

# Washington University Law Review

---

Volume 13 | Issue 4

---

January 1928

## Review of “Lectures on Legal Topics; Volume IV, 1922-23,” By Simon Fleischmann, et al.

Tyrrell Williams

Follow this and additional works at: [https://openscholarship.wustl.edu/law\\_lawreview](https://openscholarship.wustl.edu/law_lawreview)



Part of the [Law Commons](#)

---

### Recommended Citation

Tyrrell Williams, *Review of “Lectures on Legal Topics; Volume IV, 1922-23,” By Simon Fleischmann, et al.*, 13 ST. LOUIS L. REV. 289 (1928).

Available at: [https://openscholarship.wustl.edu/law\\_lawreview/vol13/iss4/19](https://openscholarship.wustl.edu/law_lawreview/vol13/iss4/19)

This Book Review is brought to you for free and open access by the Law School at Washington University Open Scholarship. It has been accepted for inclusion in Washington University Law Review by an authorized administrator of Washington University Open Scholarship. For more information, please contact [digital@wumail.wustl.edu](mailto:digital@wumail.wustl.edu).

special mention and approval, both to the student and the practitioner. The arrangement of the text, in accordance with the Hornbook method, is particularly convenient to the lecturer and student, since it permits of definite, consecutive assignments for study. The language employed is simple, clear, concise and with occasional flashes of the author's well known humor which enlivens what so frequently is otherwise a dull text. An Index of over fifty pages is most excellent and affords ready reference to the text.

In the preface it is announced that "in the preparation of this book the author has had the practitioner primarily in mind, yet it is hoped that the book will prove useful to law students, either as a text or as collateral reading." While our review thus far has been from the standpoint of a lecturer on the subject, we have no hesitation in saying that, in our opinion, the book should occupy a prominent place in the library of the practitioner, who will find the chapters thereof hereinabove mentioned, of special use and benefit whenever questions of federal jurisdiction and procedure arise. The matters in said chapters discussed are of most frequent occurrence in civil cases, and we have referred to them for that reason, with no intention, however, of deprecating the other chapters of said book, which we recommend most highly to the legal faculty, the bench and the bar.

BYRON F. BABBITT.

St. Louis, Missouri.

---

LECTURES ON LEGAL TOPICS, VOLUME IV, 1922-23. By *Simon Fleischmann, Martin T. Manton, J. S. Y. Ivins, Joab H. Banton, Roscoe Pound, Charles Thaddeus Terry, Harlan F. Stone, Almet F. Jenks, James M. Beck, George Gleason Bogert, Harrington Putnam, Sherman L. Whipple, William L. Marbury*. Pp. 393. New York: The Macmillan Company, 1928. Price, \$4.00.

The Bar Association of the City of New York, which is not only well endowed financially, but is admirably managed, frankly has recognized that lectures for lawyers, if worth being delivered at all, are worth being printed and distributed for leisurely study. In 1924 the Association inaugurated the custom of furnishing to the general public, in ordinary book form, some of the carefully prepared lectures delivered at the regular meetings of the Association by distinguished members of the legal profession. Four volumes of lectures have appeared thus far. The fourth volume of the series, just off the press and now under review, contains seventeen lectures, by thirteen separate lecturers, all delivered at Bar Association House in West Forty-Fourth Street, New York City, during the Court year 1922-23.

The subjects of the various lectures are: "The Practical Administration of the Law, as Distinguished from its Theoretical Application and Enforcement," by Mr. Fleischmann; "The American Lawyer's Interest in the New International Court of Justice," by Judge Manton; "Problems of Administration of the Income Tax Laws," by Mr. Ivins; "What Lawyers Can Do to Increase Efficiency in the Administration of the Criminal Law," by Mr. Banton; "The Theory of Judicial Decision," three lectures, by Dean Pound; "Law and Order in Industrial Disputes," by Mr. Terry; "Some Aspects of the Problem of Law Simplification," by Justice Stone; "The Call and Calling of the Law" and "Appeals," two lectures, by the late Judge Jenks; "The United States Supreme Court, Past and Present," by Mr. Beck; "The Conditional Sales Act in New York," two lectures, by Dean Bogert; "Recusation," by Judge Putnam; "The Tyranny of Judicial Procedure," by Mr. Whipple; "Why the Right of Local Self-Government is Essential to the Preservation of Civil Liberty," by Mr. Marbury.

The lectures by Mr. Fleischmann, Mr. Ivins and Dean Bogert are direct and

illuminating expositions of problems that might arise in the routine work of a practising lawyer. Mr. Terry's lecture and Mr. Marbury's have to do with statesmanship rather than jurisprudence. Mr. Terry's lecture is interesting and sincere but rather intemperate in its denunciation of organized labor. He indulges in dogmatic condemnation of the closed shop. And yet he never alludes to the fact that intelligent labor leaders in this country and in England for two generations have been saying that the legal profession itself is a closed shop. The lectures by Mr. Beck and Judge Putnam are historical. Mr. Beck's lecture is particularly winsome and refreshing in spite of the triteness of the subject. To Mr. Beck, Judge Marshall's opinions were "political documents" rather than judicial decisions. We are reminded that Daniel Webster lost more cases than he won and was a "coroner for the dead rather than a physician for the living." Opportunity is found for quoting this notable utterance from Stephen Girard: "If I knew that I were to die tomorrow, nevertheless I would today plant a tree." The lectures by Judge Manton, Mr. Banton, Justice Stone, the late Judge Jenks and Mr. Whipple, are indicative of the spirit of constructive criticism, of striving for reform, so obvious among many American lawyers of today. Mr. Whipple's lecture, blunt, short, daring, is remarkable for its denunciation of our legalistic habit of apologizing for our existing judicial procedure and our existing rules of judicial evidence—things that ought to be abolished, or at least completely modified, according to Mr. Whipple, an experienced and highly successful member of the Boston Bar. The three lectures by Dean Pound are historical and also prophetic. In fifty-three pages Dean Pound gives a survey of judicial decision in the past, with particular reference to the influence of so-called natural law upon American judges—which made some of them seem more like philosophers than judges. Then in twenty-two pages Dean Pound indicates that in the future our American judges will be engineers—"social engineers." The gist of Dean Pound's views is found in these sentences (p. 164): "We must urge upon our judges that in their law-declaring function they are indeed lawmakers with the responsibilities for wise social engineering that rest upon all lawmakers. But we must urge upon them no less that their lawmaking function is subject to limitations that do not bind the legislative lawmaker, and that a compromise between the general security and social progress is likely to be involved in every important step that they take."

TYRRELL WILLIAMS.

Washington University School of Law.

#### BOOKS RECEIVED

- CHILD LABOR IN MASSACHUSETTS. By *Raymond G. Fuller* and *Mabel A. Strong*. Boston: Massachusetts Child Labor Committee, 1926. Pp. 170.
- PARADOXES OF LEGAL SCIENCE. By *Benjamin N. Cardozo*. New York: Columbia University Press, 1928. Pp. 142. Price \$2.50.
- JURAL RELATIONS. By *Albert Kocourek*. Indianapolis: Bobbs-Merrill Co., 1927.
- THE DEPARTMENT OF JUSTICE OF THE UNITED STATES. By *Albert Langeluttig*. Baltimore: The Johns Hopkins Press, 1927. Pp. xvi, 318.
- SOME LESSONS FROM OUR LEGAL HISTORY. By *William Searle Holdsworth*. New York: The Macmillan Company, 1928. Pp. viii, 198.