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Book Reviews

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BOOK REVIEWS

THE LAWS OF ILLINOIS TERRITORY 1809-1818. Edited, with introduction, by Francis S. Philbrick. Springfield, Illinois: Illinois State Historical Library, 1950. Illinois State Historical Library Collection, Vol. XXV (Law Series, Vol. V). Pp. cccclxxvii, 386.

Earlier releases of the Illinois Historical Society have provided necessary background in preparation for the publication of this current volume in the series dealing with the development of Illinois law.¹ Following in logical sequence thereon, there has now been issued this reproduction of the territorial laws enacted by the Illinois Territory subsequent to its separation from the Indiana Territory and prior to receipt of the grant of statehood. As the editor notes, there is little of particular interest in the statutes enacted, certainly none of them could be said to be outstanding contributions to legal science, yet they do provide a noteworthy link in legal progression from wilderness to civilization while furnishing some historical light on frontier conditions. Continuity in law, at least, was assured by a prompt recognition that the laws of the Indiana Territory "of a general nature" were still in force in the new territory,² but subject to such change as local conditions might require.

In the nine years that followed the creation of the Illinois Territory the change in legislative emphasis is worthy of remark. From the passage of laws for the suppression of gambling and duelling,³ for compensation of those who had erroneously improved the lands of others,⁴ as well as for the payment of bounties for the killing of hostile Indians⁵ and wolves,⁶

¹ See, for example, *Laws of Indiana Territory 1801-1809* (Illinois Historical Collection), Vol. 21, and *Pope's Digest 1815*, *ibid.*, Vols. 28 and 30.

² The Act of June 13, 1809, Ill. Hist. Coll., Vol. 25, p. 58, the first signed by Governor Ninian Edwards and Judges Alexander Stuart and Jesse B. Thomas, who constituted the territorial legislature during the first stage of settlement, to the effect that "on mature deliberation" these gentlemen were of the "opinion that the laws of Indiana Territory of a general nature and not local to that Territory" were still in force, is reminiscent of Ill. Rev. Stat. 1951, Vol. 1, Ch. 28, § 1. It declares that the common law of England "so far as the same is applicable and of general nature" shall be the rule of decision and shall be considered as of full force until repealed by legislative authority.

³ Acts of March 9, 1810, and of April 7, 1810; Ill. Hist. Coll., Vol. 25, pp. 27 and 36.

⁴ The preamble of the Act of Jan. 24, 1811, Ill. Hist. Coll., Vol. 25, pp. 41-5, declares that the unsettled state of the country had induced many persons to locate on land believed to be their own only to be evicted by paramount title but that it was "just that the proprietor of the better title [should] pay the occupying claimant for all valuable improvements made thereon," less any damage done during the occupancy. The thought is re-echoed in Ill. Rev. Stat. 1951, Vol. 1, Ch. 45, § 56 et seq.

⁵ Act of Dec. 24, 1814, Ill. Hist. Coll., Vol. 25, pp. 177-8. The bounty was \$50.00 per head, to be raised to \$100.00 if the killing occurred during an organized raid on hostile Indian territory. Earlier trouble with Indians is reflected in the Act of Dec. 17, 1812; Ill. Hist. Coll., Vol. 25, pp. 51-2.

⁶ A territorial law of Indiana Territory, dated Sept. 14, 1807, had been repealed by the Illinois legislature in 1811 but had been revived in 1814; Ill. Hist. Coll.,

the emphasis shifts to the passage of laws for the creation of banks and corporations,⁷ the regulation of warehouses,⁸ and for retaliation against foreign attorneys at law.⁹ Scattered throughout, however, are measures for the destruction of unauthorized water mills and dams,¹⁰ the granting of legislative divorces,¹¹ preserving the rights of owners of slaves whose servants had remained within the territory for periods beyond one year while working in the salt industry,¹² forbidding immigration by free negroes and mulattoes on penalty of whipping and expulsion,¹³ and prohibiting, on penalty of death without "benefit of clergy," the counterfeiting of bank notes or the possession of bank-note paper or engraved plates

Vol. 25, pp. 47 and 159. It was supplemented by another act dated Dec. 30, 1815, which required an oath of the bounty claimant that he had not "wittingly or willingly spared the life of any bitch wolf, in my power to kill, with a design of increasing the breed." The text thereof suggests the thought that some persons were not above a slight infraction of the spirit of the law for the sake of profit. The bounty was raised on Dec. 21, 1816, to \$2.00 per head: Ill. Hist. Coll., Vol. 25, pp. 233-4.

