1949

Book Review. Cairns, H., Legal Philosophy from Plato to Hegel

Jerome Hall  
*Indiana University School of Law*

Follow this and additional works at: [http://www.repository.law.indiana.edu/facpub](http://www.repository.law.indiana.edu/facpub)

Part of the [Ethics and Political Philosophy Commons](http://www.repository.law.indiana.edu/facpub) and the [Legal History Commons](http://www.repository.law.indiana.edu/facpub)

**Recommended Citation**

[http://www.repository.law.indiana.edu/facpub/1412](http://www.repository.law.indiana.edu/facpub/1412)

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 wattn@indiana.edu.
some diatribes concerning the farcical performance of Gallup, Roper, and Crossley last November, as well as a brief mention of the December release of the hastily assembled SSRC Committee on Analysis of Pre-Election Polls and Forecasts.

This reviewer finds himself congenial to Rogers' warning that pollsters should not be permitted to reach the position of a Metternich, to which at least one of them has seemed to aspire. But that the failings of Gallup should be used to tar and discredit all the work of such men as Likert, Link, Katz, Clyde Hart, Lazarsfeld, Stouffer, and Merton is mischievous and inexcusable. There are many conscientious workers in the vineyard of attitude and opinion research who are fully aware that they are not measuring Stimmung and no more than a small part of Haltung, and who are content to push their research forward slowly, cautiously, and openly in the fashion of scientists.

The Pollsters is an excellent title; it is too bad that it could not have been used on a better book.

ROBERT COBB MYERS
Educational Testing Service
Princeton, N. J.


This book summarizes the legal philosophy of Plato, Aristotle, Cicero, Aquinas, Bacon, Hobbes, Spinoza, Leibniz, Locke, Hume, Kant, Fichte, and Hegel. Because Mr. Cairns holds, quite soundly, that modern jurisprudence "is a prolongation ('extension') of the great philosophical systems," he has summarized the "general philosophy" as well as the legal philosophy of each of his subjects; and he has added discussions of legal problems (e.g. administration, and interpretation of statutes) which, though treated in a practical, rather than in a jurisprudential, manner are nonetheless helpful supplements to the philosophical discussions. The book is one that has long been needed. It will be a helpful guide to students of legal and political philosophy; and it will aid future writing in the field by providing an example of specific accomplishment, bibliographies, and highly suggestive, critical comments.

It would be no service to Mr. Cairns, however, nor the discharge of a reviewer's obligation to pass over the serious shortcomings of the book. The principal deficiency results from the fact that Mr. Cairns does not articulate his own legal philosophy and does not use it in interpreting the philosophers whose theories he summarizes. The book lacks pointed discussion, continuity, and significance for the reason indicated. It is possible to achieve the desired result even though an author does not articulate his own perspective and use it as the analytic organon, if he formulates and emphasizes the perennial issues of jurisprudence throughout his work. There certainly are such problems; and in the usual fashion of text writers, Mr. Cairns has discussed some of them, but only in the context of each of the philosophers examined.

Beyond this general shortcoming, there are many features of the book which will trouble the professional reader. Because Mr. Cairns chooses to cover a very great area of philosphic thought, he has spread himself very thin; and he makes questionable and, sometimes, definitely invalid assertions. This may be indicated if we attend briefly to Mr. Cairns' chapter on Plato—the first philosopher discussed. Mr. Cairns emphasizes the Minos and it is evident from his later remarks that he identifies the core of Plato's theory of the nature of positive law with that dialogue. But the fact is that the Minos represents a marginal point in Plato's thought. I do not have in mind its controversial status as a Platonic Dialogue nor, especially, its relatively late appearance but, instead, the fact that, except for two or three scattered remarks of like tenor, especially in the Laws and the questionable Greater Hippias, it cannot be shown that Plato regarded "virtue" as an essential element of positive law. His preference is assuredly in that direction; but to miscast that into the position actually achieved by the later Stoics is surely a carelessness of the first order. E.g., it leads Mr. Cairns to assert
that "there are no elements in St. Thomas' definition of law which were not insisted on by Plato." Apart from the invalid imbalance of interpretation that results, the major effect is that the book lacks significance because the above and other perennial problems of legal philosophy are neither clearly apprehended nor discussed with a realistic interpretation of the progressive stages of their development.

A final point deserves notice. In recent philosophical writing, there has been considerable reliance on history as a tool to aid analysis, e.g., Lovejoy and Russell. The results have been uncertain, and there has undoubtedly been more promise than performance. But it is nonetheless evident that the traditional stringing together of ideas culled from the philosophers is greatly suspect if it is not definitely in the discard. There is no mention, e.g., of Jaeger in Mr. Cairns' book; and one must certainly believe at this stage in the history of philosophy that at least some reference to the contemporary situation, to the problems pressing for solution, and to the particular milieu of the philosophers discussed would have added much significance to the work. But our last word must be to express appreciation for an important contribution to the literature of jurisprudence.

JEROME HALL
Indiana University School of Law


"Along the Maine coast," Mr. Rowe tells us, "people are born with salt in their blood. From Kittery on the Piscataqua to Calais on the St. Croix, twenty-five hundred miles of shore line and tidewater have been the scene of shipbuilding and seafaring for more than three centuries." To the task of writing a history of this seacoast Mr. Rowe has brought a lifetime of research, study, and writing. His previously published Shipbuilding Days in Old North Yarmouth, and Shipbuilding Days in Casco Bay dealt with particular segments of this larger area to which he has now turned. His work as secretary of the Maine Historical Society has given him additional recognition.

The first chapter of this book provides a historical and geological discussion of the Maine coastline. The next three survey the earliest Maine fisheries, the mast camps that sought timbers for the Royal Navy, and shipbuilding in colonial days. Here, for example, are such brief but interesting quotations from the sources as the following extract from Samuel Sewall's journal:

"Ride into a swamp to see a mast drawn of about twenty-six inches or twenty-eight; about two and thirty oxen before, and about four yoke by the side of the mast between the fore and hinder wheels. 'Twas a notable sight."

Or this observation from a Boston newspaper of 1727:

"Captain Farles in one of the mast ships now lays at Casco Bay, who we hear, is not a little pleased with the commodiousness of that fine harbor to carry on said business. And as this must tend very much to encourage settlements in those parts of the country, especially the flourishing bay that will be the center of it; so there is no reason to fear that our government will in their wisdom, look upon it very much to their interest to protect and encourage it."

Other chapters deal with particular periods of time or with types of commerce. Here is a discussion of the years of war, from 1775 to 1815; of the West Indies trade and of the growth of large shipyards along the Maine coast; of the colorful State of Maine Clippers and of the destruction of much of the "Maine fleet" by Confederate cruisers. Here also are discussions of the more prosaic "lumber and lime, ice and granite" commerce, and an appraisal and description of the Maine seacoast in the present generation.

"Even now in the quiet villages and towns of the Midwest and West to which Maine-bred people have scattered there are men and women who have... 'salt in their blood.' Although the wharves have crumbled and the building yards are grass-grown, although the ships, barks, brigs, and even the great schooners are now to be seen only in pictures and their captains sleep on the hill overlooking the ocean.