
The book is based upon a series of lectures (the Mahlon Powell Lectures) given by Dean Pound at the University of Indiana. It is a part of the rapidly growing literature which orients "The Law" to the wider system of social control and which points out the fundamental interrelations between law and the social sciences, psychology, and philosophy. The contribution of this particular effort is found in the lucid, brief, direct, well-planned attack on four fundamental questions and upon the fundamental philosophy as to the major task or purpose of law. The work is worth reading not only for what is said but also for who said it.

In "Civilization and Social Control" the author traces from the wealth of his historical knowledge the evolution through the agencies of control up to the modern world where "law has become the paramount agency". With keen insight he points out that it would be a mistake to assume that politically organized society and the law are self-sufficient for the task of social control unless they function on a background of other, less direct but important, agencies such as the home, religion, and education. Under recent developments these other agencies are becoming less potent and the task of law is becoming more complex and difficult. Law uses force but force is not an end; it is a means to an end. The goal to Dean Pound is clear since, "Civilization rests upon the putting down of arbitrary, wilful self-assertion and the substitution of reason."

The discussions of "What Is Law" centers around the fact that "Ever since the Greeks began to think about such matters in the sixth century before Christ, the question what is law has been a battleground." In ages of skepticism the answer differs from one in an era of faith in reason. Part of the difficulty in answering this question is that three quite different things (elements) have been called law but these three things (meanings) can be unified by the idea of social control. A great deal of the controversy has raged around the ideal element (the body of received, authoritative ideals as contrasted with the legal order and the judicial and administrative processes) which "comes at bottom to the picture of the social order of the time and place, the legal tradition as to what that social order is and so to what is the purpose of social control." Besides considering other theories of law, the author here traces the evolution of precept element of law from rules, principles, precepts describing conceptions, and precepts prescribing standards. There is a clever analysis of the limitations which "preclude our doing by means of law everything which ethical considerations or social ideals move us to attempt."

What is the "Task Of Law"? A legal system strives to attain its end "by recognizing certain of these (individual) interests, by defining the limits within which those interests shall be recognized and given effect through legal precepts . . . and by endeavoring to secure the interests so recognized within defined limits." The author analyzes and classifies individual interests and shows the relations between interests, rights, and laws. His analysis of "right" as a noun is brief but illuminating and his attack on the "threat" theory of law and the "give-it-up" philosophers will please all who have thought past a superficial skepticism. Dean Pound says "It is a boast rather than a description to call such teachings 'realism.'"

Law must face "The Problem Of Values". Historically canons of
value have been drawn from theology, pure reason, natural law, economics, psychology, and many other sources. Today, contentions are numerous. The writer analyzes how values are measured in actual practice and points out the six most important changes in juristic thought in the past half century. All these changes point in a new direction. In spite of a lag between the origin of ideas and the time they become effective, Dean Pound feels that the path of juristic thinking is toward an ideal of cooperation and away from one of competitive self-assertion. What will the cooperation be toward? "I suspect that the idea will prove to be cooperation toward civilization." Such an ideal, as is pointed out, does not preclude allowances for competition. We can have the best of both but "this idea of cooperation is much nearer to the realities of urban life today than the idea of competitive free self-assertion by which we go on measuring."

This book will prove interesting to students of social sciences whether they be interested in law as a profession or as a socio-cultural phenomena. There will be few readers who do not glean at least some ideas new and fresh for themselves. Even for those who are familiar with all the content, the organization and the positive approach will be stimulating.

Frank Goodwin.†


This compact volume offers to the general reader and student an admirable, up-to-date "account of the work of the Supreme Court of the United States in passing upon the constitutionality of legislation". After the flock of "twilight" books on judicial review which comprised a portion of the attack upon the Court's misuse of that power in 1935 and 1936, it is refreshing to read a book which understands that the issue is one of constitutionalism. In a discussion of constitutional democracy and the courts, the author emphasizes the dual nature of our constitutional system: its black letter inflexibility offset by its great flexibility in interpretation, leading to its long life through "the successful adaptation of that instrument's provisions to the multiple transformations of American life".