⁷ A bank at Shawneetown was incorporated on Dec. 28, 1816; another at Edwardsville on Jan. 9, 1818; a third at Cairo on the same date; and a fourth at Kaskaskia on Jan. 12, 1818. Two navigation companies were established, and a law was passed, on Dec. 31, 1817, for the founding of incorporated medical societies with power to grant diplomas and licenses, on examination, to "practice physic or surgery, or both." See Ill. Hist. Coll., Vol. 25, pp. 239, 334, 340, 348, 284, 327 and 297, respectively.

⁸ *Ibid.*, p. 251. The regulation extended to inspection of quality, weight and storage charges as well as to the necessity of keeping of records.

⁹ The Act of Dec. 21, 1816, Ill. Hist. Coll., Vol. 25, pp. 238-9, contained a preamble to the effect that the conduct of the Indiana Territory in refusing to permit practice therein by qualified non-residents was "illiberal, unjust and contrary to those principles of liberality and reciprocity by which each and every state or territory should be governed." The law imposed a fine of \$200 on all persons who were residents of Indiana, even though licensed in Illinois, who should thereafter practice before the courts of the territory, together with a penalty of \$500 on the Illinois judge who should "knowingly suffer or permit" such practice.

¹⁰ Act of Dec. 25, 1812; Ill. Hist. Coll., Vol. 25, p. 64. A regulation dated Dec. 17, 1817, *ibid.*, p. 292, fixed the toll charge of the owner of a grist-mill, for its services, at a fraction of the whole quantity, typically one-eighth. The statute compares with the feudal custom of England which called for a "multure" of varying amount on all grain ground at the mill of the lord of the manor but averaging about a one-sixteenth part: Bennett, *Life on the English Manor* (Cambridge University Press, 1948), p. 133.

¹¹ An Act of Jan. 6, 1818, granted Elizabeth A. Sprigg a divorce from the bonds of matrimony against her husband James because he had "shamefully abandoned" her and had continued to live "in the most shameful incontinency." See Ill. Hist. Coll., Vol. 25, p. 309. The practice of enacting such divorce bills continued for a period after statehood: Zacharias, "Recrimination in the Divorce Law of Illinois," 14 CHICAGO-KENT REVIEW 217 at 233, particularly note 34.

¹² Act of Dec. 22, 1814; Ill. Hist. Coll., Vol. 25, pp. 157-8. There would seem to be a correlation here with the English practice of granting freedom to a serf who managed to dwell for a year and a day off the manor and in a privileged town without permission from the overlord: Pollock and Maitland, *History of English Law* (Cambridge University Press, 1911), Vol. I, p. 429.

¹³ Act of Dec. 8, 1813: Ill. Hist. Coll., Vol. 25, pp. 91-2.

with intent to use the same for that purpose.¹⁴ A territorial shortage of specie may be noted through the medium of a moratorium law adopted in 1816, one which granted a delay in payment up to as long as twelve months unless the creditor would signify a willingness to accept paper currency.¹⁵ The lack of a penitentiary, in contrast to the ever-present county jail, must have dictated the right to sell the labor of convicted felons for a term of seven years to the highest bidder.¹⁶

