

Means should and can be found of imposing reasonable restrictions on such a contractor's work so that he may not undermine union standards but at the same time not be deprived of earning a livelihood.

Again on page 262 of his book Mr. Lieberman fully criticizes labor organizations for their intolerance and bias towards those of different race, creed or color. In concluding a discussion of the case of *Steele v. Louisville and Nashville Railroad*,² involving racial discrimination and the duty of the majority in a labor union to the minority, the author states:

One would suppose that a group or class which itself has been suffering from suppression and injustice would be likely to be fully sympathetic, sensitive, and responsive to the needs of other minorities which similarly suffer from prejudice. But that is not necessarily the case. The labor movement in the United States, which had been seeking justice and fair play from employers, had to be reminded of the maxim that "he who seeks justice must do justice."

The development of the cases demonstrates that the author possesses a well-trained legal mind. In presenting each case the author analyzes the fundamental issue or issues involved, the contentions of the various parties litigants, the action of the court, the author's conclusion, and his evaluation of the case. The intense drama of the courtroom is not present. One may speculate as to whether the title, "Unions Before the Bar," was not the brainchild of the publisher who understandably was seeking popular appeal.

We may say in conclusion that the author has usefully brought together a group of leading labor cases, amply documented, in an important period of labor history. While not provocative, the book is nevertheless informative.

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COMPARATIVE LAW, CASES AND MATERIALS. By Rudolph B. Schlesinger. Brooklyn, N. Y.: The Foundation Press, Inc. 1950. Pp. xxxiv, 552. \$7.50.

It is a pleasure to welcome this book to the growing field of comparative literature, particularly since it presents the first concrete attempt to furnish teaching materials "of the kind with which American law students are familiar."¹

A brief glance at the contents reveals that the book is divided into three parts. The first part dealing with the nature of a foreign law problem concerns itself chiefly with proving foreign law in our courts. Professor Schlesinger justifies the inclusion of this matter primarily because this is the usual way the practicing lawyer is first introduced to the rules and principles of the civil law. An idea of the extent of the subject can best be obtained from the following enumeration of some of the more important matters dealt with in this part: Foreign law as a "Fact," Techniques of Proving Foreign Law (e.g. "official" declarations, certificates and certifica-

2. 323 U.S. 192 (1944).

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1. Author's preface p. ix.

tions; proof by experts, necessary qualifications of a foreign law expert, the art of examining and cross-examining foreign law experts), Failure to Plead and Prove Foreign Law, the latter classification including the subject of presumptions and judicial notice. In addition this part of the book covers information regarding legal education in civilian countries, especially France and Germany. Valuable sources of information giving extensive treatment of this subject and describing legal careers and legal training in most continental countries are noted.

The first part concludes by considering the various sources from which the American lawyer can be expected to find his materials when faced with a problem arising under the law of a civil country. He will be chagrined, however, to learn that although the available materials include bibliographies, digests, the codes, law reports, commentaries, legal periodicals, dictionaries, textbooks, and others, many of them will not prove useful to him, since these tools of the trade are not in the English language and translation difficulties often add to the confusion. There is, nevertheless, a wealth of material to be found in the legal periodicals of this country, so that the problem noted above can be minimized even though the lawyer or the student has no familiarity with any foreign language.

The second part of the book notes the fundamental differences in methods and sources between the common law and the civil law. In an introductory caveat to this part, Professor Schlesinger inserts materials showing the contrast between the printed word and actual practice with a view to throwing light on the corruption of the legal and administrative machinery in totalitarian countries. By way of parenthesis, it might be suggested that he is not realistic, as it is common knowledge that in most communities the formal façade of authority is not always the whole fact, and this is still true even in the democratic countries of the world. If his purpose is to show that to be democratic, authority conjoined with effective control must be widely shared, he does this by the negative examples of effective control without formal authority.

