



1928

## Book Reviews

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### Recommended Citation

Evans, Alvin E.; Roberts, W. Lewis; Black, Forrest Revere; Moreland, Roy Mitchell; and Vandenbosch, Amry (1928) "Book Reviews," *Kentucky Law Journal*: Vol. 17 : Iss. 1 , Article 8.

Available at: <https://uknowledge.uky.edu/klj/vol17/iss1/8>

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## BOOK REVIEWS

*LEGAL PSYCHOLOGY*, by M. Ralph Brown, Indianapolis: The Bobbs-Merrill Company, 1926, pp. iii, 302.

Mr. Brown has presented a book which is of much interest. It is divided into three parts, the first part dealing with trial psychology, the second with criminal psychology, and the third with personal psychology. There are two appendixes, the first one having to do with The Berkeley Lie Detector, and Other Deception Tests, and the second one being entitled Mechanical Aids for Memory.

There is much value in what is said in the discussion of the lawyer's appeal, and in fact all through this chapter, but this reader feels that the value would be enhanced by illustration, and that the average lawyer would appreciate greater concreteness. In dealing with criminal psychology the writer gives various mental tests which are used in the army, and he discusses the relationship of mental abnormality to crime and observes finally that it is not possible to draw any hard and fast conclusions with respect thereto.

With respect to adolescent delinquency, he makes various recommendations which are of undoubted value, such as watching the child's health, his tonsils, etc. He also suggests psychiatric, educational, and social methods of adjustment. But here again general illustrations and specific cases would be of value.

The last chapter dealing with personal psychology seems to this reviewer to be the best worked out in the book, and this writer believes that a very considerable benefit may be acquired, as well by lawyers as by lay readers particularly, by the reading of this chapter.

ALVIN E. EVANS

*CASES ON FUTURE INTERESTS*, by Richard R. Powell. Assisted by Lewis M. Simes. American Casebook Series, St. Paul, West Publishing Company, 1928, pp. xxviii, 968.

Professor Powell's new casebook on Future Interests is designed to meet the demand for a selection of American decisions in this particular field of real property law. For sometime there has been a feeling that the compilations of Professor Gray and of Professor Kales relied too much on the early English cases,

which are as a rule long and difficult to read. Professor Powell has retained the leading English cases that mark the development of future interests and at the same time has incorporated the most recent American cases on the subject, many of them decided within the last eight or ten years. This choice of cases should impress upon the mind of the student the fact that the subject is still undergoing changes and is of importance at the present time. His selection of cases is carefully made.

When it comes to a matter of arrangement of material in a casebook, each instructor is at liberty to take up the cases in any order that may suit his own particular views. However, the average teacher probably follows the order of the casebook he is using. This really makes the arrangement of a casebook of importance. It is in this matter that Professor Powell's book seems open to criticism. After an excellent resume of the history of the development of future interests, he takes up "expectant estates" in place of the usual topics of rights of re-entry for condition broken, possibilities of reverter, and vested and contingent remainders; all of which we find considered first in Gray and Kales. Powell treats of these subjects rather briefly in the latter part of his work. From the point of view of pedagogy, going from the known to the unknown, it would seem that the arrangement followed by Gray and Kales is the more logical since the student acquires more or less familiarity with these topics in the earlier courses in property.

Those who have adjusted their courses to either Kales' or Gray's cases will miss the sections on restraints on alienation. This subject has been fitted into the course on future interests, there seems to be no other in the law school curriculum where it can be treated to so good an advantage and it is one about which the young practitioner, about to draw a deed or will or to pass upon an abstract of title, should have some knowledge.

The problem questions at the end of each case with citations to cases bearing thereon, are in point and very suggestive. They are a novation in the form in which they are used by the editors. Their inclusion seems open to question. It would seem that they would detract from the interest in the class discussion as there would be lacking the element of surprise. It would seem to put the class discussion on a level with the work of a course in mathematics.

The excerpts from the numerous statutes on the subject and the references to the statutory changes made in the law, add greatly to the value of the work. The introduction of cases in the section dealing with personal property which present the problem as to who is entitled to stock dividends where the *corpus* of the estate consists of corporate stock, is a real contribution to classroom work in the subject of future interests.

The originality displayed in this casebook does not come as a surprise. In fact the work is not as revolutionary as many had expected it to be. It is certainly a casebook of the first order.

W. LEWIS ROBERTS

RATIONALE OF PROXIMATE CAUSE, by Leon Green, Kansas City; Vernon Law Book Co., 1927, pp. 216.

