

# A FAMOUS BOOK ABOUT FAMOUS BOOKS

*MEN AND BOOKS FAMOUS IN THE LAW,*  
BY FREDERICK HICKS

*Robert C. Berring*<sup>†</sup>

“Some books there are, however, which have romantic stories of their own, have passed through unusual vicissitudes, and have survived disaster. The life of these cannot be shown by annotated lists, but must be told in connected narratives which bridge the gaps between successive editions.”<sup>1</sup>

*Chapter One* was created to tempt the reader. We want you to sample the first chapter of a book, then to feel compelled to seek out the whole work. To qualify for Chapter One, a book must carry meaning, be well written and hold the reader’s interest. This time the choice is a special one. Instead of simply presenting a book that carries value, we offer Frederick Hicks’s *Men and Books Famous in the Law*, a book that tells the story of books that hold value. Though this approach brings on mind an M.C. Escher print, with a book about books that are about books in an endless regression, this book is worth the risk. Professor Hicks chooses well, and tells the tale of these books with relish and clarity. The book is a good read and afterwards one feels much smarter. That is a heady combination by anyone’s lights.

Fred Hicks has long been one of my heroes. Hicks presents us with a beguiling blend of legal scholar, innovative teacher, master

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<sup>1</sup> Hicks, *Men and Books Famous in the Law*, (Lawyers Coop, 1921) p. 25. I will not provide pin cites to any other parts of the Chapter. After all, my goal is for you to read the whole thing.

law librarian and prolific author that is difficult to match. Just as Professor Hicks was an extraordinary man, so too is *Men and Books Famous in the Law* sui generis. As the Chapter reprinted in this issue demonstrates, Hicks has a special take on famous law books. He saw each book, and its author, in context. This made for a new kind of work. As Dean Harlan Fiske Stone cautions in his Preface, “No pretense is made of giving an adequate picture of the contents of the books. . . . Nor is a complete picture of the authors of the books given.”<sup>2</sup> Is Dean Stone damning with faint praise? No, he is pointing out that this book is built around a novel idea.

Hicks strives to catch each book in its moment in time and to focus on why the book came to matter. Instead of eruditely parsing through the cobwebbed legal arguments that are the content of each work, or belaboring the reader with biographic details of the author’s grandfather’s life, he comes at each book in an entirely different manner. In each case Hicks describes why the author is important in the context of the book and how the book fits into the grand scheme of the development of the law. It is a hybrid form of scholarship, which, though seldom seen, has much to offer. Why do some books last, withstanding the ravages of time? What makes an important book into a timeless classic? How can a book which cost its author his position, or which was still barred from publication in the United States at the time Hicks wrote be deemed a classic?

Hicks wrote in 1921. He was reaching back to the centuries before, trying to save a place in the minds of contemporary lawyers for the great works that he feared were slipping away. At some point, the great thinkers of the past become dusty intellectual relics. The authors names may be carved into the wall of a building, the name of the book may ring a faint bell of recognition in the mind of the listener, but no one actually goes back and reads the book. Hicks wanted to breath life back into a few of law’s touchstones.

Having twice offered a seminar at Berkeley Law School that is a bit pretentiously titled “Elegance in Legal Writing, Elegance in Le-

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<sup>2</sup> We include the Introduction by Dean Stone as it appeared in the first edition. Do not be dismayed by the eminent Dean’s prose, let it serve as a reminder of the felicity of Professor Hicks’s prose.

gal Thought” that acquaints the law student of the 21<sup>st</sup> Century with the great legal thinkers of the 20<sup>th</sup> Century, I can empathize. I offer the seminar in 2012, awash with the same concerns that Hicks must have felt in 1921. If we lose the substance of the great works that went before us, we can never truly understand the legal milieu in which we live. Snapshot considerations of legal theory, or assessments of legal practice, that do not consider the root system that produced the contemporary world, are dangerous.

It is arresting to consider that the books that we read as part of the seminar, Holmes, Cardozo, Frank, Llewellyn, Fuller et. al were part of the contemporary intellectual landscape of Hicks’s day. *Men and Books Famous in the Law* presents us with the books that Cardozo’s generation was in danger of losing. The wheel turns.

Given his times, and the much more limited collection of works from which to choose, Hicks reaches back far beyond the preceding century. He casts his net as far back as 1422 to sweep in Lord Coke. The breadth of his learning cannot fail to impress.

Before these books became classics, they represented the efforts of authors caught in the swirl of events of their own day. Judgments made slowly over the passage of time anointed them as permanent parts of the legal firmament. But time grinds everything down. Today’s trendy theory is tomorrow’s object of ridicule. Hicks chooses only those books that endured for the long haul, books that represent breaks in intellectual tradition, books that made a difference, books that set us on our modern path.

Blackstone, Kent, Coke, Littleton, Livingston, Cowell and Wheaton were names that any law student could once have rattled off. Even these books, which most likely are now ensconced in Rare Book Rooms, or roughly scanned into jumbo data bases, have something to tell us. Some are still quite readable, some were hardly readable in their own time, but all matter. Professor Hicks was on a mission to preserve them as important markers in the law.

While stylistic taste is an individual matter, Hicks’s style remains fresh. He is an acute and objective observer. The prose flows well, the meanings are clear. This is a book to read so that one can understand the true value of famous books that one will likely never read.

(Though I contend that Blackstone is still an invigorating text, and that Wheaton sadly sketches out problems that we have yet to solve). Reading *Men and Books Famous in the Law* is a treat and it makes you wiser. Such a powerful combination should be good motivation for the reader.

To sweeten the pot in this edition of Chapter One, we include a short biographical essay on Professor Frederick Hicks, authored by Stacy Etheredge of the West Virginia University Law Library. Ms. Etheredge paints a picture of a man of many talents who changed both legal education and law librarianship. We also include two contemporary book reviews, drawn from the law reviews of the day.

*Men and Books Famous in the Law* is still in print, a good sign for a 92 year old imprint about books that were old when it was written.<sup>3</sup> You can even find a digital version via HeinOnline. The point is, give this chapter a read and see if you are game for more give the whole book a try. If you only read the chapters on Blackstone and Wheaton, you will the better for it. ❶

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<sup>3</sup> The book has been reprinted by Gryphon Press, Rothman and Legal Exchange. All appear to be straight-forward copies of the original text. It can also be found for free at the Google Books site and, for those who have access to HeinOnline, the full text can be found there.