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Book Reviews

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BOOK REVIEWS

LEGAL AID IN THE UNITED STATES. By *Emery A. Brownell*. Lawyers' Co-operative Publishing Co., Rochester, N. Y., 1951. Pp. 333. \$4.50.

This comment on Emery A. Brownell's book comes somewhat late after its publication. But the subject matter of the study is such that it loses none of its freshness or interest because of the lapse of time and its contents will warrant full and careful consideration by the legal profession today or tomorrow. The work is a part of The Survey of the Legal Profession by the American Bar Association under the direction of Reginald Heber Smith.

The book deals with the development, growth and present status of the Legal Aid movement in the United States, which movement has as its chief purpose, making available to persons unable to pay the usual and customary attorneys fees, the services of a lawyer in civil litigation and for consultation in other and personal matters.

This movement is not a new ideal of the legal profession, having had its origin in this country as early as 1870 when, through the efforts of Arthur Briesen, a New York lawyer, an organization was established in New York to aid the German immigrant in meeting his many problems in a new world and to prevent his exploitation. But its real development and substantial growth began in 1919 with the publication of an amazing little book, entitled "Justice and the Poor" written by a young man, Reginald Heber Smith, recently out of law school who was thoroughly distressed by the conditions he encountered among the poor who, because of their inability to pay current legal fees, were unable to secure desperately needed legal assistance in solving the problems of their everyday life. Being a young man of action, he wrote a book, the contents of which are still echoing through the corridors of modern society and are beginning to find some of their answers in the legal aid movement.

Legal Aid, as defined by Mr. Brownell, is essentially the organized effort of the Bar and the community to provide the services of a lawyer free or for a token charge, to persons who cannot afford to pay an attorney and whose cases are unremunerative on a contingent basis.

In *Legal Aid in the United States*, Mr. Brownell has compiled an up-to-date nation-wide survey of the movement and he has emphasized particularly and effectively, the responsibility of the legal profession in providing the necessary leadership to assure adequate legal assistance for the thousands of families and others who are unable to obtain such assistance otherwise. He has vividly described the limited extent to which this free legal assistance is being met, and he points up the large areas throughout the United States where it is still unknown, and that the ability of established organizations to meet the full need in their communities has risen only from 51 percent in 1916, to 55 percent in 1947.

The study gives a factual grasp of the many and various problems involved in the effort to answer the need for legal aid, the type of services to be rendered and a full description of the various organizational devices now in use to provide the services required.

The author has brought to his study a vast fund of personal knowledge and a warm enthusiasm that years of fighting for an ideal has not cooled. As chief attorney for the Rochester Legal Aid Society, and as secretary of the National Legal Aid Association, Mr. Brownell was undoubtedly the most eminently qualified person to make the survey, compile and analyze the

facts collected. At no point in his book has he engaged in advocacy, but he has systematically organized his figures and presented his findings in a completely objective manner, supporting them by comprehensive and convincing charts, graphs and statistics, confident that the facts and figures so presented will speak for themselves.

He has not been afraid to set forth in an authoritative manner, some of the glaring inadequacies in the existing method and its present facilities, but it is an understanding and creative criticism, particularly that criticism which deals with the serious lag in the development of free legal representation in the criminal field. He agrees with Justice Frankfurter of the U. S. Supreme Court, who has said, "The time for arguing the indispensability of Legal Aid in criminal cases is surely long past. If practice and not pretense is to characterize our democratic claims, realization that it is indispensable must permeate the nation. Once such realization will be a governing factor in the lives of our people, reason and experience and professional wisdom ought not to find it too difficult to devise ways and means for making Legal Aid effective."

To the legal profession generally, the most interesting and instructive chapter in this study will be Chapter VIII, dealing with the services now available and the costs thereof.

This reviewer is not a statistician and the understanding and analysis of masses of figures do not come easy to her. Table XIX, published on Page 170, has raised in her mind questions that do not appear to be answered satisfactorily in the text. Without intending in any way to disparage the need for Legal Aid generally, it would appear from this chart that the older a society is in point of organization and in continuity of service, it has seemed less able to hold ground in current growth with the newer and more recently organized bureaus.

