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Cooper: Living the Law

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into legalistic complexity of obvious appeal. See, for example, the rejection of expansion in his terse treatment of statutory immunity, where he snips his inclination to digress with ". . . the grant of immunity is the significant point, though the constitutional facets of the problem are of weightier concern." One feels Dr. Wingersky's primary interest is in the "constitutional facets," and that his personal relish could not be completely sublimated, finding release in provoking the reader.

Of course, this treatise is designed primarily as an introduction of the student to criminal law. Nonetheless, it is to those engaged in the practice an eminently practical tool, and suggests, in a limited way, a new approach to accepted concepts, which we might otherwise take too much for granted. We find nowhere any attempt to impose opinion or judgment, and Dr. Wingersky's summaries and conclusions take on greater value because of this.

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Living the Law. By FRANK E. COOPER. Indianapolis: Bobbs-Merrill, 1958. Pp. xv, 184. $7.50.

Two features of this book characterize it as a valuable contribution to the legal profession. The first is its critical approach to traditionally sacred images in the high priesthood of the law. The second is its synthesis of the memorable observations of a procession of legal thinkers in the tradition of Cardozo, Holmes, and Vanderbilt.

Of interest to practicing lawyers is the author's rough treatment of hitherto untouchable principles of law. Consider his discussion of legislative intent:

> The worst of the matter, to put it bluntly, is that in most actual case situations where a question arises as to what the legislature intended, the search is fruitless for the simple reason that the legislature had no intention.[1]

Since the beginning of the legislative process, the great majority of legal writers on the subject have indulged in the hypothesis that every legislative body in every enactment has desired collectively to attain some specific object, known as legislative intent. Although Professor Cooper assumes the role of an iconoclast in this matter, he is nonetheless a realist, speaking from years of experience as a practicing lawyer in Detroit, Michigan. Certainly, he is realistic also when he points out: "Even within the closed ranks of the profession, in short, there is widespread recognition of the inadequacy of most lawyers' writing."[2] His evaluation of adjudication by administrators delineates definitively the threat which administrative agencies pose for the doctrine of the separation of powers. Administrative law has been a special interest of Professor Cooper, who, in 1942, won the Ross Essay Contest, sponsored by the American Bar Association with a paper on the subject: "What Changes in Federal Legislation and Administration Are Desirable in the Field of Labor Relations Law?"

Professor Cooper does not merely string quotations together in a haphazard fashion; he knits them together with his own fluent prose. His literary style is most articulate when he is drawing into one seamless narrative excerpts from many masters. It is this feature of his book which will prove most beneficial for students of law. Through Professor Cooper's guidance, the student may be led from the mellow discourse of Cardozo to the crackling witticisms of

[1] Cooper, Living the Law 76 (1958). [2] Ibid., at 164.

Holmes. The author is an experienced guide, having taught law students for some years, recently as Professor of Law at the University of Michigan. Moreover, he has described his book, as "an attempt to aid law students in their study of law by demonstrating the relationship between the work they do in law school and the work they will do in practice."[3]

One pardonable imperfection in Professor Cooper's fourth and latest monograph is his occasional lapse into platitudes, reminiscent of the doctrinaire; nevertheless, it is the work of a highly literate lawyer, with an informed insight into the needs of his profession.

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[3] The University of Michigan Law Quadrangles Notes 9 (January, 1959).

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Cases and Materials on Equitable Remedies. By MAURICE T. VAN HECKE. St. Paul: West Publishing Co., 1959. Pp. xxii, 651.[1] $10.50.

The opening chapter consists of eleven pages of text on "Equity in the English and American Courts." The second chapter, "Specific Performance of Contracts," contains at the outset the fugitive real estate case of *Hazelton v. Miller*,[2] the knowledge of which would shock most real estate brokers, wherein specific performance of a contract to purchase real estate for $9,000 was denied as the buyer had already contracted to sell it for $14,395. Accordian like, about forty-eight cases fan out to show the scope of the equitable remedy of specific performance. An interesting case note included is *Zelleken v. Lynch*,[3] where the unsuccessful litigant did not understand how a Judge could grant specific performance of a contract that involved among other things personal services. Judge Burch in his opinion said: ". . . If scientific or other considerations demand a formula governing the subject, whoever needs can phrase one on that basis" (fraud). In the chapter are land contracts, contracts involving chattels, one relating to a restaurant and retail liquor business, another concerned with shares of stock, also a loan agreement, statutory arbitration, providing for a minor, house repairs, a cooperative contract, purchase of a funeral home, and one concerning an oil and gas lease. Some cases involved the "unclean hands" doctrine, the principle of "laches," the rule of "equitable conversion," the application of the Uniform Commercial Code, and the scope of "practicablity." One of the outstanding cases in the chapter is *Campbell Soup Co. v. Wentz*.[4] It shows that a lawyer may be too smart and as a result of drawing up an overclaused contract, will be denied specific performance. The court said, "We do think, however, that a party who has offered and succeeded in getting an agreement as tough as this one is, should not come to a chancellor and ask court help in the enforcement of its terms."

"Reformation and rescission for Mistake" in chapter three consists of fifty pages. Involved are mistake of fact, mutual mistake, unilateral mistake, mistake of law, and a mistake of law superinduced by a mistake of fact, and negligent mistake.

[1] In a letter from the West Publishing Company, January 7, 1959, it states, "Remember to reduce your classroom assignments as there is 21% more material on this modern type page than on the conventional page."

[2] 25 App. D.C. 337 (1905).

[3] 80 Kan. 746, 104 P. 563 (1909).

[4] 172 F.2d 80 (C.A. 3d, 1948).