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# Lectures in Legal Topics

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## REVIEWS

### LECTURES ON LEGAL TOPICS\*

This volume contains in printed form a series of lectures delivered before the Association of the Bar of the City of New York during the court year 1921-1922. We lawyers, like other professional groups, are prone to gather for the discussion of subjects connected with our professional activities. The object may be edification or entertainment or both. Since our interests touch life at every angle, the range of the topics dealt with in any such series of meetings is on the whole likely to cover a much wider field than would be covered in the gatherings of those engaged in at least some other callings. One speaker will give a highly technical discussion of a special point of bankruptcy practice; another will regale us with the romance of some half-forgotten incident of legal history; a third will read a deserved rebuke to those pestiferous advocates of new amendments to the Federal Constitution who are unable to realize that all political wisdom died with the members of the Constitutional Convention. It is this wide range of topics which renders doubly difficult the task of him who would adequately review a volume of this type.

The book under consideration is an apt illustration of the catholicity of the lawyer's interests. To start the series we have an able discussion<sup>1</sup> of a vexed problem of corporate reorganization, namely, how far an equity court may compel dissenting creditors "to accept in complete extinguishment of their rights against the property of the insolvent something other than cash or even than promises to pay cash in the future."<sup>2</sup> The discussion is ably handled by all three participants. Perhaps the most striking feature of the debate is Mr. Rosenberg's attack upon the claim of the individual dissenting creditor to block the plans of the majority for reorganization.<sup>3</sup>

Judge Hough gives an interesting discussion of the points of Federal criminal appellate practice which often prove stumbling blocks to lawyers "bred in the Code,"<sup>4</sup> and we discover Judge Cardozo's classic appeal for a ministry of justice in its proper

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\*Lectures on Legal Topics, 1921-1922. Delivered before the Association of the Bar of the City of New York. New York: The Macmillan Company. 1926. pp. VIII, 390. Price \$3.50.

<sup>1</sup> James N. Rosenberg, Robert T. Swaine, Allen Wardwell, *Reorganization, The Next Step*, p. 3. Mr. Rosenberg's address begins on p. 3, Mr Swaine's on p. 24 and Mr. Wardwell's on p. 41.

<sup>2</sup> P. 24.

<sup>3</sup> "The welfare of the greatest number must and ultimately does always overcome the individualist's fervent wail for the protection of his own property." p. 19.

<sup>4</sup> Charles M. Hough, *The Review of Criminal Causes in the Courts of the United States*, p. 49.

place in the series.<sup>5</sup> Every lawyer and every legislator should read and re-read this address with careful attention. Judge Learned Hand is in one of his happiest veins when he discusses some of the inadequacies of our method of settling disputes in court<sup>6</sup> and incidentally takes a sly dig at one of the most popular shibboleths of our profession.<sup>7</sup>

Mr. Carson's lecture concerning Chancellor Kent<sup>8</sup> is one of those delightful sketches which bring home to us the essential "humanness" of men whose names rank high on fame's roll without dragging their reputations in the mire. Would that we had more such! Judge Swayze strikes a familiar chord when he harps upon the inconveniences and the evils that beset the wanderer in our wilderness of case law<sup>9</sup>; one may be pardoned, perhaps, for expressing a doubt whether he or anyone else has yet shown a pathway of escape from the wilderness. Dean Alden's series of lectures upon the New York Civil Practice Act and Rules<sup>10</sup> contains matter that should be of the great interest to New York practitioners. To an outsider, perhaps the most valuable portion is that dealing with the decisions of the English courts on applications for declaratory judgments.<sup>11</sup>

A plea for the codification of the common law, preceded by the necessary preliminary work of organization, simplification and selection is contained in the address of the late Sir John W. Salmond.<sup>12</sup> Mr. Doherty's exposition of Canadian constitutional law<sup>13</sup> presents a picture of a system similar in some respects, in others in sharp contrast, to our own which is well worth perusal. The reader may with interest turn from it to Judge Augustus Hand's brief sketch of the origin of our own doctrine of judicial supremacy in the interpretation and enforcement of the Constitution.<sup>14</sup> Two lectures of primary interest to New Yorkers but not without appeal to readers in general complete the list.<sup>15</sup>

This review has already extended to reprehensible length. It is impossible to deal adequately with all the lectures. Some of

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<sup>5</sup> Benjamin N. Cardozo, *Progress in the Law: A Ministry of Justice*, p. 71, also published in 35 Harv. L. Rev. 113.

<sup>6</sup> Learned Hand, *The Deficiencies of Trials to Reach the Heart of the Matter*, p. 89.

<sup>7</sup> Pp. 101-102.

<sup>8</sup> Hampton L. Carson, *James Kent*, p. 109.

<sup>9</sup> Francis J. Swayze, *Can We Improve the Sources of Our Law*, p. 145.

<sup>10</sup> Carlos C. Alden, *The New Civil Practice Act and Rules*, p. 167.

<sup>11</sup> Pp. 251 ff.

<sup>12</sup> Sir John W. Salmond, *The Literature of Law*, p. 265. Compare with the suggestions contained therein the work now being undertaken by the American Law Institute.

<sup>13</sup> Charles J. Doherty, *Canadian Constitutional Law*, p. 285.

<sup>14</sup> Augustus N. Hand, *A Sketch of Constitutional Law in America*, p. 343.

<sup>15</sup> Henry M. Powell, *Taxation of Corporate and Personal Income in New York*, p. 315; Willard Bartlett, *The Court of Appeals and Its Predecessors*, p. 373.

them deserve an entire review to themselves. But at least some idea may have been given of the very much worthwhile contents of this volume and those whose interest has been stirred may explore it at their own convenience. We are told that this book is the third of a series in which these lectures before the Association have been made available to the public. Let us hope that the series will be continued.

One word in closing: The book is refreshingly free from those attacks on prohibition which have come to be the almost inseparable accompaniment of anything coming out of New York. Perhaps there is hope for Father Knickerbocker yet.

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