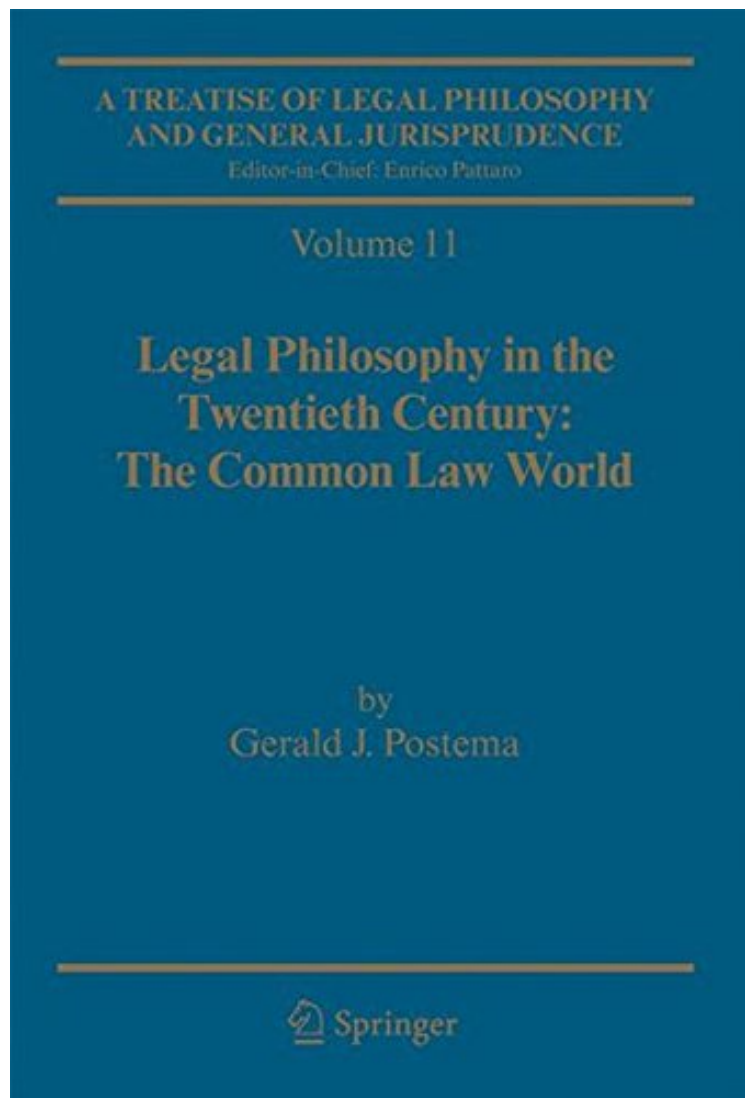


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# A Treatise of Legal Philosophy and General Jurisprudence: Volume 11: Legal Philosophy in the Twentieth Century: The Common Law World

*Gerald J. Postema*

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## Philosophy in the Twentieth Century: The Common Law World:

Volume 11, the sixth of the historical volumes of *A Treatise of Legal Philosophy and General Jurisprudence*, offers a fresh, philosophically engaged, critical interpretation of the main currents of jurisprudential thought in the English-speaking world of the 20th century. It tells the tale of two lectures and their legacies: Oliver Wendell Holmes, Jr.'s *The Path of Law* (1897) and H.L.A. Hart's *Holmes Lecture, Positivism and the Separation of Law and Morals* (1958). Holmes' radical challenge to late 19th century legal science gave birth to a rich variety of competing approaches to understanding law and legal reasoning from realism to economic jurisprudence to legal pragmatism, from recovery of key elements of common law jurisprudence and rule of law doctrine in the work of Llewellyn, Fuller and Hayek to root-and-branch attacks on the ideology of law by the Critical Legal Studies and Feminist movements. Hart, simultaneously building upon and transforming the foundations of Austinian analytic jurisprudence laid in the early 20th century, introduced rigorous philosophical method to English-speaking jurisprudence and offered a reinterpretation of legal positivism which set the agenda for analytic legal philosophy to the end of the century and beyond. A wide-ranging debate over the role of moral principles in legal reasoning, sparked by Dworkin's fundamental challenge to Hart's theory, generated competing interpretations of and fundamental challenges to core doctrines of Hart's positivism, including the nature and role of conventions at the foundations of law and the methodology of philosophical jurisprudence.

The volume is a magisterial achievement, and should serve as a valuable resource for specialists and non-specialists alike for years to come. The chapters are helpfully written as mostly self-standing expositions of a manageable number of theories and arguments; the result is that the chapters and subsections are useful essays in their own right, for both research and pedagogical purposes. (Michael Sevel, *Notre Dame Philosophical Studies*, ndpr.nd.edu, April, 2015) A book for sophisticated students of legal theory where one learns more and better what the best 20th century jurisprudential works contained and what they should have said or failed in saying. *Legal Philosophy in the Twentieth Century: The Common Law World* is a brilliant book and, for the rest of us incapable of achieving anything like this it is simply breathtaking. (Richard Bronaugh, *Canadian Journal of Law and Jurisprudence*, Vol. 27 (2), July, 2014) From the Back Cover

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About the Author Gerald J. Postema has published extensively in legal and political philosophy and ethics. In 2011 he published *Legal Philosophy in the 20th Century: The Common Law World*. He wrote *Bentham and the Common Law Tradition* (Clarendon 1986/1989) and edited *Racism and the Law* (Kluwer 1997); *Rationality, Conventions, and the Law* (Kluwer 1998); *Jeremy Bentham: Moral, Political, and Legal Philosophy* (Ashgate 2002) and *Philosophy and the Law of Torts* (CUP 2001). He is associate editor of the 12 volume, *Treatise in the Philosophy of Law* (Springer 2005, 2007, 2009, 2011).