BOOK REVIEWS


Mr. Frank turns the mirror on his own profession and produces an interesting book in the image which he gives us. From the discussion of the basic legal myth and some of its consequences, through the chapters on certain brilliant legal thinkers, to the concluding chapter on Justice Holmes, laymen and lawyers and sociologists and historians will find here an enlightening, provocative, scholarly, and pleasurable book.

The “basic legal myth,” to which is attributed much of the misunderstanding regarding our laws, is “the widespread notion that law either is or can be made approximately stationary and certain.” How fortunate it is that law does possess a considerable degree of uncertainty, the author shows quite clearly.

To ascertain the reason for this desire for certainty in law and thus educe a partial explanation of the so-called myth, Frank uses the findings of psychology. He briefly discusses the growth of childhood concepts and suggests their relation to adult life. In this connection, he points out that man has not yet relinquished the childish need for an authoritative father and unconsciously has tried to find in law a substitute for those attributes of firmness, sureness, certainty, and infallibility ascribed in childhood to the father.

Lawyers, judges, and the jury system are held up to the author’s mirror and the reflections he gives us often occasion a mental blush. We see lawyers whose thinking is mentally inadequate as compared with thinking in the natural sciences, because it is so charged with childish emotional attitudes. We see the “ideal judge” as nothing but a tradition which must be dispensed with in favor of real, honest judges who are trained in the best available methods of psychology as well as in rules of law. We get a clear picture of our hopelessly incompetent jury system which yields “a crop of subsidiary semi-myths and mythical practices.” What a dilemma Frank’s suggested changes would cause some of our criminal lawyers, should they ever be embodied in our legal structure!
Justice Holmes, according to the author, is the completely adult jurist: one who inspires, one to be emulated. "No American thinker working his way forward, against his own and other's prejudices, to sane and honest recognition of how the law works and how its workings can be bettered, but Holmes' adult illusionless surveys are an indispensable aid and an inspiration."

This book should be read by students in all our colleges of law to correct the impressions with which they are liable to approach their practical applications of the law. It should also be read by every member of the legal profession—those who disagree with the author may prove a contrary condition true; those who agree should set about to remedy their thought-ways.

We congratulate Mr. Frank on his excellent Appendixes. Especially to be noted is his arrangement of reference notes as an Appendix rather than as footnotes. This plan relieves the book of a pedantic appearance and yet provides the authority and further reference such a work needs.


Rules and principles for determining profits and deductions, advantages derived, damages, and reasonable royalty, as evolved by the courts in party infringement accountings, are thoroughly covered in this book by a member of the Chicago Bar. The work is designed for judges, special masters in chancery, and patent lawyers, as well as for those primarily interested in accountings for infringements.

Accounting by an infringer for profits and damages is generally awarded where the court determines that infringement of a patent is actually present. The infringer's liability is determined by the profits he earned from the infringement; by the damages sustained by the patentee, that is, the reduction caused in the patentee's profits; or by a reasonable royalty. The mode of applying these three principles is set forth at length by the author. The subject, although one of much difficulty, has been well handled.
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It is the purpose of this book to present its rules for the conduct of proceedings in equity in the federal courts which have been promulgated from time to time by the United States Supreme Court. The present edition brings the subject down to the decisions of the current year. To practitioners in the federal courts it will prove of the greatest value and assistance.


The particular value of this book to attorneys will be found in the introductory facts in which are contained forms of instruction used in connection with shipment of goods, decisions of the courts on demurrage and the rules of the Interstate Commerce Commission.


This is a book which in its existing form remains almost without a rival in public estimation. In treatment of this subject there is a trinity of books on scientific jurisprudence, namely, "Austin's Lectures on Jurisprudence," "Pollack, First Book of Jurisprudence" and this treatise by Judge Salmond. All of these are invaluable to the students of the law because each in a distinct way emphasizes different theories with regard to the subject of the law, its origin, nature and development. It will prove specially helpful to the law student who desires to acquire first-hand information of the principles and doctrines which underlie the substantive law which he intends to practice.

