Duquesne Law Review

Volume 7 | Number 2 Article 14

1968

Book Reviews

Henry J. Friendly

David W. Craig

Maurice B. Cohill Jr.

John P. Hester

Silvestri Silvestri

Book Reviews

ANATOMY OF THE LAW. By *Lon L. Fuller.*† New York: Praeger, 1968. Pp. v, 122. $4.50.

All we are told about the purpose of this book is that it "is a *Brittanica Perspective* prepared to commemorate the 200th anniversary of *Encyclopedia Britannica.*"[1] That is not particularly illuminating, and it is regrettable that Professor Fuller did not add an amplifying foreword. Apparently the book is designed for laymen as well as lawyers. The former will sometimes find the going rather heavy; the lawyers will occasionally be annoyed at being told what they know reasonably well. Yet, considering the book as a kind of poor man's jurisprudence, and a limited one at that, we can be grateful for the shrewd insights Professor Fuller gives on a variety of problems important in today's legal scene.

The book is comprised of two sections: Pervasive Problems of the Law and The Sources of Law. In the first part the subsection, "The Purpose of the Criminal Law"[2] is particularly useful. Professor Fuller takes issue with a criticism by Norbert Wiener that since our law rests criminal penalties on four different bases—deterrence, retribution, rehabilitation, and removal of a dangerous man from society, a code based on such confusion "is going to get us precisely nowhere" and "the first duty of the law . . . is to know what it wants."[3] Professor Fuller has the courage and good sense to answer that all these goals, properly understood, are legitimate, and that no viable system of criminal law could disregard any of them.[4] Rather than attempting to jettison any of these objectives, we must try to see them clearly and

---

† Professor of Law, Harvard University.

1. L. FULLER, ANATOMY OF THE LAW, iv (1968).
2. *Id.* at 26-36.
3. N. WIENER, THE USE OF HUMAN BEINGS 116-17 (1950).
4. I often wonder at the small weight many critics of the criminal law allow the last of these factors—keeping a dangerous man where he can no longer imperil others. Apparently the argument is that since such people cannot be removed from society indefinitely, there is no real use in removing them at all. But it may be very advantageous to remove them for a good while. Professor Fuller thinks a case can be made for lengthy confinement of the sexual psychopath. L. FULLER, ANATOMY OF THE LAW 35-36 (1968). Why not a defendant with a career of violence like the relator's in United States ex rel. McGrath v. La Vallee, 319 F.2d 308, 311 n.1 (2d Cir. 1963). Professor Packer has made the only qualification needed, that incapacitation "may provide an additional basis for punishment in cases where reasonable evidence concerning the nature of either the particular offender or his kind of offense suggests that he would repeat the offense or commit others if he were not imprisoned." H. PACKARD, THE LIMITS OF THE CRIMINAL SANCTION 53 (1968).

work out solutions that will give each its due. While "the first duty of the law" is doubtless to "know what it wants," it is an elementary fallacy to say it must want only one thing. Indeed, the great legal controversies of our time stem from the law's "wanting" goals that to an extent are contradictory—freedom of speech and public order, protection of defendants against police abuse and the effective investigation and prosecution of crime, guaranteeing against arbitrary administrative action and providing speedy relief. The genius of our law lies precisely in its recognizing many diverse ends and working out practical reconciliations of them.

Another problem which Professor Fuller identifies but does less to solve will, I predict, become of increasing concern. This is "the practical task of removing or alleviating the injustice that comes from sporadic and arbitrary law enforcement."[5] Cases with the simplicity of *Yick Wo v. Hopkins*[6] present no difficulty. The ordinance under which Yick Wo had been convicted placed a dispensing power in the board of supervisors which the board had uniformly exercised in favor of whites but against Chinese; the Court could hardly have done otherwise than treat the ordinance as if it had incorporated this history of discriminatory administration. Instances where licenses to engage in an activity in no way harmful have been freely granted to some groups but denied to others stand on much the same basis.[7] But what of the case where it is alleged that a penal statute, *e.g.*, prohibiting the sale of narcotics, is enforced against blacks with much more frequency than against whites? Apart from the difficulty in a court's determining the facts, should the black man who has committed a crime go free, when the right solution is that both he and the white man should be punished?[8] I am sure that a belief in the discriminatory administration of the criminal law is a very deep grievance of minority groups, particularly of our black citizens; we cannot continue to sweep the issue under the bed. As I have suggested, dismissing indictments is too strong a medicine except as a last resort; the remedy should be applied at an

