

BOOK REVIEWS

THE BRAMBLE BUSH—SOME LECTURES ON LAW AND ITS STUDY. By K. N. LLEWELLYN. New York: COLUMBIA UNIVERSITY SCHOOL OF LAW, 1930. Lectures X, Poem 1, pp. 158.

There are those to whom the law is sad and serious—too serious for such phrases as “bramble bush,” “anticipatory jawing,” “legal germicidal soap,” “gutlessness of second-year classes,” “the Bull Roarer comes,” “be an aspiring vegetable,” “wisecracking over the Yahoos in the sticks.” It must be approached with dignity. And as for approaching it with a poem—an *original* poem—what is the world coming to! To introduce ambitious and hopeful young men to our Lady of the Common Law by quoting in full Sandberg’s verses saying that “a hearse horse snickers hauling a lawyer’s bones”—surely this is near-sacrilege and complete self-debasement!

An inside source of information well supported by internal evidence gives to the reviewer the secret of such ribaldry. It is a method of showing how serious the author of these lectures is. He takes law as seriously as do any of his critics, more seriously than most of them. To him, instead of a mere bramble bush, the law is a vast lake, fed by pure artesian springs. Its surface is betimes rippled by the merry little breezes; again, it is disturbed to angry waves by the storms of dogmatic doctrine; near the shore, it is befouled with the mud and sewage of coneyisland multitudes. But underneath, it is forever calm and pure, and majestic in its accumulated power. Therefore, he must off with all his clothes and in modest nakedness dive far into the cool pure depths—indeed, a shocking spectacle to the legal spinsters who have forgotten how to spin, opening their veiled eyes just in time to see a hairy leg and disappearing toes.

What a tribute he pays to the judges! He does not stop with showing up their errors, their “grotesque reasoning,” their demonstrated inferiority to the professor. As he watches “the heaped-up cases through the centuries,” he becomes a mystic and a worshipper. To him the law is drama, poetry, beauty, life. It is the “fascinating record of the human tribe,” “each opinion a human document, each case a human struggle, warm with life, each changing rule a motion of the giant whose hand controls your destiny and mine.”

Will these lectures, read or listened to, do any service of value? Without a doubt they will. They are the best introductory lectures the reviewer has seen. They do not merely outline the dry bones of the law; in the main, they will create impressions, some of which, at least, will stick a long time. Will his listeners understand him? Doubtless not. But they will observe him: a curious man, with poetic understanding, full of enthusiasm for his science and his trade, with high respect for that “multitude of concrete instances” that inspires only disgust and weariness in the minds of the non-industrious small and the overconfident great. Why study concrete instances? Are not all concrete instances individual and different? Why not approach life with magnificent unprejudice? Judge each case as it arises, by internal combustion. Not thus, the author of these lectures.

What are the defects of these lectures? Let their author be condemned out of his own mouth. They are “canned stuff” that he has “stored upon his shelf.” “You sit back and he will pour it out. Thick, with a little pepper”; but *not* “devoid of vitamins.” No doubt he takes “pleasure in observing our hungry

faces as we lap it up." These are lectures, full of general propositions; and "general propositions are empty." Being among those "who come eager to learn his rules and who do learn them," we "take away the shell"; particularly this shell, "The concrete instance, the heaping-up of concrete instances, the present vital memory of a multitude of concrete instances, is necessary in order to make any general proposition, be it rule of law or any other, mean anything at all." To the student it may well be that this proposition will be as empty as all the others. Such generalizations as these must be fed out sparingly as the student slowly accumulates the concrete slices of bread on which to butter them.

Sandberg's lawyer, over whose bones the hearse horse snickers, knows almost less law than Sandberg. His eyes were scratched out by the first thorny contact, and he has remained blind. Llewellyn's remedy is more law. "No cure for law but more law." Hence, "The Bramble Bush."

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THE ELEMENTARY PRINCIPLES OF JURISPRUDENCE. By GEORGE W. KEETON. London: A. & C. BLACK, LTD., 1930, pp. xii, 324.

It is refreshing to read an English work on Jurisprudence that attempts to go beyond the limits of Austin and Holland. It is a satisfaction to find a young lawyer who is able to grasp new ideas without madness, and to handle such divergent authorities as Austin and Maine, Gray and Frederic Harrison, Hohfeld and Pound. The development of English jurisprudence through Sir Frederic Pollock and Salmond is in flower. Mr. Keeton divides his work into three parts, the State and the Law, Fundamental Juristic Conceptions, The Arrangement of Law. The treatment is elementary, but this enables the author to keep his meaning clear, if not deep. The work has many excellencies, which ought to make it useful for the learning of elementary jurisprudence—if there can be such a thing, when the study of jurisprudence calls for all the knowledge of a trained lawyer, and all the judgment that comes with long experience in legal thought.

The necessity of teaching novices in law the science we call jurisprudence seems to blame for the attempt to state the gist of the law in a few brief chapters on property, obligation, and the rest. The authorities cited are a little curious. In the chapter on Conflict of Laws, for instance, Story and Harrison are the authorities relied on. Story is of course fundamental, though early. Harrison, positivist, whose work was tardily printed after its author had been forgotten, is as near the absolute zero in influence as may be. For all that appears, Dicey (whose work in other fields the author quotes) was quite unknown to the author, as were the Americans since Story.

This paucity of authority is characteristic. Of the great Germans the only one cited is Jhering, and that only in one or two translated works. Stammler and Kohler, Kantorowicz, Ehrlich and Jittelmann might never have existed. Not an Italian author is cited, though the genius for law is in Rome. Gray's *Nature and Sources of the Law* he uses freely. Hohfeld's work he knows, and two of Dean Pound's published lectures, but not his epoch-making articles on Sociological Jurisprudence. Of other contemporary American thought he seems entirely ignorant, though it is here that the battle between the legal order and behaviorism is being fought. In short, he knows nothing of the law in action in the American law-school magazines.