This edition includes no pedantic changes or additions. It remains the work of the author, and only those amendments have been made by the editor which he believes might have been consented to by Judge Salmond himself.
Almost thirty-five years on the bench of the highest court in the United States—the longest term ever served by any member. Such is the record in years of Stephen J. Field’s service in building the legal structure and foundation of our government. The fact that his term extended through a period when social and economic changes were being rapidly woven into America's historic tapestry is of more importance, however, than the length of his term.

Because Justice Field practiced his craft through a dramatic period of development in the United States and because he came to the Supreme Court from California where, as a member of the Supreme Bench in that young state, he brought order to the chaotic condition of constitutional law, the account of his career reads not unlike the fictionized biographies so popular today. One will find drama and fascination connected with most of the decisions he rendered or dissented from—surely with all included in this volume.

Through the cases cited and discussed here, the reader receives a most adequate picture of the many and varied problems which confronted courts in general between 1863 and 1898 as well as some knowledge of the manner in which the personal views, backgrounds, and experiences of the judges were reflected in their legal interpretations. The chapters on cases dealing with the South during reconstruction, with the problems of rate control and taxation of incomes, and with the Chinese immigration question are particularly illustrative.

The reader may wish that less of the political and personal had motivated some of Field’s decisions and actions. That certain of his actions were unbecoming to a person of his intelligence and position cannot be denied, but these may be overlooked in the picture of the bigger man as we view him through his legal contributions.

Mr. Swisher has appended an extensive contents index and a list of cases cited to his book. We voice the hope that this is but the beginning of a series on our craftsmen of the law.

One of the oldest of offices in the Court of Exchequer of England, and probably the least known, is the Office of the King's Remembrancer. The procedure and ceremonial of this office have been handed down with little change, and today one may see the Trial of the Pyx or the Nomination of Sheriffs enacted as they were centuries ago.

The title of the office comes from an ancient statement of the duties: to "put the Lord Treasurer in remembrance of such things as are to be called on and dealt with for the King's benefit" and "to remember all things that are done in the Office for the King's service and profit." Two separate divisions of duties, litigious and non-litigious—of which the latter comprise the ceremonial—are now handled by the Office.

The Trial of the Pyx and Nomination of Sheriffs are fully described in this book. Both of these ceremonials, which are of historical interest and importance, had their origin in the testing of coins originally collected and paid over by the Sheriffs throughout the realm. The Trial of the Pyx is still held for the purpose of testing the coinage in the Kingdom.


A need has long existed for a simple work on bankruptcy law and procedure which would consist of a concise exposition of the subject, leaving out unimportant and irrelevant matter, and avoiding repetition and prolixity in text and citation. This book goes a long way to meet this need and will be found a valuable handbook to those engaged in bankruptcy practice.

An extensive Appendix is included which gives the Bankruptcy Act of July 1, 1898, with its amendments, General Orders in Bankruptcy, and Bankruptcy Forms. An index is given for each of these three appended sections and a most complete contents index for the entire book.

This book, a worthy companion of "Questioned Documents," emphasizes the study of facts in preparation for trial. Its main purpose is to help the lawyer who has for trial a case in which it becomes necessary to prove the facts relating to a disputed document. Directly or indirectly the matter presented has application to the general problem of proof.

The scientific investigation necessary to the discoveries and illustrations of the physical evidence in disputed, discontinued cases are treated here only incidentally, an extended discussion of this having been set forth in the book above referred to namely, "Questioned Documents."

In considerable part the book is a report of direct observation in courts of high and low degrees in widely operated fields. Unlike much other litigation in a case involving the genuineness of a document, one side is necessarily right, the other just as inevitably wrong. There is no middle ground.

The chapters on the use of photographs and certain questions in regard to the use of typewritten material are specially significant.

