

## Louisiana Law Review

---

Volume 12 | Number 1  
November 1951

---

INTRODUCTION TO THE STUDY OF LAW,  
by Bernard C. Gavit. The Foundation Press, Inc.,  
Brooklyn, 1951. Pp. xvi, 388. \$4.25.; OUR LEGAL  
SYSTEM AND How IT OPERATES, by Burke  
Shartel. University of Michigan Law School, Ann  
Arbor, 1951. Pp. xxvii, 629. \$6.00.

Joseph Dainow

---

### Repository Citation

Joseph Dainow, *INTRODUCTION TO THE STUDY OF LAW*, by Bernard C. Gavit. *The Foundation Press, Inc., Brooklyn, 1951*. Pp. xvi, 388. \$4.25.; *OUR LEGAL SYSTEM AND How IT OPERATES*, by Burke Shartel. *University of Michigan Law School, Ann Arbor, 1951*. Pp. xxvii, 629. \$6.00., 12 La. L. Rev. (1951)  
Available at: <https://digitalcommons.law.lsu.edu/lalrev/vol12/iss1/22>

This Book Review is brought to you for free and open access by the Law Reviews and Journals at LSU Law Digital Commons. It has been accepted for inclusion in Louisiana Law Review by an authorized editor of LSU Law Digital Commons. For more information, please contact [kayla.reed@law.lsu.edu](mailto:kayla.reed@law.lsu.edu).

the systems the outcome of ideals which are different, or are they not mainly due to a variety in legal techniques? Louisiana lawyers are particularly apt to investigate such question and to give it a proper answer.

*René David\**

INTRODUCTION TO THE STUDY OF LAW, by Bernard C. Gavit.† The Foundation Press, Inc., Brooklyn, 1951. Pp. xvi, 388. \$4.25.

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

The inclusion of an orientation freshman law course under a variety of designations such as "Introduction to Law" or "Legal Method" or "The Legal System" has long been a disputed matter. On the one hand, a small number of teachers and schools have always felt that the study of law was such a different discipline from the student's previous experience that some orientation was indispensable at the beginning of his work in the law school. On the other hand, the majority had felt that the existing practice of letting them acquire the orientation in connection with the concrete substantive learning of the regular courses was still the best method.

During the past five or six years, starting with the very large classes of veterans who were resuming an interrupted educational program, the proportions have been reversed. Many schools instituted courses of an introductory nature, and in some instances the professors undertook the preparation of teaching materials which would serve appropriately to accomplish their pedagogical objectives in the course. As was to be expected, there emerged widely different ideas as to the purposes and objectives of an introductory freshman law course; two of the latest books of this sort are the immediate concern of this review.

Dean Gavit has long been a proponent of an introductory law school course, and in 1936 he published a book of *Cases and Materials on an Introduction to Law and the Judicial Process*. Despite the inclusion of many of the former topics, the present volume is not merely a revised edition; it is a new book. Pre-

---

\* Professor of Comparative Civil Law, Faculty of Law of Paris.

† Professor of Law and Dean, Indiana University School of Law.

‡ Professor of Law, University of Michigan.

sumably it reflects the many years of experience and interest and concern which Bernard Gavit went through at Indiana University in his capacity of a searching teacher and a thoughtful dean. Professor Shartel is in the group of the more recent proponents of an introductory law school course. His book is the culmination of several years of experimentation and consists of an amplification of the Cooley Lectures delivered at the University of Michigan in 1948.

Both books here under review are addressed principally to the freshman law student, but each leans towards a different additional reader. The Gavit book is pitched to a key which is also within the range of the pre-law student and the layman; Shartel's range extension includes the "initiated reader"—one already trained in law—for whom there is a special preface as well as bibliographies and documented footnotes. A comparison of the contents of the two books discloses many similar topics, but the organization and approach are altogether different.

Gavit's book speaks in very plain simple language to the uninitiated and starts with some general notions about law, about pre-legal and legal education, sources and forms of law, before going into legal concepts, court organization and procedure, and the common law. The standards of legal ethics and the organization of the legal profession are also included. These topics are discussed in relatively short compass with focus more on broad outlines than on modifying details, thereby adjusting the material to the beginner's capacity.

