

Snyder: Preface to Jurisprudence - Text and Cases

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The rules of evidence, developed from the hit and miss system of trial and error incident to adversary proceedings, are subject to variation and re-adaptation to new cases as experience proves necessary. In their ultimate resolution, the process is necessarily slow but thus far, it has not worked so badly. I feel we should be equally slow to cast that process aside for the supposed panacea of a formulated rule, which, no matter how buttressed it may be by experience, must by its very nature, be largely *a priori*. The simplicity of code revisions may be deceiving, and as a means of "arriving at the truth," I am cynical enough to believe that, at least in the field of evidence, they leave Pilate's question still unanswered.

I think it would be well if every trial practitioner read at least one book on evidence each year—a book that presents the entire subject within reasonable compass. The longer treatises can best be used for reference and amplification. I believe this should be done in addition to the occasional job of briefing a point of evidence for use in court. Research on specific points is a necessary part of the handling of litigation, but a hundred briefs do not add up to a comprehensive grasp of the subject as a whole. The rules of evidence are so interwoven that the pattern cannot be seen by following individual threads. McCormick's book is comprehensive, but not to the point of being burdensome. His style is clear and flowing, his phraseology is simple, coherent, connected and balanced and singularly free both from that professional jargon and legalistic stodginess that is not only the curse of so much "legal" writing, but so often serves merely as an ostentatious cloak to a complete vacuity of ideas. I found a great deal of pleasure in going over it, and indeed, lingered on some parts longer than time would afford. Whether you read it or use it for reference, it is an extremely handy tool in the workshop of the lawyer.

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Preface to Jurisprudence—Text and Cases. By ORVILL C. SNYDER. Indianapolis: Bobbs-Merrill Co., Inc., 1954. Pp. xxvi, 882. \$10.00.

It is not easy to assay a casebook about jurisprudence. The subject is so mercurial and the possible approaches to the inquiry so numerous that analysis of the book becomes largely subjective. The author of *Preface to Jurisprudence* makes the task doubly hard. He informs us in the Foreword that his book was "prepared for use in courses in jurisprudence especially in law schools, but also in political science departments of colleges and universities." He also expresses the hope that lawyers and judges may find the book useful. By directing his material at two groups who are unequal in experience with, and comprehension of, the law—lawyers and students—Professor Snyder may have tried to accomplish too much.

The author's approach to the subject however is entirely satisfactory. It is to examine the meanings of such words as law, state, sovereignty, legislative, judicial, executive, proof, right, liability, duty, power, privilege, immunity, property, thing and person; words which are as common as their meanings are obscure. He develops the study along traditional lines, introducing each subject with searching text analysis and then illustrating how each idea affects law by ample use of case material and examples.

The book is large and possesses several virtues of a technical nature which add greatly to its effectiveness. For instance, the cases used are uniformly interesting and current, while the table of contents is one of the most complete ever seen in a casebook and would make an excellent outline of the material contained in the book.

That the author has compiled a casebook which is scholarly and complete cannot be doubted. With such attributes he can expect to attract those members of the bar who

conscientiously and energetically quest for knowledge about and evaluation of those general, basic principles which do or should guide society along a path of order.

Much more difficult to impress will be the minds of students who come to the battlefield of jurisprudential conflict, often with enthusiasm, but totally unprepared for the disheartening confusion which generations of writers have contributed to the strife. He will not be far along in his study of *Preface to Jurisprudence* before he is struggling with a welter of definitions, distinctions and comparisons. That effective participation by students in classroom discussion could follow seems unlikely. Perhaps the trouble stems partly from the author's own style of expression, which at times reads more like a lecture than studied prose. A substantial obstacle is doubtless the paradox of reducing to the simple that which is complex. And yet someone has to do just that if our law students are ever to see in the legal profession more purpose than could be found had they turned their talents to carpentry or plumbing.

It is surely no easy labor which Professor Snyder has undertaken. It may well be doubted whether any discipline has been subjected to as much impropriety of language and razor-thin distinctions as has jurisprudence. It was the author's task to first trap this material and then present it in intelligible form. That he has his quarry caged is certain; that the author draws a clear enough picture of the beast for an uninitiated reader, this reviewer seriously doubts.

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