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Book Reviews

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BOOK REVIEWS

WILLIAM F. BYRON [ED.]

FEDERAL JUSTICE: CHAPTERS IN THE HISTORY OF JUSTICE AND THE FEDERAL EXECUTIVE. By *Homer Cummings*, Attorney General of the United States, and *Carl McFarland*, Special Assistant to the Attorney General of the United States: New York, The Macmillan Company, 1937.

This handsome octavo of 576 pages is well worthy of being read by every American lawyer and, indeed, by everyone who is interested in the difficulties experienced by the Federal Government in matters of great importance Interstate and otherwise, from the earliest times to the present. It gives a full and accurate account of the way troublesome situations have been handled and generally with substantial success.

It might well have been called *The Story of the Attorneys General of the United States* as it is almost essentially an account of the labors for the nation of most of fifty-five Attorneys General who have filled that important office since 1789. It is to be remembered that, while after many strenuous but futile attempts, it was not till after the Civil War that a Department of Justice was instituted, headed by the Attorney General, and placed upon an equal footing with other Departments; a step which Congress had theretofore uniformly refused to take although there had been an At-

torney General from the earliest period of the Republic.

The first to occupy this important and onerous office was the celebrated Edmund Randolph, appointed by Washington in 1789. He is perhaps best known in legal circles by his adverse Report on the Judiciary Act of 1789, a report which, almost a century later, was characterized by Mr. Justice Matthews as "an accurate and perspicuous analysis of the judicial power"; but the Act withstood all attacks and remained substantially unchanged till 1869-1870 when the Department of Justice Bill was approved by President Grant. Randolph drew the Neutrality Proclamation, in 1793, during the Franco-British war, which has, not unjustly, been regarded as the foundation of the international laws of neutrality.

Not to mention the living, many men who have passed away have filled this important office with dignity and efficiency. I have reference to men like William Wirt, appointed by John Quincy Adams (his proposition that law is not a mathematical science, I have had occasion to agree with in my Canadian Court; and Roger B. Taney, appointed by Jackson and later, as Chief Justice, and so unjustly execrated for his decision in the Dred Scott case, in no small degree perhaps due to the bitterness of party feeling. A great deal of his activities as At-

torney General was devoted to the Second Bank of the United States. John J. Crittenden was twice Attorney General under Presidents Harrison and Tyler, who had to do with the Fugitive Slave laws and was desirous of amendment of the federal criminal laws, a result ultimately arrived at in the Revised Statutes authorized in 1866 and published in 1873. Another distinguished holder of the office was William M. Evarts, who, after prosecuting Jefferson Davis, became Attorney General, appointed by President Johnson whom he defended on his impeachment—he did not think much of lawyers in public councils as “Their technical training and extensive, absorbing practice unfit them to be statesmen,” (*Crede Experto*). And lastly I mention my dear friend, George W. Wickersham, who after being an active practitioner in New York was appointed by President Taft—he had much difficulty in respect of the administration of justice in Alaska, not unlike the troubles in the Indian Territory in the 70’s and 80’s, a territory characterized by a Grand Jury as “a most productive garden for the propagation, growth and commission of crimes.” Wickersham’s repeated appeals concerning irregularities to judges, district attorneys and marshalls always brought the reply, “What other course is open?” Perhaps he is best known by his services as Chairman of the “Wickersham Commission,” the National Commission on Law Observance, intended “for a searching investigation of the whole structure of . . . (the) Federal System of Jurisprudence,” including the shocking practices so common under Prohibition. Some twelve exceedingly able, interest-