For example, the Chicago office, organized in 1886, has sustained within the past ten years between 1938 and 1948, a very heavy drop in the number of cases handled, although during this same period of time, the city's population has steadily increased.

The same trend, for the same period of time, is to be noted in the cases of Boston (1900), Cleveland (1903), Cincinnati (1905), Detroit (1909), and Buffalo (1912).

This marked decline in the number of cases handled in these older and long established offices, may indicate a definite change in in-take policy, a limitation on the kinds of cases handled, or in a period of more wide-spread prosperity, a substantial revision of the concept of an indigent person entitled to free legal aid representation. It may also mean that these offices are compelled to limit the number and kind of cases accepted in order to adjust to changes in the various methods of local financing.

The outstanding legal aid authority in the United States, Reginald Heber Smith, has publicly characterized this work "as the most authoritative compilation of facts concerning legal aid. It will be used as a standard text on the subject for many years to come."

Many years ago a great scholar and student of books classified books as follows:

"Some books are to be tasted, others to be swallowed and some few are to be chewed and digested." This evaluation of the written word has never been surpassed and has greater application today when there is a plethora of books thrown upon the market for the unsuspecting reader.

Emery A. Brownell has written one of those rare studies that must be

“chewed and digested” if the meat of his thinking is to be really assimilated to provide strength for future action.

Legal Aid, Chicago

NELLIE MACNAMARA

CASES AND MATERIALS ON CRIMINAL LAW AND PROCEDURE. By *Rollin M. Perkins*. Brooklyn: The Foundation Press, Inc., 1952. Pp. xxxv, 851. \$8.00.

The primary function of a casebook is to serve as a teaching device, and its merits ultimately will have to be judged in the context of the classroom. Nevertheless, it is clear that the significance of a casebook extends beyond the confines of the classroom. To some degree, this is true in all fields of law but particularly so in the field of criminal law. The student who intends to enter civil practice generally can look forward to rigorous post graduate training under the supervision of a senior member of the firm before he handles an important case either as a counselor or as an advocate. Unfortunately, the same is not true of the person who intends to enter criminal practice. Too often the young lawyer is called upon to act either as defense counsel or as district attorney in an important criminal case without the benefit of either experience of his own or the supervision of an older lawyer. In many states it is the practice to allocate the function of prosecution or defense to the most recently admitted members of the bar. Thus, the burden of insuring the competent discharge of these duties falls squarely upon the law school, and the type and scope of the training received in the course in criminal law becomes vitally important. Since the scope of that course is largely determined by the materials used, part of the responsibility for adequately preparing the young lawyer for the practice of criminal law falls upon the editor of the casebook.

It is encouraging to note that Professor Perkins recognizes the significance of the task he has undertaken. His frank statement of his objective in the Preface enables the teacher to evaluate the book in the context of the objective he seeks to achieve. Part of the Preface merits quotation:

“At one extreme is the approach which assumes that the existing law is entirely adequate and satisfactory. The plan is to teach the common law, with reference to changes made by some of the more widely adopted statutes, but with no effort to question the desirability of existing rules. At the other extreme is the attitude that the existing law of crimes and punishments is so entirely bad that attempting to grasp it is not worth while. Hence the cases in the book are used as mere pegs on which to hang general discussions of criminology . . . *the teacher should not forget that the first need of the lawyer is to know what the law is.* And with a field as vast and as complicated as criminal law and procedure it will tax the skill of the instructor and the ability of the student to give the latter even a fair grasp of the law as it now exists. The student will not close his mind to the need for changes in the law if the teacher makes any reasonable effort to keep it open . . .” (emphasis mine).

This will be a disappointment to those who believe that the course in criminal law ought to give greater emphasis to sociological and psychological aspects, particularly problems relating to proper disposition and treatment of offenders and special procedures such as the juvenile court. Presumably the author agrees with Dean Pound who states in the Introduction:

“Criminology and penal methods should be put in graduate courses for

teachers and administrative officials. They can only confuse students who have more than enough to do in learning the lawyer's technique and the starting points of legal reasoning."

