



1927

Book Reviews

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Recommended Citation

Turck, Charles J.; Scott, Woodson D.; Roberts, W. Lewis; Moreland, Roy Mitchell; and Rouse, Colvin P. (1927) "Book Reviews," *Kentucky Law Journal*: Vol. 16 : Iss. 1 , Article 10.

Available at: <https://uknowledge.uky.edu/klj/vol16/iss1/10>

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BOOK REVIEWS

CRIMINAL INTELLIGENCE. By Cail Murchison. Worcester, Mass. Clark University, 1926, pp. 291.

This book contains the most complete studies of large criminal groups that have ever been made. They are based on Dr. Murchison's work in numerous prisons where he gave the Alpha test to the inmates, and he has carefully compared the results with the statistics of the American Army on the same test. The conclusions of the author are startling and will not command universal assent, but his facts deserve the most thorough investigation by psychologists, sociologists and lawyers.

The author avoids a flat declaration that the criminals of America are more intelligent than was the American Army. "Such an inference," he declares, "might not be true." But he adds, "there is probably no proof to the contrary." In taking this position, Dr. Murchison is not belittling the intelligence of the army, but is fighting the idea that the criminal classes possess a lower average intelligence than the adult civil population of which the army was fairly representative. His central attack is on the propaganda "which creates the impression that the criminal is feeble-minded and an individual to be fawned over and petted." He is convinced that much harm has been done by such propaganda and his remarkable collection of facts rather completely demolishes the notion that a man becomes a criminal largely because he is stupid.

Evidently there is something other than the kind of intelligence which is demonstrated by the Alpha test that explains the criminal character. In such a test, no allowances can possibly be made for the moral elements of temperament and self-control. If lack of intelligence is not the characteristic of the criminal, then it may be that we shall find that the invisible and intangible qualities of the heart have the final authority in life and determine whether each life shall be social or anti-social, benevolent or criminal.

Dr. Murchison's discussion of "Legal Punishment" will be of particular interest to lawyers. He strenuously opposes the maternalistic fallacy that the criminal may be too young to be punished or that his feeble-mindedness or insanity should excuse him from punishment. "Is there any reason why young crim-

inals of college age should not receive the death penalty for murder, or a long sentence in the penitentiary for robbery? Approximately one-fourth of all criminals are of this age. Intelligence, as tested by mental tests, does not increase after this age. The average individual has completed his formal education even before this age. The influence of the home has already passed its maximum. The influence of religion has begun to wane. All the methods of love have been tried for all the years of his young life, and have failed. What earthly logic or sense is there for assuming that such an individual is too young to hang or to be sent to prison? All the facts are against the validity of such an assumption. The maternistic methods having failed already, the logical procedure is swift, sure, and severe *punishment*."

The remedies suggested by Dr. Murchison are these:

1. The abolishment of the jury sytem.
2. Uniform punishment for the insane, the feeble-minded, and the young.
3. The abolition of the system of release on bond.
4. The abolition of the indeterminate sentence.
5. The abolition of the parole system.
6. The application of the deterministic philosophy to the behaviour of the State as well as to the behaviour of the criminal.
7. The third penitentiary conviction to carry an automatic death penalty.

In view of such suggestions, one might venture to call Dr. Murchison "hard-boiled" without much exaggeration. Without accepting his proposals, however, the reader is likely to feel after reading the book, that his own thinking concerning the state's attitude toward the criminal needs considerable revision, with the emphasis not so much on the individual criminal as on the rights of society as a whole.

CHARLES J. TURCK.

HANDBOOK OF INTERNATIONAL LAW. By George Grafton Wilson. Second Edition. The Hornbook Series. St. Paul: West Publishing Company. 1927. pp. xx, 567.

While the revolutionary changes in international law, which many expected as a result of the World War have not material-

ized, as Professor Wilson points out in the preface to the second edition of his well known handbook on international law; there have been enough changes to render a careful rewriting of his text necessary. He has found it necessary to make extensive additions in regard to the League and the Permanent Court of International Justice. The number of citations and references to source material has been very greatly increased and the dates of decisions have been inserted. A very complete bibliography has been included and the appendix now contains important international documents. The whole treatise has been carefully and fully indexed.