Is there not some basis for comment in the fact that the great bulk of the statutes enacted throughout the period, except for those erecting new counties or fixing the boundaries thereof, dealt with the judicial organization and methods of procedure before the courts?¹⁷ For that matter, what could not be said, in the matter of transition from territory to state and the influx of new people, in the translation in the monetary unit to the standard American dollar?¹⁸ A fitting climax to these territorial laws is revealed in the measure calling for a census of the inhabitants in anticipation that Congress might demand information on the size of the population before granting statehood.¹⁹

There would be scant justification for the introduction of 477 pages,

¹⁴ Act of Jan. 11, 1816; Ill. Hist. Coll., Vol. 25, pp. 225-8. While benefit of clergy had been recognized in certain of the American jurisdictions, *State v. Sutcliffe*, 4 Strob. 372 (S. C., 1850), there is no record of its application in Illinois. The drafters of the statute may have referred thereto, and expressly denied its application, from an excess of caution.

¹⁵ Act of Dec. 28, 1816; Ill. Hist. Coll., Vol. 25, pp. 246-7.

¹⁶ Act of Jan. 11, 1816; Ill. Hist. Coll., Vol. 25, pp. 225-8, particularly p. 229. The practice seems to have continued, even after the erection of a penitentiary, until 1867. See Zacharias, "Joseph Meade Bailey, 1833-1895," 16 CHICAGO-KENT REVIEW 1 (1937), particularly pp. 5-7.

¹⁷ Professor Philbrick states: "Not, indeed, equal in number to all the statutes already mentioned, but more than two-thirds as numerous, were those dealing with the administration of justice." See Ill. Hist. Coll., Vol. 25, p. xx. A provision adopted in 1812, one requiring security for costs from non-resident plaintiffs, at least in chancery causes, noted at p. 53, may have foreshadowed the present statute on the subject: Ill. Rev. Stat. 1951, Vol. 1, Ch. 33, § 1. It is also interesting to note that the policy of the times, perhaps fostered by the absence of courts of chancery in Massachusetts and Pennsylvania, deferred all equity proceedings until the law docket had been cleared: Act of Dec. 24, 1814, § 2; Ill. Hist. Coll., Vol. 25, pp. 171-2.

¹⁸ A measure in 1810 declared that judgments rendered by justices of the peace "when the amount thereof shall not exceed four dollars sixteen cents and two-thirds of a cent," i. e. four and one-sixth dollars, should be final and non-appealable: Act of Jan. 26, 1810, § 1; Ill. Hist. Coll., Vol. 25, pp. 19-21, § 1. By 1814, however, statutory charges of certain public officials were set in terms of dollars and eighths of dollars: Act of Dec. 24, 1814; Ill. Hist. Coll., Vol. 25, p. 169. The American "bit," or one-eighth of a dollar, has enriched colloquial speech with such expressions as "two-bits," "four-bits," etc.

¹⁹ See Act of Jan. 7, 1818, together with a supplemental act on Jan. 10, 1818; Ill. Hist. Coll., Vol. 25, pp. 315-7. The preamble of the latter was unduly pessimistic in tone. It opens with the words: "Whereas, it is doubtful whether the prayer of this general assembly to congress, requesting that the citizens of this territory may be permitted to form a state government, will be granted. . . ." Less than a year later, on Dec. 3, 1818, statehood had, in fact, been achieved.

longer than the text itself, if it dealt with no more than a commentary on these interesting but brief statutory materials. While that introduction treats therewith in part, it is far more important for the editor's discussion of the formulation and passage of the celebrated Northwest Ordinance of 1787, together with his analysis of the legal character thereof and the deficiencies inherent therein. Not content with the volume of writing on that point already in print, much of which the editor notes is based on "fantasy for evidence," Professor Philbrick has marshalled a tremendous wealth of material to prove that the ordinance was principally the handiwork of Nathan Dane, founder of the Dane Professorship at Harvard Law School and writer on American law,²⁰ rather than that of Thomas Jefferson and his compatriots. The erudition and effort displayed in that behalf, while providing just cause for congratulation to the editor for having set the record straight, will hardly produce a ripple in American politics. Tradition, even though demonstrably false, dies hard. Accepting Jefferson's acknowledged contribution to the thought underlying the Northwest Ordinance, the author goes deep into the conditions and circumstances leading to the adoption thereof and the political philosophy represented thereby. In that process, he demonstrates the fallacy of the belief that it was, as the politician would proclaim, a "charter of freedom." In fact, he proves that it operated to fix upon the frontier that same colonial status from which the seaboard had but so lately rebelled. Here is no "debunking" process for the sake of dramatic effect alone. The introduction, then, is an example of that accurate, careful, penetrating and scholarly study of American historical developments which the country needs and should welcome.

