

1951

## Book Reviews

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## BOOK REVIEWS

COURTS ON TRIAL . . . MYTH AND REALITY IN AMERICAN JUSTICE. By *Jerome Frank*, Judge, United States Circuit Court of Appeals. Published by Princeton University Press, 1949. Princeton, New Jersey. Pp. xii-440. \$5.00.

This volume centers on the doings of trial courts and the question of *facts* involved in the case is discussed extensively. Are miscarriages of justice the exception or the rule because of the manner in which the *facts* are handled in the trial courts? Judge Frank states, "My principal aim is to show the major importance of those courts; how they daily affect the lives of thousands of persons; and how, often with tragic results, they do their job in ways that need reform."

Chesterton once remarked that the most important thing for a boarding house keeper to know about a guest is his philosophy. The readers of a book can better understand it if they have some idea of the philosophy of the author and Judge Frank gives a sidelight on his thinking. He refers to "non-Euclidean thinking," and states, "For in this book I have tried in a modest way, to engage in such thinking."

As I mull over the theme of this volume I note an excoriating editorial in the newspaper on Municipal Court Judges. The question arises whether it is the common law system or the human beings using it that are at fault. If the latter is true the title of the book should be not taken literally. Is "court-house government" a fiction or a fact? If those involved in a criminal case neither properly present the *facts* nor probe for the *facts* it is not the fault of the common law system. I am inclined to think that readers interested in matters criminous would agree that in general justice will be done if there is a wise trial judge and experienced trial lawyers representing the defendant and the State. Even a Houdini could not keep a *fact* hidden if they make up their minds to expose it. The defendant's attorney, to use a metaphor from canasta, does not place all his cards on the table face up. Neither does the Prosecuting Attorney. As a result all of the *facts* are never actually exposed. But murder will out if the trial is conducted by able trial lawyers and a wise trial judge. F. X. Busch's *Law and Tactics in Jury Trials* (1949), should be referred to if you doubt that *fact*. In the "Wizard of the Law" about the life of the famous Max Steuer, will be found an excellent example showing that salient *facts* sought to be concealed will be exposed by skillful cross-examination. The great Daniel O'Connell in the "hat case" left another striking illustration. Myriad of instances could be cited to further prove the thesis that our present common law system if used properly will promote justice. Judge Frank cites instances of innocent persons being convicted. When you consider the total number of criminal cases each year is the percentage of innocent persons convicted significant? No human system is 100% perfect.

This is a thought provoking book and there is something of value for every reader in its thirty-two chapters. I heartily recommend it as an addition to your library although as indicated I do not agree with everything in it.

De Paul University College of Law

JOHN W. CURRAN

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COURTROOM. By *Quentin Reynolds*. New York: Farrar, Straus and Company, 1950. Pp. vi, 419. \$3.75.

Though crime is a horrid word, no grist comes to an author's mill that has a more powerful fascination for the reading public. Quentin Reynolds' *COURTROOM*, a study of the legal wizardry of Samuel S. Leibowitz, for the past

quarter of a century this country's most brilliant criminal lawyer and now a judge in Kings County Court, Brooklyn, spotlights in earthy detail a macabre record of murder, passion and wrongdoing.

Reynolds has a reporter's eye for colorful description, sharp character sketches and dramatic moments. In episodic vignettes he penetrates the minds and hearts of Leibowitz's clients with discerning artistry. Here one meets slow-moving Alvin Dooley who killed the mayor of Long Beach, New York; grief-stricken Louis Greenfield who admittedly chloroformed his mentally deficient son; pathetic Joe Scutellaro, made desperate by denial of relief, who stabbed to death the poormaster of Hoboken, New York. Mr. Reynolds reveals the terse drama behind brooding Duncan Ladd who murdered his wife's lover; terrified Laura Parr who lost her mind under an emotional stress that was too much for her; psychotic Robert Irwin, the "mad sculptor," whose troubled mind led to the death of three persons; egocentric Bruno Hauptmann, cunningly reticent about his accomplices in the Lindbergh murder.

