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## The Problem of Proof, Especially as Exemplified in Disputed Document Trials

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common-law this interest is not so adequately secured as in civil-law jurisdictions, largely for the reason that the common-law doctrine of consideration as generally applied unduly prevents the realization of such expectations. The author's discussion of the doctrine of consideration is unusually enlightening. "Projects for 'restatement of the law' are in the air. But a restatement of what has never been stated is an impossibility and as yet there is no authoritative statement of what the law of consideration is. Nothing could be gained by a statement of it with all its imperfections on its head." But says the learned author in conclusion, an important service will be rendered by the twentieth-century philosophical theory, whatever it is, which puts the jural postulates of civilized society with respect to promises "in acceptable form and furnishes jurist and judge and lawmaker with a logical critique, a workable measure of decision and an ideal of what the law seeks to do, whereby to carry forward the process of enlarging the domain of legally enforceable promises and thus enlarging on this side the domain of legal satisfaction of human claims."

The book, though not an extensive work, is perhaps unequalled for brilliancy in Anglo-American literature on jurisprudence. The author's erudition and insight into fundamental legal problems are remarkable. It is doubtful whether any other Anglo-American jurist could crowd so much useful legal learning into such a small and at the same time readable volume.

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THE PROBLEM OF PROOF, ESPECIALLY AS EXEMPLIFIED IN DISPUTED DOCUMENT TRIALS.—A Discussion of Various Phases of the Proof of the Facts in a Court of Law, with Some General Comments on the Conduct of Trials. By Albert S. Osborn, New York and Albany: Matthew Bender & Company, Inc., 1922, pp. xxi, 526.

This book, written by the learned author of "Questioned Documents," is strictly speaking, not a legal treatise but a work written by a noted hand-writing expert who has had much and varied experience in his profession, and also great opportunities to study the conduct of trials in courts of law, and being a layman he discloses from that point of view the faults, shortcomings and mis-

takes, as well as the commendable conduct and qualities of lawyers, juries and presiding judges.

The chief purpose and object of the book is, of course, to aid the student and the practitioner in arriving at the truth in trials in courts of law, and in detecting, and defeating the ends of forgeries, falsehoods and deception attempted to be practiced upon juries and courts whether by spurious and forged writings or false testimony, the whole problem of proof being, in fact, the problem of arriving at the truth.

The book shows that the author has been a careful, thorough and painstaking student of all that has come to his observation and knowledge as a hand-writing expert who has had large experience as such in courts of law, and also as an interested observer and student who has spent much time in law courts and has given much thought to the errors, mistakes and blunders displayed in the trials of causes in said courts, and how they can be cured.

The book is carefully written, well considered and lucid. In fact, the subject for the purposes for which the work was written is discussed in a manner and style above criticism. It is not true, however, that the reviewer considers that all of the views of the author are correct, but it is true that a careful reading of the book will do what perhaps it was intended to do, namely, cause the reader to get new ideas and a broadened view of the subjects discussed and thereby be enabled to derive great benefit from it in the study and the practice of law.

Aside from a discussion of the proof of facts the learned author also enters in a discussion of certain related subjects in the form of short treatises which are indeed not only very interesting but highly instructive and tend to throw a great deal of light upon, and give aid to, the best means of arriving at a determination of the problem of proof. These short treatises are in themselves unique, instructive and especially valuable to the student of law, and especially so because by reading them he gets the thought and mental reactions of the author from his viewpoint, being that of an interested, well informed and conscientious layman. The subjects to which I refer especially include, "The Atmosphere of a Trial," "Cross Examination," "Advocacy," "Court Rooms," "Argument" and "The Judge." The work should be read and studied by all students and practitioners of law; and I know of no book that attempts to cover the same ground; certainly none that

does it so well. It deserves a place in every law library and is worthy of a place in the curriculum of every law school. No man, either student or practitioner of law, could read this book without receiving benefit therefrom nor without having higher ideals and a determination to strive to attain them.

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A SELECTION OF CASES UNDER THE INTERSTATE COMMERCE ACT (2nd ed.)—By Felix Frankfurter, Cambridge: Harvard University Press, 1922, pp. xii, 789.

Perhaps no other phase of the law has undergone greater change in the last few years than that part of public service law which is affected by the dormant or exercised power of Congress to regulate interstate commerce. Professor Frankfurter has therefore rendered a service of the first magnitude not only to the law teacher but to the practitioner by bringing down to date his valuable Selection of Cases under the Interstate Commerce Act. The choice of cases, both new and old, is excellent, and the volume is as nearly down to date as it is possible to be, important cases, such as the *Wisconsin Rate Case*, which appeared while the book was going through the press, being inserted in an appendix.

The paramount importance of this too often neglected part of the law of public utilities is deservedly emphasized in the preface. "According to authoritative estimate the volume of interstate traffic in the United States is about three-fourths of the whole. This means that three-quarters of the country's transportation business,—not to mention other vast interstate utilities, such as the telegraph, the express service, the pipe lines,—are subject to the control of governmental regulation. Ample *a priori* justification would thus exist for systematic study, according to proved methods of legal education, of that body of law through which this governmental control is exercised."

The reviewer's experience in the class-room use of the book has been that, although the cases are far more difficult reading than the cases in the other parts of public service law, the students take more interest in these cases than in the other public service cases,—and no one can deny the importance of the subject mat-