prospectus is unconvincing. Perhaps a concrete demonstration of the utility of their approach would yield more persuasive results. I suspect that the demonstration will have to come from their hands. They are not likely to enlist others.

HERBERT L. PACKER*

* Professor of Law, Stanford University.


This superb book is designed, in the words of the authors, “to introduce the beginning law student and the college upper classman and graduate student to the operation of our legal system.” While there is no reason to assume that course materials intended for one of these audiences would be less suitable for the others, this reviewer’s perspective is primarily that of a teacher of undergraduates in a liberal arts program and of graduate students in political science who envisage careers as university teachers or as government servants.

In judging the value of this or any other work assigned for use as teaching materials, one necessarily must evaluate an author’s performance against one’s own criteria of the purposes to be served by a one-course treatment of the role of law in the governing of our society. It is obvious, too, that one’s judgment must be influenced to some degree by the curricular resources available at a given institution. If such subjects as Roman law, constitutional law, international law, comparative law, and English constitutional history are available to students, then the selection of materials should avoid extensive duplication of the coverage of other courses. But with this qualification, it would seem that a judgment concerning the value of a text should be based on its ability to help the instructor achieve the following objectives. First, the course should make the student aware of the vital day-to-day role of law in making possible, or more effective, the functioning of a complex society. Stated differently, such a course should destroy the widely-held view of most liberal arts students that law is a technical body of material of only marginal relevance to the real workaday world. The importance of the ability of the legal system to furnish answers to problems of varying difficulty in an orderly sustained way should be a dominant note in such a course. Secondly, it should reveal to the student how the legal system operates. The form of reasoning used by judges and lawyers, and the roles played by legislators, administrators, judges, and lawyers should be treated in sufficient depth so that legal values and the results of legal reasoning can be compared with other forms of decision-making, and so that students will see how legal institutions are relat-
ed to other social institutions. And finally, in order to arouse student interest in law by giving concreteness to our study, one would seek interesting illustrative data in the form of judicial decisions, legislative excerpts, administrative decisions and other legal source materials.

If these are legitimate objectives for a course that seeks to introduce students to our legal system, let it be said at once that in this reviewer's opinion, _The Legal Process_ meets the prescription far more effectively than any other work now available. Not only is its design splendidly adapted to achieving the purposes set forth above, but the execution is as admirable as the design.

The authors have taken one problem as central: the allocation of the costs of industrial accidents. They trace the legal developments arising from efforts to solve this problem, dealing in turn with the judicial process, with the legislative process and its relation to the judicial process, and, finally, with the administrative process and its relation to the legislative and judicial processes.

While the responsibility for meeting the costs of industrial accidents in Wisconsin is the central legal problem dealt with, and furnishes the bulk of the illustrative material, the editorial introductions and notes, and the varied selections from outstanding legal writings, philosophical, analytical, and sociological, give the overall work a much wider appeal and application than suggested by the one topic which gives continuity to the book.

In the part dealing with judicial process, for example, the authors first give a condensed, but effective, description of the court system and civil procedure. A selection from Llewellyn's classic _The Bramble Bush_ gives useful insights into the reading of cases and serves as an introduction to the early decisions on the fellow-servant rule. Then follow selections dealing with the lawyer's role as an officer of the court, pivoting on Charles Curtis' suggestion that counsel need not divulge adverse evidence. Next are several analyses of the manner in which one determines the rule of a case by Llewellyn, Oliphant, Goodhart and J. Stone. A substantial section then follows, examining through the writings of Hurst, Laski, Pound, Freund and various others, the function of the judge as a policymaker. This sets the stage for a tracing, through judicial decisions, of the development of the Wisconsin fellow-servant and safe-place rules. The study of the judicial process is continued by a highly interesting set of materials and writings on the adversary process, the jury and its relation to the judge, and the relationship of custom and contract to judge-made law and the evolution of public policy. The examination of the judicial process concludes with a chapter on the mechanics and theory of judicial decisions. Throughout this four hundred page treatment of the judicial process, a section of the book that could stand alone, the substantial excerpts from outstanding legal scholars and the case and other materials are woven together by perceptive editorial introductory comments and well-conceived notes, testifying to the skill of the authors and their experience in using these
materials over a period of two decades before making them generally available.

