. The treatise is also on uncertain ground when, in a larceny case, it labels a mistake as to ownership of property as a "mistake of law." Mistakes of law, as that phrase is used in the law of crimes, relate to mistakes as to what is deemed criminal: that is to say, mistakes of criminal law. The propensity of the work to report rather than to analyze what courts have said leads to the creation of a separate section in the burglary chapter which asserts that "irresistible impulse" is not a defense to a burglary charge. A single case from Missouri is cited for this proposition. But if Professor Weihofen is correct, irresistible impulse has never been recognized as an appropriate test in any case by the Missouri Supreme Court. I know of no reason to believe that, if the test is given general recognition, it cannot be advanced in a burglary case quite as well as any other.

From what has been said it is perhaps sufficiently clear that reform and reconstruction of American criminal law and procedure is not one of the principal objectives of the present edition of the Wharton treatise. Neither can it even be said that it aspires to close and serious analysis of the law as it is. Rather, the objective is primarily a reportorial one—to cite the case and state the rule of law, as the editor expresses it in the preface. Taking the treatise on its own ground, how well does it accomplish its purpose?

First, does the treatise accomplish a "complete" statement of American judicial holdings? On the face of it, this would seem most unlikely. The enormous bulk of appellate cases in the criminal area and the proliferation of criminal statutes during the present century make the task of preparing even a five-volume work one involving severe limitations in selection of materials. One only needs to glance at the rather extended discussion of bail and to observe how many details of local practice in this area are omitted to realize how rigorous the requirements of selectivity proved to be. This is not said in criticism. It is simply a recognition of the inevitable. The pertinent inquiry is how well has the task of inclusion and exclusion of materials been performed? Subject to very few exceptions, the problems dealt with in the treatise are

26 Vol. 1, § 123.
27 Vol. 1, § 163. See also the dubious comments about "mistake of law" in connection with the M'Naghten rules, Vol. 1, § 39.
29 WEIHOVEN, MENTAL DISORDER AS A CRIMINAL DEFENSE 150 (1954).
30 See note 15 supra.
31 Vol. 4, § 1807 et seq.
32 See, e.g., comments on the availability of contributory negligence as a defense under a statute imposing criminal liability for ordinary negligence. Vol. 3, § 986.
those which have actually formed the subject of litigation and about which a
court has had something to say, either by way of holding or dictum. There is
little disposition to identify or analyze new or unresolved issues. However much
this may be regretted, it is at least consistent with the general tendency of the
treatment. What is more surprising is the discovery that numbers of important
questions, which one might suppose would receive attention in a treatise de-
voted in substantial part to criminal procedure, are not discussed in these vol-
umes, but are reserved for treatment in a companion work, Wharton's Criminal
Evidence. Thus, nothing whatever is said about wiretapping except that it falls
outside the protections of the fourth amendment.43 Nothing is included on the
procedure of the exclusionary rule in search and seizure cases. There is, of
course, no consideration of specialized rules of evidence associated with par-
ticular offenses, like the two-witness rule in perjury or admissions by co-con-
spirators. The lack of coverage of at least some of these topics seems to me a
serious limitation on the utility of these volumes for one unable or unwilling to
invest in another treatise. It should be said in fairness, however, that the
publisher has taken pains to explain clearly to prospective purchasers this
division of material between the two works.

There are other problems of coverage. Occasionally one misses the citation
of a leading case. A startling example of this is the failure to cite or to discuss
Durham v. United States44 in the chapter on mental capacity, a lack particularly
hard to understand since other cases decided later than Durham are included
in the treatise.45 Perhaps more serious is the paucity of citations to law review
and other secondary materials. Again the failure is difficult to justify, for such
references could be supplied with little expenditure of space and would, in many
cases, direct the reader to fuller and more analytic treatment of the various
subject matters than is or could be supplied by the treatise. Some law review
material, to be sure, is cited. But I find no reference to Jerome Hall's essay on
intoxication46 or to his book on theft,47 Hurst on treason,48 Livingston Hall on
mistake of law,49 Orfield's survey of criminal procedure,50 most of the extensive
literature on the fourteenth amendment and state criminal procedure, and
much more. In one instance, Professor Riesenfeld's article on negligent homicide
is cited without credit being given the author.51 Also lacking is any reference