Over-compression, possibly, renders the book less readable than one could wish. The author has taken an ultra conservative view of his subject and insofar as he gives rather more space to international relations that arise from a state of war than he does to those that arise from a state of peace, he seems to be out of sympathy with the more progressive internationalists of the day.

As an outline for beginners in the study of international law the books fill an important place.

THE DEPARTMENT OF JUSTICE OF THE UNITED STATES. By Albert Laugeluttig. Baltimore: The Johns Hopkins Press. 1927. pp. xix, 334.

This book is one of a series of studies in administration published by the Institute for Government Research. It was prepared by the author as a doctoral dissertation in the Department of Political Science at The Johns Hopkins University. The wide scope of the subject covered was made possible by the fact that the author had at his disposal during its preparation the entire library facilities of the Institute.

The theme of this study, as stated by the author in the preface, has to do with "the organization and administration of the services within the executive or administrative branch of the government having for their function the prevention of infractions of the law and the detection and prosecution of those guilty of such infractions." It is thus evident that it covers a part of the field of adjective law.

The scope and purpose of this study is best stated in the words of the author: "It seeks to trace the rise and develop-

ment of the central agency that has been created by the national government for the performance of its task of enforcing the law for which the national government is responsible, and to describe the present organization, powers, and duties of that agency. Though the Department of Justice is the central and the most important, of the law enforcement agencies of the national government, it is by no means the only one. All of the departments have large responsibilities for the enforcement of laws governing matters coming under their jurisdiction. In a number of the other departments there are, moreover, important special services for the detection of the infraction of particular laws. In some cases the Department of Justice is exclusively responsible for both the detection of infractions of law and the bringing of those guilty of such infractions before the courts for prosecution. In others the responsibility of the Department of Justice begins only when its assistance is sought in bringing before the courts and handling matters that have originated in other departments. One of the most important aspects of the Department of Justice is its relation to other law enforcement agencies. This phase of the problem has been given especial attention. It is hoped, that this study will be of value, not merely in giving information concerning a particular service, but in aiding to a better comprehension of the large problem of law enforcement generally as it confronts the national government."

The material used in this study is well organized. This is a very valuable feature of a work of this nature. The bibliography is extensive and apparently includes all of the available material that is relevant to the subject. The appendix contains an outline of the organization of the Department of Justice and other valuable data. A table of citations following the appendix adds greatly to the usefulness of the material. Any case, statute, or other bit of material used in the text can be located at once by reference to this table of citations.

WOODSON D. SCOTT.

CASES ON THE LAW OF ADMIRALTY. By George deForest Lord and George C. Sprague. American Casebook Series. St. Paul: West Publishing Company. 1926. xxxvi, 837. .

Many interesting legal questions are presented in Admiralty; What waters of the United States are subject to its jurisdiction? What effect does state legislation have? What are the limits of sovereign immunity? What rights have maritime workers? What are the rights of one who salvages a vessel? How does the maritime insurance differ from other insurance? What are the rights and liabilities of the parties in the case of collision? These and many more problems fully as interesting are presented in Professors Lord and Sprague's collection of cases on the law of admiralty.

Admiralty is a branch of the law that the average lawyer knows very little about and even in our seaports admiralty business is usually handled by a few lawyers who specialize in that line of work. Courses heretofore have been offered in a few law schools, and in the form of lecture courses meeting once a week for one half year. As our foreign trade is increasing rapidly and is bound to continue to increase, the need of a working knowledge of admiralty law will become more general. Also as admiralty law is closely akin to international law and interest in international law is being aroused more and more in this country, it would seem that the demand for courses in admiralty law will soon be felt and that the editors of this selection of cases are justified in putting out a casebook in this subject. Then, too, if it does not matter so much what is taught as it does how it is taught, law schools would be fully justified in offering a course in admiralty in place of courses now offered in subjects that have very little disciplinary value.