W. F. ZACHARIAS

SEX AND THE LAW. Morris Ploscowe. New York: Prentice-Hall, Inc., 1951. Pp. ix, 310.

Via the introduction to this thought-provoking book, Roscoe Pound again finds a vehicle through which to deplore the inadequacy of our present methods of law-making and the means too frequently pursued in preparation for that legislation. It is not lobbying, even beneficent lobbying, he argues, that we need so much as it is that we require a permanent and established ministry of justice capable of dealing with legal questions as wholes rather than as detached local fragments. Many will be inclined to echo his belief, at least as that belief relates to the area of family life, for fundamental social mores vary but slightly around the country while social problems remain fairly constant in all areas. Whatever deviation

²⁰ Ill. Hist. Coll., Vol. 25, p. cccixviii, note 324.

exists in law from a socialized norm too frequently lies at the door of haphazard legislation not infrequently the ill-considered product of momentary prejudice or temporary public clamor. The inevitable collapse of justice induced by the indiscriminate enforcement of such piece-meal measures has done more to breed disrespect for law as a governing force in a civilized community than any other modern phenomenon. That record has already been written at large; it remained for this book to pinpoint the details.

Judge Ploscowe's book, designed more nearly for the layman than the specialist, provides an incisive analysis of the impact sex has played in shaping the diversity of both state and federal laws and legal doctrines as they relate to marriage, divorce, annulment, sex crime, prostitution, and similar matters. Basic differences have been noted and the problems generated thereby are discussed at length. Thoughtful recommendations, drawn from the author's experience with law in action in the country's largest city, have been advanced without the desire to display the zeal of the crusader or partake of the role of propagandist. The result of this much restraint, when buttressed by the accompanying statistical material, reveals how large is the influence on the public mind of that which is notoriously shocking in matters of sex whereas it is the more frequent but less disturbing aspects thereof which produce the larger share of problems. Here is no text on the law of domestic relations, although parts of the book read like one; here is no comparative chart of divergent state laws, such as the one mapped out by Professor Vernier; but here is a sharp demonstration of the need for a deep reconstruction of all law revolving around the effect of sex on modern human life.

CASES AND MATERIALS ON EVIDENCE, Third Edition. Edmund M. Morgan and John MacArthur Maguire. Brooklyn: The Foundation Press, Inc., 1951. Pp. xxi, 980.

In the preface to this third edition of a well-known casebook, the authors happily and clearly justify the revision and reorganization they have made of the cases and the materials. That justification is worded not in generalities but in the form of specific references to topics together with their treatment, whether by abbreviation or by expansion. The sequence of topics has been substantially retained but if it were not, a different arrangement would provide no hardship to a flexible teacher. Nonetheless, the opening sequence of judicial notice, burden of proof and presumptions is a logical and familiar doorway to the more difficult topics that follow.

In the preface, the authors speak of the re-working and expansion of

such items as the privilege against self-incrimination, the use of illegally obtained evidence, and of confessions, in which recent developments bulk large. Despite this expanded treatment, one area does not seem to be adequately covered. It deals with the authority for congressional and legislative committee inquiries, with the depth and breadth thereof, with the technique for enforcing discovery, with the punishment of the recalcitrant witness, with the use to be made of evidence discovered, and with the justifiable inferences to be drawn therefrom. This, admittedly, may be too much to expect, for the content might, more properly, be assigned to a course in Constitutional Law, or be distributed to more relevant spheres. Yet since the prevailing purpose of committee hearings is the acquisition of evidence, some well rendered opinion sufficiently broad and penetrating would add greatly to a matter of extreme public interest. The case of *Ex parte Johnson*, at page 418, is helpful but not quite sufficient, even with its fairly copious footnotes.

