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Michael Lobban's article »The Law of Obligations: The Anglo-American Perspective« (1025–1051) in the *Oxford Handbook of European Legal History* takes on an impressively broad subject, that is part comparative, part doctrinal and (in large) part historical. The depth of analysis in something titled *The Oxford Handbook* is naturally going to be limited, especially when the topic is extremely broad. Such is the case with Lobban's work, covering a broad history of the law of obligations (contract, tort and unjust enrichment) in the two main common law jurisdictions (England and the US) from the 1800s to the time of writing (before *Robinson v Chief Constable for West Yorkshire* and *MWB v Rock Advertising* in the UK Supreme Court). Given that the time period in question is one of profound change in common law obligations, the emphasis is rightly put on overarching master narratives at the expense of deep doctrinal analysis.

Overall, Lobban's piece is both insightful and sufficiently general. However, certain unexplained choices of doctrine and a limited discussion of the Law and Economics movement in America point towards blind spots that are probably the result of a certain Anglican paradigm or approach to legal scholarship.

Lobban begins by describing gradual changes in overall legal scholarship – how the law went from a practical field to the subject of theoretical study. This is then followed by a brief and not entirely satisfactory description of economic and societal change, described somewhat telegraphically as follows: »the individualism which underlay the laissez-faire state was increasingly under attack […]. In England, the early twentieth century saw the birth of systems of social insurance which would culminate in 1948 in the introduction of a ›welfare state‹.«

It would be difficult in the space available to include a detailed history of what was referred to, but one wonders how exactly the individualism came under attack, when and where it took place, and what were its doctrinal impacts on the law of obligations. While there are some statutory inroads that could be interpreted to show a welfare state intervention in private law, American obligations law in particular does not seem remarkably welfare-centred, if we discount certain homestead exemptions that curtail creditor rights against a bankrupt's home.

There is then a brief account of procedural reform. This account is a little short on the shift from forms of action to causes of action and the fusion of law and equity – perhaps the most profound changes in the law of obligations in the time period in question. These reforms have done a great deal to compartmentalise the common law into taxonomical classes like ›contract‹ or ›tort‹, and their precise legacy is still causing classification problems that the two jurisdictions differ on. For example, the question of whether resulting trusts are a part of the law of unjust enrichment (and thus, the law of obligations) is a doctrinal difference between the US and England that has its roots in differing interpretations of procedural reform. The piece mentions that these reforms led to lawyers being »forced […] to look for other ways of organizing the material« but without specific doctrinal examples that would tie this change to the subject of the paper.

In fact, throughout the piece, the discussion is reliant on academic accounts and treatises. The only doctrinal question raised that actually receives a doctrinal answer is consideration. This is elegantly tied to changes in fundamental theories of contract law – will theory vs bargain theory, and Pothier (referred to, somewhat oddly, as »the Frenchman«) vs the likes of Pollock and Anson.

What is a little odd is that this really is the only doctrinal question discussed in the contracts section, without any clear explanation for why the author chooses to talk about consideration in particular. The procedural change from assumpsit to suing for breach of contract is also not mentioned or explained. In fact, the action of assumpsit, though mentioned often, is nowhere fully explained. The audience of this piece is presumably quite generalist, and since contracts under a seal receive a good explanation and the author acknowledges that the paradigm contract began to be thought of as one not under a seal but sup-

ported by consideration, it seems odd that assumpsit is only described as an action »to recover on informal contracts«. Some discussion of this would have been welcome, particularly as the author goes on to discuss consideration and promissory estoppel in such detail (which are only issues because of the original requirements of assumpsit, i. e. that informal contracts require some proof of consideration to be binding).

For an example of a doctrinal issue that is oddly absent, the question of contract damages and their remoteness (from *Robinson v Harman* and *Hadley v Baxendale* in the 1850s) are not even properly mentioned, despite the fact that this is precisely the question Fuller and Perdue set to answer in their »famous critique« that Lobban cites and commends. Apart from Fuller and Perdue's work, an analysis of contract damages has led to rich and pervasive theoretical discoveries in law and economics, such as the notion of ›efficient breach‹ and seeing the function of contracts as changing the incentive structure of individual behaviour (through its remedies). Whether one agrees with these views or not, it cannot be denied that they have changed the theoretical landscape of Anglo-American contract law, particularly in America.

The discussion on torts is similarly interesting and ties various developments changing perceptions of its function. Once more, the discussion is reliant mostly on academic works, and the only doctrinal question discussed is duty of care in negligence, again without any real explanation for why the author chooses to talk about that subject (important as it is).

As with the contracts section, there are some unexplained doctrinal absences. The recognition of a general duty of care is obviously a major development and created the law of negligence, which shifted the balance of contract and tort in a way that is still being dissected and analysed by the highest courts and leading academics. However, there are other debates that are just as intractable and perhaps even more important, because they concern a larger field in tort law.

The doctrinal question perhaps in need of mention here is causation, though it could be that giving a satisfactory introduction might have required more space than was available for the handbook piece. When taken together with the contract section, however, this starts to look like it might be intentional, or at least an oversight based on an internalised system of paradigm choice in legal scholarship.

Ronald Coase's work highlighted a problem of what we might call reciprocal causation: both the traditional ›tortfeasor‹ and the ›victim‹ are ›causing‹ each other harm. In other words, while the victim cannot use his land to sunbathe due to pollution from the tortfeasor's factory, the tortfeasor similarly cannot use her land to run a factory because of the victim's protected right to use his. Whomever we protect legally, someone loses out. This marked a liberation in tort law thinking that is vital for writers like Richard Posner, mentioned by Lobban, to make any coherent sense. As Lobban notes, American law views even the existence of a duty of care as a balancing of economic interests. Without a mention of Coase or the reciprocal causation problem, such ordering of tort law seems arbitrary and without substance.

Therefore, while Lobban's discussion manages to be insightful and interesting in a limited space, it seems to represent a very Anglican methodology in discussing law that is Anglo-American, and consequently seems mostly to ignore some of the most consequential shifts in American law of obligations and general methodology of legal scholarship. It is impossible to discuss everything in 20 pages of a handbook, but it is with our choices of what to talk about that we reveal internalised paradigmatic commitments in law and legal history. Broadly speaking, the piece reflects English teaching priorities: discussing the origin of the obligation at the cost of discussing its effects. This means that the classic conundrums of the English classrooms – consideration and non-consensual duty of care – take centre stage for no apparent reason, and other theoretically fruitful areas like remedies or causation, not to mention historically interesting developments like the shift from forms of action to a rights-based system to the utilitarian law and economics paradigm, receive less attention. While Lobban's summary is clear and commendable, one cannot help concluding that it is very English.

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