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## Review of “Lectures on Legal Topics, 1923-1924”

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fore "Defenses," although the editor suggests a return to the converse logical arrangement if the instructor so wishes. He also apologizes for the transposition of the cases. If the cases are interchangeable on certain points, it would seem that a thorough treatment of the principle involved in one place, with a footnote reminder that it also holds good for another right or remedy would suffice. This would save space.

The third chapter, "Defenses," is the best done. It has an excellent sub-analysis and presents ample opportunity for discussion of those phases of "formation of contract" incident to Suretyship. In this respect the editor's analysis differs from that of Dean Arant whose treatment of Defenses is composed of fewer headings, with a separate treatment of "formation of contract."

The fourth and last chapter contains five of the toughest cases to be met in a day's journey. One wonders whether it is because of the intrinsic difficulty of the subject matter, or because of a desire by the editor to transport the students to the brink of Hell just before the examination. The cases are at least informing. One of them forces the reader to inquire just what is the Scottish action of "multiplepinding."

The book takes no definite stand on the controversy between ancient cases and modern ones. It achieves a similar straddle as to the present status of the compensated surety, when compared with his gratuitous brother. The corporate, compensated surety is neither neglected nor idolized. The cases are of all ages.

Of the casebooks on suretyship, this seems to be the best one available for a course of thirty-two lectures. It achieves the *summum bonum* of making the course the least painful. Let us hope that Dean Ames' collection will now receive its deserved retirement.

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LECTURES ON LEGAL TOPICS, 1923-1924. Vol. V. New York: The Macmillan Co., 1928. Pp. vii, 485. Price \$3.50.

The Bar Association of the City of New York has just published the fifth volume of a series of lectures and addresses delivered by distinguished members of the legal profession before its regular meetings during the court year 1923-1924. These lectures are of interest not only to the lawyer, but also to the layman, because the character of the material presented and the personnel of the contributors are national and international in scope. Thus we see what others think of us and our problems, and how our institutions compare with those of other nations. The Bar Association of the City of New York is indeed to be complimented for giving others the opportunity to enjoy the benefits which its own members derive from its meetings.

In the volume under review there are twenty lectures by nineteen separate lecturers. A glance at the list of subjects which follows shows the wide field covered: "Reflections of a Trial Justice," by Jacob Marks; "The Development of the Law," by I. Maurice Wormser; "The Legal Profession in France," by Pierre LePaille; "Foreign Lawyers in France," by Maurice Leon; "The Reparations Problem," by P. D. Cravath; "Collective Bargain-

ing Between Employers and Workers," by M. Hillquit; "The Power of the Judge to Direct a Verdict," by Young B. Smith; "Insurance Trusts," by Dean Bogert; "Declaratory Judgments," by E. M. Borchard; "Banking Institutions and the Law," three addresses by Cornelius Doremus, J. M. Hartfield, and Henry Crofut White; "The Relation of the Practicing Lawyer to the Efficient Administration of Justice," by Cuthbert Pound; "The Utility of Jurisprudence in the Solution of Legal Problems," by W. W. Cook; "Business Management for Courts," by Herbert Harley; "Efforts for Divorce Reform," by Walter George Smith; "The Administration of the Criminal Law," by Gov. Whitman; "Progressiveness of New York Law," by F. H. Hiscock; and "How Not to Try a Case," by Daniel F. Cohalan.

Jacob Marks, for many years a Justice of the Municipal Court of the City of New York, wants the standard of the bar raised. He does not want it limited to educated people, but to capable ones. He then goes on to discuss the relation between lawyer and judge, and how a judge is usually more capable than a jury to decide questions of fact. After many years experience in the busiest court in the world, he sees a need to bring the bench and bar together, increase the esteem of the public in the law, and bring about a better general understanding. Mr. Wormser shows that the law is developing all the time to fit present day social life. He says that law is based upon principles, not upon cases. That is a truth which the writer thinks many teachers and judges have a strong tendency to overlook when they point and say, "Well, there is a case, what are you going to do with it?"