The chapter dealing with relevancy, remoteness and the like, could have been curtailed somewhat. While relevancy may be said to be a question of logic, it is equally one of experience. In the trial of an actual case, the presiding judge is more apt to lean upon his personal experience or that personal intuition which flares up in the heat of many rapidly moving and contradictory factors. He is likely, at that moment, to admit or restrict evidence which, upon cold appellate review, may well have lost its relevant and persuasive character. Perhaps this is merely another way of saying that probative evidence is oftentimes admitted before administrative tribunals that would have been screened out in a common-law court. It is, of course, not intended to confuse relevancy with hearsay. Consistent with the statement of the authors, there is justification for a greatly increased attention to probative procedure before administrative tribunals. The cases selected for this purpose are excellent and would bear careful reading by those lawyers who were admitted to practice before the current decade.

There are, on the market, three excellent casebooks on the subject of Evidence. The variations in purpose and content are not great although the organization and emphasis differ somewhat. Those teachers who have experienced pleasure and satisfaction in teaching from Morgan and Maguire's second edition may anticipate renewed satisfaction in the use of the third edition.

LEGAL AID IN THE UNITED STATES: A Study of the Availability of Lawyer's Services for Persons Unable to Pay Fees. Emery A. Brownell. Rochester, New York: The Lawyers Co-operative Publishing Company, 1951. Pp. xxiv, 333.

A review of a book written on a national scale probably should be addressed to a national audience or, better yet, be cosmic in its scope. Instead, this review will be addressed to the Illinois lawyer. The topic concerns him and his appreciation of, or failure to acknowledge the need for, legal aid; his efforts, or the absence thereof, to promote equal justice under law; and the degree of financial support, or the lack of it, which he has given to insure that none shall go without legal counsel for lack of funds.

In this challenging, yet dispassionate, report concerning the history, status, and significance of the legal aid movement, the record exposes the degree to which the Illinois lawyer, together with others of his kind, has failed to carry out his professional obligation to assure competent administration of justice toward the needy, in order that none should suffer for want of the services of a skilled protector. The cry is not that he has done nothing; it is, more nearly, that he has not done enough. When large and populous areas of the state lack focal points to which the destitute may turn; when two-thirds or more of the population are ignorant of the fact that legal help is available at less than anticipated cost; when one-half or more of the population, in need for professional service, fail to go to lawyers for help, there is reason to assert that the Illinois lawyer has fallen down on his job!

True, the record for Illinois is not as deplorable as that written for other areas of the country. Chicago, at least, spends the munificent sum of one and one-half cents per annum per capita to provide legal aid service in civil cases! Cook County expends a like sum to provide the services of a public defender in criminal cases of the rank of felony! The Chicago Bar Association initiated the Lawyer Reference Plan, now working with considerable success! Untold hours of valuable time unquestionably are devoted by volunteers throughout the state, men who frequently spend more than just their time. But the stark fact remains that organized legal aid still falls far short of realizing the goal it must attain if, in a democratic state, the ideal of liberty, justice under law, is to be preserved.