The problem of the proper scope of a course in criminal law is, of course, one of expediency. All would agree that it would be desirable to give the student thorough knowledge of the law as it is; enough factual data furnished by the behavior sciences to enable him to form a competent opinion as to what the substantive law should be, and an understanding of the problems faced in the area of criminology and penal methods. Unfortunately, the pressure of time within the law school curriculum makes the achievement of the ideal impossible. The question is one of emphasis; the answer dependent upon a realistic appraisal of the function of the lawyer in the criminal process. If, as it would seem, it is the primary duty of the lawyer to be equipped with knowledge of the legal rules and how they operate, then it follows that Professor Perkins' book is properly oriented.

I urge all who are interested in the educational training of persons who will be advocates, prosecutors and judges to read both the Preface and the Introduction. The problem of adequate training in the criminal law is of importance, not only to teachers, but to all who are concerned with the administration of criminal justice. Both Dean Pound and Professor Perkins have given the matter their serious attention. Both speak from a great deal of experience. Not that their views are necessarily right or necessarily final. It is true, for example, that a lack of understanding on the part of the legal profession has made improvement in treatment techniques more difficult. Perhaps enough time should be spent upon those techniques to insure a sympathetic understanding of the difficulties involved and an insight into the current limitations of the behavior sciences. The problem of proper emphasis is not one easily solved.

Within the limits of the objectives set, the book speaks for itself. It contains an adequate collection of materials dealing with the important problems in the area of the substantive and procedural law. The breadth of coverage of substantive law problems is greater than that afforded by most casebooks. This makes possible a realistic appraisal of the field of the substantive law as a whole. To accomplish this the author has treated problems of lesser difficulty by textual material, reserving for the conceptually more difficult questions, a study in detail by means of extensive case references. The appendix contains three very valuable textual articles dealing with homicide, burglary and assault and battery.

Professor Perkins has done an excellent job. His book is a competent addition to the teaching material currently available in the field of criminal law.

School of Law,
University of Wisconsin

FRANK J. REMINGTON

CAVALCADE OF JUSTICE. By *Bernard O'Donnell*. New York: The Macmillan Company, 1952. Pp. 264. \$3.00.

British justice of the present day did not emerge suddenly to meet contemporary needs, but evolved through centuries of change in the structure of social, economic, and political organization. In comparison with the simpler methods by which Englishmen provided themselves with legal services in earlier times, today's judicial system is extremely complex. Moreover, no stage in the growth of England's law courts is sharply separated

from preceding stages, and, as is abundantly illustrated in *Cavalcade of Justice*, a continuous thread of development may be traced from age to age.

Bernard O'Donnell's book is written for laymen, and gives in general terms, and without too much detail, a popular account of how the British courts of law came into being, where they had their beginnings, how they developed, what great personalities helped give them shape and substance, how every court fits into the pattern of English legal institutions, and what great events or trials took place therein. The British system of law and justice involved far more than the spontaneous creation of legislators, but was a step-by-step, stage-by-stage evolution of an expanding institutional pattern. The rituals and punishments of many eras, endless conflicts between despotism and liberty, colorful cases of famous and infamous persons alike brought to trial under circumstances as varied in substance as they were sensational in essence, all helped weave the texture of England's judicial machinery and are part of Mr. O'Donnell's *Cavalcade of Justice*.

The author frankly admits that in unfolding the story of England's search for justice, there have been many omissions in his narrative, and, indeed, that some courts and trials merit individual volumes to themselves. His book has, however, opened the way for further reading about a judicial structure which is the direct source of our own democratic legal heritage. Mr. O'Donnell has showed up by his own clarity and casual, anecdotal style some of the ironies and curiosities in the long tradition of British legal procedure. An adequate bibliography and good index add to the book's worthwhileness.

Air Research and Development Command
Baltimore

HAROLD M. HELFMAN

SERVICIO SOCIAL CRIMINOLOGICO. El informe biografico o sintesis biotipologica. By *Hector Beeche*. Jesus Montero Edotor. La Habana 1951, pages 476.

