

BOOK REVIEW

RELIGIOUS LAW AND SECULAR COURTS

Stephen R. Goldstein†

RELIGIOUS LAW IN THE ISRAEL LEGAL SYSTEM. BY IZHAK ENGLARD. Jerusalem, Israel: Harry Sacher Institute for Legislative Research and Comparative Law, Faculty of Law, The Hebrew University of Jerusalem, 1975. Pp. 243.

To one interested in law and legal processes, the interplay between secular and religious law in Israel is one of the most complex and fascinating aspects of the modern Jewish state. In this book, which is based on a series of articles that originally appeared in *Mishpatim*, the Hebrew language law review of the Hebrew University of Jerusalem, Professor Izhak Englard¹ explores this most difficult subject. In the first two sections Professor Englard grapples with theoretical definitional problems concerning the nature of religious law, the general relationship between the state and religious law, and theories concerning the reception of religious law in a secular state system. The heart of the book, however, is contained in the third section which examines in great depth problems of the application of religious law in the secular courts of Israel.

Before discussing in greater detail the analysis contained in these sections, it should be noted that the title is somewhat misleading. This book is not a comprehensive treatise on the involvement of "religious law" in the broadest sense in the Israeli legal system. Rather, it is primarily concerned with the application of Jewish law in the regular "secular" Israeli courts.

To clarify what the book is not about, it must be remembered that the non-Islamic religious communities throughout the Ottoman Empire were treated as "national" groups and were given considerable legal autonomy, including the right to maintain independent court systems to regulate matters of personal status such as marriage, divorce, custody and adoption of chil-

† Edward S. Silver Professor of Civil Procedure, The Hebrew University of Jerusalem. A.B. 1959, J.D. 1962, University of Pennsylvania. Member, Pennsylvania Bar.

¹ Professor of Law, The Hebrew University of Jerusalem.

dren, and inheritance.² Such autonomy continued throughout the British Mandatory period and survives even now in the Jewish state.³ As a result, there are today in Israel fourteen officially recognized religious court systems—Jewish, Moslem, Druze, Bahai, and ten different Christian denominations—that coexist with the regular “secular” court system.⁴ Thus the term “religious law” in the book’s title is overinclusive due to the book’s almost exclusive concern with Jewish law. In another sense, however, it may be viewed as underinclusive, or at least ambiguous as to its inclusiveness. As noted above, these diverse religious communities were viewed as national groups by the Ottoman Empire. This concept continued into the Mandatory period. While the law governing personal status employed by a given communal group to govern its affairs may have been based on the religious tenets of the group, that fact was not of concern to the Ottoman or British lawmaker. The recognition of the autonomy of these communal groups was not an expression of religious tolerance, as that phrase is generally used in the American context. Rather it was an expression of the recognition by the governing power of the autonomy of different groupings of peoples under its domain, groupings that are difficult to categorize as exclusively religious or national, and, perhaps, are best described simply as communal. This autonomy has continued into the Jewish state.

Added to this general national or communal aspect of religious law, as that term must be used in the context of Israel, is the specific national character of Jewish law. This review is not the place to discuss all the ramifications of the view that Jewish law is the national-religious law of the Jewish people. Yet, an understanding of the place of Jewish law in the state of Israel must take into account the fact that the Jewish legal tradition is a national as well as a religious one. Jewish law is not a law limited to ritual observance or the relationship between man and his Maker. On the contrary, it is an all-encompassing legal system which reaches all areas of conduct normally regulated by a “secu-

² I. ENGLAND, *RELIGIOUS LAW IN THE ISRAEL LEGAL SYSTEM* 13 (1975). It should be noted that the translation is an excellent one. Although the book is not easy reading, these difficulties are not a product of translation problems, but rather of the complexities of the concepts discussed.

³ *Id.*

⁴ It should be noted that, except for the Druze, Bahai, and an Anglican Church, this current list of officially recognized religious courts with power to determine issues of personal status of members of their communities stems from British legislation in 1922. The Druze court system was added to the others by Israeli legislation in 1962; the Evangelical Episcopal Church, in 1970; and the Bahai faith, in 1971.

lar" legal system. This national character of Jewish law was preserved during the long absence of Jewish national sovereignty by the existence, throughout most of this period, of autonomous judicial authority granted to local Jewish communities in many countries in which they resided. At the same time, however, this national law is also religious law. Its basis in transcendent religious concepts differentiates it from the law of the modern nation-state. Its essential constitution is Revelation. Although subject to interpretation and even modification, such interpretation and modification is entrusted to an oligarchy of scholars, not to the popular will. The accommodation between such a legal system and that of a modern democratic state is the phenomenon Professor Englard addresses.