This may sound like sharp criticism, with no measure of praise for the untiring effort expended by those who have brought a degree of legal service to the aid of the poor. It is that, for the percentage of those who have aided the cause of Legal Aid is in inverse proportion to those who

have not, just as the percentage of money expended on it dwindles before the profligacy shown elsewhere. The criticism expressed, however, is that of the reviewer, not that of the author. The latter, from the depth of his experience and careful research as Executive Director of the National Legal Aid Association, has written a straight-forward account, documented with tables, charts and appendices, carefully summarizing the extent, the nature, and the adequacy of existing facilities for legal aid. He has sketched the scene without rancor. It is by reading out from an uninfamed text, by noting statistical and other sober-sided comparisons, that one reaches a judgment concerning the sufficiency of the Illinois effort. It is a judgment, however, which any reader could form for himself, as the report presents him with the most authoritative compilation of facts yet gathered on the subject.¹

A STUDY OF UNAUTHORIZED PRACTICE OF LAW. Edwin M. Otterbourg. Chicago: The American Bar Association Standing Committee on Unauthorized Practice of Law, 1951. Pp. vi, 84 (Paper).

Among the spate of reports beginning to appear in print, growing from the current Survey of the Legal Profession, is this slender but vigorous statement concerning the public need for the suppression of law practice by unauthorized persons and the steps which have been taken toward achieving that end. Not intended as an exhaustive survey of the entire field of unauthorized practice, for earlier publications have done much of the spade work therein, it brings prior material up to date while, at the same time, furnishing an excellent account of the accomplishments achieved by conference groups composed of lawyers and the representatives of those most likely to cross the boundary line set up between law practice on the one hand and business activity on the other. A series of appendices serve to tabulate related statutory materials, to furnish a guide to the annotated reports of adjudicated cases, and to catalog other significant data of use to every unauthorized practice committee. This masterly statement of the public dangers which can, and do, flow from acts of unauthorized practice should be given widespread attention. It could well be worked over into a series of articles for publication in the general press in order that its message might be made available to every citizen.

¹ The report was prepared as one of a series of reports for the Survey of Legal Profession being conducted under the auspices of the American Bar Association. It bears a foreword by Harrison Tweed, President of the National Legal Aid Association, who stresses the fact that legal aid and representation should be available to all, should be afforded under supervision of the bar as a matter of voluntary effort, and be supported by laymen as well as lawyers. An introduction by Reginald Heber Smith, Director of the Survey, adds comment on the relative value of governmental, as contrasted with private, financial support for the movement. The book also contains a directory of all Legal Aid offices currently in existence.

JURISPRUDENCE—ITS AMERICAN PROPHETS: A Survey of Taught Jurisprudence. Harold Gill Reuschlein. Indianapolis, Indiana: The Bobbs-Merrill Company, Inc., 1951. Pp. xvii, 527.

Professor Rodell once wrote that in "Tribal times, there were medicine men. In the Middle Ages there were the priests. Today there are the lawyers. For every age, a group of bright boys, learned in their trade and jealous of their learning, who blend technical competence with plain and fancy hocus-pocus to make themselves masters of their fellow men. For every age, a pseudo-intellectual autocracy guarding the tricks of its trade from the uninitiated, and running, after its own pattern, the civilization of its day."¹ Much the same sentiment has been expressed by others, if not over the activities of the practicing lawyer group then at least with those of the jurisprudentialists, of whatever category.² By the mysticism of their language, the abstruseness of their ideas, the unreality of their writings, these juristic analysts have tended to form an autocratic cabal dominating a scene of the law, leaving the uninitiated to stand aghast at the seeming profundity of their learning or impatient with their petty squabbles over method. The increase in varying schools of jurisprudence, the multiplication in the number of prophets, few of whom ever agree with one another, tend to cause the average person to wish to shake off the whole idea as a bad dream or else to arouse in him a savage desire to threaten extermination for the whole crew. Like the student of old, he finds himself, too often, "coming out through the door in which" he went. If, unguided, he should endeavor to wade through the reams of printed material on the subject of jurisprudence, he would, again only too often, be apt to find himself coming back before he had even departed.

