Readings in the Common Law

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entire system” (p. 237), although some readers may experience difficulty in the light of a similar statement expressed at page 7 that the national constitution constitutes “the capstone of our entire system or scheme of government.”

It is needless to go farther other than to say that the student who wishes to read of the relatively modern developments of padlock practise, prohibition searches and seizures, government by injunction, contempt of court, the recall of judicial decisions, and a number of other timely subjects will find here a critical, brief, and satisfactory treatment, based directly upon the existing facts and surprisingly free of bias.

The book carries an appended announcement of the place and purpose of The Workers’ Bookshelf which is perhaps a bit too ambitious on the part of the editors. It should also be noted in this connection that Professor McBain is referred to at what would be page 287, if numbered, as Ruggles Professor of International Law at Columbia University rather than of Constitutional Law. By and large, however, the reviewer has nothing but praise for this effective, significant product of Professor McBain’s mind and pen.

IVAN M. STONE.

University of Illinois.

READINGS IN THE COMMON LAW*

This is a book which every beginning law student should have and which every practicing lawyer should have unless it happens that he is already possessed of a number of other books from which he could obtain the same materials and the same information. Even though a lawyer had such a library of other books, it is likely that he would want this one in addition because it presents the material in a usable and convenient form. The arrangement and the analysis are helpful apart from the content of the materials themselves.

If it were only for the admirable translations, the book would be of great use since it contains the best translations which are now available and in addition gives excellent original translations of the Writ of William I separating spiritual and temporal jurisdictions in the One Hundred court and the Constitutions of Clarendon. It would be a very rare lawyer indeed who had all the books from which the materials are collected for this book. The chapters deal with the following matters: I. Fundamental Conceptions, which considers the various theories of law and justice and which differentiates law from morals and from other forms of social control. II. History of the Common Law; in which the history of the common law is, of course, presented very briefly but nevertheless in an accurate, helpful and schol-

early manner since it is handled through extracts from the sources themselves or through the commentaries of the best writers on the different periods and phases of the common law. III Sources and Forms of Law, which deals with legislation, judicial decisions and books of authority in so far as they contribute to the common law. IV. The Common Law in America, in which the characteristics of American common law as differentiated from the common law of England are indicated. V. Courts: their Organization and Jurisdiction, in which the functions of the courts in enforcing the law are indicated. VI. Common-Law Actions, which contains a discussion of the formal adjective law that formerly obtained in England and that still survives in most of the United States. VII. The Elements of Procedure, which explains the difference between law and equity. VIII. Rights, in which the so-called legal right as differentiated from the legally unrecognized interest is explained. IX. Persons, in which the different capacities of classes of persons such as married women, aliens, infants, etc. are differentiated and considered. X. Acts, which deals with the act as a legal concept and considers its effect upon legal relations and the creation of jural relations. XI. Obligations, which deals with contracts and other forms of legal obligations. XII. Property, which considers different kinds of legally recognized interests that now obtain in personal and real property.

This book is so arranged that it may be undertaken by one who has not yet had much legal training and who wishes to use it in an introductory way. It may also be used with great profit by the student at any stage of his legal work and by the practicing lawyer or the teacher for personal reference in his regular work. One has only to read some of the current articles in the legal periodicals to reflect that many principles which have been fully set forth hitherto have been so far neglected or ill-considered that they are now fixed upon as appropriate for original articles. The profession reads these articles as if their content were entirely new. Under the circumstances this is quite fitting and much to be desired. One must consider, however, that since the doctrines involved have been clearly set forth in previous writings, it may be thought extraordinary that their significance had not been recognized before. The reviewer ventures to think that if law students and lawyers made a practice of more or less daily reading in this book or other writings on the history and system of the common law, it would not be necessary specifically to expound the application of particular doctrines, the significance of which should be known to all.

The third edition which is now printed comes at a most opportune time. The second edition, published in 1913, covered much the same ground but there is not as much material and it does not contain many of the valuable translations and excerpts which appear in the 1927 edition.

The form of the book and its arrangement are conducive to interesting reading and intelligent assimilation. In its binding and its printing, the book is pleasant to use. It is hoped that
there will be wide use of this book by law students and practicing lawyers.

Paul L. Sayre.

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NOTICES

(These Notices are preliminary; they do not preclude Reviews later.)


This is the latest edition of Professor Cooley's thorough work on brief making and the use of law books. Its content as a treatise on this subject alone is very little changed. Thus the first 500 pages dealing with comments upon different phases of legal research and brief making together with forms and illustrations of these, are almost unchanged. The next 200 pages likewise are about the same in their analysis of the national reporter systems and an analysis of the English reports together with the digests. The following 1,000 pages, however, are in large measure, new. That consists mainly of considerable excerpts from the several legal digests and encyclopaedias that are now published. These excerpts are so considerable that they present in detail the workings of these different systems. Thus there are excerpts covering the Shepherd's Citations, Corpus Juris, Ruling Case Law, the Dicennial Edition of the American Digest System and all the other leading digests and encyclopaedias of the law. The reader will understand, therefore, that this material is taken bodily from these several digests and encyclopaedias themselves. Both the editor and the publisher deserve credit for analyzing the several digests that are published by different publishers rather than only those published by the West Company.

The work itself is so considerable, it contains so much material that has already been considered as part of the several digests and encyclopaedias, and there is so little of the text material that is different from the fourth edition of the same work, that it does not seem helpful to discuss several parts of this book in detail. Its content and its usefulness are already known to the profession although they have not had the advantage of the several parts when bound in a single volume. The justification for so large a book containing material that is available elsewhere seems to be that it is helpful for illustrative purposes. One might think, however, that a briefer and simpler explanation would be more useful. Thus the student or the practicing lawyer might be given an explanation of the use of law books in the briefest form, without detailed illustrations, while he could be expected to learn their detailed application from use of the several digests and encyclopaedias themselves. This book will be admirable as a reference book in law libraries and will be helpful to all practicing lawyers or students who can give the time to its consideration.


The author of this Hornbook has attempted a very difficult thing. Hornbrooks on most phases of the law are very helpful and legal scholars