In the first section of his book, Professor Englard explores this unique national-religious character of Jewish law in the course of reaching his conclusion that Jewish law is indeed a normative legal system. Despite the existence of local Jewish communities in different parts of the world, such as Hassidic "courts," which could be said to be organized religious societies enforcing obedience to the commands of Jewish law, there is no worldwide *organized* Jewish society which enforces the law's commands. In Israel this has resulted in a continued attempt to achieve community adherence to Jewish law through the mechanisms of the state.

Professor Englard discusses at length various theories concerning the ability, or lack of ability, of different normative legal systems to coexist. The discussion draws heavily upon the theoretical writings of European legal scholars concerned with this issue, particularly in terms of conflict of laws, or as the subject is known in Europe, private international law. Although these theoretical disputations are quite complex and very foreign to one trained in American law, Professor Englard's superb analytic mind, as well as his good sense, serve to elucidate the issues for even the uninformed reader. This review is not the place to discuss at length these theoretical problems. Suffice it to note that Professor Englard, following the views of Hans Kelsen, accepts the position that a legal system possesses at its base a postulate of validity for its norms which derives from the means by which these norms are created. This validity criterion gives the legal system unity and exclusivity in the sense that norms that do not meet the validity test are excluded.⁵ Although Pro-

⁵ For Professor Englard's discussion of the role of the validity criterion, see I. ENGLARD, *supra* note 2, at 33-46.

fessor Englard himself does not so state, it would appear that in a modern democratic legal system, such as that of Israel, this validity criterion consists of the will of its duly elected lawmakers. Under Jewish law, on the contrary, it is the received tradition, stemming from Revelation, which includes the determination that the authorized interpreters, or modifiers, of that tradition are a non-elected oligarchy. Thus, the essential clash in the basic validity criteria of the two systems.

Two different schools of thought exist as to the ways that different legal systems may interact: one postulates that the existence of two separate *valid* legal systems is inconceivable since each system must reject the norms of other systems that do not meet its validity criterion; the other accepts the proposition that separate systems do interact and do accept, in fact, norms of other systems. Professor Englard notes—correctly in my opinion—that these schools represent different facets of the same reality. Within a given system, norms of a foreign system are valid only in so far as the first system accepts them through its validity process. On the other hand, the reality of the existence of other systems forces each system to endeavor to accommodate itself to that fact, and to accept norms of other systems into its own. Professor Englard further observes that these concepts lead not only to the view that system B's norms cannot exist in system A except as validly accepted in system A, but also that system A itself can promulgate no norms that invalidate the norms of system B within system B itself. System B may be subservient to system A in whole or in part. Such subservience could come about through the independent determinations of each system that in a given situation B is subservient to A, or through a compact between A and B, such as the American constitution, or simply through the greater power of A to enforce its will in conflict situations. In such cases a norm of system B may be inoperative when it clashes with a norm of system A. Even in such cases, however, the norm of system B remains a norm within that system. Professor Englard proceeds to note an important psychological fact affecting this interaction in Israel:

[T]he state regards the religious courts as acting under authority granted by it and subject to its laws. The religious judges see their role in a different light; for them the applicability of religious law is not conditioned upon the secular lawmaker's will. They look upon their courts as autonomous bodies which derive their author-

ity primarily from a separate, independent normative system.⁶

As stated above, the heart of the book concerns the complex legal issues involved in the application of Jewish law in the Israeli secular courts. Professor Englard is most sensitive to the problems faced by the secular courts when they must determine the content of Jewish law that they are statutorily compelled to apply in a given case. Many of these problems are remarkably similar to those faced by an American federal court judge applying state law in a diversity case.

For example, Professor Englard perceptively notes the dilemma facing a judge concerning his appropriate creative role in applying the law of another system. He observes that

In the case of foreign law, he approaches his task as a kind of observer from the outside who is satisfied with finding what "exists". . . . [He] has no feeling of identification with the foreign normative provisions; he lacks that sense of responsibility for the integrity of the system and its orderly working in society as is largely the case in the application of his own law.⁷

Thus, in Professor Englard's view a judge appropriately is inclined to play a less creative role in applying the law of a system of which he is not a part than he would be were he fashioning the law of the system of which he is a part. A more actively creative approach, it is feared, might lead the judge to reach results inconsistent with those a court of the foreign system would have reached. On the other hand, it would seem that an unduly passive posture by a judge might have the same effect if the law of the foreign system is a dynamic one. Professor Englard's emphasis on the problem of undue activism rather than undue passivism may represent his sense of the current lack of dynamism in Jewish law, or his view that due to the insufficient sensitivity of non-religious judges to the norms of Jewish law, undue passivism is preferable to undue activism, or both.

Professor Englard goes on to note, however, that even with the best resolution of the problem of judicial activism, differences in outcome between courts of the two systems, both purportedly applying the same Jewish law, are inevitable. One of the reasons given for this is that the secular courts continue to utilize

⁶ *Id.* 46.