We have a good account of the essentials of the beginnings of judicial review and its establishment during the leadership of John Marshall. Hamilton's congenial philosophy of government provided the great Chief Justice with a theory of natural law which the latter wrote into the Constitution in connection with the establishment of a degree of economic stability which was so essential to the development of our national economy and the establishment of a strong government. Property rights and the social significance of the contract in integrating the vigorous development of a continent are viewed in their proper historical setting as legal ideas normally concurrent with the evolution of a national economy and supporting the growth of federalism and interstate commerce. Pointing out that the Court of Taney had similar economic ideas and did not break as completely with the preceding Court as is usually alleged, the author closes this portion of his discussion with a statement which appropriately might be reiterated today: "So far as the history of the institution of judicial review is concerned perhaps the most significant of characteristics is its continuity. Changes of parties and administrations produced no break in the growth

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of the Court's powers. The membership of the Court changed from Federalists to Republicans and from Republicans to Democrats, but the expansion of power and authority went on almost without interruption."

The chief outlines of constitutional development between 1865 and 1937 are given in a running account which has unusual clarity without being over simplified. The erection of due process as a substantive control in addition to its essential character as a procedural control is given proper emphasis culminating in a review of the twelve decisions in which congressional statutes were invalidated in 1935 and 1936. The impact of the Roosevelt court plan and the statesman-like reversal of policy by the Supreme Court in which it integrated its work with that of the New Deal is objectively discussed with a summary of the recent decisions.

The book closes with a statement of the function of judicial review and the importance of preserving a Constitutional system rather than specific economic interests. The vitality of the Court is explained in the light of its overall response to changes in American life. "The Court has been frequently attacked, but, over the long haul, it has grown in power and prestige, both because of the criticism and of the publicity, the prominence thus given to its activities. The criticism has aided in keeping its decisions consistent with national development, and the prominence did much to make a position on it attractive to ambitious and dynamic men."

Miller D. Steever.


These casebooks represent the cooperative contribution of three eminent authorities to the continuing efforts to provide more adequate classroom materials for the teaching of Property Law. The failure of the legal profession to attain that degree of proficiency essential to the best interests of the public in so vital a field as Property Law is attributable to some extent at least to inefficient law school teaching. The need for improvement is too obvious for comment. The recent rapid expansions in other fields of the law with consequent proportionate reductions in the time allotted to Property Law, and the reluctance of the legal profession to accept specialization, thus making necessary a substantial training in Property Law for all law school students, are other reasons making imperative an increased efficiency in the teaching process. Since teaching methods are so closely correlated with available classroom materials the brunt of the burden of improvement lies with the casebook authors.

These casebooks are conservative in tone and embody no radical departures from orthodox notions as to casebook construction. They are designed to furnish a full year's course in Property Law as a minimum basic requirement for all law students, leaving such additional training as is desired to the specialized property course. They cover substantially the subject-matter of Professor Bigelow's earlier casebooks on Personal Property and Rights in Land and Professor Aigler's casebook on Titles with some additions and some deletions. Arranged in five major divisions, the subject-matter covers such phases of Personal Property Law as normally appear in a separate course in such subject; types of estates in land with special emphasis on their origin and development; relations involving

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two or more owners of property; adverse possession and prescription and problems in conveyancing. To an excellent selection of cases the authors have added an abundance of text materials, footnotes, references, etc., at strategic intervals.

To many students and teachers large unit courses are preferable if the subject-matter is readily adaptable to close integration and has been skillfully blended. These requirements are met in a most satisfactory manner. The inclusion of Personal Property is welcome with regrets that it could not have been more completely assimilated. The interspersion of an abundance of text material should prove most helpful though its usefulness might have been substantially increased if a greater portion of it had been designed expressly for the purpose it was intended to serve. The topics selected are arranged in a sequence which permits of a logical unfolding of the law. For students continuing the study of Property Law by pursuing some or all of the specialized courses, these casebooks should prove highly satisfactory as a basis for an introductory course. Students who desire to devote but a minimum amount of time to the study of Property Law should find many other phases of the law more profitable and serviceable to them than many of the topics selected.

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