Pierre LaPaulle and Maurice Leon give us a picture of the legal profession in France, its standards, ethics, and organization. The former tells us how a case is handled, and of the work of a French lawyer, while the latter in his address explains the status of the American lawyer in France, and points out the dangers of seeking such legal advice. Mr. Hillquit gives a very interesting and valuable lecture on collective bargaining as a new branch of the law. He shows the development of the system as a matter of necessity from our present day social life, and explains its workings and probable importance in time to come. Dean Bogert's discourse on insurance trusts should be read by every practicing lawyer. In it he discusses the nature and validity of this form of trust, the objections to it as being within the rule against accumulation, and how, if at all, it can be sustained. Professor Borchard explains with unusual clarity the fine features of declaratory judgments, and how necessary they are in this day and age. He calls them "an instrument of preventive justice which clarifies and supplements the old remedial, curative, and preventive theory of the judicial function."

Judge Pound, in his address, "The Relation of the Practicing Lawyer to the Efficient Administration of Justice," shows in a clear and forceful manner the duty of the lawyer and the place cut out for him in the order of things. He also points out the need for reform in the administration of justice as the crying want of the day. Professor Cook, in an address which is perhaps more academic than practical, points out in a very scholarly fashion that a more careful use of terms to fit certain concepts would make better law. Walter George Smith, in a forceful lecture, asks for uniformity in divorce law among the several states in matters of jurisdiction over

the parties and causes for divorce. He thinks that such uniformity, coupled with a restriction of grounds for divorce, would be better for our law as well as our social institutions.

Governor Whitman, in a comparison of the administration of the criminal law in England, France, and America, shows rather pointedly our slow and defective procedure here, as a probable contributing factor to the crime wave. Judge Cohalan, in his article, "How Not to Try a Case," gives a message which every young lawyer, as well as the experienced practitioner, would do well to read. It is an interesting topic, and carries with it a message which it is well to heed, but, nevertheless, the knack of trying a case seems to be acquired only with experience. Thus, we have a book which contains the thoughts of many great minds, a book which it is well worth everyone's while to study, if not for the learning itself, then for the viewpoint one gets.

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THE LEGAL EFFECTS OF RECOGNITION IN INTERNATIONAL LAW, AS INTERPRETED BY THE COURTS OF THE UNITED STATES, by *John G. Hervey*, Philadelphia: University of Pennsylvania Press, 1928. Pp. xiv, 170.

In this small volume Mr. Hervey has made a very practical and useful contribution to the literature of international law in a field of growing importance to the preservation of peace and justice among nations.

The so-called Family of Nations, arising out of the Peace of Westphalia as some four or five hundred autocratic political entities, each supreme and unaccountable, has very naturally exhibited few of the traits of forbearance and sympathy which are to be found in a normal family. The very nature of their sovereignty, which the Peace of Westphalia confirmed to them, precluded the idea of the existence of international duties resting upon them corresponding to their arrogated unlimited international rights.

In organization the Family of Nations suggests an exclusive club split into cliques yet held together by an assumed common superiority. They admit no obligation to recognize any new State or any new government in an old State, save in their own good pleasure. States and governments not recognized are in a condition of ostracism, are ignored as though non-existent. As to them, there is no application of the so-called fundamental rights of existence, independence, equality, commerce, respect and jurisdiction; and their subjects and citizens are left without international protection in non-recognized states.

Such was the situation when the United States came into being. But, under the inspiration of its liberal political philosophy of that day, our government, through Thomas Jefferson as Secretary of State, immediately laid down for itself a rule of recognition which did credit to our logic as well as to our zeal for liberty. It was conveyed to Gouverneur Morris, our Minister to France, in 1792, on the occasion of the deposition of Louis XVI, in these words:

"It accords with our principles to acknowledge any government to be rightful which is formed by the will of the nation, substantially declared."

And in 1793: