the shifting concepts of a libertarian political philosophy.

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A Common Lawyer Looks at the Civil Law (The Thomas M. Cooley Lectures, Fifth Series), by F. H. Lawson, with a Foreword by Hessel E. Yntema. Ann Arbor, University of Michigan Law School, 1953. xvii and 238 pp., with indexes.

The title of this book could well be misleading. Apart from Professor Lawson's undoubted position as an uncommon lawyer, it is obvious that a mere look at the Civil Law would be a most fallacious basis upon which to write even a paragraph. Rather, then, is this book a successful attempt by a veritable master of laws to place the reader within earshot of the Civil Law so that he may hear and understand both its discords and its harmonies.

Now that Roman Law has lost its position of importance as an academic subject, there is an unfortunate tendency to shrug off foreign law as an example of the way in which the inhabitants of other countries, not being content to set their law down in their own language, create difficulties by rearranging it all in an unfamiliar order; this tendency, of course, being shared, *mutatis mutandis*, by civilians as well. The great merit of Professor Lawson's book is that throughout its pages he is able to correct this tendency, not merely by expounding the Civil Law as a remote collection of laws, but by making it alive, giving not only "a brief anatomy" (p. 2) but also case history, diagnosis, prognosis and, in places, a recommended treatment. The result is that neither the civilian nor the common law reader can feel that one system is over-praised to the exclusion of the other.

In all, there are five lectures in this series, treated as chapters for the purpose of the book.[1] These comprise The Historical Background, The Form and Sources of the Civil Law, The Contribution of Roman Law, The Advance Beyond Roman Law, Non-Roman Elements in the Civil Law. Here the first and fifth are probably the most important, one because it dispels the notion that the Civil Law is but Roman Law brought up to date, the other because it discards several well-worn generalisations both about the Civil Law and about the differences between it and the Common Law. Thus the presence or absence of a code, the authority given to precedent and the tendency to use either inductive or deductive reasoning are all shown to be unsure distinctions between the two systems. On the other hand, the conceptualism and the literary qualities of the Civil Law are seen to be of special importance.

But it is in the fifth chapter that Professor Lawson's mastery over the subject is seen. For Roman Law seems always so facile an explanation of the pattern of the Civil Law that the contribution made by other elements is apt to be forgotten. Such elements are, of course, external to the groundwork of the Roman Law, yet are completely internal in that they have been brought into being by local differences and changes in social behaviour throughout many centuries. To this part of the Civil Law a study of Roman Law is no introduction and it is here that the Civil Law gets near to being a common law in so far as the law therein contained is more akin to a custom of the realm than to a law of the book.

Into this field, then, not by any means well-known to continental lawyers themselves, Professor Lawson enters with confidence and, although dealing only with isolated topics, gives the reader an inkling of the full learning upon

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[1] Though at 45, 138 and 204 the term "lecture" has inadvertently been allowed to remain.

which he has drawn. Furthermore, this final chapter should invite the question, "Is our own way of doing things necessarily the best?" For the one certain advantage of comparative law is that it is able to stimulate an interest in the way in which lawyers elsewhere have made solutions to problems familiar to us. That their solutions may seem unsatisfactory or even absurd to us is unimportant, provided we have honestly made the effort to understand them.

In the end, however, it is Roman Law that claims the day and Professor Lawson ends with "an earnest plea for a return to Roman Law". Now many other places may well contend with Michigan for recognition as a wilderness, but the bare fact remains that Professor Lawson's voice must cry there not only the dates of composition, but also the very meaning of "Institutes", "Digest" and "Codex".[2] Moreover it seems that in the U.S.A. some fragments of Buckland's Textbook need the *imprimatur* of the Cambridge University Press.[3] What here appears to be needed therefore is not so much a return to Roman Law as a textual exercise with "*ne plus ultra*" tagged on to Justinian's works, but to Roman Law as a "continental history", an academic subject in which classical, Justinianic and modern Roman Law may be presented with equal emphasis. In the achievement of such an objective, Professor Lawson's book would be foremost in the field.

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Selected Topics on the Law of Torts, by William Lloyd Prosser. Ann Arbor, University of Michigan Law School, 1953. xi and 627 pp., with indexes.

In his preface to the fourteenth edition of Sir Frederick Pollock's classic textbook on the Law of Torts, the editor confessed that he had felt some difficulty about the American authorities. He pointed out that Pollock had in the first edition made considerable use of such authority by way of illustration, but that, as years went on, he seemed to have come to the conclusion that the disconformity between different jurisdictions in the United States was reaching such a point that it was of very little use to continue to collect American cases, and he added very few in his later editions.[1] In the posthumous editions of Pollock's work the editor has therefore not attempted to keep the American citations up to date, following in this respect the policy adopted in other traditional English torts textbooks such as Salmond and Winfield.

Yet the picture thus suggested of an increasing divergence in the American and English streams of common law studies is by no means as definite as we might imagine if we confine our attention to the long established English textbooks. In the preface to his *Law of Torts* published in England in 1955, Professor Street observed that in his work "the influence of the American Restatement, and of the great line of transatlantic teachers, Bohlen, Harper, Prosser, Seavey and Wright, will be readily discovered." [2] And we may confidently anticipate that the same influences will be even more readily discernible in the forthcoming substantial Australian work on the Law of Torts by Professor J. G. Fleming. The truth seems to be, paradoxically enough, that the very disconformity between the American jurisdictions which diverted Pollock from the study of American cases has indirectly led in our own times to a renewed Commonwealth interest in the American scene. The multiplication of authorities in

[2] See 10-11. The Basilica apparently do not need such treatment (139).
[3] See 117 and compare 139, 140. Pollock and Maitland's *History* seems also to be affected (185).

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[1] Sir F. Pollock, *Law of Torts* (14 ed. 1939 by P. A. Landon) vi.
[2] Harry Street, *The Law of Torts* (1955) v.