5. L. FULLER, ANATOMY OF THE LAW 11 (1968).
6. 118 U.S. 356 (1886).
7. Niemotko v. Maryland, 340 U.S. 268, 272-73 (1951); Fowler v. Rhode Island, 345 U.S. 67 (1953).
8. *See* Oyler v. Boles, 368 U.S. 448, 454-56 (1962); Washington v. United States, 401 F. 2d 915, 924-25 (D.C. Cir. 1968), and authorities there cited; K. DAVIS, DISCRETIONARY JUSTICE, 162-72, 188-214 (1968). Similar problems as to discrimination in sentences are more readily susceptible to judicial handling. The issue was raised in Sims v. Georgia, 385 U.S. 538 (1967), but not reached. It is again before the Court in Boykin v. Alabama, *cert. granted*, 393 U.S. 820 (1968). See the interesting discussion in Maxwell v. Bishop, 398 F.2d 138, 141-48 (8th Cir. 1968), *cert. granted* on other issues, December 17, 1968.

earlier stage. But who is to administer it? Professor Fuller is of the opinion that to have a court perform this function "would inevitably compromise the court's position as a forum for the final and impartial determination of disputed issues"[9] and that supervision "should be initiated by some specially constituted body functioning outside the normal framework of law enforcement."[10] While I do not quite see the basis for the first statement, I would certainly hope that the courts would not be saddled with an added task for which they have little institutional competence. But is the alternative a real one? Legislatures are slow to create new institutions, and one would have to be rather sure that the "specially constituted body" was not simply a rubber stamp. *Quis custodiet ipsos custodes?* Perhaps an ombudsman would do, since suasion and publicity may be more effective than legal sanctions.[11] At least this deserves a trial. If it or other solutions do not work, there may be no alternative to the courts' undertaking the task. They are there; by and large the public trusts them; and they are commonly—indeed all too commonly—asked to fill legal vacuums.

In the second part of the book, the author investigates the "made law" and "implicit law" dichotomy, and demonstrates that the distinction between the two is far less sharp than the proponents of either system would admit. Looking favorably upon implicit law, he shows that the retrospectivity "that has caused the most embarrassment" to its friends and apologists[12] is inherent in the inability of any system of law to foresee all possible cases, that the retrospectivity is often less harmful than it sounds, and that the common law has been sufficiently resourceful to develop expedients to soften the blow where that is needed.[13]

Professor Fuller concludes by repeating the warning given in his Storrs lectures[14] against endeavoring to utilize adjudicative techniques for "what may broadly be called 'managerial' tasks."[15] While the author and I have engaged in some pleasant exchanges on this subject,[16] I am

9. L. FULLER, ANATOMY OF THE LAW 19 (1968).
10. *Id.* at 21.
11. *See* GELHORN, WHEN AMERICANS COMPLAIN (1966). Note also the valuable suggestions made by Professor Davis, note 8, *supra.*
12. L. FULLER, ANATOMY OF THE LAW 99-106 (1968).
13. *See* SCHAEFER, THE CONTROL OF "SUNBURST"; TECHNIQUES OF PROSPECTIVE OVERRULING (1967).
14. L. FULLER, THE MORALITY OF LAW 170-71 (1964).
15. L. FULLER, ANATOMY OF THE LAW 110-12 (1968).
16. *See* L. FULLER, MORALITY OF LAW 170-71 (1964) and H. FRIENDLY, BENCHMARKS 151-53 (1967).

in basic agreement with him. I cannot understand, for example, how a regulatory commission can intelligently assess the relative importance of preserving fish and scenery and providing more abundant and cheaper power,[17] unless the legislature has fixed an order of priorities. Even with the great advances in mathematics, the question "x fish + y scenery $\gtrless$ c diminution of black-outs + d saving per kilowatt" is unanswerable unless someone has assigned weights to these incommensurables. That is the legislature's job, and attempts to palm the task off on administrative agencies can only impair their ability to perform their proper roles. Once the weights have been assigned, and obviously this need not be done with precision, I think an administrative agency can do the job tolerably well; I doubt that Professor Fuller would agree if the administrative agency is compelled to operate within the restraints of the adjudicative role.

