

L

(continued)

LEADING OF PROOF — LEADING PRINCIPLE

Leading of Proof: no concise foreign equivalents. The operation bringing up to attention, among propositions admitted to be true, certain relations between them which logically compel the acceptance of a conclusion. (C.S.P.)

Leading Principle: Ger. *leitendes Prinzip*; Fr. *principe directeur*; Ital. *principio fondamentale*. It is of the essence of reasoning that the reasoner should proceed, and should be conscious of proceeding, according to a general habit, or method, which he holds would either (according to the kind of reasoning) always lead to the truth, provided the premises were true; or, consistently adhered to, would eventually approximate indefinitely to the truth; or would be generally conducive to the ascertainment of truth, supposing there be any ascertainable truth. The effect of this habit or method could be stated in a proposition of which the antecedent should describe all possible premises upon which it could operate, while the consequent should describe how the conclusion to which it would lead would be determinately related to those premises. Such a proposition is called the 'leading principle' of the reasoning.

Two different reasoners might infer the same conclusion from the same premises; and yet their proceeding might be governed by habits which would be formulated in different, or even conflicting, leading principles. Only that man's reasoning would be good whose leading principle was true for all possible cases. It is not essential that the reasoner should have a distinct apprehension of the leading principle of the habit which governs his reasoning; it is sufficient that he should be conscious of proceeding according

to a general method, and that he should hold that that method is generally apt to lead to the truth. He may even conceive himself to be following one leading principle when, in reality, he is following another, and may consequently blunder in his conclusion. From the effective leading principle, together with the premises, the propriety of accepting the conclusion in such sense as it is accepted follows necessarily in every case. Suppose that the leading principle involves two propositions, L and L' , and suppose that there are three premises, P, P', P'' ; and let C signify the acceptance of the conclusion, as it is accepted, either as true, or as a legitimate approximation to the truth, or as an assumption conducive to the ascertainment of the truth. Then, from the five premises L, L', P, P', P'' , the inference to C would be necessary; but it would not be so from L, L', P', P'' alone, for, if it were, P would not really act as a premise at all. From P' and P'' as the sole premises, C would follow, if the leading principle consisted of L, L' , and P . Or from the four premises L', P, P', P'' , the same conclusion would follow if L alone were the leading principle. What, then, could be the leading principle of the inference of C from all five propositions L, L', P, P', P'' , taken as premises? It would be something already implied in those premises; and it might be almost any general proposition so implied. Leading principles are, therefore, of two classes; and any leading principle whose truth is implied in the premises of every inference which it governs is called a 'logical' (or, less appropriately, a *formal*) leading principle; while a leading principle whose truth is not implied in the premises

is called a 'factual' (or *material*) leading principle. (C.S.P.)

Least Squares (method of): see ERRORS OF OBSERVATION.

Left-handedness: see DEXTRALITY.

Legal [Lat. *legalis*]: Ger. *gesetzlich*; Fr. *légal*; Ital. *legale*. (1) Pertaining to law. (2) Conformable to law. (3) Pertaining to law, as distinguished from equity. (4) Defined or created by law, e. g. legal offences, legal disabilities.

Legal defence: one sufficient under the rules of law. *Legal ethics*: the ethical rules governing the conduct of the legal profession. That may be legal which is neither just nor honourable. 'Non omne quod licet honestum est,' *Dig.*, l. 17, *de diversis regulis iuris antiqui*, 144. (S.E.B.)

Legal Fiction: Ger. *Rechtsfiction*; Fr. *fiction légale*; Ital. *finzione legale*. The assumption, as a fact, of what is not known to be such, made by authority of law to promote justice.

It is generally done by the courts, sometimes by the legislature. Thus the English courts of common law, in order to take jurisdiction of matters of admiralty jurisdiction, anciently allowed a plaintiff to describe his cause of action as arising at Havre, to wit, in Westminster, and refused to allow the defendant to contest their right to entertain the case by denying the averment as to Westminster. Cf. Maine's *Ancient Law*, 26.

Legal fictions furnish the means by which most nations develop their system of procedure from formal into rational methods. See, as to their use in Roman law, Sohm's *Inst. of Roman Law*, § 38; Hadley's *Introd. to Roman Law*, 96. Wills causelessly disinheriting children could be set aside, 'hoc colore, quasi non sanæ mentis fuerint cum testamenta ordinarunt. Sed hoc dicitur non quasi vere furiosus sit, sed recte quidem fecerit testamentum, non autem ex officio pietatis. Nam si vere furiosus sit, nullum testamentum est' (*Inst. of Just.*, ii. 18, *de inofficioso testamento*). (S.E.B.)

Legend [Lat. *legere*, to read]: Ger. *Legende*; Fr. *légende*; Ital. *legghenda*. An edifying tradition which has grown up spontaneously and uncritically around some historical personage, and which, though lacking in historic verity, is valuable in the revelation it makes of the spirit and life of the people and time that produced it.

In ecclesiastical history: legend is the story of a saint or other religious personage which has grown up gradually in response to

the requirements of religious edification, and which, though containing a nucleus of truth, is not historically reliable.

The legend differs from the myth in that it ordinarily develops about a real personage, whereas the myth may be pure fiction, and ordinarily arises out of a personification of some natural object or force. See MYTH.

Literature: EHRET, *Allg. Gesch. d. Literatur d. Mittelalters im Abendlande* (1874-87); MILMAN, *Hist. of Latin Christianity*; LECKY, *Hist. of Rationalism in Europe*. (A.T.O.)

Legislation [Lat. *lex*, law, + *latio*, a proposing]: Ger. *Gesetzgebung*; Fr. *législation*; Ital. *legislazione*. (1) The act of making a law, by a legislator or legislature. 'In legislation both the contents of the rule are devised, and legal force is given to it, by simultaneous acts of the sovereign power which produce "written law." All the other law sources produce what is called "unwritten law," to which the sovereign authority gives its whole legal force, but not its contents, which are derived from popular tendency, professional discussion, judicial ingenuity, or otherwise, as the case may be' (Holland, *Jurisprudence*, chap. v. 66). (2) The law made by a legislator or legislature.

Judicial legislation: the virtual making of law by judicial magistrates, by declaring in their judgments that to be law which had not previously been enacted or generally recognized as such. (S.E.B.)

Legitimate (in law) [Med. Lat. *legitimus*]: Ger. *gesetzmässig*, *legitim*; Fr. *légitime*; Ital. *legittimo*. Accordant with law; having the support of law; legally entitled, especially of a child born in lawful wedlock (whether begotten in wedlock or not).

Legitimate portion: that share of a parent's estate which, by the rules of the civil law, cannot be willed away from the natural heir without some recognized legal justification. (S.E.B.)

Legitimation [Fr.]: Ger. *Legitimation*; Fr. *légitimation*; Ital. *legittimazione*. That by which an illegitimate child is made legitimate in law.

By English and American common law there is no method of legitimation. The later Roman law allowed it by virtue of a marriage of the parents at any time after the conception or the birth of the child (*Inst. of Just.*, iii. 1, 2). Similar laws have been enacted in many of the United States.

By English common law, legitimation has no extra-territorial force. Cf. Wharton, *Private Int. Law*, chap. v. (S.E.B.)