The same skill and imagination are shown in the somewhat shorter part dealing with the legislative process. Here is material that is almost never brought to the attention of students outside law schools. Excerpts from legislative hearings and debate, statutes and cases interpreting them, writings on statutory construction, and an excellent body of material revealing how the Wisconsin Workmen's Compensation Act was shaped from the heart of this section. It is difficult to see how any student conducted through these materials could fail in the future to give legislation its proper place in his understanding of how our legal system operates.

The final part, dealing with the administrative process, vividly portrays the way of life of an agency, the Wisconsin Industrial Commission, but again, through selected writings, case excerpts, and editorial notes makes clear the wider application of the problem considered in detail in its Wisconsin setting. The last section dealing with “Re-evaluations of the administrative process” is a splendid up-to-date survey of the strengths and weaknesses of administrative agencies.

An objection might be raised to the authors' concentration on a Wisconsin private law problem in a work intended for general use. But it would seem that, to a student whose knowledge of law is normally limited to that declared by the Supreme Court, such a focus serves as a valuable corrective by showing that the distinction between private and public law is not meaningful, and that the social consequences of solutions in the private law sphere are substantial.

There are, moreover, many interesting features of the Wisconsin materials themselves, only a few of which can be mentioned here. In 1860 the Supreme Court rejected the fellow-servant rule because of what it deemed fallacies in the arguments advanced by courts of other jurisdictions. Yet only a year later the Court reversed itself as the result of a shift of one justice who bowed to the weight of the precedents. There is a fascinating series of cases involving statutory efforts to impose on railroads liability for injuries to certain of their employees, and another sequence of cases dealing with legislation imposing the "safe place" rule. For over a quarter of a century the courts and legislature dueled as the latter sought to broaden the rights of affected workers while the courts narrowed their rights through restrictive construction of the statutes. A most unusual view of the judiciary is offered by evidence of the part played by a liberal justice, Roujet D. Marshall, in helping to bring about the enactment of the Wisconsin Workmen's Compensation Act in 1911. Not only did he use his opinions as vehicles for scoring the shortcomings of existing law but he advised the Governor, and intervened through friends in the legislature to help give the bill its final form. This, like other data showing the activity
of interest groups operating through the legislature, while other political forces operated through the "reform" governors of the Progressive era, gives the reader much of the feel of actual political life, and illustrates graphically the way law emerges as the result of the clash of social, economic and political pressures, both long-run and more immediate.

This brief summary of the contents of The Legal Process inadequately suggests the richness of the materials and the intelligent way that they have been combined and strengthened by the authors' introductory essays and editorial comments. It is a challenging book that calls upon students and their instructor to make a full commitment to the process of learning. But as the reviewer, who used an earlier offset edition of this work, can testify, students will become intellectually engaged, because the subject is made to appear not only important, but exciting. Law appears as a vital element of the governing process, one that affects every man in his daily life in an almost endless variety of ways. Widely used, The Legal Process should serve as an admirable corrective of the spotty, misleading conception of law held by most liberal arts graduates, due in substantial measure in the past to the lack of a suitable text. Perhaps it is unfair to label this a "text"; its richness of insights, the unique quality of much of its material, and the sophisticated approach of its authors surely requires a more generous description. In its skillful blending of theory and useful data, in its stimulating examination of legal method and reasoning, and in the effective depiction of the relationship of law and the legal process to the wider society, it represents an important contribution to the literature of the law.

WILLIAM M. BEANEY*

* Professor of Political Science, Princeton University.


This is an admirable book: the product of wide and deep experience, enriched by sound scholarship, spiced with wit and sagacity.

In his preface Mr. Johnson states a self-defense which he need not have pleaded: "It is fashionable in responsible quarters to belittle the use of form books and even to question their right to exist at all. I think it is time someone came to their defense."1 Puffing in publishers' blurbs is commonplace—but the dust jacket does not puff in describing this book as a source of new ideas and a check on old ones.

Drafting is an exercise in organized intelligent uneasiness—writing for hostile, not for friendly, readers. The mechanical transcriber of forms, who perpetuates past errors and commits fresh ones, will not be helped by this or any

1 P. vii.