"Anatomy of the Law" effectuates its title not by being a complete description of the law's bones and muscles but rather in constituting a brilliant dissection of a few tissues. It is full of the perceptive and sensible observations for which the profession has been indebted to Professor Fuller since his Rosenthal lectures given—can it really be? —nearly thirty years ago.[18]

*Hon. Henry J. Friendly**

RIOTS, REVOLTS AND INSURRECTIONS. By *Raymond M. Momboisse.*† Springfield, Illinois: Charles C Thomas Publishing Co., 1967. Pp. xviii, 523. $16.50.

Each generation tends to think that its biggest problems are new and without precedent, until the short-range view is corrected by the perspective of history. The United States public today is generally convinced that the ghetto riots of the sixties are unique, forgetful of the draft and labor riots of nineteenth century America and the race riots of the earlier decades of this century.

The objective tone and comprehensive content of Mr. Momboisse's

17. *See* Scenic Hudson Preservation Conf. v. FPC, 354 F.2d 608 (2d Cir. 1965).
18. L. FULLER, THE LAW IN QUEST OF ITSELF (1940).

* Judge, United States Court of Appeals for the Second Circuit.

† Deputy Attorney General of the State of California; Advisor, President's Commission on Law Enforcement and Administration of Justice.

book implicitly conveys the lesson that mob violence has been and will be with us throughout history. As a stolid textbook for police and military response to mob action, it deals with the elements of riot and insurrection in a sober and workmanlike manner with very little direct reference to our present troubles, on the apparent assumption that the future will bring new brands of mobs erupting in basically the same ways.

The almost total absence of reference to either recent or distant historical examples is initially surprising. Although the book approaches riot problems entirely at the military level of strategy and tactics, unlike military tomes which cite specific battles, this text avoids supporting references. In fact, there are no footnotes—a welcome attribute in itself.

As the reader plows through definitions of mob types, the classification of rumor factors, the principles of preparatory organization, illustrations of police formations and outlines of control procedures, the value of avoiding mention of current events becomes clear. The whole business is presented in a dispassionate atmosphere, free of the controversy which would becloud it if specific instances were introduced to challenge the polarized emotions of today.

In a section on college demonstration planning, for example, the author notes simply that extreme student agitation and violence is not uncommon in Europe and South America, has occurred recently in the United States, and will be with us in the foreseeable future. If the author had attempted to report or summarize the events at Columbia or Berkeley, he could not have missed offending some viewpoints and losing the confidence of some readers. He just moves ahead to list approaches to intelligence, deployment and other matters common to the handling of demonstrations, labor picketing and other classes of crowd problems.

Mr. Momboisse appears to have exercised conscious restraint in his avoidance of historical interpretation and editorial opinion. Occasionally, a hint of sublimated viewpoint shows through. When he states that student agitators will have continuous support from sympathetic lawyers, he adds: "Left-wing or communist-oriented attorneys will most likely participate."[1] This bit of labeled generalizing is the exception, however. In classifying student participants, he meticulously acknowledges that some are idealistic, some are pulled along by mob

1. R. MOMBOISSE, RIOTS, REVOLTS AND INSURRECTIONS 320 (1967).

spirit, some are duped, some are looking for excitement, and some—only some—"are outright revolutionaries who adhere to communist teachings. . . ."[2]

The primary tone, nevertheless, is objective. Although the author must have conducted a great deal of research into the history of riots, his background work only serves to deepen the authoritative style.

He usefully classifies mobs as aggressive, escapist, acquisitive and expressive. He employs three of his few specific cases in explaining the escape or panic mob, where he describes the panic which killed four thousand persons in a Chungking air raid shelter on June 5, 1941, the Iroquois theatre fire of 1903, and the horror of a panic mob at a soccer match in Lima, Peru.

