

NEW YORK UNIVERSITY
SCHOOL OF LAW

WASHINGTON SQUARE, NEW YORK 3, N.Y.

FACULTY OF LAW

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TELEPHONE: SPRING 7-2000

Professor Piero Calamandrei
Borgo Albizi 14
Florence, Italy

Dear Professor Calamandrei:

Mrs. Cahn and I are very grateful for your New Year's greetings. We trust that 1953 will be a happy and productive year for you.

Recently at my suggestion Chief Justice Arthur T. Vanderbilt sent you a copy of his recent casebook on procedure and judicial administration. This book is designed for the use of American law students, and its form reflects some of the latest notions of teaching procedure. I wrote a review of the book for the New York University Law Review, and Chief Justice Vanderbilt has asked me to send you a copy of my book review in order that you may understand the objectives attempted to be realized in his casebook. Accordingly, I have torn out the pages in question and enclose them.

Mrs. Cahn and I are presently enjoying the recently published English translation of Papini's biography of Michelangelo. Of course anything that reminds us of our journey through Italy possesses a special aura of enjoyment.

With best regards I remain

Sincerely yours,

Edward Cahn

EC/dk

Enclosure

BOOK REVIEWS

CASES AND OTHER MATERIALS ON MODERN PROCEDURE AND JUDICIAL ADMINISTRATION. By Arthur T. Vanderbilt.¹ New York: Washington Square Publishing Corp. 1952. Pp. xx, 1390. \$8.50.

This casebook is the result of a head-on collision between Chief Justice Vanderbilt headed toward the future and the traditional course in judicial procedure headed toward the past. Anyone acquainted with the judge could have predicted the outcome. Whatever was archaic and antiquarian in the procedure course did not stand a chance. If I were a teacher of the subject, I should in all probability react as we always do when a really important reform appears on the scene, that is to say, I should first challenge the necessity of the reform, then criticize its direction, then carp at its details, then grumble about the additional burden it imposes, then accept it grudgingly, and—two school terms later—denounce my unenlightened colleagues who did not immediately recognize its validity. This is the “lawyer-like” way to greet the advent of progress.

It has seemed to me that, in general and making full allowance for laudable exceptions, no element in our law school curricula justifies the uninformed layman’s picture of our profession so much as the freshman procedure course. In many law schools, it is exactly what the uninformed layman would expect—a melange of theory that is obsolete, technicalities that obscure rather than clarify the controversy, and dialectic virtuosity that does more credit to our wit and shrewdness than to our concern with the sound administration of justice. All this would be highly consonant with our uninformed layman’s expectations. In point of fact he would be rather astonished to hear that in a course on Torts we endeavor to teach the contemporary law of torts, and that in a course on contracts we do not linger very long in the 17th century. Perhaps Chief Justice Vanderbilt has been rather naive to expect something similar on the adjective side. He actually seems to believe that a first or second year course in procedure should teach a student what a lawyer does today when a client comes to him with a case.

In most law schools the procedure course seems to suffer from a first and second mortgage. The first mortgage, which need not be large but sometimes is, consists in charging that course with the duty of teaching the common law forms of action so that to the extent they may be relevant in substantive courses knowledge thereof may be taken for granted. This seems sensible unless a vast disproportion arises—as it frequently does—between the very extensive information conveyed in the procedure courses and the very limited information needed for the substantive subject. The excess information should probably form part of the second mortgage imposed on the procedure course.

The second mortgage consists in the more or less unchallenged

¹ Chief Justice of the Supreme Court of New Jersey.

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