Professor Hector Beeche is the "founding father" and director of the School of Social Service in Costa Rica. Around the description of his meritorious work he has built a survey of the classification methods and clinics in Europa, the Western Hemisphere and especially the progressive states in Central and South America. The study reaches all over the world and through all philosophies and techniques of social work. Of Spanish scholars he quotes Jiménez de Asua, Mariano Ruiz-Funes and Quintiliano Saldana, of Italian authors de Tullio and Niceforo, Vervaeck and de Greef of Belgium, Edwin H. Sutherland, Elmer Barnes, Pauline V. Young and the writer among the American criminologists, and the late Professor Exner from Germany. Beeche has been stimulated greatly by the American Pre-Sentence Investigation Report.

Powerful influence from the North is conspicuous. However, much is left to learn from the Latin-Americans. They have their peculiar problems and have to develop their own answers. The age issue, for instance, can often not be settled by looking into records. The investigator has to recur to the judgment of the doctor who replaces the exact chronological age by the fiction of the physical age. We venture to say that this age pattern may correspond better to the needs of treatment than a birth certificate. Among other things I was most interested in watching the French experiment of the *juge d'exécution* (pp. 101-103) and in going through some of the Latin-American questionnaires, for instance the biographical scheme of Dr. Abrahamson (p. 360), I was highly impressed. Some of the terms coined are

excellent. One formula speaks of the psychological categories of a "conductor" or a *sequidor*, that is the personality who is leading or is led. The *sequidores* form quite a significant group in our penitentiaries.

Professor Beeche's book abounds in informative suggestions to everyone who thinks that the problem of classification has only been started and has not been solved by far.

Bonn

HANS VON HENTIG

DELINQUENTS IN THE MAKING—*Sheldon* and *Eleanor Glueck*, Harper Brothers—New York, 1952. Pages 214. \$3.00.

"DELINQUENTS IN THE MAKING" is a bright doorway in the many roomed mansion created by the master research architects—the Gluecks of Harvard. It isn't a long book yet it is filled with profoundly significant observations and helpful insights. The student, laymen, or professional worker who reads it will find the way made easier into the more detailed and technical works of scholarship produced by Sheldon and Eleanor Glueck. It was written because of popular demand for a simpler version of the research into persistent delinquency published in "Unraveling Juvenile Delinquency" (New York, The Commonwealth Fund, 1950). This latter work was a monumental effort to push back, still farther, the horizons of understanding with respect to delinquent behaviour. The Gluecks have been criticized because of their longitudinal approach, their courageous presumptions with respect to the predictability of behaviour, and their selection of cases. However, one is reminded that the most sticks are found under the best apple trees. The Gluecks have produced. They have taken us still further along the road of understanding. Furthermore, they have suggested how any community can put into fruitful practice what is already known. Frequently their critics have been persons handicapped by their own myopia. The Glueck's emphasis upon the need for a multi-discipline approach to the study of delinquent behaviour takes into account the full magnitude of our problem. This synoptic method of study is the only way, albeit a slow one, to build up a library of knowledge about the delinquent child and the adult criminal. However, the emphasis upon the importance of interdependent team work goes beyond the field of etiological considerations and applies itself to the practical problems of co-operative community action. The Gluecks are pioneers. They take their readers to the very growing-edge of knowledge. They stand there idealists and realists. They say, in effect, "these things we do not know therefore let us search on together." They also say in effect, "of these things we can be reasonably sure, therefore let us stop talking and put our knowledge to work."

The popular, readable style of *Delinquents in the Making* will greatly extend the reach of the Harvard team. Like a boost in station power it will bring into the orbit of their influence many persons who have hitherto been beyond their range.

Their findings have led to a focus upon certain aspects of home life. They stress the importance of family co-hesiveness, "under-the-roof-culture," parental affection and reasonable discipline. As they emphasize the importance of Community Agencies to instruct parents with respect to disciplinary practices one thinks of the work of Dr. W. E. Blatz, formerly of the University of Chicago, in his Institute for Child Study at the University of Toronto. When they speak of the values of "Family-Group Recreation" one thinks of the hundreds of families which gather together at the barbecue pits in the

parks of Kansas City, Missouri on any good night. When they refer to the importance of Agencies specializing in marriage problems one thinks of the many Family Courts in the United States and Canada. Our own Toronto Juvenile and Family Court has been counselling families for over thirty-four years through its staff of Judges, Psychiatrists, Psychologists and Probation Officers. In this regard I would like to record the fact that a Court of Justice equipped with a clinic, which is part of its warp and woof, is not only a bulwark against divorce and delinquency but it is a great conservator of human values and the taxpayer's dollars. Realizing the importance of the home in the life of a child and of the nation one covets for every community such helpful services as the Gluecks have been led to recommend.