Mr. Momboisse's use of three illustrations for a panic mob, where no ideological issues are involved, coupled with his avoidance of case histories otherwise, clearly underscores his design to keep away from controversial matters. As a result of this approach, his book will be more used and hence more useful.

Acceptance of this work by police administrators will stand or fall upon the soundness of the content itself because the author brings to the work a reputation as a lawyer rather than as a police or military field commander. Mr. Momboisse is a Deputy Attorney General of the State of California, undoubtedly familiar with Watts and other West Coast disturbances, who served as an advisor on riot matters to the President's Commission on Law Enforcement and the Administration of Justice. In that capacity, he was involved in preparing the Federal Riot Manual. The acknowledgments in the book reflect consultation with many top police personnel, primarily in California.

At times, the author's careful outlining, listing and classifying—normal in a teaching textbook approach—conveys an impression of clear-cut simplicity which is not matched in real life. In discussing the guerrilla or hit-and-run type of mob action, which has been characteristic of our ghetto riots in the last several years, he characterizes mob leadership as being divided into an external command of planners-agitators and an internal command of young leaders in the field. Taken alone, the dry classification could suggest a clarity of leadership structure, purposefulness and planning which goes far beyond actuality. In addition to the spontaneous momentum behind our ghetto riots, there indeed have been in every city some "external" leaders who

2. *Id.* at 321.

planned and agitated, as well as field leaders, largely self-appointed, who have drawn followers along in looting and burning. However, the difficulty of spelling out the complex interrelationships of spontaneous participants, self-appointed leaders, purposeful agitators, professional criminals using the occasion, and others, has been frequently illustrated by the debates over whether or not specific riots were "organized." Because that question can never be answered in a word, the author wisely avoids such issues and gets on with discussing prevention and control techniques.

The fundamental objectivity of the book is well shown in the chapter on weaponry. Momboisse's approach matches that of the most effective and progressive police chiefs of the country. He warns against the display of firearms as a bluffing tactic in a show of force, pointing out correctly that the brandishing of weapons such as shotguns in situations where they are not needed and not intended to be used, can weaken police control over a mob.

His discussion of the police baton accords with the best views, as exemplified by F. B. I. manuals. Although he includes mention of water cannon, apparently for the sake of completeness, he cautions that employing water jets against crowds, generally used in Europe, is deemed not acceptable in the United States in view of the serious injuries which they can cause. On the use of police dogs, he acknowledges the variety of opinion which prevails, suggesting that, where the use of dogs in crowd control would create unnecessary antagonism, they be kept in a back-up position behind the main police riot formation.

Because the text was written before American police developed any wide experience in the use of the chemical stream dispenser (popularly referred by one brand name, "Chemical Mace"), it deals with that device only in terms of potentialities. The discussion of chemical gas, as distinguished from the chemical stream dispenser, is brief but orthodox. In listing the disadvantages of gas, he does not make any repeat reference to his Lima, Peru, illustration, where the police triggered the killing panic by lobbing gas grenades into packed soccer stadium stands, thus providing a strong example of the danger of using gas for crowd dispersion where exit routes are blocked.

The comprehensive coverage of the book includes even a chapter on the fire department role, using the fire apparatus task force as the basic operating unit. However, this chapter is very brief and sketchy;

it does not take time to probe the delicate question of using fire engine-and-truck companies singly, and therefore more efficiently than in a large task force, where intelligence and surveillance indicates a continuing absence of aggressive action against firemen.

At some points, of course, small police departments will find Mr. Momboisse's recommended thoroughness overwhelming, as when he proposes, for civil disobedience demonstrations, a specialized and separate arrest unit, as well as the main police control units, usually also specially trained. However, his perfectionist goals are worthwhile as illustrating the ultimate.

Particularly sound is the constant reiteration of the importance of good supervision over police at every mob or demonstration scene. Regardless of the excellence of the training and motivation of the individual policemen, unified supervision is obviously essential to insure that police actions are carried out in a coordinated manner. The individual officer needs and deserves supervision, so that decisions may be made for the unit, decisions which cannot be made on an individual basis.