42 Vol. 4, § 1331. 44 214 F.2d 862 (D.C. Cir. 1954).
43 Thus in Vol. 4, § 1706 n.19, Michel v. Louisiana, 350 U.S. 91 (1955) is cited. Another
remarkable omission is the failure to cite Fallo v. Connecticut, 302 U.S. 319 (1937) in a section
dealing with appeals by the prosecution. Vol. 5, § 2251.
45 Hall, General Principles of Criminal Law c. 13 (1947).
46 Hall, Theft, Law and Society (2d ed. 1952).
48 Hall and Seligman, Mistake of Law and Mens Rea, 8 U. CHI. L. REV. 641 (1941).
49 Orfield, Criminal Procedure from Arrest to Appeal (1947).
50 Vol. 1, § 291 n.3.
to the evolving Model Penal Code of the American Law Institute, an omission which would have to be considered the unforgivable sin were it not that segments of the Code had probably just begun to appear when these volumes were under preparation. The treatise gives considerable attention to federal statutes, and in so doing reflects the growing importance of the federal criminal law. To be sure, the treatment of much of the federal material consists of little more than listing the statutes and supplying citations. In some instances, however, fuller and more satisfactory discussion is provided, as in the case of the Mann act, the mail fraud act, and one or two others.

The language of the treatise ordinarily proceeds with adequate regard for the requirements of grammar, syntax, and clarity, although one can find sentences and paragraphs in need of substantial improvement. Nor shall I make serious complaint about the accuracy of case citations, although, again, it is not difficult to point to instances in which the cases cited do not support the propositions stated in the text. At one point Illinois is represented as recognizing the "retreat" requirement in self-defense cases. Only three or four pages later the Hammond case is cited which, for almost sixty years, has placed Illinois among the "no-retreat" states. At another point it is asserted that, although in Illinois burglary may be committed in the daytime, attempted burglary can be committed only at night. This situation was remedied in 1953; but since the Illinois legislature required seventy-six years to remove this absurdity from our law, the error of the treatise in this regard is hardly one to justify strong outrage in an Illinois reader. There is, however, a persistent failing in the writing which may be regarded either as a literary or an analytic defect. This is the propensity toward over-generalization, some examples of which have already been mentioned. The tendency produces some curious results. Very frequently a broad proposition will be stated wholly without qualification. Later, the writer discovers that qualifications must be introduced. What results are pairs of statements in actual or apparent contradiction. Thus, it is said, "The criminal law of a state or nation has no operation or effect

E.g., Vol. 2, § 595.
E.g., Vol. 2, § 592 (false personation of a federal officer).
A sentence in Vol. 2, § 820, begins: "In terms of the reason why a nuisance has its annoying effect, a nuisance may be classified. . . ."
E.g., People v. Lewis, 124 Cal. 551, 57 P. 470 (1899), cited in Vol. 1, § 197 n.10, does not hold that "the person inflicting the original wound [is] guilty of murder as well as the second person who actually kills the victim." Rather, it was held that both persons substantially contributed to the death.
Vol. 1, § 235 n.4.
Hammond v. People, 199 Ill. 173, 64 N.E. 980 (1902) cited in Vol. 1, § 235 n.11.
Vol. 2, § 432 n. 3.
See note 38 supra.
beyond its geographical or territorial limits." But later: "The United States and the individual states may by statute provide for the punishment of their citizens for crimes committed outside their territorial jurisdiction." At one point the treatise asserts, "The 'fear' involved in robbery is the fear of immediate injury to one's person or to one's property." And at another, "Any threat calculated to produce terror is sufficient. It is likewise robbery to extort by threat of a boycott." Again, the writer forthrightly declares that "It is no defense [to adultery] that the defendant honestly believed that the other participant to the intercourse was not married..." A page or two before the reader is told, "There is, however, authority that requires proof that the defendant voluntarily engaged in the act with knowledge of the facts which made it criminal." These examples by no means exhaust the supply.

