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Book Reviews

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Book Reviews

STUDYING LAW. Edited by Arthur T. Vanderbilt. New York: Washington Square Publishing Company, 1945. Pp. viii, 753.

John Burroughs, the great naturalist, tells us that his father taught him to swim by taking him in a boat to the middle of a deep pool on their farm and throwing him overboard. His instinct for survival overcame the fluid obstacles to his breathing and he swam ashore. To a considerable extent, we seem to have used the same technique in teaching beginning law students how to study law. Many a practicing lawyer will testify that the most agonizing experience of his intellectual life was his first few weeks in law school and the records of every law school registrar will disclose the names of those too paralyzed by the shock of the sudden plunge into the icy waters to survive.

It is not to be supposed that the law teachers were unaware of what they were doing. In some instances, their pedagogy has been deliberately patterned to permit a selective process something akin to a "survival of the fittest." In a few schools, introductory materials were prepared and classes held with the express idea of teaching the student to study law as distinct from teaching him the law or legal analysis. In the majority of institutions nothing has been done because no agreement could be reached on the best method of solving a most difficult problem. It is characteristic of Dean Vanderbilt that, seeing a problem, he refused to be daunted by the difficulties of satisfactory solution. The book under review represents at least his partial answer.

In addition to an introduction by the editor, it consists of a selection of carefully edited materials previously published separately, as follows: 24 pages from Beveridge's "THE YOUNG MAN AND THE WORLD," entitled "THE YOUNG LAWYER AND HIS BEGINNINGS"; 130 pages from Zane's "THE FIVE AGES OF THE BENCH AND BAR OF ENGLAND"; 208 pages entitled "ELEMENTS OF LAW," made up primarily from the editor's classroom notes on lectures by Professor Munroe Smith, in an introductory course of that title given at Columbia University some years ago; 60 pages entitled "AN INTRODUCTION TO AMERICAN LAW" by Roscoe Pound; and 54 pages entitled, "A SURVEY OF SOCIAL INTEREST" by the same author, being revisions of previously published articles on jurisprudence by Dean Pound; 36 pages "DETERMINING THE RATIO DECIDENDI OF A CASE" by Professor Goodhart; 8 pages on "INTERPRETATION OF STATUTES" by Dean Pound; 60 pages on "HOW TO USE DECISIONS AND STATUTES" by the late Professor Wambaugh, from the introduction to Cooley on "BRIEF MAKING;" 26 pages of Wigmore's "JURY TRIAL RULES OF EVIDENCE IN THE NEXT CENTURY" from "LAW: A CENTURY OF PROGRESS"; 58 pages from Dean Vanderbilt's report on pre-legal education presented to the American Bar Association; and 22 pages entitled, "FINDING YOUR PLACE IN THE LEGAL PROFESSION," from a report by Charles Stephens from a report of the

Special Committee on Economic Conditions of the Bar of the American Bar Association.

The contributions from Dean Vanderbilt's own pen seem to me to be much the most satisfactory—the introduction, the report on pre-legal education, and the notes on Professor Smith's lectures, which suggests that the purpose might be more nearly achieved if the editor wrote his own book instead of collecting the essays of others. Professor Wambaugh's little guide has proved its usefulness to beginners completely unfamiliar with the books and concepts they are expected to use, and Goodhart's article is by way of becoming a classic study of the judicial process, though perhaps some of its merit may be wasted on a reader completely unacquainted with the material used for illustrative purposes. However, even these chapters lose some of their value because, as in any collection of readings, they are not completely integrated and there are abrupt transitions inadequately bridged. And when we evaluate the contributions of Beveridge, Zane and Pound, I am highly skeptical. Our students at Missouri are not very sophisticated or disillusioned, but I believe most of them would consider Senator Beveridge's advice sententious, uninspiring, and anachronistic. Mr. Zane attempted too much in too short a space, and the rich panorama of English legal history—and the story of the lawyers and judges who made it—becomes a meager recital of names and events of the type which frequently has made the study of history repellant and without significance to the reader. And if the fledgling lawyer can wade unaided through Dean Pound's elementary outline of jurisprudence without a deepening of the very despondency this book is designed to alleviate, I shall be very much surprised.

Is it worth while to attempt to give prospective law students materials to enable them, by their unaided effort, to make the transition from general pre-legal education to formal law courses? I am inclined to string along with David Harum, who did not insist that his new employee should have "been through a trainer's hands. In fact, I would rather break him in myself, and if he's willing and sound and no vice, I can get him into shape." This does not mean that we of the law schools are doing the best possible job already; rather, in conjunction with what has been said above, it implies that we should devote some time, from an already badly crowded three years, to the specific purpose of introduction to the study of law. Student materials designed to be used in conjunction with class room exercises would probably differ from those prepared for self study. And if the student arrived with a broad background of general reading—including, perhaps, Senator Beveridge's *Life of Marshall* and some of the other books on the Harvard list, in addition to a solid foundation and interest in economics, sociology, philosophy, psychology and what not, so much the better.

But lawyer fathers are apt to want to give their sons a head start. Perhaps Dean Vanderbilt's book will replace Blackstone as he hopes it will.

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ANNUAL SURVEY OF AMERICAN LAW. 1942, 1943. New York University School of Law. Pp. lxiii, 994; lvii, 962.

Readers of the *MISSOURI LAW REVIEW* familiar with its annual survey of the work of the Missouri Supreme Court will feel at home with these volumes. Each consists of a collection of papers on developments in the law of a particular field during the year named. The authors are largely full or part time instructors on the faculty of New York University Law School. Unlike the Missouri studies, these symposia are not confined to the decisions of a single court. They are concerned with all expressions of legal thought, whether in statute, decision, or monograph, anywhere in the United States. The breadth of material considered permits selection of interesting and significant points for discussion; at the same time it prevents detailed presentation or exhaustive analysis.

Accurate appraisal of such volumes by a single reviewer is almost impossible. Lacking the omniscience of a Roscoe Pound, I can only say that in the fields where I have attempted to keep up with legal thought, the surveys seem to be of a high standard, to have covered the important material and to present it interestingly and in a way which facilitates further investigation by the interested reader. As the general style employed in the articles in other fields is quite comparable, I think it is a fair assumption that the coverage and selection is equally good.

These books are definitely on a professional level. How useful they will be, depends pretty much on the individual lawyer. I find that many of us have a hard time keeping up with current legal thought. We employ many devices to assist us in the task, such as check lists for law reviews, ALR check lists, advance sheets, et cetera. These annual volumes will not replace such mechanical reminders or obviate the necessity of going to the sources, but they should be a useful supplement. The value of each volume is real, but, I suspect, not permanent. It chronicles the fact of statute or decision, but can synthesize the law or evaluate it only to a limited extent.

The two volumes here reviewed may well have special appeal to veterans who want to catch up on the years lost in service. They seem admirably suited to that purpose.

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