⁷ *Id.* 85-86 (footnotes omitted).

their own "procedure" while applying the "substantive law" of the religious court system. This phenomenon and the difficulties it has produced are, of course, well known to students of American diversity jurisdiction. Professor England goes on to state that, in addition to this and other objective factors,

the possibility of divergence is inevitable because of the religious character of the norms. The larger the judge's role in the judicial process, the greater the prospect of divergence. The feature particular to Jewish law—the absence of codification and the existence of many points still in dispute—lend weight to the role of the religious judge in the process of law determination. Even apart from this factor, there is an essential difference in the ideology of the secular judge. The difference is of particular significance where one poses it against the religious outlook in respect of a religious norm. The tension is not so accentuated when the relationship between the legal systems of two *states* is involved, since very possibly no substantial difference exists between the social background of the two systems; there are reasonable prospects that the conclusion of the local judge will not be very distant from that which the foreign judge would reach in applying his own law. The situation is otherwise with respect to religious law based as that is on transcendent presuppositions which are not acceptable to persons who are not of the same faith.

This difference is especially in evidence where the religious norms themselves leave scope for judicial discretion as when a general concept involving a value judgment is to be construed. It is, for example, a principle of Jewish religious law that the decisive test regarding custody is "the child's welfare." What will appear to be best for a child's welfare to a judge of a religious court will almost certainly not accord with the tests applied by a secular judge who does not regard himself bound by the yoke of religious commandment.⁸

While Professor England may be correct that this problem is accentuated when one of the legal systems involved in religious, it is not obvious that the same problem is not also severe when that is not the case. In the American context, one is reminded of the different results reached concerning the meaning and appli-

⁸ *Id.* 105-06 (footnotes omitted).

cation of federal constitutional principles in state and federal courts. This is perhaps most vividly demonstrated in the numerous cases in which state criminal convictions, upheld in the state courts over federal constitutional objections, have been overturned in federal habeas corpus proceedings. In such cases the federal and state court judges may share similar personal and professional backgrounds and, indeed, be neighbors. The differences in outlook may only be explainable by the different institutional expectations of the different normative legal systems, even in systems as similar as those of the American federal and state systems.

Moreover, the American system has been sensitive to the problems inherent in the attempts of one legal system to apply another system's vague criteria involving significant judicial discretion, exactly in the area discussed by Professor England—domestic relations. Despite the lack of explicit statutory bases for this determination, the federal courts have long held that domestic relations cases are generally excluded from diversity jurisdiction.⁹ Moreover, such matters are also generally excluded from the basic proposition of American law that causes of action are transitory. Unlike most other types of cases in which courts of one state will routinely entertain actions that are to be governed by the law of another state as long as the forum state has the requisite jurisdiction over the parties, it is most unusual for one state to apply the domestic relations law of another.¹⁰ Instead, the determination that the forum has the requisite jurisdiction over the parties to entertain the action also serves as a determination that the forum will apply its own law. Even when legal systems are as similar as those of the American states, it is undoubtedly auspicious to avoid, as much as possible, situations in which one normative legal system is asked to apply another system's legal standard which is vague, discretionary, and ultimately determined by unwritten community standards as are "welfare of the child" or "indignities" justifying divorce. *A fortiori*, such situations should be avoided as far as possible in the Israeli context discussed by Professor England.

⁹ See P. BATOR, P. MISHKIN, D. SHAPIRO, & H. WECHSLER, *HART & WECHSLER'S THE FEDERAL COURTS AND THE FEDERAL SYSTEM* 1189-92 (2d ed. 1973).

¹⁰ See A. VON MEHREN & D. TRAUTMAN, *THE LAW OF MULTISTATE PROBLEMS, CASES AND MATERIALS ON CONFLICTS OF LAW* 84-90 (1965); Currie, *The Constitution and the Transitory Cause of Action* (pts. 1-2), 73 *HARV. L. REV.* 36, 268 (1959); Currie, *Suitcase Divorce in the Conflict of Law: Samone, Rosenstiel and Borax*, 34 *U. CHI. L. REV.* 26 (1966).

It is not possible in a short review to comment on all the problems of the application of Jewish law in Israeli secular courts discussed by Professor Englard. Note must be made, however, of his excellent discussion of two important considerations: the questionable desirability of applying a public policy qualification to the reception of Jewish law by the secular Israeli courts, and the procedure-substance dichotomy by which the secular courts apply the substantive but not the procedural aspects of Jewish law.