Through the medium of this current work in the general field of jurisprudence, such a person would find himself at least furnished with a comprehensive survey of the several writers who have labored in the American sphere, together with a summary of their principal ideas. He would, at least, have a survey point by which he might measure his progress if he would, as the author thinks he should, work more deeply into the product of each. It is doubtful if, as the publishers claim, he would get a working knowledge of jurisprudence from the perusal of these synopses of juristic thought, but he would have some sort of base for further analytical study. He would, without doubt, become acquainted with the methods of approach utilized by the several schools and could learn to distinguish an Austinite from a Neoscholasticist, for the range

¹ Rodell, *Woe Unto You Lawyers!* (Reynal & Hitchcock, New York, 1939), p. 3.

² See, for example, a review of Jerome Hall's *Living Law of Democratic Society* in 28 CHICAGO-KENT LAW REVIEW 183.

of the work is wide and complete. A valuable appendix provides biographical material concerning the several prophets together with a list of their chief writings. All in all, the author has done a good job.³ He has prepared no mere compendium of extracts designed to present a distillation from the most illustrative expressions of each of the prophets. He has provided a valuable commentary on the significance of the contributions each has made toward the development of a science of jurisprudence.

INCOME TAX TREATMENT OF LIFE INSURANCE PROCEEDS. William J. Bowe. Nashville, Tennessee: The Vanderbilt University Press, 1951. Pp. 90.

The answers which could be given to the query as to what it is that could make an author wish to turn out book after book, year after year, would unquestionably prove to be amazing from the standpoint of the degree of their wide diversity. Some authors, like a Sir Walter Scott or a President Grant, have written in such fashion to raise funds in order to remove the stigma of bankruptcy. Others, such as an Alexander Dumas, it is said, have based the volume of their output on the picking of the brains, or the working of the pens, of less illustrious men. Still others, as for example a Charles Dickens, have poured out their inner feelings in a torrent in order to gain desired reforms. Professor Bowe, neither bankrupt nor literary pirate nor reformer, by way of introduction to his latest publication,¹ discloses his *modus operandi* as commentator on aspects of tax law to be one proceeding from speech, through law review article, to bound book.

In the process, the law has been enriched with another objective account of the tax consequences attendant upon the purchase of life insurance or the making of gifts. The chapters of this book, each constitut-

³ It is apparent that the printer has not performed nearly so well. Typographical errors are evident, and not entirely of the variety apt to be overlooked in proof-reading. It would be possible to excuse such mistakes as "histoircal" for "historical" (p. 214); "significant" for "signficant" (p. 304); "familiarity" for "familarity" (p. 323); and "ginde" for "guide" (p. 410). What can be said, however, for faults such as "plated" for "played" (p. 15); "priviledged" for "privileged" (p. 90); "forcable" for "forcible" (p. 118); "supersilious" for "supercilious" (p. 163); "correlaries" for "corollaries" (p. 217); "principals" for "principles" (p. 353); or "depracating" for "deprecating" (p. 354)? The penchant for error commonly found in works in this field, heretofore noted in a review of Gurvitch, *Sociology of Law* (Philosophical Library, New York, 1942), appearing in 20 CHICAGO-KENT LAW REVIEW 283, promotes the thought that perhaps jurisprudentialists should either (1) learn to spell, (2) write in every-day English, or (3) train printers and proofreaders in the mysteries of their "plain and fancy hocus-pocus."

¹ Professor Bowe's 1949 book, one entitled *Tax Planning for Estates*, was reviewed in 28 CHICAGO-KENT LAW REVIEW 186; his 1950 release, designated *Life Insurance and Estate Tax Planning*, was discussed in 29 CHICAGO-KENT LAW REVIEW 286.

ing a complete topic, have previously been delivered as speeches and published in five separate law journals. They have now been conveniently arranged under one cover as well as brought up to date.² There might be occasion to criticize the injection of the fifth one, a section dealing with cash and accrual methods of tax accounting, on the score of disassociation from the rest. Any fault of that kind, however, can be overlooked in view of the obvious intention to make the book useful to those not already familiar with tax law or conscious of the tremendous degree of interrelation between its parts.

INTRODUCTION TO THE STUDY OF LAW. Bernard C. Gavit. Brooklyn, New York: The Foundation Press, Inc., 1951. Pp. xvi, 388.