Say the Gluecks, "In delinquency we are dealing not with predestination but with destination." Hollywood was wrong when it referred to a group of delinquents as "dead end kids." Those of us who sit daily in courts dealing with children and their parents know that it is not a hopeless task, for delinquents are just "loose-end kids" and their parents are frequently at loose-ends too.

"Delinquency in the Making" is a profoundly great little book.

Judge, Juvenile and Family Court
Toronto, Ontario, Canada

V. LORNE STEWART

PATHOLOGICAL FIRESETTING (PYROMANIA). By *Nolan D. C. Lewis* and *Helen Yarnell*. Nervous and Mental Disease Monographs, New York. 1951. Pp. 437.

The President of the National Board of Fire Underwriters says in the Preface to this book that a vast store of information relating to arsonists has been gathered through more than twenty years and made available to Columbia University and to psychiatrists chosen by the University. The usual objection, then, that the psychiatrist rarely sees an arsonist is untrue, at least of those who are responsible for this publication.

The authors have tried to extricate from the material (a) A psychology (objective) of arson. (b) Psychological and psychoanalytical types of personalities, disposed towards arson, and (c) Clinical-psychiatric types or arsonists. These groups (b and c), different as to origin and aim, are, in fact, as widely divergent as the axe, shaped according to the needs of the hand, is different from the hand itself, and the worker who uses hand and axe. One cannot anticipate any future development of science in which the man is reduced to his hand (the already obsolete term "Hands" for workers notwithstanding) and the hand to the axe.

If the starting point is a certain crime, one cannot anticipate either that such action and a certain limited number of psychiatric and psycho-clinical types will dovetail, in the sense that this particular crime is always committed by just these types and no others. On the other hand one cannot anticipate that these types will always, or in a statistically high percentage of instances, commit this particular crime. There is no higher statistical expectancy for an individual who suffers from feeble-mindedness, or epilepsy, or alcoholism, or manic-depressive psychosis, or arterio-sclerosis of the brain, or neurotic tension, to commit arson, than any other. For this reason psychiatric case histories are of no particular value, as long as the question is: "What disposes a person psychologically, or patho-psychologically towards arson?"

While psychiatry does not stand to gain any too much from criminal typologies, this book is of high interest for criminalistics. It contains a wealth

of detail which will enable the criminologist to approach his "whodunit" problems more successfully.

Fire underwriters know that in a goodly number of cases, even highly inflammable, chemically conditioned material does not catch fire without human cooperation. They will find in this book good points to aid in the avoidance of psychological endangerment.

New York City

W. ELIASBERG

THE DYNAMICS OF PSYCHOLOGICAL TESTING. By *Milton S Gurvitz*. New York: Grune & Stratton, Inc., 1951. Pp. 361. \$5.50.

There is surely no dearth of evidence to point up the increasingly important part which is being played today by clinical psychologists in the fields of diagnosis and prognosis. Indeed, a number of sound and instructive as well as interesting volumes have appeared recently on this subject, and this new study by Milton S. Gurvitz is no exception. By means of an intelligent and coherent organization of his material, the author manages to give the reader a well-defined conception of clinical procedures as the author himself sees them. Thus the present volume is one which ought to prove rewarding to those engaged in the amassing and evaluating of behavioral data.

In reality, the procedures detailed herein are such as might be carried out by almost any well-trained clinical psychologist in the course of a single day's work. A number of test-scores are given, and diagnostic and prognostic conclusions are drawn from these. Moreover, the drawings which are reproduced at the end of the book are not only interesting for their own sake, but fruitful for purposes of study, analysis, and appraisal.