Professor Englard concludes, after extensive discussion, that the doctrine by which the courts of one system refuse to apply a foreign system's otherwise applicable law because the substance of that foreign law is repugnant to the "public policy" of the forum state, as determined by the latter's courts, should have no application in the context of the application of Jewish law in Israeli secular courts.¹¹ If a principle of Jewish law is to be rejected as contrary to "public policy" of the Jewish state, Professor Englard argues that this should be done by an act of the legislature replacing the Jewish law principle with another, for purposes of the state legal system, and not by its rejection by the courts on the basis of vaguely defined criteria of public policy. A broadly defined "public policy" exception to the application of otherwise applicable foreign law is quite troublesome even on the international level. Whatever its proper use there, however, Professor Englard appears to me quite right in rejecting it in the unique Israeli context. The comparable situation to Israel is not that of separate nations interacting, but that of, for example, the federal union of the United States.

Professor Englard is more sympathetic, however, to another method of controlling the results of Jewish law by secular authorities—the invalidation of religious courts' judgments by the Israeli Supreme Court, sitting as the High Court of Justice,¹² on the grounds that the religious court violated the "principles of natural justice." This "direct review," which has its roots in English administrative law, applies only to procedural matters, not substantive ones. It provides a means, analogous to the American constitutional doctrine of procedural due process, for ensur-

¹¹ See I. ENGLARD, *supra* note 2, at 142-52.

¹² In addition to its appellate jurisdiction over lower secular courts, the Israeli Supreme Court has original jurisdiction "sitting as High Court of Justice" to determine matters in which it sees the necessity of providing relief in the interests of justice and which are not within the jurisdiction of any other court, religious or secular. Courts Law § 7(a), 11 LAWS OF THE STATE OF ISRAEL 157, 158 (1957).

ing adherence to basic procedural safeguards. In accepting the legitimacy of this type of review, Professor Englard relies on the responsibility of the High Court of Justice to ensure that all judicial organs of the state, including the rabbinic courts, adhere to minimum standards of natural justice,¹³ or procedural due process, if one might use that term. He points out, however, that there is no reason to believe that such standards are not also part of religious law. Consequently, he regards with favor a recent trend of the Israeli Supreme Court to refuse to intervene on this basis at an early stage in the religious court proceedings, but rather "to direct the complainant to the appellate tribunals of the religious system on the assumption that a violation of the principles of natural justice is also a violation of religious law."¹⁴

While accepting the legitimacy of "direct review" of religious court judgments by the Israeli Supreme Court, Professor Englard questions the soundness of the view that religious court judgments which have become final are legitimately subject to collateral attack in the civil courts on similar grounds of violation of the principles of natural justice.¹⁵ These arguments, including the question of whether a judgment rendered in violation of the principles of natural justice is thereby beyond the court's "jurisdiction,"¹⁶ will clearly remind one versed in American law of the problems of collateral attack on state criminal judgments in federal habeas corpus proceedings.

The negative act of rejecting a normative principle of another legal system as "offensive to public policy" should not be confused, however, with what Professor Englard describes as "the positive function of public policy,"¹⁷ the determination to apply the law of the forum state in a given situation because of an affirmative policy decision to accomplish a given result. In the context of religious law in the Israeli legal system, the issue arises in the application of independent state norms in areas generally regulated by religious law. Professor Englard notes that binding religious norms in matters of personal status exist at the sufferance of the state law-making authorities. "Secular regulation can always in principle replace religious law, which in effect means replacing personal law by a uniform territorial law."¹⁸ Professor

¹³ I. ENGLARD, *supra* note 2, at 162.

¹⁴ *Id.* 163.

¹⁵ *See id.* 163-68.

¹⁶ *See id.* 166-67.

¹⁷ *See id.* 152-61.

¹⁸ *Id.* 152.

Englard explicitly declines to take any position on what he terms "a political and ideological question of the highest order:" the extent to which such a replacement should be effected today in Israel. His reluctance to enter this thicket is quite understandable; nevertheless, I would hope that in some future work Professor Englard will bring to bear his wealth of knowledge, analytic acuteness, and sound judgment on this most important question.

Professor Englard does discuss, however, the difficulties involved in several such replacements which have taken place.¹⁹ It must be emphasized that when Professor Englard speaks of the replacement of religious law by secular law, he is, in light of his theories of the independence of normative legal systems discussed above, referring only to the replacement of Jewish law with a different norm for purposes of the state's normative system; the state's normative system itself cannot change a norm of Jewish law within the latter's normative system. This is exemplified by the state's attempts to force the religious courts to apply secular norms in certain situations. The ensuing difficulties have led to a strong presumption against future attempts of a similar nature. The legislature can instead allow religious law and the jurisdiction of religious courts to continue unimpeded, but impose criminal sanctions for the commission of the undesired act. Alternatively, the legislature may deny exclusive jurisdiction to the religious courts by providing for concurrent jurisdiction in the secular courts where the secular norms will be applied.²⁰ Neither of these solutions is without great difficulties, however.