A rapid survey of law school catalogs would tend to impress the surveyor with the fact that the "sink or swim" method still characterizes the style pursued by many law schools in opening up the study of law to beginning students, for few appear to teach, by whatever name, orientational or introductory materials. It is fallacious to suppose that the beginning law student, regardless of the length of his prelegal course, is equipped to undertake intensive law study on the day his first semester or term begins. There will be much that is foreign to him, not alone in the form of legal institutions and legal language but also in terms of legal thought and legal method. Prior generations of law students struggled to assimilate these matters as rapidly and as best they might; frequently too late to avoid scholastic difficulty. In the interest of the modern generation of students, much effort has been displayed in their behalf, not so much to avoid the shock of contact with the hard core of taught law as to provide ready access to urgently needed information.¹ Dean Gavit has now added welcome contribution to the field with his book, one written with the prelaw and beginning law student particularly in mind. In content, the book summarizes such matters as the sources and forms of law, legal concepts, the judicial function, the court system, methods of procedure, the common forms of action, both legal and equitable, and the

² See pages 56-9, for example, for a discussion of the case of *Emeloid Co., Inc. v. Commissioner*, 189 F. (2d) 230 (1951), reversing 14 T. C. 1295 (1950), the opinion in which case was not released until May 10, 1951.

¹ Illustrative thereof are books such as Morgan, *Introduction to the Study of Law* (Callaghan & Co., Chicago, 1926), now in a second edition; Kinnane, *A First Book of Anglo American Law* (Bobbs-Merrill Co., Indianapolis, 1932); Kinyon, *How to Study Law and Write Law Examinations* (West Publishing Co., St. Paul, 1940); and Fryer and Benson, *Legal Method and Legal System* (West Publishing Co., St. Paul, 1950), one volume edition. The last mentioned book is replete with cases and materials but the presentation is fragmentary in character and requires re-arrangement to blend the parts into a connected account of the development of a legal system.

books of the law. As a teaching device for adoption where an orientation course is given, the book may be lacking in some particulars,² but for use elsewhere, as in those institutions where no preliminary training is given, it should operate to provide much needed and desirable information. The book should, therefore, command a wide and ready market, particularly since it admirably carries out the author's purpose in preparing it.

CASES ON THE LAW OF PARTNERSHIP AND OTHER UNINCORPORATED BUSINESS ASSOCIATIONS. Judson A. Crane and Calvert Magruder. Indianapolis, Indiana: The Bobbs-Merrill Company, 1951. Pp. v, 837.

The growing tendency toward combining the study of the partnership with that of the corporation and of agency has made it increasingly difficult for those schools teaching the first of these subjects as a separate course to locate adequate and up-to-date instructional material. The publication of the second edition of this work has provided definite alleviation. It not only presents an adequate coverage of the law of partnership but also contains separate sections devoted to the limited partnership, the joint stock company, the business trust, and the joint venture. The authors, whose first edition made its appearance in 1923, have included in the new book not only the classical cases but recent decisions as well, the latter illustrating both the significance of the Uniform Partnership Act and the necessity of taking modern business needs into account in the drafting of partnership agreements. The importance of taxation and bankruptcy problems in relation to unincorporated business associations has been treated via the medium of a number of cases which should furnish the instructor with adequate opportunity to introduce the student to the many intricacies connected therewith. The casebook contains no unique features nor has any attempt been made to alter radically the method for teaching the subject. It is, in brief, an excellent presentation of a traditional subject in a traditional manner.

² A course entitled Legal System, for example, given to beginning students at Chicago-Kent College of Law, includes instruction on the legal profession and its canons of ethics. While Dean Gavit's book touches on these points, only a few of the canons are cited or illustrated, but the full text is not included nor considered. The inclusion of an appendix containing this much material might prove helpful if supplementation is not possible. There is also scant treatment of the law school method which justifies the use of the casebook system, yet the beginning student must, almost invariably, cope with casebooks from the very start.