Indeed, the author also appears to recognize the importance of demonstrators themselves having their own supervision in a demonstration, in order that the group have a head with whom police can communicate. Pittsburgh encountered a good illustration of that point two years ago, when police had to make a mass arrest of 60 dairy farmers and their wives for blocking access, solely because their only leader went home to tend to his own milking and thus left his followers as a mass of individuals, each unwilling to take the first step in obedience to repeated police requests.

These practical factors are well recognized by Mr. Momboisse, as evidenced by his advice that police maintain thorough advance communication with demonstrators and labor pickets whenever possible.

Even after the experiences of this decade, it would be a rare American who could avoid a feeling of shock while reading the book's table of contents. It is difficult to avoid being disturbed by the sober listing of instructions on command posts, logistics, medical facilities and—in the case of possible revolution—a chapter headed "City Battle Tactics."[3]

Nevertheless, many a mayor and police administrator today can

3. *Id.* at 443.

testify firsthand to experiencing the bitter necessity of calling in the National Guard to occupy his home city.

Therefore, for the problems of today and the totally new problems of many tomorrows, Mr. Momboisse's book must be admitted to be necessary. Its considerable usefulness as a training aid and as a checklist for planning may well establish it as a standard work in the police administration field.

*David W. Craig**

CASES AND MATERIALS RELATING TO JUVENILE COURTS. By *Orman W. Ketcham*† and *Monrad G. Paulsen*.‡ Brooklyn: The Foundation Press (University Casebook Series), 1967. Pp. xxvii, 558. $8.00.

"In the past few years an increased concern of lawyers over juvenile court matters has been evident. . . .";[1] so states the first sentence of the Preface to what may be the only American casebook relating solely to juvenile law. The authors, one a judge and the other a professor of law, are well qualified to produce such a book. The timing was somewhat unfortunate in that the opinion of the United States Supreme Court, *In Re Gault*,[2] was handed down just before the book went to print, and had to be added as an addendum. This decision, of course, has revolutionized the proceedings in most juvenile courts across the country.

The first juvenile court was established in Cook County, Illinois, in 1899, and the Introduction to this book contains a number of articles written in those early days supporting the theory for having separate treatment for juveniles. It is ironic that those writers, both lawyers and social workers, were saying the same things then as they are now about the need for separate treatment of juveniles.

---

* A.B. University of Pittsburgh; LL.B. University of Pittsburgh. Director of Public Safety, Pittsburgh, Pennsylvania.

† Judge, Juvenile Court of the District of Columbia.
‡ Professor of Law, Columbia University.

1. O. KETCHAM AND M. PAULSEN, CASES AND MATERIALS RELATING TO JUVENILE COURTS, XI (1967).
2. 387 U.S. 1 (1967).

After dealing with the theory of juvenile court and the scope of the problems of delinquency, including rather extensive quotations from the *President's Commission on Law Enforcement and Administration of Justice*,[3] the authors consider the power of the juvenile court through a sampling of statutory law and some cases considering delinquent behavior. There are also cases involving non-criminal conduct of children (school truancy, incorrigibility, running away from home), and cases involving dependency and neglect.

The United States Constitution as related to juveniles is discussed, but as mentioned earlier, unfortunately the Supreme Court opinion in *Gault* was not included.

The rest of the book deals with the juvenile court and the lawyer, police investigation, and the handling of children and youth following arrest, through cases and excerpts from articles and periodicals.

The book would be useful as a text for a seminar for undergraduate students as well as for the law student. As a tool for the practicing lawyer, it probably has little value.

The only criticism which can honestly be made of this book is that the authors do not do more editorializing since, as stated previously, both are well qualified in the field.

*Hon. Maurice B. Cohill, Jr.**

TEACHERS, SCHOOL BOARDS, AND COLLECTIVE BARGAINING: A CHANGING OF THE GUARD. By *Robert E. Doherty*† and *Walter E. Oberer*.‡ Ithaca, New York: State School of Industrial & Labor Relations, 1967. Pp. 137. $2.00.

One of the most complex and controversial areas in the field of contemporary labor relations involves the public or governmental sector wherein political forces are superimposed upon the usual economic

3. TASK FORCE REPORT: JUVENILE DELINQUENCY AND YOUTH CRIME, *The President's Commission on Law Enforcement and Administration of Justice* (1967).

