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Book Review. The Legislative Struggle by Bertram M. Gross

Frank Edward Horack Jr.

Indiana University School of Law - Bloomington

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Recommended Citation

Horack, Frank Edward Jr., "Book Review. The Legislative Struggle by Bertram M. Gross" (1953). *Articles by Maurer Faculty*. 1219.

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est of the departments of government, is least able to defend itself against the hostility or encroachments of the legislature or the executive. The author does not omit significant comment on judicial rule-making, a field in which he speaks as a pre-eminent authority. In this area he has long been an opponent of legislative interference with judicial prerogatives. He believes that judges should not have nonjudicial duties imposed upon them by legislatures. Recently courts themselves in their own decisions have been limiting their own field of function. "Should the weakest branch of the government on its own initiative weaken itself still further at the expense of the clear rights of citizens under the Constitution?" he asks. The question answers itself!

Chief Justice Vanderbilt's latest book is a thoughtful presentation by a national authority on a crucial constitutional doctrine—a subject suggested to the author by Roscoe Pound himself. Though limited to three chapters, New Jersey's Chief Justice has made a valuable and lasting contribution to a subject vital to the political foundations upon which our government and liberties rest.

EUGENE C. GERHART
Binghamton, New York

THE LEGISLATIVE STRUGGLE. *By Bertram M. Gross. New York: McGraw-Hill Co. \$6.50. 1953. Pages xviii, 472.*

Lawyers who are critical of the "impracticability" of their fellow social scientists will be surprised and delighted with Gross' penetrating analysis and realistic description of the federal legislative process.

The subtitle of the book "A Study in Social Combat" sets forth the author's sound thesis that the legislature as an institution plays only a part, and often a small one, in the process by which society formulates its rules of conduct. Thirteen of the twenty-one chapters deal with the ways and means by which private organizations, political parties and government agencies seek to control

the ultimate legislative decisions. The remaining chapters disclose the manner in which these forces and pressures influence the committee hearings and the formal legislative procedures of the two houses of Congress. In detail and with candor, the author discusses the means of organizing pressure groups, the selection and coaching of witnesses for committee hearings, the means of delaying or expediting legislative action, indeed, all the trial techniques of legislative advocacy. He sounds a warning, well known by all experienced legislative counsel, but generally unbelievably by those without congressional experience, that there is no greater folly than to assume that the Congressmen are uninformed, that the hearing is a formality, or that inaccurate or misleading statistics and evidence will not be discovered.

In the introduction the author warns that there are no absolute standards (including his own) by which any social process may be judged, and it might be added, particularly the legislative process—a warning which lawyers particularly should heed. Although, as a profession, lawyers have participated in the legislative process, both officially and unofficially, more than any other single group, paradoxically they are usually the most contemptuous of it and often the least informed concerning it. Contrasted with the judicial process it does often appear to be unpredictable, haphazard and unreliable. There are no formal rules of precedent, *stare decisis*, and review. But the initiate will soon discover that they are there. In its broadest sweep and with all its faults, the legislative process achieves the constitutional objective of a representative democracy. Individual judges and executives by force of their own personalities have on occasion and for limited periods in our history achieved popular representation through their leadership; but institutionally, the legislature for good or ill, has most accurately reflected the kind of society that we are—though not necessarily the kind

of society we want to be or ought to be.

It is difficult in so short a review to give the full flavor of this excellent volume. Perhaps this analogy will make the point. Every experienced lawyer tends to reminisce concerning his experiences with the judicial process, with judges, juries and opposing counsel. If he has been an able lawyer, his insights into human experience and the forces at work within and without the judicial system provide a manual of judicial strategy and tactics invaluable to the successful practice in his jurisdiction. In a sense, Gross has reminisced concerning his broad experience with the many forces—formal and informal—which initiate, obstruct and produce legislation. Gross is able and experienced, and his volume is not only delightful reading for those with only a layman's interest in legislation but also an indispensable text for those who wish to improve their skills as legislators or legislative counsel.

FRANK E. HORACK, JR.

Indiana University
Bloomington, Indiana

CRIME INVESTIGATION. *By Paul L. Kirk. New York: Interscience Publishers, Inc. 1953. \$10.00. Pages 806.*

As a text on physical evidence and the techniques of a police laboratory, this book is one of the better publications of its kind now available. It is not one of those highly scientific, difficult-to-understand books, but on the contrary, is a readable, elementary discussion of a large number of types of examinations conducted of physical evidence in criminal investigations.

A commendatory feature is the concreteness and clarity of the presentation. It is adequately illustrated with photographs, figures, drawings, tables and references.

For the lawyer and judge, it is a handy reference work, as it describes in adequate detail and easy-to-understand language the exact steps taken in the examination of physical evidence in criminal cases. Excellent