

1944

## Book Reviews

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## BOOK REVIEWS

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DISPUTED PATERNITY PROCEEDINGS, by *Sidney B. Schatkin*, Albany, N. Y.; Matthew Bender and Co. Pp. 442. 1944. \$5.00.

*Disputed Paternity Proceedings*, by Sydney B. Schatkin, Assistant Corporation Counsel of the City of New York, is a book which I believe many lawyers of the State of New York have been waiting to see published. It is based upon his actual experience of many years in the trial of paternity proceedings in the City of New York. I believe that he is outstanding in this work. The book indicates that he has made an extensive study of the subject matter. It contains the law affecting paternity proceedings applicable in the City of New York, and as it affects the rest of the State of New York. It very intelligently brings out the Statute Law and the Common Law in various jurisdictions. I agree with the author that the Bar, as a whole, is not familiar with this type of litigation, and is at a loss where to find the law affecting this type of proceeding. The book sets forth the law applicable to the prosecution, defense and trial, and includes appendices with forms necessary in affiliation proceedings.

I also agree with the justification of emphasis placed upon the necessity of blood tests. No lawyer should rest his case without such a test.

In Part 2 of his book, entitled "Defending the Proceeding," the author spends considerable time and gives valuable information to the defense counsel who may suddenly be called upon to defend a charge of this nature, especially if defense counsel is a novice in the trial of these proceedings.

As to the rules of evidence identified with affiliation proceedings, there are many questions remaining undecided in jurisdictions outside the City of New York. I personally do not agree with some of the admissible evidence allowed in the City of New York. There are various admissible facts admitted in the City of New York, which are excluded before the Hon. Victor B. Wylegala, Judge of the Children's Court of the County of Erie, and I believe that the time is not far away when a definite rule, or rules, affecting paternity procedure will become uniform throughout the State of New York. I believe that if defense counsels would appeal more cases where their clients have been adjudicated to be the putative father, and they would base their appeals not on the facts in the case, but upon questions of law raised in the trial, that correct rules of evidence would result. It is regrettable that various jurisdictions do not agree on these rules of evidence.

In conclusion, the author is to be commended for his work. The book is well written and comprehensive.

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LEY, HISTORIA Y LIBERTAD, by *Sebastián Soler*. Buenos Aires: Editorial Losada, S.A. 1943. Pp. 250.

Dr. Soler—a distinguished Argentine jurist and Professor of Criminal Law at the University of Córdoba—has sought to define the status of individual freedom in the liberal-democratic state through the historical, analytical, and comparative methods, and from the legal, psychological, and sociological standpoints. His hypothesis is that attacks on the concept of liberty may most effectively be challenged by stripping law of its folk-lore and giving its standards force through the cooperative application of psychological and sociological principles to its administration.

To the extent that the author pleads for an integration of the disciplines

to implement individual liberty, he argues in a doctrinal path worn deep by the scholarship of sociological jurists. However, he fails to repudiate positive law which lacks uniformity in administration (pp. 161-162), and frequently becomes lost in minutiae only indirectly relevant to his thesis. It is hardly more than intellectual shadow-boxing, for example, to consider at length whether an individual exercises a "right" or a "power" when opposing oppression (pp. 92-94). In addition, the author interrupts the logical sequence of his essay through the incorporation, under separate headings, of brilliant but tangential views on propaganda and freedom of the press (pp. 161-165, 223-234). As the value of a work depends in large measure on telescoping pertinent factual data and ideas on the problem, it is unfortunate that the author spends about one-half of the essay in coming to grips with his subject, and does not end his work with a careful summarization of the steps in his argument and a concise statement of his main conclusions. Professor Soler is a penetrating scholar, and this work has much to recommend it, although a final revision probably would have resulted in clarifying its meaning and improving its continuity.

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A SOCIAL PSYCHOLOGY OF WAR AND PEACE, by *Mark A. May*. Institute of Human Relations, Yale University Press; New Haven, 1943. Pp. IX, 273.

In an introductory chapter on "Why War?" the author refutes those lopsided and unrealistic theories of the biologists, certain psychologists and psychiatrists. It is finally recognized that war is the activity of an organized and conscious group called "state." "War is one of the products of government. It is the outcome of political machines." This is not even identical with the business aspect of war or the angle of economic competition. In the following chapters, May gives a survey of the individual and group psychology of such emotions as fear, hate, love, fighting, escaping, defending, etc. Interesting as these descriptions, based on the by now established frustration-aggression theory of the Yale Institute, may be, one does not see that these psychological factors make for a better understanding of the present war and the future peace. (Chapter 10).

Thus when May tries to analyze the psychological functionalism of the interventionists, the isolationists, and the third party of the realists, it is not so much the psychology of fear, as it is the political situation and orientation, the geopolitics of the oceans and frontiers, and many other factors, which account for the differential attitudes. May himself concedes this in his remark about the differences in orientation in the eastern and western and central states. This is geography, not psychology.

We are very much indebted to May for the application of a refined psychology to political problems, yet we should not overlook that psychology cannot supersede policies. There are very valuable remarks about education once the political aims are established, but again neither education nor propaganda is in a position to supersede statesmanship. This difference between psychology and pedagogy on the one hand and that type of forming an organized will which we call policy on the other, holds true for criminology too. We may educate the law breakers and understand them psychologically, but we would not be saved in this way from the need of having a clear and sound and up-to-date criminal policy.

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