Thus far we have been discussing legislative action to replace religious norms with secular ones. The courts, however, also become involved in this process. Courts must, of course, interpret legislative enactments that refer to religious laws. Professor Englard notes, with apparent—although not explicit—disapproval, a number of instances in which the secular courts have demonstrated their disapproval of the application of religious law by broad interpretations of the legislature's secular replacement rules, or, conversely, by restrictive interpretations of the legislature's provisions directing the application of religious law. Professor Englard is critical, for example, of court holdings that when the legislature directs the secular courts to apply religious law to a matter, they did not intend to incorporate the "public

¹⁹ See *id.* 152-61.

²⁰ *Id.* 155.

policy” aspects of the religious law.²¹ Although difficulties can arise in requiring the secular judge to apply vague standards of a religious system in implementing religious law,²² similar problems need not arise when clear religious law principles require courts to refuse to enforce certain types of contracts, or to deny certain kinds of equitable relief to those with unclean hands. Professor Englard is correct, in my opinion, in stating that there is no reason to believe that the legislature did not intend to adopt such public policy concepts of religious law when it directed the application of religious law.²³

Running through this section of the book, however, is a deeper theme, a theme that permeates the entire work: the view that when and if “religious” law is to be replaced by “secular” law as the binding law of the state system, it should be accomplished by state legislative and not by state judicial action. Such a view is quite natural in a parliamentary system of government such as that of Israel. Yet, that does not seem to be the complete reason for Professor Englard’s view. For indeed, Israel is also, to some extent at least, a common law country, with a great deal of judicial lawmaking accepted as a normal and legitimate part of the system. Rather, Professor Englard’s view seems to derive from the peculiarly sensitive political and ideological nature of problems involving religious law in general, and Jewish law in particular, in Israel. If at all possible, these problems should be decided by explicit legislative decision. This conclusion rests on the general theory of democratic government that sensitive policy decisions should be made by the sovereign representative legislature and should not be delegated by the legislature to others,²⁴ as well as on the particular nature of the Israeli political structure which insures legislative representation of the different viewpoints involved in the ongoing societal debate as to the appropriate role of Jewish law in the country. Of course, all legislation requires interpretation. The acceptance of Professor Englard’s proposition requires that the secular courts interpret vague legislative directions on the basis of a presumption that the *status quo* in regard to the role of religious law in the Israeli

²¹ See *id.* 168-77.

²² See text accompanying notes 8-10 *supra*.

²³ See *Woods v. Interstate Realty Co.*, 337 U.S. 535 (1949) and *Guaranty Trust Co. v. York*, 326 U.S. 99, 108-09 (1945) for examples of American federal courts applying state “public policy” as part of state law in the context of diversity jurisdiction.

²⁴ Cf. Goldstein, *The Scope and Sources of School Board Authority to Regulate Student Conduct and Status: A Nonconstitutional Analysis*, 117 U. PA. L. REV. 373, 387-88 (1969) (delegation of sensitive decisionmaking role should not be assumed lightly).

governmental system is not to be disturbed except by explicit legislative command. Such a presumption would put the burden of determining these issues where it belongs, on the legislature.

The final major issue discussed by Professor Englard is the problem created by the secular courts' use of their own procedural rules in applying religious substantive law. In this section, consistent with the major thrust of his work in support of the autonomy of religious law, Professor Englard rejects a broad definition of procedure based on the accepted, although highly criticized, definition in English law for purposes of choice of law in the international context and advocates a more restrictive meaning of the term related to the function of the procedural-substantive dichotomy in the context under discussion. Without going into the details of Professor Englard's test and its application, suffice to say he reaches results quite similar to those that have been reached in the United States in relation to diversity jurisdiction.

This last point emphasizes what is, perhaps, the most striking aspect of this book to one trained in American law. One begins reading it expecting to find a very esoteric, perhaps even exotic, discussion of problems of religion and law that are quite foreign to the American system. One finds, however, that most of the discussion is not only not exotic, but is, indeed, quite familiar. The basic problems discussed in this book involve the interaction between different normative legal systems, each having its own court system, within the boundaries of one nation-state. The parallels to the situation in the United States are most striking. Professor Englard's analysis of these problems is therefore quite relevant to one concerned with problems of American federalism as well as to students of Israeli society.

The one weakness of this otherwise outstanding book is also related to its relevance to the legal problems of American federalism. This relevance is a two-way street. The American legal experience has much to contribute to the problems discussed in the book; the absence of any discussion of this experience is quite marked. American legal developments, I would submit, are much more relevant to many of the issues of the book than is the law of private international law (or conflicts) which Professor Englard admits is of limited significance, but with which he continuously struggles. In terms of the problems involved in the co-existence of different normative legal systems within the same geographic and political limits, American and Israeli scholars, as well as courts, have much to learn from each other.

