

Book Review: Principles of Judicial Proof by John Henry Wigmore

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is, and to know who can qualify as such, but there are some law teachers who do not present the "heterogeneous" group of problems covered in a course on Personal Property under such classifications as "elements of a bailment," or "acquisition of ownership," nor do they place much emphasis on "possession" and "power to control" and "intent to control." In the field of fixtures, these law teachers have a difficult time, as apparently the courts also do, in comprehending and then in presenting to first year students or to any students, the mystic change which "chattels" undergo when they become "real" property. These teachers (and let us call them the "realists" or "functionalists") may struggle along with the present casebooks because they are convenient for the students to purchase and use—and an instructor can struggle with this one a little more easily than with the others. They may have to tell the students sometimes to read the original reports, or to omit some cases altogether, because the cases in the case books occasionally present only what the courts have said with little indication of what the courts have done. If the struggle seems too hard they may do the bigger thing, they may prepare their own casebooks, or they may give up the job of trying to teach such a course—which may not be the worst solution after all.

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Principles of Judicial Proof. By John Henry Wigmore, Professor of Law of Evidence at Northwestern University. Second Edition. Published by Little, Brown and Company, Boston (1931).

I deem it a great pleasure to have the opportunity to review this book, because the process of proof is very little, if ever recognized, in the actual study of law as being important. For this reason the value of the work can not be estimated as it deals with the science and art in the production of evidence. The author in this work has entirely revised and rewritten the first edition and has left out many of the short illustrations from the works of other authors. However, he has not sacrificed anything for the reason that the text in itself is very complete. This text consists of part one, two, three and four (1-2-3-4), under the following headings:

PART ONE, *General Principles of Proof*, consists of three (3) chapters, which in substance illustrate the process of proof, the analysis of evidence, its application and the manner in which this proof can be collected and charted by means of symbols, the manner of plotting a chart and the conclusions to be drawn therefrom.

PART TWO, *Circumstantial Evidence*, consists of sixteen (16) chapters which consist mostly of the classification of data and their particular relation to the facts involved. These sixteen (16) chapters are divided into four (4) titles, which cover a full and complete classification of the effect that proof has in relation to the particular facts.

PART THREE, *Testimonial Evidence*, divided into ten (10) chapters and five (5) titles, deals mostly with the logical process and the psychology entering into the production of proof before a court and jury.

PART FOUR is entitled *Autoptic Preference*, and PART FIVE is entitled *Mixed Masses of Evidence in Trials for Analysis*. In the latter chapter the author treats

of the method of analysis and gives two available methods to be used for this purpose, referring to the preceding text and exemplifies this mixed mass of evidence by selections and testimonies from important trials both of this country and of Great Britain.

In the appendix of this book is a very comprehensive treatment of the science of proof compared with proceedings at trial and the rules of admissibility of evidence. Then follows a complete list of trials for analysis and the problems of proof as applied to general history and to police and detectives' point of view.

This book should be in the hands of every lawyer, judge, law teacher and student, as it deals with a subject that has not been taught in the course of any law school, and can only be acquired through actual practice and conduct of cases after being taught the principles of evidence. Problems of proof are to be distinguished from the production of evidence, as proof refers to degree and kind of evidence which will produce a full conviction or establish a proposition to the satisfaction of a tribunal, being what may be termed the result of the evidence. In Mr. Wigmore's treatment of this subject he has fully and completely illustrated methods that would produce both to the court and jury the full weight and result of evidence.

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Social Politics and Modern Democracies. By Charles W. Pipkin. Published by The Macmillan Company, New York (1931). Two Volumes, pp. xxiv, 377; vii, 417.

To the student and practitioner of law who may now and then in his own heart experience misgivings as to whether the exacting demands of preparation for client-advocacy and advice are not leading him to too narrow a view of "the law that is" and shutting off exploration on the peripheries of genesis and prospects, not to mention alternatives, this convenient summary of the course of social legislation in England and France for the last 30 years will come as a welcome time-saver. Even for the specialist in social legislation some kind of guide through the intricacies of this rapidly shifting legislation is quite indispensable. Both, however, will miss in Pipkin's work adequate treatment of the significance of this legislation in terms of legal relations, judicial interpretation, and the rearing of a sociological jurisprudence and its problems—for example, the legal implications of the system of regulations issued by the Ministry of Health for the whole conception of administrative government in England. As Goodnow, Pound, Frankfurter, and especially Dickinson (*Administrative Justice and the Supremacy of the Law*. 1927) among others have demonstrated, these general considerations of practice and effects are at least as important as abbreviated descriptions of the acts themselves and the minutiae of their causation and passage, and the problems raised extend beyond those specifically dealt with by Robson and Hewart.

The book is in the main an elaboration and rearrangement by the one-time Rhodes scholar and present professor of Comparative Government at Louisiana State University of his earlier (1926) *Idea of Social Justice*, with separate volumes now devoted to England and France respectively. While, with only these two countries being treated it might be argued that the case in favor of studying