ing and valuable reports were made; and the Commissioners did not disregard their own injunction “We must not forget the many historical examples of large public disregard of laws in our past.” In this connection, we must not forget the work of my friend (now Mr. Justice) Harlan F. Stone, appointed Attorney General in 1924 by President Coolidge, and who, in his short term of a year, readjusted the Bureau of Investigation and reorganized its personnel, thereby laying the foundation for a new and efficient service. It is not too much to say that the present F.B.I. has won the admiration of the civilized world—I vouch for Canada. The “Whiskey Insurrection” in 1794 in Western Pennsylvania called for the attention of Attorney General William Bradford, appointed in that year by Washington to succeed Randolph, who had resigned. Bradford was a member of Washington’s Conciliation Commission which, failing in its efforts, reported that military force would be necessary. He appeared as counsel for the United States in the prosecutions arising out of the insurrection. An interesting sidelight is cast upon civil society by Gallatin’s opinion at this time that in every case of insurrection, rebellion or treason, he would (as counsel for the defense) take a jury of Presbyterians, while Brackenridge (of Western Pennsylvania) would “choose a jury of Quakers or at least Episcopalians in all common cases, such as rape, murder, etc.”

The troubles in the “Wild West” beyond the Mississippi, where an empire was in the making, engaged the attention of more than one Attorney General. Insufficiently po-

liced, the domain to the west became the spoil of the brave or the desperate pillagers of private property; robbery of trains was not uncommon while open Indian wars were not unknown.

Mormon polygamy was in 1858 assailed as being barbarous, "incompatible alike with public prosperity and domestic happiness," by Attorney General Jeremiah S. Black, appointed by President Buchanan; but there was no law against it until 1862; and even in 1875, Attorney General Edwards Pierrepont, appointed by President Grant, had to report the case of the nineteenth wife of Brigham Young being treated by the Courts as a lawful wife, and granted alimony and counsel fees.

The Star Route cases in the 80's had the attention of Attorney General Wayne MacVeagh, appointed in 1881 by President Garfield—he had been instrumental in the settlement of the reconstruction difficulties in Louisiana—he advised a vigorous prosecution of the offenders but resigned before the trial. The whole story of the Star Route cases our authors rightly say is "a dismal page in American history."

The robbery of the public forests in the West gives an equally dismal page, "significant and illuminating in (the present) day of dust and advancing desert." As early as 1816, Attorney General Richard Rush, appointed by President Madison, pointed out to Congress that there was no statute specifically forbidding the cutting of timber from the public lands, but it was not until 1831 that Congress passed such a statute. The depredations continued, prosecutions for the offense were numerous, but notwithstanding the efforts and injunctions to local officers of justice

of Attorneys General Augustus H. Garland, appointed in 1855 by President Cleveland, and William H. Miller, appointed in 1889 by President Harrison, the offenses continued and even increased. Many of the offenses prior to March 1, 1879, were wiped out by Congress. The land given and money loaned by the United States to the railroads linking the East and West, though this was with the best intentions, landed the Government in "such a struggle . . . as had not been seen since the time of Jackson and the Bank of the United States." Attorneys General Ebenezer Rockwood Hoar, appointed in 1869 by President Grant and dismissed by him the following year; Amos T. Akerman his successor, who was requested by Grant to resign and did; George H. Williams, Edwards Pierrepont and Alphonso Taft, also Grant appointments; Charles Devens, appointed by President Hayes; Wayne MacVeagh, appointed by President Garfield; Benjamin H. Brewster, appointed by President Arthur; Augustus H. Garland, appointed by President Cleveland; William H. H. Miller, appointed by President Harrison, and Richard Olney, appointed by President Cleveland; all were called upon to take part in the disputes with the Central Pacific and Union Pacific over what is picturesquely called "Pasture for the Iron Horse."

I have given but a few—not a tittle—of the interesting subjects dealt with in this charming volume. It must be read to be appreciated. It "is not a law book. Nor . . . is it a popularized description of the Department of Justice or of racketeers, law suits, prisons and politics. It is instead the story of men, emotions, methods and mo-

tives in that crucial zone of law and government bordering both upon the courts and the executive."

Mechanically the volume is all that can be wished—the paper, type, binding are all impeccable; while in proof reading I have observed only one error, the "King's Sergeants-at-Law" were Serjeants not Sergeants. A full and satisfactory Index completes the handsome book. *Oh! si sic omnia.*

WILLIAM RENWICK RIDDELL.