At first glance it might seem that the compilers in devoting seventy-five pages to the subject of marine insurance were duplicating work covered in the course of insurance. While the subject of marine insurance is usually included in selections of cases used in general courses of insurance, it has been the practice of the reviewer to omit such sections and that is probably the general practice with teachers of insurance.

The editors have added very full notes containing not only citations of cases and references to articles in law reviews but matter supplementing the text. An appendix contains forms for charter parties, navigation rules, pilot rules for inland waters, and sections of United States statutes pertaining to navigation.

The editors are to be complimented upon the result of their labors as they have produced a very scholarly piece of work.

W. LEWIS ROBERTS.

EQUITY PLEADING AND PRACTICE. By Walter C. Clephane. St. Paul, Minn.: West Publishing Co., 1926. pp. XIV, 605.

Clephane on Equity Pleading and Practice is a timely addition to the Hornbook series. Gradually, but surely, changes have been introduced into the system of equity pleading and practice in use in this country, which, coupled with the radical departures in the Federal Equity Rules of 1912 create a demand for a new treatment of this subject.

Nevertheless, the author draws largely upon the learning stored in past treatises and does not hesitate to cite rather copiously from them at times. This is especially true as to Shipman on Equity Pleading.

The author's style is generally clear and pleasing. One finds though a tendency on his part to insert abstracts of particular cases into the body of the book as a substitute for a clear, general statement of the law on the particular problem. Such abstracts are usually as illustrative if placed in the foot-notes and they do not take the place of an abstract statement of the rule.

Chapter 5 on the Contents of Particular Bills is especially well written. The treatment of the usual bills in equity is there handled in a most instructive manner. In the numerous forms found in the appendix the student and practitioner alike will find practical, suggestive material.

The printing is clear, large, and upon a good grade of paper. Vital points of the subject, as usual in the Hornbooks, are impressed upon the mind of the reader by black-letter analyses.

ROY MORELAND.

THE STATE AS A PARTY LITIGANT. By Robert Dorsey Watkins. Baltimore: The Johns Hopkins Press, 1927, xii, 212.

"The State as a Party Litigant" is Number 1 of the Forty-fifth Series of the Johns Hopkins University Studies in Historical and Political Science, prepared under the joint direction of the Departments of History, Political Economy, and Political

Science. The sources of the material used in making this study is given by the author in the preface as follows: "This study is the outgrowth of a series of lectures on Political Theory by Professor W. W. Willoughby, and on Constitutional and International Law by President Goodnow."

The doctrine of non-sueability of the state is well established in the law. There is no dispute as to this fact and to prove or disprove it is not the problem with which the author is confronted. His problem is to justify the doctrine on some logical or rational basis. He attempts to do this by considering in minute detail the conflicting views as to the origin and sources of this doctrine and the fundamental principles governing its long historical evolution. The difficulty of this task is obvious when we realize the broad historical background that must be covered in order to get at the roots of the problem and to trace the history of its development from the beginning.

After an extended historical treatment of the origin, sources and development of the doctrine of non-sueability of the state, the author proceeds with a more analytical and critical discussion of state and governmental immunity in the United States. This latter phase of the discussion seems to be the important thing in the mind of the writer, the end to which the historical discussion is only a means. We cannot conceive of a more desirable method of approach to a problem of this nature.

In chapter eleven we are given a discussion of the position of the state before the courts of foreign countries. The author sets forth in clear and concise language both the status of the state before foreign courts and the basis of the doctrine of which such status is the result. This is one of the most interesting and instructive chapters in this study because it deals with an extremely important phase of a very delicate problem.

In chapter twelve, the concluding chapter of this study, the author attempts to summarize, correlate and restate the numerous theoretical considerations and arguments set forth in the first eleven chapters. This he does with some degree of skill and with partial success. But the critical reader is hardly satisfied with the summation of the theories and the conclusion. We must bear in mind, however, that it is not always possible satisfactorily to reconcile a large number of conflicting theories and views

within a limited space and draw therefrom a single conclusion that is immune from adverse criticism.