Occasionally the reader sits with Leibowitz at the counsel tables and sees injustice in action—Scottsboro, Alabama with its vicious race prejudice, threatened mob violence, ineptitude on the bench, bias in the jury box; broken Harry L. Hoffman who served five years for a murder he did not commit; wronged John Barry Coughlin, an innocent victim of mistaken identity.

Thirty-one years in the courtroom obviously qualify Leibowitz's philosophic musings on justice and penology. When the Judge declares that "only in very rare cases does prison ever reform a man," he accuses the shameful practice of throwing young felons into a mass cauldron with older and more hardened inmates. Provocative challenges are hurled to courts, judges, and law schools. Do punishments fit the crime or the criminal? Why not a well-paid public defender to give skillful representation to poverty-stricken defendants? Might not the testimony of an eye-witness be distorted and inaccurate? Why not legal clinics in law schools where the students might secure live training similar to medical schools? Is a judge merely to preside at a trial or may he take an active part in clearly developing the facts? Is our jury system workable?

The author's reference to Jacob F. Rosenblum of the New York District Attorney's office as "Rosenbloom" (pp. 131, 132, 146) is obviously a careless slip and cannot detract from an extremely interesting book, written authoritatively and with luminous simplicity.

The Ohio State University

HAROLD M. HELFMAN

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TRIAL OF ALMA VICTORIA RATTENBURY AND GEORGE PERCY STONER. Edited by F. Tennyson Jesse. 288 pages and appendices. 2d edition; London and Edinburgh: William Hodge and Company, Limited, 1950. \$3.50.

The whole Rattenbury-Stoner affair began with a simple insertion in *The Bournemouth Daily Echo* advertising for a "Daily willing lad, 14-18 for housework." These few words were to lead to a real-life crime, more dramatic than the contrived suspense of fiction, and to a trial wherein the Old Bailey courtroom was to be used as a tribunal of morals.

The case itself, fully reported in this volume of the *Notable British Trials Series*, was an exceptional one—a clumsy crime committed in a brutal manner, no alibi, no attempt to escape, no defense of accident or plea of suicide. Youthful George Percy Stoner, wild with jealousy, confused by alcohol and possibly an overdose of drug, callously killed his mistress' husband. For four

days, May 27-30, 1935, the British public contemptuously listened to evidence stigmatizing Mrs. Alma Victoria Rattenbury for an illicit relationship with a servant, young enough to be her son. In the end, what had originally seemed to be unquestioned fact, that Mrs. Rattenbury was a coarse, drunken, and callous woman, proved to be an imaginative nothing. The verdict resulted in the imposition of the death sentence on one of the accused and indirectly led to the tragic suicide of the other.

To be sure, trials always have their dull places, but Miss F. Tennyson Jesse's judicious editing of testimony and penetrating word drawings in her forty-page introduction make the court procedures and personalities sumptuously alive. Evidence of expert witnesses testifying to the characteristics and hallucinations of drug addicts, so vital to the defense of Stoner, is intelligibly presented in terms understandable to the average layman. One can scarcely fail to be impressed by the judicial calm maintained by the opposing counsels throughout their questioning and pleading and by the coherent summation of facts and unbiased charge given to the jury by Mr. Justice Humphreys. The Rattenbury-Stoner trial demonstrates British justice at its impartial best.

The Ohio State University

HAROLD M. HELFMAN

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ALCATRAZ ISLAND PRISON AND THE MEN WHO LIVE THERE. By *Warden James A. Johnston*, Charles Scribner's Sons, New York, 1949, Pp. 276, \$3.50.

In this book Warden Johnston has given a realistic and "photographic" story of his 15 years of service at Alcatraz Island Prison. Warden Johnston became the first warden of the prison when the Federal Bureau of Prisons took over the island from the Military in 1933. Mr. Johnston recounts his efforts and labor in rebuilding the island prison, and selecting and training the officers for the "Rock." In 1934 the Bureau began sending to the "island fortress" the first contingent of selected prisoners from the various federal prisons in the country. These men were the notorious gangsters, kidnappers, counterfeiters, bank robbers and hardened "mobsters" who had mushroomed in the nation during the "Roaring Twenties" and the years of the Great Depression. They were the criminals of the criminals in the federal prisons of the country.