Osgoode Hall, Toronto.

THE BLUE BOOK OF CRIME: SCIENCE OF CRIME DETECTION. By T. G. Cook, F.P.E., Director Institute of Applied Science, Chicago.

A short time ago, I read an American book, "Here's to Crime," which gave an appalling account of the underworld and the prevalence of crime in the Republic. The writer, who was transparently honest and apparently competent to deal with his subject, said that three out of four of the Americans now living might be expected to experience some major crime, murder, manslaughter, assault, rape, etc.

The present work describes clearly and fully some of the methods in which Science endeavors to meet the situation, and the success it has already achieved. The particular methods specifically dealt with are two. The Bertillon System, invented by Alphonse Bertillon of Paris in 1880, was the best known means of identifying and cataloguing criminals until the adoption of the Finger Print System which, in addition to other advantages, has that of time-saving. A Bertillon examination takes about half-an-hour to learn and tabulate the measurements of those

parts of the body which are not supposed to change, while a set of finger prints can be taken easily in three minutes.

The author, who is a Director of the Chicago Institute of Applied Science which is especially devoted to teaching the proper methods of Finger-printing, studied his science at the famous New Scotland Yard, London, and spent some time at Rome in studying the Finger-print methods of Italy, in Berne those of Switzerland, and in Mexico those of that country: he is a well-known expert and apparently wholly reliable.

The Finger-print system consists of a careful and minute examination of the pattern or design formed by the ridges on the inside of the first joint of a finger and thumb. There is on the tip of every finger or thumb a pattern made up of many fine lines, called "ridges," while the spaces between are called "furrows." The pattern formed by the arrangement of the "ridges" and "furrows" appears upon the fingers of the new born babe and does not change: it is traceable on the fingers of the same person in youth, middle and old age—and even after death, until it is destroyed by decay. No two persons have the same pattern. In all the millions that have been taken—over 2,000,000 in the U. S. Navy, over 5,000,000 in the U. S. Army, over 6,000,000 with the G-men in Washington and more in New Scotland Yard and elsewhere—no duplicate has ever been found. Nor can anyone destroy or alter the pattern; criminals have tried to do this by sandpapering the ends of the fingers, rubbing them on cement walks, burning them with acids or hot irons, cutting them into strips with razor blades, in-

serting melted paraffin under the skin, grafting new skin, etc., etc., but all in vain; in time, the wounds heal and the ridges come back exactly as they were to the millionth of an inch. The face can be altered; the finger-prints cannot. The Chinese have for hundreds of years used the finger-print as a seal in signing documents, but it was not till 1923 that Prof. J. E. Purkinje of Breslau attempted to classify the patterns. Sir William Herschel in 1858 used them as seals, but later Sir Francis Galton laid the foundations for the present system, and Sir E. R. Henry of New Scotland Yard, in 1903, began there the establishment of the first Finger-Print Bureau where the finger-prints of thousands of offenders, and of no few innocents, are preserved.

A crime is committed; say a store burglary—the secret service man is sent for; he orders the store closed and nothing to be touched; he seeks for finger-prints on door, window, skylight, counters, safe, cash register, showcase, everywhere the thief may have been. The burglar of the present day knows the danger of leaving finger-marks and not uncommonly wears gloves; but almost always a slip is made and a bare hand is placed on something leaving the fatal mark. This found, a photograph is carefully made in the presence of a witness, and the pattern is compared with the finger-prints on file. In the British Isles, if no duplicate is found in the local office, the new photograph is sent to New Scotland Yard; in the United States to the United States Criminal Bureau, and sometimes the Army and Navy Bureaus at Washington, both of which have

millions of prints on file. Crime, it is to be remembered, is almost always the work of a professional, and in by far the greatest number of cases, the offender has been “in trouble” and his finger-prints taken and preserved: consequently, the identification of the perpetrator of the crime under investigation is very probable. If, indeed, the suggestion was put in force that the finger-prints of the new-born child were furnished to the authorities with the other information now required, and this kept of record, the identification would be practically certain. But there seems to be a strong prejudice against finger-printing anyone but those charged with crime—a prejudice I for one fail to understand.

