



1932

Book Reviews

Alvin E. Evans
University of Kentucky

Forrest Revere Black
University of Kentucky

Amry Vandenbosch
University of Kentucky

Follow this and additional works at: <https://uknowledge.uky.edu/klj>

Right click to open a feedback form in a new tab to let us know how this document benefits you.

Recommended Citation

Evans, Alvin E.; Black, Forrest Revere; and Vandenbosch, Amry (1932) "Book Reviews," *Kentucky Law Journal*: Vol. 20 : Iss. 3 , Article 13.

Available at: <https://uknowledge.uky.edu/klj/vol20/iss3/13>

This Book Review is brought to you for free and open access by the Law Journals at UKnowledge. It has been accepted for inclusion in Kentucky Law Journal by an authorized editor of UKnowledge. For more information, please contact UKnowledge@lsv.uky.edu.

BOOK REVIEWS

AMERICAN FAMILY LAWS. A comparative study of the family law of the forty-eight American states, Alaska, the District of Columbia, and Hawaii (to January 1, 1931) Volume I (introductory survey and marriage), by Chester G. Vernier, assisted by Fred A. Weller. Stanford University: Stanford University Press. 1931.

A great amount of detailed labor was performed by Professor Vernier in the production of this book. The significance of such painstaking effort can be appreciated only by one who has himself undertaken a similar task.

In the introductory part the author devotes himself to a discussion of uniform laws of marriage and divorce and makes some general suggestions as to the desirability of further legislation. In particular, and with many other items, legislation is suggested to discourage breach of promise suits.

The other parts deal with the general topics, Contracts to Marry and Breach of Promise and with The Marriage Contract, the Ceremony, etc., under various detailed subheads. Under each head there is a selected list of references-texts, case-books, annotations, articles, reports, and case notes.

The Stanford Press announces its purpose to publish definitive work in five volumes covering the field of familial law. The other volumes are to deal with Divorce, Husband and Wife, Parent and Child, and Incompetents and Dependents. A careful working out of the statutory and other material dealing with these subjects of familial law will be of immense value.

ALVIN E. EVANS.

STEPHEN J. FIELD; CRAFTSMAN OF THE LAW. Carl Brent Swisher. Brookings Institution, 1930. Pp. viii, 473.

This is the biography of a dynamic personality, an exponent of the strenuous life. Going to California in the gold-rush days as a young attorney, Field became a real estate promoter, a legislator and a judge. Called by Lincoln to the Supreme Court of the United States, he served for more than thirty-four years on that august tribunal and wrote six hundred and twenty opinions. When he brought his long period of judicial service to a close on December 1, 1897, he left Justice Harlan, appointed fourteen years later than he, as the senior member of the Court. Three chief justices and eighteen associate justices had passed away during his incumbency. Field was noted for his clear, emphatic and logical decisions and dissents. His judicial philosophy was influenced by his early life in California. His emphasis, almost constantly, was on the rights of property. He almost never emphasized the need for protecting the masses against the superior strength of the few. Instead he stressed the need for protecting the strong, who were bringing about superior achievements in the business and industrial

world. He conceived it to be his function, as a member of the court to declare the law for the purpose of preserving order. He conceived the task of the court to be chiefly the prevention of dangerous changes in the good society. It was a legal structure desired by and adapted to the needs of such men as Rockefeller in the kingdom of oil, Carnegie, Frick, and Morgan in the domain of steel, and Stanford, Huntington, Gould, Harriman and Hill in the realm of railroads. Field helped to pave the way for the business and industrial order which sprang from the genius of a comparatively few men. He, perhaps, was no more conservative than most of his colleagues during the last half of the nineteenth century. Field was a strong believer in natural rights, but since the contents of these rights which he endeavored to protect through his judicial decisions was largely made up of his own ideas as to what was good in the life around him, it will be seen that the natural rights theory became an admirable vehicle for the expression of his personal philosophy. Field took deep delight in the outstanding economic achievements of his time—in the network of railroads that covered the country, in the towns that sprang up, in the factories that were built and in the business that was carried on. He keenly admired the men who were turning sun-scorched deserts and wind-swept prairies into scenes of human residence and activity. He made friends of men of this type and he shared their way of thinking about economic welfare and the relations of government to economic problems. He believed in an orderly society, but at the same time he bitterly opposed more than the minimum of governmental interference with the doings of individuals. Whatever one may think of such a philosophy at the present time, it cannot be gainsaid that Field played the role of a master builder of the legal structure needed for the housing of a particular economic order through a dramatic era of our history.

FORREST REVERE BLACK.

Professor of Law,
University of Kentucky.

STOWELL, ELLERY C. *International Law*. Henry Holt & Company, New York, 1930. Pp. xiv, 829.

