

LAW AND LAWYERS IN THE UNITED STATES. By Erwin N. Griswold.  
[London: Stevens; The Hamlyn Lectures, 16th Series. 1964. x  
+ 152 pp. 25s.]

This book contains the sixteenth series of Hamlyn lectures, delivered by Professor Erwin N. Griswold, Dean of the Harvard Law School, in October, 1964, at Gray's Inn. The high standards of value, to both lawyers and laymen, set generally by previous Hamlyn lecturers have here clearly been maintained.

The Hamlyn Trust is for furthering "among the Common People of the United Kingdom . . . the knowledge of Comparative Jurisprudence and Ethnology of the chief European countries, including the United Kingdom" so that they (the Common People of the U.K.) will realise their privileges, appreciate them and recognise the responsibilities attaching to them. The title of Dean Griswold's lectures suggest some geographic liberality in the implementation of the Trust. A connection of sorts is suggested in the Introduction where Dean Griswold states that one of his two objectives in taking up "some selected aspects of the law of the United States", is that this may "lead to the conclusion that you [the Common People of the United Kingdom?] are indeed privileged to live under your own constitutional and legal system". The other objective is in serving to help "you" to have a better understanding of the United States' legal system and its many problems. This latter would seem to be the more important objective. Both objectives prompt a selection of aspects of United States law having no real counterparts in the United Kingdom.

The four main chapters in the book are entitled, in order: The Legal Profession in the United States, Legal Education in the United States, Legal Questions in a Federal System, and The Problem of Civil Rights — Its Legal Aspects. The first two chapters deal with "Lawyers" (and their training), the last two with "Law". The first two cover the history and present features of the profession and its education. They provide an introductory but quite comprehensive survey. Attention is drawn to the slow emergence both of the requirement of professional qualifications for law practice and of effective professional organizations, but also to the many points of contact between the profession and the law schools. The third of the four main chapters presents with clarity the complex problems that arise in a federal system with (multi-) State and federal laws and courts. Diversity and unity are the two

themes here — diversity from 51 separate jurisdictions, complicated by the problems facing Federal Courts in diversity of citizenship cases and cases ‘transferred’ from another Federal Court; unity through Federal preemption and the commerce clause. The final chapter deals with the persistent, “sad”, civil rights problem, primarily its legal aspects but also with its moral, political, economic and social aspects. The interpretation of the Civil War Amendments by the Supreme Court is traced (at first three steps backward, but more recently all steps forward) and the present position with regard to voting, education, employment and the administration of justice is considered, sadly but hopefully.

The sub-title of this book is “The Common Law under Stress”. But standing up to it quite well, the book implies. Indeed, a third objective of Dean Griswold’s might be the affirmation of his faith in the common law. It is suggested to be quite up to handling litigation on federal and civil rights issues. What exactly Dean Griswold means by “the common law” is not, however, completely clear. He asks at one stage (p. 68) whether the nature of the common law might not lie in its being “the command of a sovereign, in the Austinian sense”; at another point (p. 102) he speaks of the judges who “formulated” the common law.

One persistently refreshing feature of these lectures *is* that they are in a spirit of promoting understanding rather than judgment by the British and American lawyer of the other’s legal system.

There is a slightly misleading reference to power over inter-State commerce under the Australian Constitution at pp. 88-9. It is hardly correct to say that there is no Commerce Clause in the Australian Constitution and that the resolution of this “problem” by the requirement under section 92 of absolutely free inter-State trade has virtually deprived the Federal government of power to regulate inter-State commerce. Section 51 (i) of the Australian Constitution confers on the Federal Parliament power to make laws with respect to trade and commerce among the States while section 92 has been interpreted as an injunction against, in broad terms, prohibition but not regulation of inter-State commerce by the Federal Parliament.

An index and table of cases would not have gone amiss.

For the Common People of the United Kingdom, and many others besides, this is an excellent introduction to law and lawyers in the United States.