

Handbook of American Constitutional Law (Book Review)

William Tapley

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habits of mind, its frailties and its strengths must be absorbed before he can proceed along the endless road. Moreover the beginning must not be too dreary or he will turn back. It must not be too foggy or he will not see his way. In all of this the authors have succeeded eminently well. Clearness, painstaking simplicity, and a broad background are the great characteristics of the Outlines.

There is an alluring orderliness about the work. Thus when the specific "torts" are discussed, each chapter states briefly the essential elements of the "tort" in question and then proceeds to explain each of the elements *seriatim*, giving to each that space and exposition which its relative importance merits.

The collection and statement of basic principles is an art much ignored by law writers. For example, this reviewer has read whole chapters in other books which have left not one particle of the clear idea one gets of the concepts, *damnum absque iniuria* and *iniuria sine damno*, that section 18 of this work most plainly and eloquently gives. But almost any section of the book is illustrative of the same idea. To multiply examples can serve no purpose.

But the authors can not escape the hypodermic. Albeit their own opinions are the best insulation against it. Thus a theorist of a modern school is obsessed with the idea that not enough space is given to the more theoretical aspects of the law of torts. The views and quarrels of the law writers about the basis of legal liability are indifferentially neglected. This is clearly brought out in the treatment of the law of negligence as a body of rules of law. While, to be sure, the text is the classic common law vein, nevertheless we should remember the efforts of modern schools of jurisprudence to lead the way to a concept of liability based on philosophic standards of conduct rather than rules of law fixed by precedent. This reviewer has waywardly followed these modern leads and misses their note in the present Outlines. (See, A Functional View of Legal Liability, 34 International Journal of Ethics, 243). It is submitted that first-year law students are not too immature to grapple with these problems.

There is a spiritual quality to the book which graces almost every page. One senses the authors' indignation with "wrongs", "torts" of every description. This is as it should be. The law of torts was made necessary by an imperfect humanity.

Colleagues of the authors who aspire to write legal literature will envy those inspired qualities of the book which can only be attributed to A. M. E. and M. J. E.

M. F.

St. John's College School of Law.

HANDBOOK OF AMERICAN CONSTITUTIONAL LAW. By Henry Campbell Black. Fourth Edition. St. Paul: West Publishing Co., 1927, pp. xxxi, 815.

In the first edition of his excellent work, the author mentions that the book was intended primarily for the use of students at law and instructors in the law schools. The fourth edition is offered by the author with the hope that it may be useful to the practitioner of the law as well as the instructors and students in the law schools. It is fortunate that the book is intended for this more extensive field, for with each revision and reconstruction the original handbook grows in size so that it becomes more difficult to utilize it in the short time allotted to the course in Constitutional Law.

This fourth edition is of the Hornbook Series. The explanation of each principle is preceded by a statement of the principle in black letter type. Since these legal propositions are supported by innumerable citations, the busy lawyer may find here in many instances a short cut to the authorities. The omission of an index to the cases cited saves much space. The arrangement for the most part is logical and systematic. However, one would not ordinarily expect a paragraph on the constitutionality of declaratory judgments to be inserted at the close of the chapter devoted to the "three departments of government." It gave the reviewer the impression that the author was in a quandary as to just where the donkey's tail should be placed.

The author's statement of the great principles pertaining to civil rights and their protection by the Constitution, due process of law and equal protection of the laws, reflects the work of the experienced scholar. These subjects which present unsettled contemporary problems are treated by the author in a plain matter-of-fact manner. They will disappoint the readers who enjoy close reasoning and who often find the dissenting opinion more stimulating and attractive than the rule of law pronounced by the majority; but they will not disappoint the lawyer and student who desire only a clear and fair exposition of what the author deems the law to be. It is believed the practitioner will welcome this new edition which has been brought up to date by one who has given so many years to the study of problems concerning our Constitutional Law.

WILLIAM TAPLEY.

St. John's College School of Law.

BOOKS RECEIVED

- Green, *CASES ON CARRIERS*. West Publishing Co., 1927, pp. 851.
Powell, *CASES ON FUTURE INTERESTS*. West Publishing Co., 1928, pp. 968.
Jensen, *THE NEW YORK LAW OF SALES*. Clark Boardman & Co., 1927, pp. 632.
Green, *RATIONALE OF PROXIMATE CAUSE*. Vernon Law Book Co., 1927, pp. 216.
Rose, *FEDERAL JURISDICTION AND PROCEDURE*, 3d ed. Matthew Bender Co., 1927, pp. 919.