Alcatraz is more than a prison. It is a symbol of the nation's group vengeance in treating the criminal brains in the country. In dealing with these men Warden Johnston learned to know each man, his background and potentialities for escape. The warden's account or case history of these men reveals many of the problems in prison administration. The chapter on "The Battle of Alcatraz" gives a "blow by blow" story of the 1946 Riot.

The warden describes his method of treating the terminal criminals in his charge. He maintains that "I believe that there is more therapeutic value in a good work program than there is in many of the other approaches we have made." (p. 187)

Warden Johnston believes that the nation would be far wiser if it applied the time and money for psychiatric, medical and social efforts spent on terminal criminals to the care and treatment of the youthful offenders before they become criminals.

For those interested in crime, the treatment of criminals and prison administration, *ALCATRAZ ISLAND PRISON* is valuable reading.

Iowa State College

WALTER A. LUNDEN

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FREUD: DICTIONARY OF PSYCHOANALYSIS. By *Nandor Fodor* and *Frank Gaynor*. Philosophical Library, New York, 1950, Pp. 208, \$10.00.

Many people are having difficulties with finding out what Freud said or meant and the avalanche of books written on Freud and psychoanalysis, each one from the angle of its author, does not contribute toward making it easier for those who want to know, on authority, what psychoanalysis is.

The authors had the original and useful idea to cull definitions of widely used concepts from Freud's own work, to the exclusion of the interpreters. Thus the interested reader can have it directly from the master's mouth.

For a new edition, which this useful book should have, one might suggest amplification and particularly hints at the development of Freud's own ideas. In other words the quotations should be dated and the reader should be enabled to see at a glance how Freud's more recent thoughts compare with his older ones.

Sum total: A commendable and useful book.

New York

DR. W. ELIASBERG

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MANUEL DE DROIT CRIMINEL, By *Robert Vouin*, Paris. *Librairie Generale de Droit et de Jurisprudence*, 1950, Pp. 441.

This book on French Criminal Law does not deal with the origins, evolution, or philosophical principles of criminal law, nor on the other hand with practical criminalistic policies.

The volume includes a concise survey of the principles that govern the present day application of the French criminal law. It expounds such general concepts of the criminal law, as punishment, crime, the criminal, the criminal procedure, including pre-trial examinations, very brief questions of expert opinion, of testimony, etc.—all this only *de lege lata*. There is no comparative orientation but the book may be useful as raw material for comparative viewpoints for those who want a concise introduction to the present day French practice of the administration of criminal law by trial judges and grand juries (*chambre des mises en accusation*), etc. It written for French law school students.

New York

DR. W. ELIASBERG

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PROBATION IN THE LIGHT OF CRIMINAL STATISTICS. By *N. S. Timasheff*. New York: Declan X. McMullen Company, 1949. Pp. 47. \$1.75.

This Social Science Series, No. 3, of the Fordham University Studies is a statistical approach to determine what probation *really* does. Sophisticated devices of interpretation are avoided. Two major questions are investigated; (1) Probation as a method of preventing crime in the general public, and (2) as preventing crime in the particular individual.

Although in France and Belgium crime increased after the introduction of probation, in a few years it began to fall off; but from the beginning in the United States crime actually decreased as use of probation increased. Statistically, therefore, probation has not undermined or abolished the penal system, but has actually served to prevent crime in general. In the last few decades probation has become a well established institution, and is used with the same regularity by the courts as any other means of punishment.

Specifically, however, probation has not been a panacea for the redemption of the individual offenders. Even though probationers are selected from the better element of offenders, it is statistically demonstrable that between one quarter and one third fail to be rehabilitated. Of course, this does not present