A noteworthy illustrative topic in Dean Gavit's book is the place and function of the United States Supreme Court.<sup>1</sup> The Court's role in the determination of great questions of national policy and national economy is described, and some of its judicial techniques are explained. Some outstanding recent cases, as well as the impact between the Court and the New Deal, are discussed and analyzed. The story of President Roosevelt's court-packing plan may be a little disillusioning to a freshman law student, but the tremendous import of the Court's responsibility is seriously impressed in the flag salute cases and the problems of civil liberties.

Shartel's book takes a more sophisticated approach. It is his conviction that the freshman law student's greatest need is a

---

1. Pp. 47-80.

description of the present-day American legal system as an operating institution. First, there must be a working understanding of the language of the law. Shartel's arrangement and treatment of the types of standards for acts (prohibited, permitted, obligatory, discretionary, effective, ineffective) is followed by a discussion of the significance of these acts in terms of relationships which recall, but are different from, the correlative concept classifications of Hohfeld and Kocourek in analytical jurisprudence. The acts of individuals and the acts of officials are thus treated, both analytically and functionally. Similarly, the formulation and interpretation of statutes are considered in reference to standards for acts and their significance. The interests of society against a background of sociological jurisprudence are treated in the last chapter under the title of "Legal Policies and Policy Making."

Professor Shartel's long attachment to the field of jurisprudence might lead some to expect his book to be philosophical; while it is analytical, as well as descriptive, everything is presented to be practical and of direct usefulness. The interspersion of problems at appropriate places in the text is not only provocative and stimulating to the silent reader, but it also provides a technique to assure mental cogitation and accurate oral expression on the part of students.

It would be amiss to make any comparative evaluation of these two books on the basis of their content or approach. What the contrast emphasizes are the different ways in which two devoted law teachers have sought to effectuate a similar objective of orientation in law study.

Sometimes a freshman law class wants, more than anything else, to be given during the first days of school some explanation about what a "case" is, and how to "brief" it. The study assignments in the other courses of Contracts, Torts, Criminal Law and so forth, consist of "cases." It is inevitable, in any event, that the law student will learn what cases are and how to brief them, but the question which besets the teacher is whether it is worthwhile or necessary to consume several class hours of orientation on the narrative story of a dispute leading into litigation and appeal which results in the casebook material. In Louisiana, the ordinary orientation problem is further complicated by the additional need for some historical background of the civil law. Even under these circumstances, a separate course

on introduction to law is not necessarily a more satisfactory instructional approach than the dispersion of the orientation and the material among the regular freshman courses.

It may seem contrary to the obvious that several arrows can be shot in different directions with a view to hitting the same target. Nevertheless, it is true in this situation. In former times when young men read law as apprentices to active practitioners, there were about as many techniques of getting the student under way as there were different kinds of practices and current cases. Uniformity of product is no more a criterion now than it was then. Despite diversity of method, the test should be on the basis of appropriateness and adequacy. In actual operation, then as now, the most important and significant elements are the persons who direct the instruction.

Both the Gavit and the Shartel books must be recognized as significant achievements, each of its own objective. The literature of the law, and about the law, is enriched constructively for a great many people.

*Joseph Dainow\**

CASES THAT CHANGED THE LAW, by H. Montgomery Hyde. Roy Publishers, New York, 1951. Pp. ix, 203. \$3.50.

Every year sees the publication of at least two or three books about famous cases of the past. You can see them in any law library—usually some serene spot has been set aside, where they can gather dust in undisturbed and (alas) oft-deserved tranquility. Mr. Hyde's little volume deserves a better fate. For, although like the others, Mr. Hyde tells of famous cases of the past, unlike most others, he tells his stories with charm, drama and above all with brevity.

In the first, and best, part of his book, Mr. Hyde vividly describes six cases, ranging from 1728 to 1931, which led to important alterations in the substantive law of England, through the passing of Acts of Parliament.

Here, for example, is told the extraordinary case of *Burke v. Hare*, who in the year 1828 provided material for one of the most celebrated of Scottish trials. In the days of these two rascals it was illegal for anyone having custody of a dead body to supply

---

\* Professor of Law, Louisiana State University.