HOW TO READ AND PLOT SURVEYS OR LAND DESCRIPTIONS. Amos O. Nisenson. Newark, New Jersey: The Author, 1930. 64 pp.

This is a technical work on land description intended for the lawyer, the architect, the title company and all others whose work requires the reading of surveys. It tells how to plot from a description, how to describe a plot, how to plot when some of the measurements are missing, how to describe party wall properties and how to describe and plot "more or less" distances. The author is an engineer and surveyor of established reputation in his own state. The book is simply written and fully illustrated; so the layman should readily understand it, and with a little study be able not only to read surveys but also to check the accuracy of descriptions.

As Tax Counsel for the Chicago Title and Trust Company, the author has dealt with many problems of taxation relating to wills and trust instruments. His experience served to bring out the fact that the legal profession needed a work on preventive jurisprudence which would so assist its members in drafting instruments as to avoid excessive taxation.

The book embraces taxation under state inheritance taxes, federal estate taxes, and federal income taxes, with pertinent citations. In the chapter on "Taxable Situs," the author discusses multiple taxation and the recent trend toward reciprocal exemption laws, setting out at length lists of states exempting securities of non-residents. Problems of taxation involving wills and trust instruments are well covered. Under the head of "Trust Instruments" are treated living trusts, insurance trusts, pension trusts, and business trusts.

In the appendix will be found the Federal Estate Tax Act of 1926, also the Revenue act of 1928 with amendments.


The author states that it is his purpose in this book to be of service not to lawyers and courts alone but also to municipal, state and federal officials, realtors, planners, and others desiring to know of the influences that affect and shape the growth and progress of our cities.

After dealing with the origin of zoning in England and Canada the author takes up the development of the subject in the United States, treating it first as a matter independent of statute, then with special reference to legislative action. The inter-relation of the subject with the police power and the exercise of the right of eminent domain are emphasized in particular. A large part of the chapter on "The Progress of Zoning" is devoted to decisions rendered in the various states on zoning.

There is a special chapter dealing with the subject of appeals to the board of zoning and a collection of standard forms and regulations. Since this is practically the first complete treatise on this subject, it is of considerable value.

For the student who is seeking a fundamental acquaintance with the subject of crime and criminal law and the citizen who desires a better appreciation of the subject, this book is intended. Its chief value for those in legal practice lies in its correlation of criminal law with social science. The work should also be of interest to lawyers who look toward an improvement in the laws and procedure governing criminal prosecution.

The major portion of the book discusses and presents the statistics on such subjects as the amount and cost of crime; the mental and physical condition, sex, race, education, nativity, residence, and family relationships of criminals; and the forms of punishment for offenders.

The author presents possible measures for control or reduction of crime in the concluding section of the book. These are concerned with both the cause and prosecution.

More than five hundred titles of books or pamphlets on this subject are listed in an Appendix. Some of them, however, are of questionable value in a study of present-day problems because of their publication dates.


This brief statement of the law relating to escrow agreements prepared by the instructor on the law of real estate conveyancing at the Chicago Central College of Commerce of the Y. M. C. A., will be found of much value to students of real estate law.

Since the third edition of this book, published in 1920, more than twice as many cases have been decided by the Interstate Commerce Commission as had been decided in the thirty-three years of its prior history. At the time such edition was issued the Transportation Act of 1920 had not received any construction by the Supreme Court.

In view of these facts there was room for a new edition of this valuable work which has brought the subject down to date and gives us references to the decisions of the federal court, the Interstate Commerce Commission and the state court relating to its subject matter.

The Interstate Commerce Act has been annotated not only with reference to the decisions of the courts but also in view of the opinions of the Interstate Commerce Commission itself, which "will enable one desiring to investigate a particular provision of that Act to trace the construction thereof by the references which have been made thereto by the tribunals whose duty it is to enforce this great statute."