1927

Book Review. Introduction to Anglo-American Law by Hugh Evander Willis

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INTRODUCTION TO ANGLO-AMERICAN LAW. By Hugh Evander Willis. Indiana University Studies, No. 69. Bloomington: Indiana University. 1926. pp. 234.

This book has been prepared by the author as a text-book for his course given to first year men in the Indiana University Law School, which is intended as a general introduction to the study of law.

The book is divided into four parts, of which the first and most important relates to legal concepts. The author has formulated his own definition of law: "a scheme of social control for the protection of social interests." This concept of the fundamental nature of law — its primary social aspect — is the basis of the author's reasoning. It would appear to be sound, except that the author perhaps does not lay sufficient emphasis upon the necessity for stability of the rules of law. Even a bad rule is generally better than no rule at all. On the other hand, the purpose undoubtedly is to emphasize the theory upon which new questions should be determined, and the author's contention that law is and should be a developing subject and that it should develop in the direction of the social welfare, is unquestionably sound, and a most desirable foundation for the thought of those who are to develop our law in the next generation.

The social interests protected by the law are classified generally in accordance with the suggestions of Dean Pound.[1] The legal capacities by which these interests are to be safe-guarded are classified according to the elaborate system developed by Professor Hohfeld into rights, privileges, powers, and immunities, with sub-classifications. The explanations, while necessarily brief, are clear and adequate for the purpose intended, though some might think that the author tends unduly to minimize the importance of external enforcement of these legal capacities by the courts, and otherwise.

A more important point of possible controversy is the author's distinct and unsparing condemnation of the present legal procedure, especially in the United States. It is submitted, however, that he is justified in his position on this point. There are, no doubt, many reasons for the chaotic and disgraceful condition of the administration of justice in our country, but "litigating legal procedure," which the author so graphically describes, is surely not one of the least of them. Furthermore, any attempts of reform through the development of our present procedure seem well-nigh hopeless. The half-hearted attempt made by the state of New York in 1920 to reform its procedure by mere simplification has proven very unsatisfactory, even if not wholly futile. Our experience has uniformly proved that reform in the administration of justice can only be obtained by the abolishment of procedural litigation, which means taking the conduct of trials from attorneys and putting it into the control of the courts. The sooner law students are told this, the better for themselves and for the legal system which they are to administer and develop.

The second part of the book is a summary of the history of the development of our law, divided into periods in accordance with Dean Pound's suggestions. The purpose is primarily to point out the influence of this historical development (both for good and evil) upon our law, and this purpose is admirably accomplished. The last period mentioned, that of Socialization, which represents a tendency toward conscious recognition of the social interests which it is the fundamental purpose of the law to protect, is shown to be hardly begun, either in thought or application, in this country.

Part three has biographies of the more important persons in legal history, with a mention of a few of the conspicuous contemporary members of the profession.

[1] *Interests of Personality* (1915) 28 HARV. L. REV. 343.

Part four is primarily practical in viewpoint, and contains suggestions as to the use of law books, the abstracting of cases, and brief-making. The author has in this part drawn largely on the work of Professors Wigmore and Morgan, which he has supplemented by a number of practical suggestions, particularly with reference to the preparation and abstracting of cases.

The book should have a wide appeal both to law schools which are preparing to introduce such a course and also to persons engaged in the actual work of the profession who are desirous, as many are, and all should be, of understanding better the true function and therefore the proper direction for the development of our legal system.

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LES DROITS DE L'AUTEUR SUR SON OEUVRE. By Renée-Pierre Lepaulle. Paris: Dalloz. 1927. pp. 430.

Mme. Lepaulle, the wife of a jurisconsult known to readers of this periodical by his article in Volume 35,[1] has performed an excellent service for French practitioners and theorists by this thorough collection and analysis of the "doctrine" and "jurisprudence" upon the subject of copyright. Those unfamiliar with the French law may be surprised by the similarity of its decisions in this field with those of our own system. It is evident that the reasoning and results are the same on most of the important or controversial points; to name but a few examples, the rights of collaborators or co-owners, the effect of the separation of the "droit moral" or intangible right from the property in the material as applied to creditors' claims in unpublished works or to gifts thereof, or the rules as to infringement, especially as regards translations. A French law of 1925, like ours of 1909, has dispensed with the necessity of deposit for the acquisition of the right. The peculiar problems are few, one of the most important being caused by the fact that the right endures fifty years after the owner's death, of which provision one would like to avoid the literal application to learned societies. Mme. Lepaulle's criticism of the usual conclusions regarding the effect of marriage on literary rights is brilliant and convincing. Of especial interest to a foreigner are the sections describing the constitution and operations of the artists' associations, literary, dramatic and musical, which appear to exercise what in any other hands would appear to the Latin temperament intolerable tyranny.[2] Although the book is intended for practical purposes, it displays considerable powers of legal synthesis as well as clear and at times almost humorous grasp of realities.

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[1] *The Function of Comparative Law* (1922) 35 HARV. L. REV. 838.

[2] *Cf.* p. 255, n. 2.