The table of contents is arranged by chapter headings, thus giving a topic outline of the study. A table of cases adds greatly to the usability of the material, a large part of which is gleaned from cases. There is also a topic index at the end. This is especially valuable because by reference to it the reader can instantly locate all of the material in the study on a particular point no matter how greatly diffused it may be in the text.

WOODSON D. SCOTT.

ESSENTIALS OF PUBLIC SPEAKING. By Warren C. DuBois. New York: Prentice-Hall Inc., 1926. pp. viii, 154.

It is an accepted fact that the man who is a power in his community is the man who can adapt himself to all circumstances, make a good public appearance, and speak clearly, concisely, and extemporaneously on all occasions. A man with such ability gains at once the admiration and respect of those with whom he is associated. Though it may seem questionable to some, everybody, with the exception of those physically handicapped, has the opportunity to become a forceful, convincing speaker. If a person fails to take advantage of his opportunity and to become a capable speaker it is his own fault, for the ability to speak is acquired only by training and practice.

To aid people in acquiring this ability to speak is the purpose of the new book "Essentials of Public Speaking" by Warren C. DuBois. With its concise but complete arrangement, it is in itself a complete course of public speaking. All phases of public speaking are discussed, and thoroughly tested solutions to the speaker's problems are suggested. The book contains many practical exercises to develop not only the speaker's vocal organs but also his pronunciation and manner of speaking. It is especially important as it touches the every-day, practical problems that the speaker is called to meet, such as how to appeal to different types of audiences, and as to what words are most desirable to use.

Mr. DuBois is a well-known New York lawyer and instructor of public speaking at New York University. The book is filled with results of his fourteen years' teaching experience, and

so is especially fitting to short concise courses of public speaking. There is an exceptionally fine collection of selections for practice, that eliminates the necessity of the instructor's collecting outside material for class use. The book should be of great value to both teachers and students of public speaking.

HANDBOOK ON THE CONFLICT OF LAWS. By Herbert F. Goodrich. St. Paul, Minn.: West Publishing Co., 1927. pp. xii, 500.

Professor Goodrich's treatise on the subject of Conflict of Laws is a valuable contribution to the popular Hornbook series. Its appearance is timely as there is no other book on this subject of recent date and also because many changes have been made in law in this subject during the past quarter of a century. The works of Story, Wharton, and Minor are already out of date. The practicing lawyer as well as the student should therefore welcome such a scholarly, up-to-date treatise on the subject as Professor Goodrich has given us.

His work reflects the latest views on the many interesting questions that have arisen in the field of conflict of laws. For instance there has been the gradual overthrow of the old maxim of *mobilia sequuntur personam* and the acceptance of the rule that the situs of personal property should govern as the United States Supreme Court held in the recent case of *Frick v. Pennsylvania*.

In the matter of giving full faith and credit to the divorce decrees of sister states, the author expresses his disagreement with the position of the Supreme Court of the United States. To the reviewer, the principle laid down by this court in *Atherton v. Atherton* and *Haddock v. Haddock* to the effect that a court cannot dissolve the marriage relation unless it has jurisdiction over the matrimonial domicile as well as over the parties, seems sound. While this rule has created uncertainty in the legal status of families involved, as the learned author has pointed out (p. 296), a contrary rule would mean that a state would soon lose control over divorces between its own citizens.

Where there is a division of authority or little or no authority on a point, the author has not hesitated to express his own opinion as to how the law should develop. In the main he has

followed the lead of our foremost scholar in the field of conflict of laws, Professor Beale, but has not hesitated to differ with him on some points. He has frequently referred to Professor Beale's writings.

One might question the author's treatment of the question of taxation. He has devoted fifty odd pages to the subject. Much of his chapter on this interesting subject might better have been left to a treatise on constitutional law.