In this thought-provoking book, Professor Green courageously attacks "the bogey of proximate causation" which in his opinion has been responsible for a deplorable expenditure and stupendous waste of judicial energy. In his attempt to clear away the rubbish built up by a wilderness of precedents based on the concept of proximate cause, he presents a rather complicated standardized formula as an instrument of analysis for all tort cases. It consists of five inquiries: (1) Is the plaintiff's interest protected by law, i. e. does the plaintiff have a right? (2) Is the plaintiff's interest protected against the particular hazard encountered? (3) Did the defendant's conduct violate the rule which protects the plaintiff's interest? (4) Did the defendant's violation of such rule cause the plaintiff's damage? and (5) What are the plaintiff's damages? A similar analysis is developed for contractual and criminal liability.

It is the contention of the author that the first two of these inquiries are problems for the court, while the last three are primarily for the jury. He cites many cases where problems two and four have been lumped together under the concept of proximate cause. Professor Green's analysis is obviously appropriate where the wrong complained of is the result of a statutory violation. He insists that the fact that the rule is statutory or of common law origin can make no difference. In chapter four the argument is advanced in favor of a sharper demarkation of the functions of the judge and jury and in chapter five the question of causation is separated from the question of liability.

As a method of approach to the study and decision of tort cases, there is little doubt that Professor Green has made a valuable contribution. In fact his thesis is so attractively developed that it is feared that many enthusiasts who are interested primarily in the problems of technique and the approach will take too seriously the author's condemnation of the stupidity of our judiciary and will believe that they have been handed a fool-proof self-operating formula. Is this fear without foundation? Witness the reception of Dean Pound's sociological approach to jurisprudence by the sociologists of the land. The reviewer is of the opinion that in future editions the warning stated by Professor Green on pages 40 and 199 should be printed in bold faced type. . . . "Such an analysis does not solve the problems—The method of analysis developed in the foregoing pages does not purport to make the deciding of cases automatic or even easy."

FORREST R. BLACK

SOME LESSONS FROM OUR LEGAL HISTORY, by William Searle Holdsworth, K. C., New York. The Macmillan Company, 1928, pp. viii, 198.

Some Lessons from our Legal History comprises four exceptionally interesting lectures on the value of the study of our legal history. The first three were delivered by Dr. Holdsworth as the first lecturer on the Julius Rosenthol Foundation of Northwestern University and the fourth was delivered as the dedication address for the buildings of the Northwestern University School of Law.

Dr. Holdsworth is the leading authority on the history of Anglo-American laws. His nine volume edition of the History of English Law has made his name well known to legal scholars in this country.

The content of these lectures is outlined by the author in his introduction. He says: "In this lecture I shall show that the study of our legal history is needed to understand the manner in which the chief sources of our law came into being, the manner in which they were gradually evolved to meet new needs, and the conditions of their efficient working. In my second lecture I shall show that it is needed to understand the evolution and working of important parts of our legal machinery. In my

third lecture I shall show that it is needed to understand the attitude of the common law to certain problems on the border line between politics and law."

The success of case law, he believes, depends upon the presence of a centralized judicial system; and a system of appointing judges which secures the presence of the ablest lawyers on the bench. These conditions he finds peculiar to England. In the second lecture, the writ of *Habeas Corpus* and the jury system are dealt with as two characteristic institutions of our common law. "Both," he says, "by the manner in which they have defined the public and private rights of citizens, have helped to give these citizens a political education, and, in this way, to form their political instincts. Both are the root of some very characteristic features of our public law—both constitutional and criminal; and the institution of the jury is the principal cause for the form of two of the most distinctively native branches of our common law—the law of evidence and the law of pleading." The third lecture, *The Rule of Law*, is possibly of greatest interest to the student of legal history. Here one finds a discussion of the theory of sovereignty and of the problems to which the recognition of incorporated persons and unincorporated groups of persons have given rise. The final chapter in the book draws a comparison between the state of legal education of the days of Lord North and those of the present time; and as in Roger North's "A Discourse on the Study of the Laws," Dr. Holdsworth in his "A New Discourse on the Study of the Laws," pleads for a broad education as a background for a career at the bar.

Dr. Holdsworth's lectures are very interesting reading, the subject matter is well arranged, and as one might expect when he recalls that the author has spent the greater part of his life as Vinerian professor of the laws of England at Oxford, the work is scholarly in every respect.

W. LEVVIS ROBERTS

**EQUITY JURISPRUDENCE.** A selection of cases with brief summaries of principles. By Sherman Steele, New York City. Prentice Hall, Inc. 1927, pp. 897.

This collection of cases is unique in several respects. In the first place American cases are used almost exclusively. With

this innovation the reviewer is only partly in accord. It is difficult to properly present the development of the subject without the introduction of more English cases. The emphasis, it is true, should be placed upon modern American cases.

The editor has another innovation. Each chapter is opened by a summary, preceding the cases, for the purpose of correlating the cases in the chapter. It is doubtful if summaries should be inserted in casebooks. They take away from the student a part of his most important training. Certainly, if used at all, it would appear, that they should come at the end of the chapters.

