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LIVING THE LAW. By Frank E. Cooper. Indianapolis: The Bobbs-Merrill Company, Inc., 1958.

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BOOK REVIEWS

LIVING THE LAW. By Frank E. Cooper. Indianapolis: The Bobbs-Merrill Company, Inc., 1958. Pp. 184. \$7.50.

The avowed purpose of this book is to bridge the gap between "law in books" and "law in action" by taking the beginning law student from the cloistered study of what "appellate courts are saying" to the more mundane study of what "lawyers and judges actually do." Although this may appear to be an overly ambitious project, the writer has succeeded to a remarkable degree in correlating and integrating the study of law with the actual practice of law.

Chapters III and IV are devoted to an analysis of that elusive and nebulous term "the facts of the case." The author has succinctly demonstrated the difference between the facts recounted in an opinion, as seen by the attorneys prior to and at the trial, as seen by the trial judge, and as they appear to an appellate court. Chapter V develops the concept of the "issue" of the case. The author has concisely described the formulation of the issues by trial counsel before the trial, the sudden changes which may occur at the trial; the trial court's concept of the "real issues"; and the appellate court's determination of the issues which may differ from the issues presented by the appellate counsel. The process of formulation, distillation, rejection, substitution and mutation of the issues has been lucidly portrayed. Chapter VI places stress on the mutable and equivocal nature of "the law" and the methods of its application. Chapter VII on statutory interpretation is well worth reading by students who may never be exposed to a formal course in legislation. Chapter VIII is a very temperate, balanced presentation of the growth and functions of administrative tribunals.

Chapters IX through XV seem more appropriate for the advanced student than for the novice. These chapters cover the skills needed in dealing with the investigation, analysis and presentation of the facts; the techniques of predicating the actions of the trial and appellate courts in deciding a case. The areas of corporation practice, estate planning, and legislative drafting are used to develop the concept of legal planning. The author's stress on the human relations problems inherent in these areas is commendable. The art of negotiation with clients, adversaries, administrative agencies and the courts (the inclusion of the courts seems somewhat unusual to the reviewer) is detailed in chapter XIII. Chapter XIV, consisting of seven pages, is devoted mainly to the thesis that advocacy is not dead but has simply changed from the bombastic oratory of yesteryear to the style of "Time Magazine" and that the lawyer who wins

in a trial gains a greater trust from the client than does the office lawyer. The final chapter dealing with the drafting of legal documents is disappointing in that it attempts to specify the "do's" and the "don'ts" in eight and one half pages—a virtually impossible feat. This deficiency may, to some extent, be compensated for by the author's companion book, "Effective Legal Writing."

Although the author has provided a magnificent coverage of the many facets of the practice of law in 171 short pages of text, the book is not free from criticism. Almost every point in the discussion of the nature of facts issues and law has been illustrated by case examples. Many of the examples could apparently be understood by the average (if there be such a person) law student. However, many of the examples seem to take a too sophisticated approach for the beginning student. It is believed that the author has been unable to mentally purge himself from his knowledge and to look at his work through a beginning student's eyes. It is submitted that the legal terminology used in the examples (which cut across all fields of law) would be too great for many students to assimilate in one reading. If the beginning student would read the first eight chapters immediately before beginning law school (or within the first week), again after a period of six weeks, and then again after he has completed his first semester, he would probably be able to absorb the material in this book and use it as an orientating and synthesizing agent.

As previously stated, the remaining chapters of the book should be read by the law student during his senior year. The author's vivid demonstration of the differences between the facts as recounted in an appellate opinion and the facts as raw materials for the presentation of the case should be on the required reading list for all senior students.

It is believed that Chapters III, IV, V and VI *may* create an unduly cynical attitude in the student reader. The author's treatment of the "facts" of the case would seem to imply that the "actual facts" are so bent, twisted and distilled in their progress through the various courts that by the time the case is decided by a final appellate court any resemblance between the actual facts and the facts as recounted by the final appellate court is "purely coincidental." It is admitted that this impression is created more by what is left unsaid than what is said. Chapter VI creates the impression that "rules of law" are little more than pious platitudes or "disembodied ghosts of past decisions" which "are necessarily inchoate and amorphous." Rules of law are imprecise and equivocal. However, the quoting of Judge Frank's words, "Rules, whether stated by judges or others, whether in statutes, opinions or textbooks by learned authors, are not the Law, but only some among many of the sources to which judges go in making the law of the cases tried before them . . ." would seem to foster an unduly cynical attitude by law students—an attitude which they seem to acquire without any assistance. Perhaps the author

is justified in using this "shock approach" in order to impress upon the student that the law schools are not attempting to teach rules but rather legal reasoning. This theme of learning (the reason for the rule rather than merely learning the rule) has been vividly developed throughout the book.

The content, manner of presentation, readability, and brevity of this book far outweigh this reviewer's criticisms. It is recommended to freshmen and senior law students and it should be given serious consideration by teachers in Introduction to Law courses.

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STATES' RIGHTS THE LAW OF THE LAND. By Charles J. Block.
Atlanta: Harrison Company, 1958. Pp. 381. \$10.00.

This book, as the title might suggest, presents the reader with the ever present problem of segregation versus integration. How obvious would it be for the reviewer to say that Mr. Block might be somewhat partial in his treatment of this problem; but the reader, depending upon his own "regional attitude" might well draw a different conclusion.

Accepting Mr. Block's "regional attitude" it is nevertheless apparent that the book is predicated upon a serious and critical analysis of the enigma of segregation. The reader is afforded a historical background, beginning during our colonial period in the years 1607-1798. The author prepares the reader for the journey through the "dark ages" of the beginning of the end of segregation which terminated in the famous (considered by some, infamous) decision of *Brown v. Board of Education*.

The author very succinctly draws attention to the fact that when the Declaration of Independence was drafted by our forefathers, they declared that the colonies ought to be *free and independent*. This was the aftermath of the mutual bond of distrust towards the Crown; the idea that tyrannical consequences stem from a strong centralized power. The Bill of Rights dealt only with the limitations upon the federal government; the Tenth Amendment was only declaratory of the relationship between the national and state governments and "was to confirm such in the minds of the people."

The author asserts that the doctrine of separate but equal rights originated not in the South, but rather in Massachusetts. He then proceeds to assail such men as Thaddeus Stevens and Charles Sumner for foisting the Fourteenth Amendment upon the nation. When it was ultimately passed in 1865, it was done in a grandiose carpetbag style. However,