

Looking at the longish list of authors of this book should suggest to the college or university teacher that a number of law teachers share a firm conviction that law is an unjustly neglected part of general education—and that these new teaching materials fill a true need.

Indeed we have long found it striking that most of even the best-educated students leave college in unblemished ignorance of the concept of law and with little idea of the legal system under which they have lived and will live. The would-be educated citizen, and surely the graduate beginning any of many specialized disciplines, cannot justify such ignorance. A survey course on introduction to law provides a ready cure, while not only enriching the mind but also usually providing a lot of fascinating fun. But we are getting ahead of ourselves by addressing this question of why even a generalist should take a survey course on law. Section Three of the General Introduction, which begins the book, makes, to the students, what turns out to be the easy case for including law in the program of general education.

The harder question is how a teacher should try to introduce law. Certainly a survey of the contents of law, studying contracts in a nutshell and then torts and so on, makes little educational sense. Leaping instead to the abstract level of legal philosophy, without first providing students with sufficient concrete information, results in conveying little. Worse yet and perhaps even detrimental is the popular but ineffective approach of reprinting selected interdisciplinary readings that deliver strong opinions about particular aspects of law to an audience of novices who know too little about the subject to engage it. In brief, the shortcomings of all three of these approaches reflect the oft-noted difficulty of trying to teach anything about law without somehow managing to teach all of law.

The correct approach must be more analytic, breaking law down into a manageable number of comprehensible units that students can assemble into a coherent concept of law. This approach would put natural bounds on and give a sense of direction to an introductory book and course, affording students a perceptible sense of concrete but significant learning. However, the most common analytic approach divides law into its principal institutions of the judiciary, legislature, executive, and administrative agency. This parochial division distorts the operation of law. Law actually performs its social tasks by collaborative effort, with roles for private persons as well as for players such as courts, legislators, and other official actors.

A sounder and more comprehensive breakdown, we think, would look at the means and ends of social ordering through law. We therefore try to get at what law is by examining, first, how law does what it does and, second, what it can and cannot do. We present law as a set of five basic techniques for addressing many problems of any society. That is to say, the essential *nature* of law lies for us in its problem-solving *functions*, subject to the critical concession that law has

very real and serious *limits* on what it can accomplish. We believe this approach is the most productive and accurate way to learn and think about law. But again we are getting ahead of ourselves. Section Four of the General Introduction further outlines this instrumentalist conception of law.

As to the book's structure, the focus will fall first on the variety of law's available techniques and their limits. See especially the Introductory Note to Part One. The focus will then shift to the subsidiary matter regarding the basic social functions on which the law's techniques are commonly put to work. See especially the Introductory Note to Part Two.

Both of these two major parts of the book subdivide into chapters. Part One comprises Chapters 1 through 5. These chapters respectively treat the five basic legal instruments for social ordering by studying how law acts through remedying grievances, imposing punishment, regulating administratively, conferring public benefits, and facilitating private arrangements. The first of these chapters is by far the longest, because it provides the background invoked in the subsequent chapters. Each of the chapters contains eight sections that flesh out the particular instrument in a logical and comprehensive manner, encouraging comparative analysis along those lines of the instruments' principal differentiating characteristics. Together these five chapters offer an overview of the means at law's disposal.

After Part One so treats the instruments of law in order to show how law does what it does, Part Two applies them to a few selected social tasks. Sketching the law in action there elaborates what the law can do and cannot do. Although we divide the book into Part One on the means of law and Part Two on the ends of law, our hope throughout is to convey a sense of the nature, functions, and limits of law.

Thus, our analytic approach dictates a highly structured book. Its parts, chapters, and sections follow a pattern. For the most part they need not be taught in the order they appear, but conveying the pattern will remove much of the confusion from whatever route is taken through the book.

Our approach is not untried. In 1965 Charles G. Howard & Robert S. Summers produced *Law: Its Nature, Functions, and Limits*. In 1972 Professor Summers revamped the book into its successful second edition. In 1986, Doris Marie Provine, John J. Barceló III, Sheri Lynn Johnson, Robert A. Hillman, and Kevin M. Clermont turned out its third and final edition. Years of teaching experience with it only heightened our appreciation of that book and our resolve to sustain it. We therefore produced this revamped set of materials. We built on the 1986 book, including the excellent contributions to Chapters 3 and 4 by Marie Provine and Jack Barceló, who were unable to continue on the project. Our aim was to turn out an even more provocative, readable, and teachable book.

Robert S. Summers is a distinguished senior professor at Cornell Law School. Among his areas of great strength is jurisprudence, where he has carefully developed the framework of his ideas by a prodigious flow of books and articles. We owe the conceptual structure of this book to him. See, e.g., Robert S. Summers, *The Technique Element in Law*, 59 Cal. L. Rev. 733 (1971); cf.

Kevin M. Clermont & Robert A. Hillman, *Why Law Teachers Should Teach Undergraduates*, 41 *J. Legal Educ.* 289 (1991). Unfortunately, his heavy research commitments precluded active participation in the new book. The traditional acknowledgment accordingly is particularly appropriate here: he deserves much of the credit for this book but absolutely none of the blame for those passages where we wandered from the path. We collaborated on much of the work, but the following paragraphs describe the allocation of ultimate responsibility.

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Robert A. Hillman, with a B.A. from the University of Rochester and a J.D. from Cornell Law School, followed a federal clerkship with New York City practice and then a teaching career. He specializes in contracts and commercial law, and he has written extensively in those fields. He prepared Chapters 3, 5, and 6.

Kevin M. Clermont, with an A.B. from Princeton University and a J.D. from Harvard Law School, also followed a federal clerkship with New York City practice and then a teaching career. He specializes and writes in civil procedure. He acted as coordinating author, and he also prepared the General Introduction, Chapters 1 and 4, and the book's connective materials.

We three would like to take this opportunity to thank our students Emily Derr, Mark Grube, Meli Maccurdy, Kelly Mellecker, Matthew O'Connor, and Dana Westberg for their excellent research assistance—and indeed to thank generations of undergraduate students and teaching assistants for their reactions to our previous materials. In the publication phase, Susan Boulanger's editing and Troy Froebe's production skills proved invaluable.

Finally, as to conventions in preparing this book, note that we used the original numbers for footnotes by judges in judicial opinions and by authors in quoted materials, when we retained their footnotes. We omitted other such footnotes without any indication. We lettered rather than numbered our own footnotes. We also omitted many case and statutory citations by courts and commentators without so indicating. On those mundane notes we close, but with the grand hope that teachers and their students will come to agree that this book usefully fills a gap in general education.

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