BOOKS RECEIVED

- THE AGE OF UNCERTAINTY. By John Kenneth Galbraith. Boston: Houghton Mifflin Co., 1977. Pp. 365. \$15.95.
- THE AGES OF AMERICAN LAW. By Grant Gilmore. New Haven: Yale University Press, 1977. Pp. x, 154. \$10.00.
- ALGER HISS: THE TRUE STORY. By John C. Smith. New York: Penguin Books, 1977. Pp. xii, 495. \$2.95 paperbound.
- THE ANTITRUST PENALTIES: *A Study in Law and Economics*. By Kenneth G. Elzinga & William Breit. New Haven: Yale University Press, 1976. Pp. xii, 160. \$10.00.
- ARBITRATION IN SWEDEN. Stockholm: Stockholm Chamber of Commerce, 1977. Pp. xi, 212.
- ASIA'S NEW GIANT: *How the Japanese Economy Works*. Edited by Hugh Patrick & Henry Roskovsky. Washington: Brookings Institution, 1976. Pp. ix, 939. \$19.95 cloth; \$10.95 paperbound.
- AUTO SAFETY REGULATION: *The Cure of the Problem?* Edited by Henry G. Manne & Roger LeRoy Miller. Glen Ridge, N.J.: Thomas Horton & Daughters, 1976. Pp. ix, 144.
- BALANCING THE SCALES OF JUSTICE: *Financing Public Interest Law in America*. Washington: Council for Public Interest Law, 1976. Pp. xvi, 361. \$3.50 paperbound.
- BASIC INSURANCE LAW: *Cases and Materials*. 2d Edition. By Robert E. Keeton. St. Paul: West, 1977. Pp. xxvii, 1086.
- BILLBOARDS, GLASS HOUSES, AND THE LAW: *And Other Land Use Fables*. By Richard F. Babcock. Colorado Springs: Shepard's Inc., 1977. Pp. viii, 178. \$7.95 paperbound.
- THE CHILDREN'S RIGHTS MOVEMENT: *Overcoming the Oppression of Young People*. By Beatrice Gross & Ronald Gross. Garden City, N.Y.: Anchor Press, 1977. Pp. xvi, 390. \$9.95 cloth; \$3.95 paperbound.
- COLLECTIVE BARGAINING AND PUBLIC BENEFIT CONFERRAL: *A Jurisprudential Critique*. By Robert S. Summers. Ithaca: New York State School of Industrial and Labor Relations, 1976. Pp. xii, 65. \$3.00 pamphlet.
- COMPARATIVE CONFLICT OF LAWS: *Selected Essays, Vol. I*. By R.H. Graveson. New York: North-Holland Pub. Co., 1977. Pp. xvii, 379. \$34.95 (\$59.95 set of 2 volumes).
- THE COURTS AND SOCIAL POLICY. By Donald L. Horowitz. Washington: Brookings Institution, 1977. Pp. 309. \$11.95 cloth; \$4.95 paperbound.

- CRIMINAL LAW: *An Indictment*. By Richard J. Orloski. Chicago: Nelson-Hall, 1977. Pp. x, 146. \$8.95 cloth; \$4.95 paperbound.
- DENIAL OF JUSTICE: *Criminal Process in the United States*. By Lloyd L. Weinreb. New York: Free Press, 1977. Pp. xi, 177. \$12.95.
- THE DISPOSAL OF LIBERTY AND OTHER INDUSTRIAL WASTES. By Edgar Z. Friedenberg. Garden City, N.Y.: Anchor Press (reprint), 1976. Pp. xviii, 196. \$2.95 paperbound.
- DIVORCE OR MARRIAGE: *A Legal Guide*. By Howard L. Bass & M.L. Rein. Englewood Cliffs, N.J.: Prentice-Hall, 1976. Pp. xiv, 209. \$9.95.
- THE DOCUMENTARY HISTORY OF THE RATIFICATION OF THE CONSTITUTION: *Vol. I, Constitutional Documents and Records, 1776-1787*. Edited by Merrill Jensen. Madison: State Historical Society of Wisconsin, 1976. Pp. 391. \$20.00.
- THE DOCUMENTARY HISTORY OF THE RATIFICATION OF THE CONSTITUTION: *Vol. II, Ratification of the Constitution by the States—Pennsylvania*. Edited by Merrill Jensen. Madison: State Historical Society of Wisconsin, 1976. Pp. 779. \$27.50.
- ECONOMIC COERCION AND THE NEW INTERNATIONAL ECONOMIC ORDER. By Richard B. Lillich. Charlottesville, Va.: Michie Co., 1976. Pp. 401.
- THE EQUAL RIGHTS AMENDMENT: *A Bibliographic Study*. Westport, Conn.: Greenwood Press, 1977. Pp. xxvii, 367. \$19.95.
- ESSAYS IN NINETEENTH-CENTURY AMERICAN LEGAL HISTORY. Edited by Wythe Holt. Westport, Conn.: Greenwood Press, 1977. Pp. xv, 735. \$25.00.
- EVALUATING THE LABOR-MARKET EFFECTS OF SOCIAL PROGRAMS. Edited by Orley Ashenfelter & James Blum. Princeton: Industrial Relations Section, Princeton University, 1976. Pp. xvi, 238. \$5.00.
- THE EXECUTIVE REORGANIZATION ACT: *A Survey of Proposals for Renewal and Modification*. Washington: American Enterprise Institute, 1977. Pp. 17. \$2.00 pamphlet.
- THE FENCE: *A New Look at the World of Property Theft*. By Marilyn E. Walsh. Westport, Conn.: Greenwood Press, 1977. Pp. xvi, 215. \$13.95.
- FLOATING CURRENCIES, GOLD, AND SDRS: *Some Recent Legal Developments*. By Joseph Gold. Washington: International Monetary Fund, 1976. Pp. vii, 87. Pamphlet.
- FROM THE CLOSET TO THE COURTS: *The Lesbian Transition*. By Ruth Simpson. New York: Penguin Books (reprint), 1977. Pp. xi, 180. \$2.25 paperbound.

