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## Foreword

Chief Justice B.K. Roberts

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## FOREWORD

It has been said that law, as it exists in this country, is common sense—common sense enlightened and modulated by experience, and put into clear and understandable language. It must be remembered, however, that the words “common sense,” as used in that statement, mean a collective common sense; and that the “experience” referred to had its origins in a multitude of historical backgrounds. Thus, in this country the science which we call law still retains much of the complicated terminology inherited from its common law background; and to disentangle even the elemental principles from the intricacies of that terminology and to put them into clear and understandable language is a difficult task.

This task must be borne, in the first instance, by the teacher. As stated by Dean Pound:\*

Indeed, law, as we understand it in the modern world, has been a taught tradition into which teachers have fitted legislation and the results of judicial and professional empiricism and thus have developed experience by reason, as the judges and practitioners in turn have tested reason by experience.

Inherent in Dean Pound's statement is the fact that the teacher must be constantly on the alert for the professional and judicial application of established principles to new factual situations—applications which may result in the broadening of the field of operation of an established rule or which, on the other hand, may so narrow its scope that the exceptions become more important than the rule. There must also be fitted into the body of legal precepts the legislation which, every two years in this state, may itself unsettle or, in some cases, completely outmode a principle of law theretofore well established.

In short, the law must grow. But this growth should not be haphazard, nor should it proceed at too rapid a pace. To keep this growth deliberate and orderly, we need some kind of measuring stick.

I believe this Survey serves that purpose admirably. It can measure and evaluate the evolution of the law in Florida much as a man uses a pair of scales to check the weight of his son periodically to make certain that the boy is growing in normal, healthy fashion.

As those most immediately and vitally interested in the present status of our body of law, it is, then, most fitting and proper that this Survey

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\* Introduction, Clark's Summary of American Law III (1947).

of Florida Law should be undertaken by the distinguished members of the law faculty of the University of Miami, conjointly with outstanding practitioners of The Florida Bar. In bringing together in one work the most recent changes in or novel adaptations of our legal precepts, this Survey will supply a want felt by jurists, teachers, practitioners and students alike, and the staff of the Miami Law Quarterly is to be commended for so doing.

For the wise understanding of the present and an intelligent planning for the future, a clear knowledge of the past is necessary; and I know of no better way to point up needed changes in the law of this State than by such a Survey. It will inevitably result in the clarification and simplification of the law and its better adaptation to our social and economic needs--and, indeed, greater efficiency in the administration of justice.

It is to be hoped that such a Survey may be regularly made, with the expectation that it will bring us nearer to our ideal of law as common sense enlightened and modulated by experience, and put into plain and understandable language.

B. K. ROBERTS  
CHIEF JUSTICE, FLORIDA SUPREME COURT