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Book Review. Pound, R., Criminal Justice in America

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BOOK REVIEWS

CRIMINAL JUSTICE IN AMERICA. By Roscoe Pound. New York, N. Y.: Henry Holt and Company. 1930. Pp. xiv. 226.

This book is one of those brilliant things that only the venerable Dean of Harvard Law School can get off. Lest any of my readers be unacquainted with the career of this former Nebraskan, let me state that he is one of the most accomplished scholars of the day. A Commissioner on the Nebraska Supreme Court; a Ph. D. in botany and the author of respectable books in this field; a law teacher of brilliance, and for twenty years the outstanding dean of a law school in America; the father of sociological jurisprudence; and a member of Hoover's National Commission on Law Observance and Enforcement—these are some of his accomplishments.

The book he has now offered to the general public (it will, nevertheless, be much better understood and appreciated by lawyers) shows the hand of a master who is conversant with the problems. It is one of the few books which one leaves with the feeling that it should be read by everybody, especially those enlightened gentlemen in every field unrelated to the social sciences, whose thinking on the social phenomenon called crime is on a level with a savage's explanation of natural phenomena. Everywhere opinion is vehemently voiced. Where is the person who has not a specific remedy? And the more opinionated and the more emotional, the proportionately less informed is the outcry.

Here is an opportunity for any person who still retains a modicum of curiosity regarding the problems of the administration of crime in this country to secure at least an excellent perspective of the field. The book combines an historical account of the administration of criminal law, from seventeenth century England and the colonies through pioneer days to our own times. Social and political forces are shown to be the root of our criminal laws and administration. Law is seen as only one of many of the agencies of social control; pioneer life and attitude have been supplanted by modern urban life with all its concomitants. The home, the church, the newspaper, the automobile, the radio, the type of government and the many new social and political forces of contemporary life must be examined with reference to the causes of crime as well as of the inefficiency of legal administration in criminal cases in this country.

Of course much of the attack upon law and the officers of administration is due to sheer lack of understanding of the facts. The criminal should be apprehended immediately and punished on the spot—that is the tenor of much comment. And the lawyers with their technique, and the procedure, and the delay, the judge and jury, and all the rest of the process come in for bitter criticism. Yet this long drawn out process was achieved only after much blood was shed upon the battlefield so that Magna Carta and the Bill of Rights and all the rest might be wrung from the hand of an arbitrary despot. True it is, as this little book so abundantly shows, that the hand of the dead past is still governing our criminal law and administration in many respects.

Protection, once vital to the ordinary run of men is no longer required in the same manner and degree, and the rules should be modified to meet the needs of the day. But the job will not be done by those whose thoughts have pierced no farther than those of the mob. Rather, it will be done, if at all, by those who apprehend the vast interplay of forces of every nature upon this complex problem.

And no book comes to mind which can form a better introduction to the field. Judges, lawyers, prosecutors, police and students of the social sciences are under direct obligation to become familiar with the point of view and the contents of this book. And all intelligent laymen who wish to avoid being inane on a subject of general interest will take two or three hours to read this interesting, penetrating and instructive account of criminal justice in America.

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PROBLEMS OF LONG TERM LEASES (Michigan Business Studies, Vol. II, No. 8). By Marvin L. Niehuss and Ernest M. Fisher. University of Michigan, Ann Arbor. 1930. Pp. iv, 73.

This short study of long term leases gives to the lawyer and to the business man, a concise but comprehensive survey of an important phase of real property law which in recent years has come to the front. The pamphlet takes up first the history of the problem and the reasons for the use of the long term lease. The advantages as well as the disadvantages resulting from the use of this type of lease are discussed from practical viewpoint.

In further subdivisions, the matter of fixing the rent is considered with the practical considerations resulting out of such problem. The question of whether the lessee should be given an opportunity to share in possible value increases is fully discussed. The authors attribute the popular attitude to the rental question due to the phenomenal increases in property values during the last quarter century. The use of "step ups" and "step downs" in graded leases is discussed as well as the matter of the reappraisal lease. The authors seem to indicate that the reappraisal lease is only justified from a practical standpoint where large scale economic factors permit; namely, Eastern cities, leasing centers, although the theory underlying the reappraisal lease is quite equitable in nature.

The section on Security Provisions deals with the advantages and disadvantages of this type of provision. "In final analysis the best security a lessor can have is a prosperous lessee - - It is better to leave a tenant less restricted and have him prosper than to bind him strictly and force him into an impossible situation." The authors indicate a number of different situations which might arise during the course of a lease according to the type of security provision used. There are other sections which deal with Termination of Leases and Condemnation. The chapter on Condemnation concerns the distribution of the award according to the value of the different estates at the time of such award.

Several graphs and interesting problems are presented within this pamphlet, clearly illustrating the points that the authors attempt to convey. An appendix contains the results of a questionnaire sent out concerning the problems involved in this study. From this material, the authors have derived many of the observations noted in the text proper. While the pamphlet contains no index, its absence is justified by the shortness and the arrangement of the work. The pamphlet should prove useful to lawyers dealing extensively in real estate practice.

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