After a brief historical background of civil law procedure, the second part continues with materials on the essential procedural elements to be found in modern civilian countries, particularly France and Italy. However, the largest portion of this part is devoted to the substantive law in the code systems. It is here that the book provides conveniently the most important comparative law materials. While its focus is on the primary sources necessary to give a sense of reality and to encourage understanding, the selections are given background and continuity by Professor Schlesinger's notes which are generously sprinkled throughout the volume. Since practically every code in any civil law country is based to a greater or lesser degree upon the codes of France, Germany and Switzerland, Professor Schlesinger outlines the organization of the first two and refers to the third one in a note following this classification in order to point up a difference apparently existing among the three codes. For the convenience of

the reader the classification of the French and German codes is given in the footnote below and contrasted with the common law system.²

Of interest to the common law student will be the exposition of the theory of judicial decision. Consideration is given to the weight which is accorded to judicial precedents in civil law countries, to custom or customary law, to the function of general clauses overriding specific provisions, to the interplay of civil and commercial codes, reasoning by analogy, and so on.

The second part ends with the special hazards of comparative law. Translation difficulties and differences in classification are evidently two of the categories likely to create misunderstanding and to give rise to conflicts.

The third part of the book deals with selected civil law problems confronting American practitioners and is outstanding for its brevity. Only about eighty pages are devoted to the treatment of illustrative materials. In his preface, however, Professor Schlesinger makes it clear that he did not wish to present any particular subject, "but to put emphasis on sources, techniques and system of civil law. . ."³ The illustrative subjects of the foreign law include contracts, agency, corporations and conflicts.

It is to be noted that Professor Schlesinger did not include the common law counterparts of the civil law materials used. He did this for a variety of reasons, but his chief motive was to stimulate the students into making "their own contributions by way of supplying the common law part of the comparison."⁴

The selections have been gathered from a wide range of sources—articles, commentaries, opinions, etc. An up-to-date bibliography shows the great abundance of comparative legal literature. Thus even though the book makes no attempt to compare the civil law with the common law, it furnishes the sources, the method and the approach by which the student can make the juxtaposition.

To be regretted is Professor Schlesinger's exclusion from the book of the legal system of the Soviet Union, since for the purpose of comparison it would be an exceedingly valuable experience for lawyer and student alike to acquire an understanding of the system as it operates upon private rights and to witness the apparent revival of traditional conceptions under the restrictive conditions of a socialized state. In justification of this, Professor

2. FRENCH	GERMAN	COMMON LAW
Persons	General principles	Law of
Property	Persons (natural	1. Persons
Modes of acquiring ownership	(juristic	2. Property
Succession	Things	3. Contracts
Gifts inter vivos and wills	Legal transactions	4. Torts
Contracts	Computation of time	5. Crimes
Quasi contracts	Prescription	6. Remedies
Delicts and quasi delicts	Exercise of rights	7. Government
Marriage	Giving of security	
Sales, exchange, bailment	Law of obligations	
Partnership	Law of things	
Agency	Family law	
Pledge and mortgage	Law of inheritance	
3. P. xii.		
4. P. xiv.		

Schlesinger suggests that such a study should be treated in a separate and specialized course.

The book is a valuable one and shows a way of precipitating real interest in civil law principles for comparative purposes in most common law courses. The comparison will show how various legal techniques have successfully dealt with the solution of similar statutory and judicial problems.

Throughout the book one major theme recurs frequently—the principles and institutions which have characterized international relations in the past need to be revised to meet new demands. The wider identification of the individual with the world community and the interdependence of people everywhere, their demands and expectations, have placed upon the lawyer a burden of resourcefulness, the like of which he has never experienced before. This book does a great deal to stimulate an awareness that it might be possible to work out the pacific adjustment of controversies in a world which is growing smaller daily due to the rapidity of communications and transport and the general progress in the natural sciences. Let the law not lag behind!

Professor Schlesinger is to be congratulated for his contribution and it is to be hoped that the book will encourage the law schools of this country to take advantage of an opportunity of introducing the subject of comparative law in their curricula.

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