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OPERATES. By Burke Shartel. Ann Arbor:  
University of Michigan Law School, 1951.

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OUR LEGAL SYSTEM AND HOW IT OPERATES. By Burke Shartel. Ann Arbor: University of Michigan Law School, 1951. Pp. 629. \$6.00.

Law professors have argued interminably on the efficacy of providing more than a "sink or swim" approach to the study of law. That the legal neophyte does not easily make the undergraduate-graduate school transition surely is an understatement—remember your personal experience. From the standpoint of a law professor there are quite definite disadvantages in the students' uninitiated immersion. The beginning law student does not understand how to contribute to class discussion or why he should use technical descriptions and words. He does not comprehend the law school insistence on case method instruction. He prefers the familiar lecture method. How to read properly a case or statute is a mystery to him. Perhaps too great a portion of the teachers' time in each first-year course, consequently, is devoted to such enlightenment—this may drastically lower the scholarly level of such courses. There are other, more important, mystical areas. Yet only in the students' senior year is the law taught so as to give a glimpse of the totality of the legal structure and this, if at all, in connection with jurisprudence lectures on legal philosophy, legal history, sociological law, comparative law, or, perhaps, on some ethical materials. It may be that the senior year is too late—there is a suggestion that Justice Holmes would have been lost to the law had his initial law school impressions continued.<sup>1</sup>

Again, these are not new concerns. Various materials have been organized to ease the students' entrance into and subsequent path through the jungle of the law school curriculum. The more important of these materials are Karl Llewellyn's *Bramble Bush* and Dowling, Patterson and Powell's *Materials on Legal Method*. The latest effort is *Our Legal System and How it Operates*, written by the University of Michigan's Burke Shartel. *Our Legal System* has 594 pages arranged in seven chapters, with a table of cases, author index and general index. The number of pages and the easy-to-read Shartel style of writing indicate that the book can be covered in the suggested thirty hours, or less. Professor Shartel's announced aim is to furnish the beginning student with "an over-all view of the legal system." The question, of course, is whether he is successful. I shall quickly detail the book in chapter-by-chapter fashion to indicate contents and organization.

Use of Language in Law, the first chapter, contains a discussion of the function in law of language. These materials are adequate to inform the student of the various legal communication problems and, generally, of the vast verbal world which is the law.

The next chapter, Standards for the Individual's Acts, describes law in the Austinian sense. The legal norms regulating the behavior of the individual are defined and analyzed. The Hohfeldian scheme is presented.

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1. BOWEN, *YANKEE FROM OLYMPUS* 204 (1944).

Only in a survey of effectuation of legal norms does Professor Shartel relate law and society.

Chapter Three, Standards for Official Acts, is also an analytical presentation of law. It emphasizes the types, functions and effectuation of legal norms with reference to the acts of state officials. The functions of executive officials, jurisdiction of trial and appellate courts, civil and criminal trial procedures and administrative agencies are described in what approaches lay language.

The next two chapters, Legislation and Interpretation of Legislation, are an unusually comprehensive treatment of this troubled American legal area. The first describes the enactment process, sources of legislation, norms for the legislator and problems in communicating the legislative message. The other describes the interpretive process and rules for interpreting statutes.

The common law area is demonstrated quite as broadly in The Common Law as the prior two chapters exhibit the legislative area. Here the student is presented with a general view of judge-made law, including the theories on judicial "legislating" and the doctrine of stare decisis.

Legal Policies and Policy Making, Chapter Seven, is a discussion of legal sociology and of theories of justice. Professor Shartel examines the interests which the American legal scheme presently is fostering and protecting. He describes the presently conflicting giants in the theories-of-justice arena—Dean Pound's pragmatism and natural law.

The coverage of *Our Legal System* is not, however, as complete as ideally might be desired. Materials designed to demonstrate legal ethics, such as found in Fryer and Benson's *Cases and Materials on Legal System*, are omitted. With the exception of scattered references, Professor Shartel has slighted the historical approach to law. He has omitted a description of the use of common law-library volumes—a serious omission since many law schools do not so indoctrinate freshmen students. The Dowling, Patterson and Powell volume, *Materials on Legal Method*, covers these areas sufficiently. What is perhaps the most instructive part of *Materials on Legal Method*, the illustrative cases on the necessity of "synthesis" of common law decisions, is ignored by Professor Shartel. There are some less serious criticisms of his text. The use of the first person may be annoying to some teachers. The State of Michigan is referred to in the text quite frequently. Some descriptive analogies may be too simple to command student respect.<sup>2</sup> Some advocative statements are placed in a descriptive setting.<sup>3</sup> Comparative law references are worked into the materials in a somewhat haphazard fashion. In Chapter Seven Professor Shartel

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2. E.g., pp. 28, 351.

3. E.g., pp. 182, 208-213, 216.

may be too optimistic in finding a common area for pragmatism and natural law.<sup>4</sup> The typographical errors<sup>5</sup> are not of a distracting nature.

The legal initiation of the freshman law student is not simple.<sup>6</sup> I believe Professor Shartel's book will make that initiation process much less difficult although it does not contain all the possible materials for this purpose. Such a comprehensive coverage would be much too lengthy. The simple chapter-by-chapter survey demonstrates that the contents quite adequately accomplish the aim of the author to present for the uninitiated an "over-all view of the legal system." The important areas are dealt with: there is adequate discussion of the neglected<sup>7</sup> field of legislation and the essence of the best in recent legal scholarship—Cardozo, Dickinson, Frank, Holmes, Llewellyn, Pound and Stone—is related in a style simple enough for freshmen. In comparison to the very difficult, rambling *Bramble Bush* style<sup>8</sup> Professor Shartel's writing can almost be scanned and understood. *Our Legal System and How it Operates* avoids the most important objection to *Materials on Legal Method* in that it is not a case-book to explain the use of case-books. These materials have been tested on freshmen and, strangely, graduate students<sup>9</sup> at the University of Michigan Law School. Although it is probably impossible to instill in the freshman student what Justice Holmes called "a glimpse . . . of the universal law,"<sup>10</sup> I recommend this book as an excellent introduction to the law student path leading in that direction.

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4. See STONE, *THE PROVINCE AND FUNCTION OF LAW*, 374 (1950). It is apparently impossible to rationalize a meeting ground for relativism and absolutism.

5. Pp. 524 n. 4, 562 n. 2.

6. JONES, *Notes on the Teaching of Legal Method*, 1 J. LEGAL EDUC. 13 (1948).

7. POUND, *THE FORMATIVE ERA OF AMERICAN LAW* 61 (1938).

8. LLEWELLYN, *THE BRAMBLE BUSH* 22 (1951). Read this statement: "And is it not clear that to the extent that lawyers and their clients and even men who might be clients, but who have no lawyers, shape their conduct with an eye to what courts would do if they were called upon, to that extent the court decision reaches out beyond the individual case and enters into molding and channeling the action of the community?"

9. I question the use of these materials in the instruction of lawyers.

10. Holmes, *The Path of the Law*, 10 HARV. L. REV. 478 (1897).