
Berman and Greiner: The Nature and Function of Law, 2nd Edition

Rev. John T. Richardson C.M.

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BOOK REVIEWS

The Nature and Function of Law, 2nd Ed. By HAROLD J. BERMAN AND WILLIAM R. GREINER. Brooklyn: Foundation Press, Inc., 1966. Pp. 974. \$9.75.

The Nature and Function of Law is a publication that rests on two assumptions: an informed citizen today must be acquainted with law; knowledge of law in some depth and with a wide perspective is possible without a formal legal education. To validate these assumptions the authors have prepared a description of American law that throws as much light on our legal system as any single book in economics can throw on our economic system.

This volume is not intended to prepare anyone for the practice of law. It is for the liberal education of the person who wants to understand how ideas from philosophy, history, anthropology, economics, and sociology have coalesced to form the legal structure of our social order. The topic is so broad that the authors were forced to select those aspects of civil and criminal law and procedure that best illustrate what law essentially is and what purposes it can serve for the individual citizen or for society. The emphasis is on the theories that underlie a particular field of law, its historical evolution, the comparison between the Anglo-Saxon and other approaches to the particular field of law, and its sociological implications. The more technical aspects of the law are left to law school texts and other legal treatises.

The contents of the book fall into four major themes: (1) law as a process of resolving disputes depends upon a maze of procedures and the well-defined roles that must be played by the judge, jury, advocates, and others who move through these procedures to a decision; (2) law is carefully devised reasoning that draws from precedent and statute to assure historical continuity and consistency in a changing society; (3) law, and especially contract law, protects and facilitates voluntary arrangements; (4) the resolution of acute social conflicts is the function of law, here illustrated by the role of labor law.

As theoretical as the purposes of this book may be, the reader constantly sees the practical application of ideas in a great variety of well-selected cases. He also sees a number of conflicting theories of law rather than a single philosophy. The experienced lawyer would find here new vistas of the law and new relationships between seemingly disparate details of the law.

Books like *The Nature and Function of Law* are essential in a society that is witnessing constant attacks on the basic notions of law and order. This is an ideal text in a collegiate liberal arts curriculum. It should find its counterpart in texts for the lower levels of our educational system if more people are to understand how law is the first defense of justice and equality. A person cannot apprehend the sources and tradition of our legal system without growing in appreciation of the law. Our legal order is not perfect, but rational criticism and positive changes can arise only from a deep and balanced view such as the authors present in this volume.

(REV.) JOHN T. RICHARDSON, C.M.*

* Executive Vice President, Dean of Faculties, DePaul University; S.T.D., Collegium Angelicum, 1951.