1958

Book Review. Friedrich, C. J., The Philosophy of Law in Historical Perspective

Jerome Hall
Indiana University School of Law

Follow this and additional works at: https://www.repository.law.indiana.edu/facpub
Part of the Jurisprudence Commons, and the Legal History Commons

Recommended Citation
Articles by Maurer Faculty. 1436.
https://www.repository.law.indiana.edu/facpub/1436

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.
for the United States to agree by treaty or otherwise to the enforcement of foreign awards on account of our dual system of sovereignty, state and federal, in which each state has in the past determined its own arbitration law. A treaty naturally would supersede local law, but query, would such a treaty be approved if state opposition developed?

It may be noted that certain excellently prepared articles apparently have very little application to international arbitration; for example, History of Commercial Arbitration in England and the United States, a Summary View, by William Catron Jones, gives an excellent historical background of the local situation in England and of the local legal development of arbitration in the United States, but there is no particular tie-in to the international trade arbitration. The article by Pieter Sanders, Arbitration Law in Western Europe, likewise is an excellent discussion of the local legal situation in the states of Western Europe, but has very little relationship to international trade arbitration except to point out the diversity of the local law and the resultant difficulty in obtaining enforcement of an award in a foreign state.

Space does not permit mentioning and commenting on each of the articles; however, each, in and of itself, is excellent. The authors are experts, in most instances of world renown, in their particular fields. In reading this book one gets the impression that the problems and the possibility of their immediate solution are rather limited. If criticism can be directed at the editor, who has performed a monumental effort in the editing of the articles that compose the volume, it may be said that there is considerable repetition in the views expressed in articles that are not necessarily under the same caption. It is apparent, however, that this obviously could not be avoided in a book of this type where no one author is attempting to paint the picture and a certain amount of overlapping is bound to occur. It would appear, however, that by and large the book offers much of great value.

Martin J. Dinkelspiel*


This book, by a distinguished political theorist, is a translation of an essay published in a German encyclopaedia; the author's original purpose and intended readers must be considered in appraising the present work. From the point of view of the original production, the book is commendable. The author's erudition and the fruits of his academic experience both in Europe and in this country, especially at Harvard University, are manifest. But judged as a contribution to legal philosophy, the book falls far short of what one would expect from Professor Friedrich. The book consists mainly of comments that seem to have occurred to the author in the course of his reading in the field. These are often very acute and suggestive, but they are not thorough elucidations of legal and political theories. The discussion of American legal philosophy is inexcusably scant, e.g., of the 229 pages, only two or three are allocated to American writers. In a chapter entitled "The Revival of Natural Law in Europe and America," there is a bare reference to Pound's "social engineering" and not a single sentence deals with the revival of natural law in this country, especially that since the last war. The distinctive and extremely important American contributions to the philosophy of an empirical

* Member, San Francisco Bar.
science of law are ignored. European legal philosophers find much more significance in American jurisprudence than is indicated in Professor Friedrich’s brief references.

Perhaps the most helpful aspect of the book is the bringing together of problems which, in this country, are treated separately by legal philosophers and political theorists. Thus, Professor Friedrich discusses several important problems which American legal philosophers are apt to neglect, e.g., constitutionalism, sovereignty, consent as a basis of the validity of law, authority and legitimacy. Some of these problems, to be sure, are discussed in other terms by legal philosophers. Although Professor Friedrich’s intention is a welcome antidote to the current specialization, there remain many difficult problems to be studied before legal philosophy and political theory can even begin to be unified.\footnote{Cf. Hall, Studies in Jurisprudence and Criminal Theory, ch. 4 (1958).}

The author’s effort to provide the outlines of a history of legal philosophy from Plato to the present time is also highly commendable. Finally, it should be added that Professor Friedrich’s own philosophy, a rational and normative one with emphasis upon constitutional government, is significant and well summarized. The reader will find many helpful references in the footnotes.

Jerome Hall*