

Maurer School of Law: Indiana University

Digital Repository @ Maurer Law

Articles by Maurer Faculty

Faculty Scholarship

1930

Book Review. Derby, A., Cases of Criminal Law, 3rd ed.

Jerome Hall

Indiana University School of Law

Follow this and additional works at: <https://www.repository.law.indiana.edu/facpub>



Part of the [Criminal Law Commons](#), and the [Criminal Procedure Commons](#)

Recommended Citation

Hall, Jerome, "Book Review. Derby, A., Cases of Criminal Law, 3rd ed." (1930). *Articles by Maurer Faculty*. 1349.

<https://www.repository.law.indiana.edu/facpub/1349>

This Book Review is brought to you for free and open access by the Faculty Scholarship at Digital Repository @ Maurer Law. It has been accepted for inclusion in Articles by Maurer Faculty by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact rvaughan@indiana.edu.



LAW LIBRARY
INDIANA UNIVERSITY
Maurer School of Law
Bloomington

the growth of new fields in law, with the demand of relating the law to present society, and also of having a thorough knowledge of legal history, legal philosophy, and public law, the American Bar Association, the Association of American Law Schools, and the law schools of the nation may be moved to recommend for adoption a four year course in the study of law. If the four year plan be generally adopted, the prophesy of Professor Zollman may be realized.

O. H. THORMODSGARD.

University of North Dakota.

Cases on Criminal Law, Third Edition. By Augustin Derby. Indianapolis: The Bobbs-Merrill Company. 1930. pp. xv, 865.

The task of compiling a book of criminal cases which shall cover all the important problems in the field, and at the same time be suited to the requirements of first year students is admittedly difficult. Several matters, mostly traditional, enlarge the difficulty, e. g., the absolute separation of pleading from procedure and both from substantive law. Besides numerous technical difficulties of no small dimensions abound, e. g., whether certain fundamental rights are after all, properly classified as adjective. Adequacy of any casebook, must, of course, be judged from an evaluation of the purpose of the book and of the degree of success with which the purpose is achieved. In some quarters it is frankly assumed that it is impossible to equip the student with sufficient knowledge in this field to give him anything approaching an adequate preparation for practice. In a few schools, this course is presented in combination with materials on criminology, and Professor Sayre's book is a splendid example of what can be done in this direction. Most schools are content to use the traditional casebook which is designed to acquaint the student with the common law crimes, and no more. The book which is most widely used is of this type. There is practically no mention of statutes, and none whatever of procedure.

In the third edition of his "Cases on Criminal Law" Professor Derby has undertaken to remedy the last defect to some extent by including a chapter on criminal procedure (120pp), covering the steps from arrest to sentence. The book departs from the older form, also, in including the subject of the constitutional rights of the accused (36pp). Although this latter topic is dealt with in most courses in constitutional law, it would seem helpful to touch upon these issues for the purpose of developing proper perspective in the first year student upon matters in this field which differ considerably from many fundamentals of the civil law courses.

Professor Derby has rendered a valuable service to those schools whose curricula do not permit opportunity for giving a full course in criminal procedure. It would seem that even more space might profitably have been devoted to the administration of the criminal law. A fully adequate book might well include sections illustrating a few extraordinary procedural remedies, the rules governing probation and those concerned with parole, as well as materials from courts other than those of last resort, and some few cases dealing with the presumption of innocence and the burden of proof, to the end that the student might be equipped here, as in other fields, with a sufficiently broad survey to enable him to cope with the problems in the field

with relatively little adjustment. Although the above suggestions obviously require combination of various diverse fields, and accordingly contemplate departure from the usual, technically consistent method, yet it is submitted that the need can be met only in that manner if the various existing conditions remain constant. And Professor Derby's book demonstrates rather well his recognition of the problem.

Professor Derby has been sparing in his use of footnote references to other cases and to magazine articles, but this is not a serious limitation in a casebook designed for the use of first year students. A more serious defect is the absence of statutory material. Crimes vary so greatly in different jurisdictions, the departure from common law definitions is frequently so extreme, and phraseology is so important that the need for constant reference to criminal statutes is great. The classification of crimes against the person, against property and against the state is in line with modern authority. The cases are recent, well chosen and interesting.

JEROME HALL.

University of North Dakota.

The Labor Injunction. By Felix Frankfurter and Nathan Greene. New York: The MacMillan Company. 1930. pp. 343. \$5.00

Professor Frankfurter and Nathan Greene of the New York bar have cooperated to write a book at once scholarly and interesting in a field which has suffered more from prolific partisan publication than almost any other of the day.

Mechanically the book is perfect. Two hundred twenty-eight pages of the entire book (343 pp.) are devoted to the text proper; there are eight appendices, all containing interesting and valuable data; a table of cases and a table of statutes follow; and an excellent thorough index concludes the work.

The general treatment of the subject is that of the best law magazine articles, with some allowances made for the general reader. At least half of the book is devoted to footnote materials, assuredly indicative of enormous research. Fortunately, far from dismaying the general reader this is a happy arrangement which permits him to read in a little over a hundred, ordinary sized pages, the status of labor law in America; and at the same time, the student of the question may, by consulting the notes, have access to the most scholarly, carefully and completely compiled material in existence within the covers of one book.

Obviously, this is not a work which can be evaluated in a word; no single adjective of the most virulent partisan can carry the book to Olympus or relegate it to the indifferent stacks—that last, peaceful repository of so many a well intended work. A Harvard professor and a New York lawyer cannot be so readily disposed of even if it is their just due; one may disagree with them, and no doubt many will, but they cannot be fairly or intelligently ignored.

A brief summary of the work will, perhaps not be amiss. English law, taken up by the states, until very recent times regarded collective action by laborers as conspiracy and in restraint of trade. Even when the act complained of was lawful by itself, as the withdrawal of his services by the individual laborer, a combination of workers to do the very same thing to