Finger-prints have been effective not only in convicting the guilty but also in acquitting the innocent—true stories are told of men and women imprisoned for years whose innocence was thus established.

After a full and careful exposition of the Finger-Print System, the Bertillon System and Modus Operandi or Crime Index System recently adopted by Scotland Yard, the author of this entertaining and instructive little book relates incidents of the identification by the Finger-Print System of several offenders, in some cases within a few hours of the crime, in some after the lapse of years.

Anyone interested in the suppression of crime—and who is not?—will find in the few pages of this work a wealth of valuable information, given in a simple and attractive style.

WILLIAM RENWICK RIDDELL.
Osgoode Hall, Toronto.

THE POLICE AND MODERN SOCIETY.

By *August Vollmer*. 253 pp.
University of California Press,
Berkeley, 1936. \$2.50.

The Bureau of Public Administration of the University of California, for a number of years past, has been conducting systematic research into and organizing existing information about problems relating to the administration of criminal justice. This is the third book to appear in the series, the two earlier ones being the Culver bibliography and the Adler-Cahn-Stuart study of juvenile delinquency in Berkeley.

The book under review is general in character, representing primarily a condensation of the noted author's wisdom and experience. Police responsibilities and the author's opinions about their implications in "modern society" are discussed in four principal chapters, namely, Major Crimes (Part I, Uniform Crime Reports), Vice as a Police Problem, Traffic, and General Service. A chapter on Crime Prevention, one on Police Personnel, and a brief Conclusion complete the work. There is a short general bibliography and an index. Typicality or representativeness in the scientific sense is disclaimed. "It is no part of the purpose of the author to act as spokesman for other policemen, either individually or as a group. The opinions . . . and the recommendations . . . are those of a particular police officer, rather than the views or conclusions of peace officers in general. They are based on a long and varied practical experience

and a personal acquaintance with the police . . . of many countries." (Preface).

The common sense approach and the "practical" suggestions are interesting and valuable for anyone seeking information about the day by day problems confronting police forces. Some of the illustrative material is especially appropriate and is used to good effect. Many people will listen with respect to Mr. Vollmer's suggestions about what to do; others will question some of his assumptions and quarrel with his analysis of cause and effect. One wonders, for instance, how many will agree with his concluding sentence, "Democracy's strongest reliance is the police." (p. 237)

There is regrettable lack of critical analysis in the handling of statistical materials. Crime rates and various crime indexes are compared in terms of their superficial surface meanings in a manner to astound the student accustomed to expect a critical insistence on certain statistical fundamentals such as stable and comparable units, uniform reporting areas, standard populations with respect to age, sex, rural-urban residence, etc. Instead there is uncritical comparison of the crime rates of one country with those of another, one city with those of another, earlier decades with the present time, etc.

The jacket describes the book as "plain talk based on practical experience," and this perhaps may be taken as adequate. As such, it is worthwhile and valuable.

GEORGE B. VOLD.

University of Minnesota.

MEDICINA LEGAL. Volumes I and II.
By *Nerio Rojas*, Professor Titular de Medicina Legal de la Facultad de Ciencias Medicas de Buenos Aires, Buenos Aires. 1936.