What does the present edition of Wharton reveal as to the present status of the American law of crimes and of criminal procedure? As remarked earlier, what it reveals is disquieting. Indeed, on the evidence supplied by this treatise, one is tempted to characterize the American criminal law as a rag bag of history, applied by courts ignorant of history and indifferent to policy. Such a conclusion would be inaccurate, for the picture which emerges is distorted by the weaknesses of the treatise. Nevertheless, the work demonstrates well enough that there are genuine grounds for concern. One sees failures of legislative articulation. There was a time, not so many years ago, when it was considered the height of sophistication to suggest that "law in action" is not necessarily the same thing as "law in the books." This can hardly be regarded as a startling proposition today, although its truth is nowhere more strikingly demonstrated than in the administration of criminal justice. But the problem goes beyond this, and even the initiated lawyer is likely to experience shock when he first discovers the extent to which the issue is often less that of conflict between the written law and practical administration than that of the utter silence of the law as to a range of vital matters relating both to the definition of crime and to the performance of the police, the prosecutor, the courts, and correctional agencies. Legislative default has not ended here. American criminal statutes are typically enacted on an ad hoc basis. Little thought is given to the relation of the parts to the whole. There is an almost conscientious avoidance of the general problems of criminal policy. Nor can the courts be relieved of responsibility for the present situation. The same indifference to the criminal law, viewed as a system of principle, is revealed. There is the tendency to ele-

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63 Ibid. 68 Ibid., § 557. (Italics supplied.)
68 See, e.g., comments on kleptomania in Vol. 1, § 39; comments on the "same offense" rule in double jeopardy in Vol. 1, §§ 143, 144; comments on intent to kill in voluntary manslaughter in Vol. 1, §§ 272, 274.
vate common-sense rules for evidential inferences to unyielding rules of substantive doctrine. There is undiscriminating resort to historical precedent.

The treatise has other lessons to teach. I have no doubt that the present edition of Wharton will be regarded as a useful tool by some practicing lawyers, particularly those who do not have available the resources of an adequate working library. But is it not a matter of some significance that one of the leading multi-volume works on the American criminal law is, at the same time, a work deficient in criticism and analysis and one not always reaching adequate levels of accuracy and articulation? May this not constitute evidence that the profession has demonstrated little interest in the reconstruction of the criminal law and that the administration of criminal justice is proceeding in this country with scant attention to elementary considerations of theory and analysis? No doubt, there is another side of the ledger. Interest in the reformulation of the substantive criminal law as reflected in numbers of the states and in the Model Penal Code Project of the American Law Institute is encouraging. The increasing commitment of the schools to research and instruction in the field and such ventures as the survey of criminal justice administration conducted by the American Bar Foundation are, perhaps, straws in the wind. These developments may presage a better day. It is high time.

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Over the past few decades a conviction has grown up, particularly within philosophy and the social sciences, that traditional political philosophy has come to an end—a case, it would seem, of super-annuation, hardening of the arteries, and then merciful oblivion ushered in by a small stroke.¹ Apparently, however, Paul Weiss, Professor of Philosophy at Yale University, has not read the obituaries. Or to be more exact, he seems to believe that reports of the death are greatly exaggerated. Certainly, the scope and objectives of his latest book, Our Public Life, clearly indicate that he claims still to detect vitality in what to many of his colleagues, especially in philosophy, is an embarrassing corpse, deserving honorable but efficient interment.

What is more, this book, although meant to be comprehensible by itself, is part of an ambitious project, of a veritable "system of thought" (p. 12), of philosophy in the grand style. This volume follows closely upon Professor Weiss's Modes of Being (1958), in which he attempts to show that there are "four fundamental, irreducible but interconnected realities," called "Actualty, Ideal-

¹ See, for example, PHILOSOPHY, POLITICS AND SOCIETY (Laslett ed. 1956), especially the introduction.