- GANJA IN JAMAICA: *The Effects of Marijuana Use*. By Vera Rubin & Lambros Comitas. Garden City, N.Y.: Anchor Press (reprint), 1976. Pp. xvi, 217. \$2.95 paperbound.
- GRATUITOUS TRANSFERS: *Wills, Intestate Succession, Trusts, Gifts and Future Interests*. 2d Edition. By Ellias Clark, Louis Lusky & Arthur W. Murphy. St. Paul: West, 1977. Pp. li, 1102.
- THE GREAT RIGHTS OF MANKIND: *A History of the American Bill of Rights*. By Bernard Schwartz. New York: Oxford University Press, 1977. Pp. xi, 279. \$11.95.
- HANDLING THE PROFESSIONAL LIABILITY CASE. Edited by Louis N. Massery, II & James E. Rooks, Jr. Association of Trial Lawyers of America, 1976. Pp. xii, 591.
- HOUSE OF REPRESENTATIVES JOURNAL VOL. III. Edited by Linda Grant DePauw. Baltimore: Johns Hopkins University Press, 1977. Pp. xxv, 900. \$28.50.
- THE IDEA OF LAW. By Dennis Lloyd. London: Penguin Books (reprint), 1976. Pp. 365. \$3.95 paperbound.
- THE IMPOSSIBLE DILEMMA: *Who Is a Jew in the State of Israel*. By Oscar Kraines. New York: Bloch Pub. Co., 1976. Pp. x, 156. \$6.95.
- INFLATION AND THE INCOME TAX. Edited by Henry J. Aaron. Washington: Brookings Institution, 1976. Pp. xv, 340. \$12.95 cloth; \$5.95 paperbound.
- INJUSTICE FOR ALL. By Anne Strick. New York: G.P. Putnam's Sons, 1977. Pp. 282. \$8.95.
- INSANITY INSIDE OUT. By Kenneth Donaldson. New York: Crown Publishers, 1976. Pp. xii, 337. \$10.00.
- JUVENILE JUSTICE STANDARDS PROJECT: *Standards Relating to Counsel for Private Parties*. By Joint IJA-ABA Commission on Juvenile Justice Standards. Cambridge: Ballinger Pub. Co., 1976. Pp. xi, 222. Paperbound.
- LABOR LOOKS AT THE 94TH CONGRESS: *An AFL-CIO Legislative Report*. Washington: AFL-CIO, 1977. Pp. i, 122. Pamphlet.
- LAND USE CONTROLS IN THE UNITED STATES: *A Handbook on the Legal Rights of Citizens*. By Natural Resources Defense Council, Inc., Elaine Moss (ed.). New York: Dial Press/James Wade, 1977. Pp. 362. \$15.95 cloth; \$7.95 paperbound.
- LAND-USE PLANNING: *A Casebook on the Use, Misuse, and Re-use of Urban Land*. 3d Edition. By Charles M. Haar. Boston: Little, Brown & Co., 1976. Pp. 1, 1084.
- LAW AND SOCIAL ORDER IN THE UNITED STATES. By James Willard Hurst. Ithaca: Cornell University Press, 1977. Pp. 318. \$15.00.