With the appearance of this two-volume book on legal medicine written by the leading South American authority on the subject, one is impressed how the United States is lagging behind other countries which we presume to be scientifically more backward than ourselves. Nowhere in the United States, with the possible exception of Bellevue Hospital and its auxiliaries in New York, is there anything approaching the Institute of Legal Medicine which Dr. Rojas directs in the Argentine. Our most recent books in forensic medicine are largely a compilation of laws which are extremely complicated because of the fact that we have forty-eight separate state codes dealing with medico-legal subjects, in addition to Federal codes covering continental United States as well as our territories and possessions. There is no single stimulant in this country for the establishment of such institutes or such societies as they have in South America and in Europe. In spite of the fact that at the turn of the century Kraepelin was having combined legal and medical staffs dealing with his insane patients, this technique has never been carried over with any effect into America. Yet in certain cities and certain states lethal statistics are so high as to be almost imponderable. The problem of homicides, whether due to personal conflict, or mechanical conflict as in automobile accidents, is appalling, so that we may look with interest at

this modern volume dealing with the medico-legal problems which have confronted this South American author. His opportunity for viewing corpses and sizing up medico-legal problems is infinitesimally smaller than that afforded the American investigator in any large city. Argentine crime, while it has a number of vicious aspects which we seldom see in this country, devolves largely upon the matter of single cases, making the statistical approach somewhat difficult. As far as the actual arrangement of the book is concerned, there is little that is new except for the fact that toxicology is minimized and psychiatry is emphasized. Where such American books as Webster's emphasize the duties, privileges of, and demands made upon the medico-legal expert, Rojas takes a double point of view; namely, he emphasizes these factors and at the same time he points out what the law demands of the physician by showing the codification of the law. There are excellent illustrations showing actual cadaveric material. The work is well systematized and well thought out; in fact, it is immeasurably superior to our more complicated works. It is thoroughly brought up to date, referring to much of the European literature. Our own literature is somewhat neglected, as well it should be since we have no medico-legal society except one in New York, and we have no medico-legal institutes which are publishing any monographs or any periodical, so that to gain any medico-legal information out of the vast amount of material which is being dug up and written about in this country would be to demand too much of the foreign author.

Perhaps this reviewer has not sufficiently emphasized the value of the volume, for he has not picked out particular details to describe. The fact that there is such a book that emphasizes the new point of view; that it is much more modern than anything we have, and that its author has facilities which are not open to those in this country, should stir one to investigate not only the book itself but its author, his facilities, and the possibility of carrying out identical procedures in this country.

LOWELL S. SELLING.

Detroit, Michigan.

THE PRISON SYSTEM IN ILLINOIS—
A REPORT TO THE GOVERNOR OF
ILLINOIS BY THE ILLINOIS PRISON
INQUIRY COMMISSION.

Probably one of the most comprehensive reports of a Prison System ever to have been made was that made of the Illinois Prison System at the request of Governor Horner, by a commission appointed by him.

Appointed, following the Loeb killing, in response to charges by the press of laxity in discipline, and favoritism in dealing with convicts, this Commission was directed to make a thorough investigation into prison conditions and to recommend any improvements which seemed necessary. The result is the 684 page report which, though presumably a State document, is offered for private sale by the Chicago Crime Commission for the sum of \$2.00. The report covers the four prisons for men, Menard, Stateville, Joliet and Pontiac; the Women's Reformatory at Dwight, and the State Penal Farm at Van-

dalia. The prison survey schedule which was developed by W. Abraham Goldberg, and published by the U. S. Bureau of Prisons, is followed throughout.

Although the physical plant and set-up of each institution is described in detail, there is entirely lacking any mention of the soul of the prison—that is, the inmate body, with its attitudes, activities, informal recreation, the economic and social life, the repressions and oppressions, the interaction between inmates and employees, the loves, the hates, the gambling, the privileged class of inmates and the stool-pigeon system which the present administration has developed to the highest degree of use and abuse. "Stone walls do not a prison make," but these factors, largely omitted from the report, do.

The sex life of the prisoners, which is the primary cause of the many fights, stabbings and murders in prison, and which is supposed to have been the background of the tragedy responsible for the inquiry, is dismissed in the report with a few lines on page 174, under the heading "Sex control."

No mention at all is made of the celluloid work, the carving, wood inlay work and other craft work which prisoners undertake to fill in their hours of idleness while locked in their cells. And neither is the fact that the administration attempts, without success, to suppress this wholesome activity.