This general treatise on international law by a well-known student and teacher of the subject carries as its sub-title "A Restatement of Principles, Conformity with Actual Practice." It cannot be said that Professor Stowell has succeeded so much in giving a restatement as in inventing a new nomenclature and classification, with here and there a fresh interpretation. Such chapter headings as "Vicarious Enforcement" and "Gradation" are arresting but do not carry with them much restatement of the law. One would expect in a book which purports to restate principles a more searching chapter on the nature of international law. Professor Stowell apparently holds to the view of the super-national character of international law, yet fails to discuss any of the problems involved in this fundamental question.

The book is divided into three large divisions. Book I deals with

Sovereignty, Book II with the Procedural Law of Intervention, while Book III is devoted to an outline of World Organization.

Following a development found in most recent texts, relatively little space is given to the laws of war and neutrality. In all pre-war texts generally about half of the space was allotted to these two subjects. In this book the laws of war and neutrality receive less than an eighth of the entire space of the book. This indicates a remarkable shift in emphasis and in point of view among the students of international law, and this together with the sections on international organization found in all post-war texts, reflects a truly amazing development of international law within the last decade and a half.

This volume constitutes a welcome addition to the number of recent textbooks on international law. It contains a wealth of new material not found in older books and most of the recent developments are well described.

AMBY VANDENBOSH.

Professor of Political Science,
University of Kentucky.

A LAWYER TELLS THE TRUTH. Morris Gisnet. The Concord Press, New York City, 1931.

This little book is well worth while reading. It is written by a lawyer, who, after twenty-five years experience in the practice of law in New York City, is evidently discouraged over the maintenance of professional ideals and the attainment of justice for the poor. The nine chapters in the book are as follows:

At the Bar of Public Opinion
Law and Lawyers in the Machine Age
The Lawyer and Corporate Competition
Accident Cases and Contingent Fees
Lawyers and the Competitive Business System
The High Cost of Justice
In the Lower Courts
Honesty of the Bar and Corruption on the Bench
Proposed Roads to Justice

He points out how difficult it is for a young lawyer to obey the canon which denies him the privilege of advertising. He notes the tremendous influx of students to the law schools and of young lawyers to the Bar. The failure of justice to the poor is due to the many causes which he sets forth. It is, of course, a serious question whether the socialization of the practice of law is a possible way out. A good deal, however, may be said for the proposal that there should be a public defender, both for the plaintiff as well as the defendant.

ALVIN E. EVANS.

FAMILY QUARRELS; THE PRESIDENT; THE SENATE; THE HOUSE. By George Wharton Pepper. Baker Voorhis & Co. 1931. Pp. xi, 192.

This book consists of three lectures delivered before the University of Virginia Law School under the auspices of the William H.

White Foundation. The first deals with quarrels between the Senate, the House and the President over treaties. Some of the difficulties over which disputes have arisen are (1) Does the Senate have the constitutional right to know the facts and to actually participate in the treaty making function, as an advisory body to the President while the treaty is being formulated, or does the Senate only have the constitutional right to say "yes" or "no" when the treaty in its final form is first presented to it? Or to put it in another way, is the action of the Senate upon a treaty an integral part of the treaty making function which may be exercised at any stage of a negotiation or is it merely to give sanction to a treaty that is already drafted. (2) Since treaties made under the authority of the United States and laws made in pursuance of the Constitution are the supreme law of the land by virtue of Sec. 2 of Art. VI, further difficulties arose (a) as to the nature and extent of the treaty power and (b) as to the necessity of congressional legislation to make the treaty operative. It is with reference to this latter difficulty that the House of Representatives often is drawn into the dispute.

The second chapter deals with family quarrels over nominations and removals. The Constitution explicitly vests in the President the power to nominate. But Congress may by legislation greatly reduce the area of his choice by prescribing certain qualifications such as residence, citizenship, professional ability or political affiliations. Senator Pepper says "It being well settled that Congress may impose limitations upon the EXPRESSLY granted function of nomination, it has recently been decided that Congress cannot impose similar limitations upon an executive power NOT expressly granted, namely the power of removal." The case that established this "constitutional paradox" is *Myers v. United States*, 272 U. S. 52 (1926). The reviewer had the privilege of listening to the brilliant two-day argument of Senator Pepper and James M. Beck in this case before the Supreme Court of the United States.

The last chapter is concerned with family quarrels over Congressional investigations. These are becoming more frequent and there are three general types: (1) a sincere search after truth in a field clearly within legislative jurisdiction as ancillary to legislation, (2) where the inquiry is launched to inflict political harm on a person or party and (3) where the investigation is begun in good faith but later prostituted to promote the ambitions of an unscrupulous chairman. From 1789 to 1925 there have been 285 Congressional investigations. At one time the House of Representatives enjoyed the distinction of being the "Grand Inquest." In late years the Senate has assumed the role of "Grand Inquisitor." This work is of special interest because the author during the last two decades has played a leading role in the three general problems discussed.

Professor of Law,
University of Kentucky.

FORREST REVERE BLACK.