

MAJOR TRENDS IN THE HISTORY OF LEGAL PHILOSOPHY.

By H. J. van Eikema Hommes. Amsterdam: North-Holland Publishing Company, 1979. Pp. xix, 442. Indices of Names and Subjects. Selected Bibliography. \$46.50.

Soon after Professor H. J. van Eikema Hommes¹ succeeded to the Chair of Jurisprudence at the Free University of Amsterdam he undertook the ambitious task of authoring a textbook which both outlines the history of the philosophy of law from the pre-Socratics to the present and offers a radical critique of the foundations of Western legal theory.² This year the legal community is indeed fortunate to have the completed English translation of this impressive work under the title *Major Trends in the History of Legal Philosophy*.³

In addition to the significance of *Major Trends* for students of the history of legal theory, there are several aspects of this book which make it versatile and useful to legal practitioners. First, van Eikema Hommes has remained faithful to the philosophic school associated with the Free University of Amsterdam. Instead of imitating the attempt of many historians to remain "neutral" and "objective" in their presentation of the ideas of past cultures, van Eikema Hommes acknowledges his bias as a follower of the "Philosophy of the Law Idea" (*Wijsbegeerte der wetsidee*),⁴ founded by his predecessor in the Chair of Jurisprudence, the late Herman Dooyeweerd.⁵ Crucial to the position of the "Philosophy of the Law Idea" is the principle that scientific⁶ thought of any era is subject to fundamental "religious" motives which

1. Professor van Eikema Hommes is the author of nearly 70 articles, reviews, and books on the philosophy of law. His works in English include: *Some Remarks on the Relation Between Law and Logic*, 14 LOGICAL ANALYSIS 165 (1971); *The Limits of Legal Competence of the State*, 41 PHILOSOPHIA REFORMATA 9 (1976); *Freedom and Equality in Constitutional and Civil Law*, in EQUALITY AND FREEDOM 1085 (1977).

2. HOOFDLIJNEN VAN DE GESCHIEDENIS DER RECHTSFILOSOFIE (1972) (Kluwer Publishers, Deventer, Netherlands).

3. H. VAN EIKEMA HOMMES, MAJOR TRENDS IN THE HISTORY OF LEGAL PHILOSOPHY (J. Kraay & P. Brouwer trans. 1979).

4. *Id.* at 1. The "Philosophy of the Law Idea", or "Cosmonomic Idea", was formulated by Dutch Calvinist thinkers in the late 19th and early 20th centuries. The principal English work of the movement is H. DOOYEWEERD, A NEW CRITIQUE OF THEORETICAL THOUGHT (1969). One central aspect of the philosophy is the conception that all philosophy has nontheoretical, religious presuppositions which it cannot do without, and that philosophy fails as soon as it desires to be autonomous and unaware of its presuppositions. See Langemeijer, *An Assessment of Herman Dooyeweerd*, Trouw, Oct. 6, 1964.

5. 1894-1977.

6. The word "scientific" is used here in its general sense to include both social and natural sciences.

dominate the thinking of that time.⁷ Consequently, in a transcendental critique of the legal views of various historical periods the particular religious perspectives reflected in the writings of the period must be dealt with.⁸ The resulting analysis avoids looking at earlier systems of law through modern eyes, a goal common to the more "objectivistic" historians.⁹ More importantly, van Eikema Hommes' mode of criticism unveils the foundations of our legal concepts in America and Western culture as a whole.¹⁰ He suggests that only by "unmasking" the religious motives of a culture can one gain insight into the fundamental beliefs upon which its laws are based.¹¹

Major Trends also deals with the legal movements of many European countries and the United States, thus providing an excellent orientation to the foundations of modern European law. For example, there are chapters explaining American and Scandinavian "realism" and Continental "natural law" movements which have influenced the practice of law in the West.¹²

Van Eikema Hommes concludes his work with indices containing both the major figures in legal philosophy as well as subjects he discusses, and a selected bibliography of German, French, Dutch, and English titles. Together these heighten the book's value as a reference edition. Although the treatment of most philosophers is necessarily general, the volume is an excellent starting point for research and guarantees a fresh critical perspective on many important issues in the philosophy of law.¹³

With this work, van Eikema Hommes has made a substantial contribution to the fields of systematic and historical jurisprudence and the book is highly recommended to students of these disciplines. *Major Trends* presents the unique perspective of a Dutch scholar in his criticism of European and North American legal principles and will be of interest to internationally-minded students and practitioners of law.

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7. H. VAN EIKEMA HOMMES, *supra* note 3, at 1. The term "religious" is not limited to traditional world religions or churches; it refers to any foundational, pretheoretical beliefs or suppositions, be they philosophical, scientific, or historical.

8. *Id.* at 371-72.

9. *Id.* at 1.

10. *Id.* at 311-12.

11. *Id.* at 1.

12. *Id.* at 311-26, 327-52.

13. Prof. van Eikema Hommes discusses the international legal theories of Grotius, Hobbes, Kant, Austin, Kelsen, and Hart. *Id.* at 85-87, 104, 116, 177, 225, 238-39, 363.