The use of American cases, most of them recent, does give a practical, modern presentation of the subject. Many old favorites found in other casebooks are retained in this collection of cases; many are found for the first time in a casebook. For the most part the statement of facts found in the reports have been retained, "for it seems advisable that the student should learn to get at the facts of a case by way of the statement of them in the reports." It is true that for some reason or another, it is necessary to restate the facts of some cases in casebooks. But if the facts are restated in too many cases it lessens the value to the student of what may be otherwise an excellent collection of cases. The writer has in mind, particularly, the collection of cases on Constitutional Law by Dean Hall.

The material is carefully and logically arranged. The intricate subject of equitable conversion is found near the end of the book. The teacher will find few suggestive cases in the scanty footnotes following the cases.

We are accustomed to take the case method and the usual orderly, historical development of chapters in casebooks for granted. The casebook under discussion by the use of summaries and an emphasis upon modern American cases presents the subject in a little different way.

ROY MORELAND

HANDBOOK OF FEDERAL JURISDICTION AND PROCEDURE, by Armistead M. Dobie, St. Paul. West Publishing Company, 1928, pp. xiii, 1151.

The Act of Congress of February 13, 1925, has rendered all the texts on Federal Procedure published before that date practically obsolete and created a demand for a revision of the

older works or an entirely new work. Professor Dobie's Hornbook is in answer to that demand. The volume replaced Mr. Hughes' well-known work on the same subject in the Hornbook Series. Like other Hornbooks this number is not intended to be an exhaustive treatise in its particular field but an elementary work to enable the young practitioner in gaining a working knowledge of federal practice.

The author has followed closely and constantly referred to the Judicial Code. In his footnotes he has collected the cases and cited Medina's Cases on Federal Jurisdiction and Procedure frequently. The one serious objection to the book is the fact that the author has failed to provide an index to these cases. The lawyer or student who has already found a case in point and who desires to see what the author of this work has to say in regard to it, will find the book of little help to him. This defect can be easily remedied and it is to be hoped that the publishers will soon provide a complete index of cases and references.

There is an excellent discussion of the use of the writ of habeas corpus in the federal courts, also of the plaintiff's-point-of-view rule in regard to satisfying the amount necessary to gain federal jurisdiction in certain cases; and an especially good treatment of the jurisdiction and working of the District Court.

In some parts the text is somewhat sketchy and little more than an outline, where the text adds very little to the black letter headnotes.

In opposition to the view of Dean Wigmore, the author approves of the United States Supreme Court's ruling in the Boyd case in regard to the admissibility of evidence secured by unlawful search and seizure. This is apparently in keeping with the present trend of the decisions. In this discussion the author was unable to refrain from expressing his Anti-Volstead views.

Professor Dobie's long experience as a teacher of this difficult subject has qualified him to produce a book that meets the need of both the student and the person who is beginning the practice of law before the federal courts; and his work should hold a prominent place in the literature on the subject.

W. LEWIS ROBERTS

CASES ON ADMINISTRATIVE LAW, by Ernst Freund. American Casebook Series. West Publishing Company, St. Paul, 1928. pp. ix, 745.

This is a new edition of Professor Freund's widely used casebook on administrative law, the first edition of which appeared in 1911. No change has been made in the scope or plan of the book. Administrative law is treated as the law controlling the administration, and the subject is divided into the three main divisions of administrative power and action, relief against administrative action, and administrative finality.

That the considerable development in administrative law since 1911 has called for a new addition to this valuable collection of cases is evident from the number of new sections the editor has deemed it advisable to add. These new sections deal with commission proceedings, proceedings against aliens, and the grant and refusal of licenses. One is impressed by the large number of recent cases found in this new compilation. To offset the additions which have been incorporated a large number of cases dealing with purely constitutional problems, generally covered in courses in constitutional law, have been eliminated.

Beginning with the early and fundamental work of President Goodnow of Johns Hopkins University there has been a remarkable development in the study of administrative law and public administration. The appearance of a large number of studies in the field during the last few years is indicative of a rapidly growing interest. The increasing number of administrative boards and commissions, the increasing number of public officials due to the expansion of governmental functions, make the subject of public administration and administrative law one of constantly growing importance. The most fruitful studies will come from a double attack on the problem, one from the side of the student of law and the other from the side of the student of political science. The law side has been far better worked than the political side. We are yet without a good American study of the development, nature, significance, functions, and value of administrative commissions; we are also lacking a comprehensive comparative study of the French and con-

tinental systems of administrative law and the Anglo-American system.

This new edition of cases on Administrative Law by one of the foremost students of the subject in the country deserves, and will undoubtedly enjoy a wide usage.

AMRY VANDENBOSCH