- LAWYERS, LAW STUDENTS AND PEOPLE. By Thomas L. Shafter & Robert S. Redmount. Colorado Springs: Shepard's Inc., 1977. Pp. xi, 252. Paperbound.
- THE LEGAL FRAMEWORK OF ENGLISH FEUDALISM. By S.F.C. Milson. New York: Cambridge University Press, 1976. Pp. xi, 201. \$18.50.
- THE LEGISLATIVE VETO: *Unseparating the Powers*. By John R. Bolton. Washington: American Enterprise Institute, 1977. Pp. 50. \$2.25 pamphlet.
- THE LIABILITIES OF OFFICE: *Indemnification and Insurance of Corporate Officers and Directors*. By Michael A. Schaeftler. Boston: Little, Brown, & Co., 1976. Pp. xviii, 326.
- THE MEDICAL MALPRACTICE DILEMMA. A roundtable moderated by John Charles Daly. Washington: American Enterprise Institute, 1977. Pp. 46. \$2.00 pamphlet.
- MORAL REASONING AND TRUTH: *An Essay in Philosophy and Jurisprudence*. By Thomas D. Perry. Oxford: Oxford University Press, 1976. Pp. viii, 229. \$11.50.
- MORALISTS AND MANAGERS: *Public Interest Movements in America*. By John Guinther. Garden City, N.Y.: Anchor Books, 1976. Pp. xviii, 262. \$2.95 paperbound.
- NEW PERSPECTIVES ON THE HOUSE OF REPRESENTATIVES. 3d Edition. By Robert L. Peabody & Nelson W. Polsby. Chicago: Rand McNally College Pub. Co., 1977. Pp. ix, 420. \$6.95 paperbound.
- ON TRIAL: *Masters of the Courtroom*. By Norman Sheresky. New York: Viking Press, 1977. Pp. xii, 246. \$8.95.
- ONE LAW: *On Jurisprudence and the Unification of Law, Selected Essays, Vol. II*. By R.H. Graveson. New York: North-Holland Pub. Co., 1977. Pp. xvi, 287. \$32.95 (\$59.95 set of 2 volumes).
- ONE MAN'S FREEDOM. By Edward Bennett Williams. New York: Atheneum Publishers, 1977. Pp. 344. \$4.95 paperbound.
- POLITICAL PARTICIPATION: *How and Why Do People Get Involved in Politics?* 2d Edition. By Lester W. Milbrath & M.L. Goel. Chicago: Rand McNally College Pub. Co., 1977. Pp. ix, 223. Paperbound.
- PRE-MEDITATED MAN: *Bioethics and the Control of Future Human Life*. By Richard M. Restak. New York: Penguin Books (reprint), 1977. Pp. xviii, 202. \$1.95 paperbound.
- PRIVATE PROPERTY AND THE CONSTITUTION. By Bruce A. Ackerman. New Haven: Yale University Press, 1977. Pp. ix, 303. \$12.95.

- PROFESSIONAL SPORTS & THE LAW. By Lionel S. Sobel. New York: Law-Arts Publishers, Inc., 1977. Pp. xxvii, 839. Paperbound.
- PSYCHIATRIC SLAVERY. By Thomas Szasz. New York: Free Press, 1977. Pp. xiv, 159. \$8.95.
- REGULATORY REFORM: *A Survey of Proposals in the 94th Congress*. Washington: American Enterprise Institute, 1976. Pp. 60. \$2.00 pamphlet.
- A REPORT ON CERTAIN LEGAL DEVELOPMENTS IN THE INTERNATIONAL MONETARY FUND. By Joseph Gold. Washington: World Ass'n of Lawyers, 1976. Pp. 40. Pamphlet.
- THE SHADOW GOVERNMENT: *The Government's Multi-Billion-Dollar Giveaway of its Decision-Making Powers to Private Management Consultants, "Experts," and Think Tanks*. By Daniel Guttman & Barry Willner. New York: Pantheon Books, 1976. Pp. xiv, 354. \$10.00.
- SIGNERS OF THE CONSTITUTION. Washington: National Park Service, 1976. Pp. xi, 355. \$6.40.
- SIGNIFICANT DECISIONS OF THE SUPREME COURT, 1974-75 TERM. By Bruce E. Fein. Washington: American Enterprise Institute, 1976. Pp. 148. \$3.00 paperbound.
- TAX POLITICS: *How They Make You Pay and What You Can Do About It*. By Robert M. Brandon, Jonathan Rowe & Thomas H. Stanton. New York: Pantheon Books, 1976. Pp. xvi, 297. \$6.95 paperbound.
- TWEED'S NEW YORK: *Another Look*. By Leo Hershkowitz. Garden City, N.Y.: Anchor Press, 1977. Pp. x, 409. \$12.50.
- UNION REPRESENTATION ELECTIONS: *Law and Reality*. By Julius G. Getman, Stephen B. Goldberg & Jeanne B. Herman. New York: Russell Sage Foundation, 1976. Pp. xvii, 218. \$7.50.
- THE WORKLOAD OF THE SUPREME COURT. By Gerhard Casper & Richard A. Posner. Chicago: American Bar Foundation, 1976. Pp. xiii, 118. Paperbound.