

It must be admitted that the law of evidence does not lend itself to containment in a one volume package, however, the author himself is frank to state that his treatment of topics and cases is highly selective, with no pretense to completeness. On the other hand, there are few living authorities in this field of the law who possess the breadth of experience necessary to compose a definitive treatise such as that now offered by Professor McCormick.

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THE LAW OF PRIMITIVE MAN: A STUDY IN COMPARATIVE LEGAL DYNAMICS, by E. Adamson Hoebel. Cambridge: Harvard University Press. 1954. Pp. 357. \$5.50.

Law exists in primitive societies, and its study has value for civilized peoples. Its paramount value is in suggesting excellent models and guides for the study of our legal system. In many important respects little is known about our law, its impact, and how it works. Legal scholars trained by the law schools have so concentrated on statutes, regulations, and judicial opinions in their research efforts that they have been blinded to anything else of significance. And there have been few competent scholars willing to concern themselves with our law who have not been educated as lawyers and become members of the profession. The conceptual structure of our law is mysterious to non-lawyers; the bench and bar have not encouraged examination by outsiders; the application of the law is often shrouded in professional, governmental, and business secrecy; and the whole subject of the law in modern civilized society is extremely complex because our society is so complex, and the law reaches into every aspect of modern life.

Despite geographical and communication handicaps, the study of primitive law is easier than the study of our law. There still are pre-literate peoples living mostly in isolated parts of the world who have not had their cultures destroyed by modern civilization; and anthropologists have been able to carefully observe these cultures, including their law. The relative compactness and simplicity of primitive cultures have enabled anthropologists to discern legal characteristics and interrelationships that are often less apparent in our society. And they have been able to analyze more objectively and imaginatively because they are free from the stultifying predispositions that make it difficult for them to accurately analyze their own culture.

THE LAW OF PRIMITIVE MAN summarizes much of the work that has been done on the subject. It also contains Hoebel's ideas as to how the study of primitive law should be organized, and concludes with some valuable generalizations about primitive law and society. Over half the book consists of detailed summaries of the laws of five primitive peoples: the Eskimo, the Ifugao of the Philippines, the Plains Indians including the Cheyenne, the Trobriand Islanders of the South Pacific, and the Ashanti of western Africa. Except for the Plains Indians, Hoebel apparently has had no personal field association with the cul-

tures involved, and his descriptions are drawn from the published accounts of other scholars.

Hoebel takes issue with some earlier anthropologists on several of their basic conclusions. He denies that primitive cultures have no law, only custom; and he demonstrates that even such undeveloped people as the Eskimo have a system of law that is important in the internal regulation of their society. He denies that primitive law usually has its origin in religion or is usually ritualistic. He disagrees with those who believe primitive government to be generally despotic, and instead concludes that it is usually democratic to the point of near-anarchy. Despotism he sees as the middle stage in the evolution of government from the democracy of primitive man to the democracy of highly developed civilized societies.

Primitive legal procedure is extremely varied from culture to culture. Yelling matches, melees, sing duels, ordeals, sorcery, and compositions are some of the devices used. Magic is often resorted to as a means of judging guilt. Sanctions, too, are extremely varied, with death more common than in our law. One major shortcoming of primitive law is its heavy reliance on self-help by the wronged person or his kin in procedure and sanctioning. This self-help is circumscribed by well-understood rules. Too frequently the interested parties exceed the rules, and retaliatory feuds and revenge killings result that are disorganizing and destructive. But more highly developed legal procedures exist. Some primitive peoples make use of impartial judges in certain legal-type controversies; occasionally there are persons who act as advocates; and the Ashanti have even developed a system of pleading, remarkable for a culture without writing.

Hoebel conceives of primitive law as an evolving, changing, flexible thing based on postulates predicated on the fundamental values of the culture. He sets out postulates for some of the cultures he discusses. Breach of the law in the individual trouble case that society must deal with he sees as the means by which the law grows. Cases and precedents build primitive law as they build our law. And he considers law as only one means of social control. Religion, magic, and custom also contribute to the ordering of primitive society; and they influence the form and content of the law. Law and government, he observes, are often divisible in primitive society. Law is merely one cultural expression, and "law divorced from its cultural matrix is meaningless."

Questions about our law that should be given more study can be drawn from *THE LAW OF PRIMITIVE MAN*. What is the relation of law to our cultural matrix and how does this matrix mold the law? This is an immense problem; and if lawyer-scholars are to aid in its solution, there must be a reorientation of their ideas about the scope of legal research. Other suggested questions include what fundamental value postulates are there upon which our law is based; do we have law divorced from government; why are civilized legal systems threatened with relapse to dictatorship; what is the function of legal concepts and how and why do they change; to what extent does our formal law in the books differ from the law in application and why; to what extent has our legal system moved from

status to contract; what part do religion, magic, ritual, and tabu play in our legal procedure; how much self-help exists in the enforcement of our law; how varied is our legal sanctioning system, both formal and informal; why do we have lawyers and what do they do; are there businesses and other professions that serve the same needs as do lawyers? This list could be extensively elaborated as closer study of primitive law disclosed analogies for the study of civilized legal systems. Anthropology is certainly not the only source of ideas for a broader and more penetrating study of our law, but it is a helpful one that has been neglected.

THE LAW OF PRIMITIVE MAN is a valuable book not only because Hoebel is an experienced anthropologist but because he has had the unique experience for a person in his field of working with an outstanding authority on American law, Karl Llewellyn. He and Llewellyn collaborated on *THE CHEYENNE WAY*, a study of Cheyenne law, and they have made a joint study of Pueblo law which is not as yet published. Llewellyn's influence on Hoebel is apparent throughout *THE LAW OF PRIMITIVE MAN*. No doubt, too, Hoebel has been an influence that has helped make Llewellyn one of the great creative minds in modern jurisprudence. More interdisciplinary combinations of this sort are needed in which lawyer-trained scholars are participants.

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MILITARY LAW, by Daniel Walker. Prentice-Hall, Inc., New York. 1954. Pp. 739.

Since the closing days of World War II the subject of military law has received considerable attention at the hands of legislators, lawyers and laymen alike. Congressional inquiry has resulted in drastic revision of the military legal system. Enactment of the Uniform Code of Military Justice and the promulgation by executive order, of the Manual for Courts-Martial 1951, heralded the inauguration of a unified system of military justice, tailored to meet the combined needs of each of our armed services, and designed to protect the fundamental rights and privileges of United States military personnel. Needless to say, many of these changes were not greeted with eager anticipation or even grudging cooperation by all military leaders. However, despite certain initial antagonistic feeling toward the innovations of the new Code and Manual, the new system today has all the appearances of permanence and acceptance by the armed services. Added protective measures have in practice tended to eliminate many of the flagrant injustices committed in the name of military necessity under the previous system, and most important, have forcefully impressed on our military leaders the simple fact that the American people intend to see that our basic fundamental principals of fair play and simple, honest justice are not overlooked when a citizen is called from his civilian pursuits into the uniform of his country.

This work by Daniel Walker is one of the most recent publications dealing with military law. Published as one of the Prentice-Hall Law School Series,