The arrangement of the work is that followed by other writers for the Hornbook series. Chapters and sections are prefaced by summaries in large black type. These headnotes are an aid to the student when reviewing and to the practitioner when searching for a general principle of law. Footnotes give references to law review articles and thus make available to the reader much material that is of great value to him. Unfortunately an index of cases has been omitted.

Professor Goodrich presents his subject in a most pleasing manner, his style is clear and concise, and the result is a book that is very readable. It is a real addition to legal literature.

W. LEWIS ROBERTS.

POLLAK PRIZE ESSAYS. Essays by R. W. Souter, Frederick Law Olmsted, C. F. Bickerdike, and Victor Valentinovitch Novogilov. Newton, Massachusetts: Pollack Foundation for Economic Research. 1927, pp. 132.

BUSINESS WITHOUT A BUYER. By William Trufant Foster and Waddill Catchings. Boston: Houghton Mifflin Company. 1927, pp. x, 208.

"Profits" was published in 1925 to prove that the profit motive is the dynamic force of the existing economic order. A prize of five thousand dollars was offered for the best adverse criticism of the book. Four hundred and thirty-five essays were submitted. "Pollak Prize Essays" is a publication of the essays which were ranked among the first three by any of the judges. The prize was awarded to R. W. Souter, teacher in the University of Otaga, Dunedin, New Zealand. One of the judges gave first place and two of the judges gave second place to Frederick Law Olmsted, landscape architect, Brookline, Massachusetts.

The authors evidently did not agree with the judges. They say in commenting on the essays: "We consider Mr. Olmsted the best critic among the four hundred and thirty-five; partly, perhaps, because he states our position accurately as far as he goes, and partly because we agree substantially with all he says." However, they do not say in express terms that in their opinion Mr. Olmsted had the best essay, but only that they consider him the best critic. The two may or may not mean the same thing. The statement is at least ambiguous.

The principal criticism revealed by the four hundred and thirty-five essays was that there is a solution of the problem which the authors have not clearly stated. In other words, that it is at least theoretically possible to retain all the essential attributes of the established economic order, to have, in addition to profits, savings, increased volume of money, increased capital equipment, increased output and higher standards of living.

"Business Without a Buyer" is an attempt to give in popular form the substance of "Profits." Most of the statistics, charts and abstract theories have been omitted and the authors have set out the main arguments of "Profits" in a simpler form.

The reading public will undoubtedly welcome this popular edition. Perhaps many who have heretofore successfully resisted every inclination to investigate the numerous statistics, charts and theoretical considerations in "Profits" will now seek the simple truth of the matter as presented in a more readable form.

WOODSON D. SCOTT.

REAL ESTATE FORMS. By Robert F. Thorley and William H. Stickney. New York: Prentice-Hall Inc. 1927, pp. x, 332.

"Real Estate Forms" contains an elaborate selection of both temporary and permanent forms to record the routine of practically every phase of business of the general as well as the highly specialized real estate office. Included are forms essential to record the transaction of the sales, the rental, the management and maintenance, the mortgage brokerage, the appraisal, and the co-operative ownership departments of the large office. The forms are arranged in the sequence of their entry in the office records. This arrangement is valuable in that it presents a clear conception of the relative importance of each form and enables

the reader to visualize the transaction that necessitates its use.

In addition there is a legal section giving forms of both long and short leases with a collection of covenants that are peculiar to leases of office buildings, apartment houses, and the assignment of leases. Here, too, are set forth forms of contracts, deeds, bonds, and mortgages.

The authors in their foreword state that it is not within the scope of the book to offer a discussion upon the theory or economic significance of the various phases of the real estate business, but rather to afford a selection of the approved forms in use by the large and experienced real estate organizations. They observe that it is not their purpose to tempt the inexperienced and the untrained in drafting their own legal documents, but only to acquaint the young broker with the use and the necessity of the many forms that he shall meet upon entering this business. It seems that they have successfully accomplished this purpose. The book should be of value to the installation accountant and an asset to the real estate broker.

COLVIN P. ROUSE.