In the report the problem of punishment is minimized, and the impression is given that solitary punishment is resorted to only for severe violations of discipline. Figures were available to the Commission, had it cared to use them,

showing the large proportion of men sent to solitary for five days or more for such offenses as "Walking in line with hands in pockets," or "Whispering in dining room," or "Being in yard without cap on head," or "Being out of line."

Those who know the prison from the inside are aware of the injustice and opportunities for favoritism which grow out of the enforcement of such discipline.

A large number of recommendations as to specific improvements in physical plant and administration are scattered throughout the report. One major recommendation, however, stands out. It is to the effect that an administrative board should be created, to be known as the Illinois Board of Prison Administration; this board to have authority over all factors having to do with punishment—including probation, incarceration, parole and after-care. Specific recommendations are made as to how this board shall be constituted.

A chapter on Civil Service, and one on Parole are included in Part I of the report.

Part II is a presentation of articles by specialists in various fields of Criminology and Penal Administration.

The report, as a whole, is disappointing in that it ignores almost entirely the qualitative aspects of the administration of the Illinois Prison System.

FERRIS F. LAUNE.
Northwestern University.

and *Camillo Tovo, M.D.* Volume I—755 pages, illustrated with 3 polychrome plates, 210 pictures, some in color. Unione tipografica — editrice torinese, Turin, Italy, 1937. Price, 95 lire.

This is the first of the two volumes on legal medicine directed by Professor Carrara in collaboration with Professors Romanese, Canuto, and Tovo. The work is essentially clinical and represents a coordinated effort for the guidance of the general practitioner in the legal aspect of medicine. The material contained in the book is of broad scope but succinctly expressed, and should prove useful to the student of legal medicine. It is divided into six sections: Introduction, forensic obstetrics, and forensic toxicology are discussed by Professor Carrara; professional deontology and forensic trauma by Professor Romanese; and sexology by Professor Canuto.

There is no preface. It is supplanted by the rather verbose introduction (22 pages). The section on professional deontology is quite profuse (123 pages) and from it the physician practicing in Italy should derive ample details for the guidance of his medico-legal ambitions. The sections on forensic obstetrics and sexology are well done and practical; however, there are notable omissions of such questions as infanticide, paternity tests, etc., but Professor Canuto hints that these are to be described in the second volume. The section on forensic trauma describes in detail fatal and non-fatal wounds, discussing elements of pathology and differential points among those self-inflicted, accidental, and homicidal. Wounds in the moribund or very shortly after

MEDICINA LEGALE. By *Mario Carrara, M.D., Ruggero Romanese, M.D., Giorgio Canuto, M.D.,*

death are given due consideration, and the difficulty and at times impossibility of differentiating them from primarily homicidal wounds is judiciously discussed. Most of the section is devoted to wounds produced by sharp, blunt, and pointed instruments and their effect on the living body. The chapter on gunshot wounds is relatively short, but nevertheless complete, especially on points of bullet entry and exit. Simple chemical tests are given to determine if the projectile was lead or steel jacketed, especially when the bullet has left the body and cannot be found. The section on forensic toxicology would probably not be appealing to the average student of toxicology. The clinical matter is sketchy, the post mortem appearances incomplete, and chemical toxicological methods when given would be better omitted, since as such they are of no value to the chemist, nor important to

the morphological pathologist. However, valuable, simple tests and hints are given to the autopsist for immediate orientation in the post mortem diagnosis of some of the toxicological deaths.

Professor Carrara's colored illustrations are excellent. The illustrations on forensic trauma seem underexposed and not a few show insufficient detail by this photography.

Each section has a fairly complete bibliography and the references are mostly to Italian, French, and German literature. Only a few references are made to English writings.

This book shows that the medico-legal groups in Italy are well organized. This is a strong contrast and indeed a reproach to our obsolete coroner's system in America.

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