* Judge, Court of Common Pleas of Allegheny County, Pennsylvania, Family Division.

† Assistant Professor at the New York State School of Industrial & Labor Relations, Cornell University.

‡ Professor of Law, New York State School of Industrial & Labor Relations, Cornell University.

ones. The complex problems, when they have arisen, have been characterized in terms of the form of their expression, such as "strike," rather than the substantive issues, in terms of "brute economic force vs. legal authority" or "moral right vs. legalistic dogma." Having identified the conflict from this point of reference, the underlying causes are ignored; positions tend to become rigid and immutable, and clash seems inevitable. There can be little doubt that the clash tends to emphasize the disfunctional aspect of the relationship, not only during "the period of adjustment" but, more important, will mar future interaction.

While all will agree that it is best to resolve these differences without resort to conflict, it seems apparent that unless the situation is redefined in terms of the underlying cause or causes, any new approach is destined to failure. The parties must abandon their blind reliance upon fixed formal positions wherein each anticipates the total capitulation of the other and must approach their substantive differences from a point of mutual understanding and respect, employing reason and common sense in seeking solutions.

It is from this premise that the authors address themselves to the problems of the teachers. The appeal of the book, indeed, its essential contribution, is in its definition of the teacher's "plight" and his organizational reaction to it. In short, the book serves as an excellent orientation to the sources of contemporary teacher discontent.

The book commences by historically depicting the economic and sociological roles of the teacher *vis-à-vis* the American society. While the orientation is academic, it is interspersed with personal observations which are intended to lend practical insight into present positions. For example, it is observed that since the inception of this nation, teachers have been of poor quality for two basic reasons: first, the low measure of compensation afforded for such services; and second, and more important, the lack of status associated with the position. According to the authors, American teachers, historically, were considered by society as partial outcasts; individuals unable or unwilling to compete in the commercial world; or people who sought refuge in teaching as a defense mechanism. Considering these factors, it is not surprising that one professionally interested in the education of the young should be unhappy, indeed, discontent with society's portrayal of its position. The authors conclude that the public or the governmental institutions have failed to recognize, or have chosen to ignore, the principle that

quality breeds quality; that "the public has not yet demanded that those who instruct the young be intellectually superior people."[1]

Though the historical analysis is not exhaustive, it is certainly sufficient to raise in the mind of the reader, serious questions about the effectiveness of our educational system if a direct relationship be assumed between teacher quality and institutional quality. While such an assumption might be considered today as self-evident, these historical attitudes remain as a fundamental barrier towards fruitful and positive interaction. To this end, we must re-analyze these attitudes.

The authors enter into a further analysis of the "teacher's reaction to his plight."[2] We find that teachers first organized over a century ago initially for the declared purpose "to elevate the purpose and advance the interest of the profession of teaching, and . . . to promote the cause of popular education in the United States."[3] It is clear that this avowed purpose was two-fold: to promote the interest of the teacher and, as well, to insure the expansion of a feasible and effective educational system. In 1916, a second teachers' organization was formed, which was principally, if not solely, concerned with the interest of the teacher. It later became affiliated with other labor organizations. Today both groups are strong and active, and although they differ somewhat in their organization and approach, they remain primarily concerned with the interest of the teacher. The history of the respective organizations as depicted and the value of their competitive spirit should be interesting to any person concerned with the problems of our age.

Finally, the authors address themselves to the problems of the employer vs. the employee; what specifically the teachers desire; the methods by which they seek to attain those goals; the community's response thereto, and the legislative pronouncements which have been forthcoming. This analysis centers around specific economic and legal issues. Both have been dramatically affected by the increase of men in the teaching field.

The problem of the right to strike which has received more attention than any other, must be placed in a context of alternative remedies. As the authors correctly observe, if strikes, slow-downs and interruption of service are not a proper method of resolving disputes in the public sector, then an equally effective method of resolving these dis-

1. R. DOHERTY AND W. OBERER, TEACHERS, SCHOOL BOARDS, AND COLLECTIVE BARGAINING: A CHANGING OF THE GUARD 7 (1967).
2. *Id.* at 20.
3. *Id.* at 22.

putes must be employed. It is simply no answer to regard strikes as the only, if not the crucial, question. Assuming, therefore, that a comprehensive approach is necessary, if not imperative, the various topics or issues which must or should be resolved, according to the authors, are next considered. For example, such questions as: the right to representation, exclusive or otherwise; the right to collective bargaining; the definition and method of determining the bargaining unit; items subject to bargaining; the respective duties of the parties in bargaining, and the like. Specific reference is made to approaches of various jurisdictions as suggested methods of solution.