Throughout the book, the author reveals his personal competence in clinical psychology, at the same time providing data and information which may well prove useful in the hands of any mature and serious-minded student of this subject

New York City

NATHANIAL THORNTON

THE POLICY SCIENCES. Edited by *Daniel Lerner* and *Harold D. Lasswell*. Stanford (California): Stanford University Press, 1951. Pp. 344. Indexed with extensive bibliography of books and periodicals. \$7.50.

The last several years have seen an increasing interest in the extent to which the social sciences could be applied to problems of policy making in government. In this symposium which describes recent developments in the scope and methods of the social sciences, we find a provocative and pioneering effort to integrate the lessons which have already been learned in the undertaking to develop "the policy sciences."

It is interesting to note that the many authors give little attention to policy making as it exists in our courts and legislatures. Actually, although the going has been very slow, there has been progress in the judicial and legislative areas which deserves to be evaluated as well.

The most practical discussions of the *application* of social science to policy making is contained in the chapters by George Katona, "Expectations and Decisions on Economic Behavior," Rensis Lickert "The Sample Interview Survey as a Tool of Research and Policy Formation" and Hans Speier, "Psychological Warfare Reconsidered." The remainder of the discussions taking up such varied subjects as the "Study of Culture," "Interviewing as a Scientific Procedure," and "Mathematical Models in the Social Sciences"

are largely expert summaries of what has been accomplished in these fields without bridging the gap between laboratory experimentation and full scale application to policy problems.

College of Law, University of Nebraska

ROBERT C. SORENSEN

TRIEBSTRUKTUR UND KRIMINALITAET (Structure of Urges and Criminality).

By *Dr. Jur. Hans Walder*, District Attorney, Zuerich, Switzerland. Publisher Hans Huber, Bern and Stuttgart, 1952. Sole agency for the U.S.A. and Canada: Grune & Stratton, New York, N. Y. Pp. 91. Swiss Francs 10.50.

Dr. Walder employed the psycho-diagnostic Szondi Test on a number of felons. The recorded test results showed certain characteristic details distinguishing and portraying the personality structures of individual criminals, and general syndromes reappearing with criminals of the same criminalistic type. Each type seems to be marked psychically by a different composition of "satisfactions" and "unsatisfactions" within the four vectors of human urges (sexual, paroxysmal, "Ego," and contact vector) and their subdivisions, as recognized by Szondi and believed to be acquired by heredity. Dr. Walder deduces that crime is a matter of disturbed psycho-dynamics and that criminals, therefore, can be identified and classified according to their "structure of urges" as existing at the time of the deed.

Data on the success rate of the test, unfortunately, are not supplied; the sample cases do not yet demonstrate a sufficient rigidity of recurrence of syndromes; and there is still too much leeway for and difficulty in interpretation of the test profiles. These are factors which make it hard to convince our American environmentalist criminologists of the value of this new approach. Moreover, rules of constitutional law, evidence and Anglo-American judicial conservatism are a—perhaps desirable—obstacle to application of this so far only experimental test in various phases of criminal law enforcement, where the Swiss author found no such hurdles.

It is to be hoped that Dr. Walder will continue his psychologic research and keep the profession informed about further advances. As a lawyer he should be congratulated for his courage and interest in going beyond the narrow confines of the law in conducting and writing about his study of criminal behaviour. This reviewer is convinced that American criminologists will welcome Dr. Walder's contribution to the literature of the profession.

University of Chicago

GERHARD O. W. MUELLER

GUILTY OR NOT GUILTY. By *Francis X. Busch*. Bobbs-Merrill, 1952. Pp. 287. \$3.50.

PRISONERS AT THE BAR. By *Francis X. Busch*. Bobbs-Merrill, 1952. Pp. 288. \$3.50.

These two books are of the Notable American Trials Series. The author is a well known member of the Chicago Bar and former Dean of Law in De Paul University. Mr. Busch is a master of English prose writing. He makes the eight cases in the two books stand out alive—especially the Alger Hiss case, many will say. Non-professional men and women can see in these books much of what goes on in a great criminal trial, and there will be many readers.

The four trials reported in *Guilty or not Guilty* are as follows: Leo Frank, for the murder of Mary Phagan (1913); D. C. Stephenson, for the