In the final chapter, the authors concern themselves with the effect of collective bargaining as a functional or disfunctional factor in our educational process. There is a suggestion that the process of collective bargaining may not only serve to stem discontent, but may well have a positive or beneficial effect on our entire educational system. It may be that this point is underemphasized, not only in the field of education, but generally as it relates to all public employees. This is not to say that the solution necessarily should be discussed in terms of collective bargaining *vis-à-vis* another viable and appropriate mode. It is only to choose such as an example.

It is not fair to assume that the process of collective bargaining and employee organization will serve only to "take" from the system of which it is a part. No doubt the principal reason for the organization and desire to bargain, is to promote the interest of the organizational group. But it does not follow that the interests of the organizational group and that of the employer will always be divergent. Having established a line of communication, a forum for resolving mutual problems, the employer may utilize such a forum for his own specific benefit. In short, not only may the employer utilize such a system by resolving or seeking to resolve employee discontent, but through such interaction, he may well bring to bear employee experience and thought upon the general educational institutional problems. An enlightened and perceptive public employer may utilize this process to the advantage of the public and the institution as a whole. It is this factor which should be considered, and it is this factor which has generally been ignored.

It should be observed that the book is somewhat one-sided in that it presents the problems of the teacher, but tends to ignore the problems of the public. While the public must be mindful of the problems of

the teachers, it is evident that the teachers as a whole must be equally as cognizant of the problems of their employer, each side seeking to tailor solutions to their particular problems.

We sincerely hope that this book represents the initiation of an effort towards mutual understanding and that other works of its quality and character will be forthcoming in the not too distant future.

*Hon. John P. Hester**

DOLLARS, DELAY AND THE AUTOMOBILE VICTIM. Sponsored by the *Walter E. Meyer Research Institute of Law.* Indianapolis: The Bobbs-Merrill Co., Inc., 1968. Pp. v, 486. $9.50.

This is not a book in the traditional sense but rather a collection of articles by various scholars all of which are inter-related in accentuating the problem of delay in the determination of automobile personal injury claims and suggesting solutions, not only from the pure legal (tort law) approach, but also from the community-wide socio-economic (compensation) approach.

As is conceded in the various articles, personal injury claims arising through the use of automobiles have been the subject of many studies since shortly after the advent of the motor vehicle. The dramatic rise in population and the numbers of vehicles in use with the resultant rise in personal injury claims, has placed a tremendous strain upon the existing facilities for the final determination of claims. It is meritoriously suggested and argued that the problem is not solely one of tort law, but also that of the automobile accident victim presenting a total community-wide problem, particularly where the injury is severe and prolonged or where death occurs.

This book is a must for judges and attorneys in view of the fact that since changes, both procedural and substantive, are going to be made in the handling of automobile personal injury claims, they, next to the victim, will be vitally affected in the roles each will play. From this compilation of articles there is a readily available source of research material, together with charts, graphs and source notes, which en-

---

* Judge, 5th Judicial District of Pennsylvania.

deavor to tell us where we have been, where we are, and the direction we are or should be moving in the area of compensation of automobile inflicted injuries. With this information in hand, judges and lawyers will be in a better position not only to understand the total problem but also to articulate their particular views and positions in this vital area of the administration of personal injury law.

The problems and costs of pure legal disposition of automobile personal injury claims, together with the social and economic consequences attendant to the victims and society, are of such importance to the entire community that it is regrettable that this book in its present form will not be widely read by the general public. Until such time as the experts refrain from talking to experts and begin speaking to the public, it is the obligation of the judges, lawyers, sociologists, economists, the insurance industry, etc. to continue the dialogue concerning the problems and solutions raised in this group of articles.

*Hon. Silvestri Silvestri**

* Judge, 5th Judicial District of Pennsylvania.