

1-1928

## Law Reform, by Henry W. Taft

Hugh E. Willis

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## LAW REFORM\*

This series of papers and addresses by a practicing lawyer covers a wide range of legal subjects, including a general comparison of American and English legal procedure, the application of the law of evidence in will contests and criminal trials, newspaper trial, uniformity of procedure in the Federal courts, justice and the poor, tenure of judges, freedom of speech and the Espionage Act, the American Law Institute, the League of Nations and the World Court.

For the most part the book consists of addresses delivered on different occasions before the American Bar Association, State Bar associations, Canadian bar associations, Law Society of London and the American Academy of Political and Social Science. As a consequence there is some repetition and the treatment of the subject of "Law Reform" is somewhat fragmentary. Only a few of the rules of evidence and practice are

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\**Law Reform.* Papers and addresses by a Practicing Lawyer by Henry W. Taft. The Macmillan Co. 1926. pp. 265. Price \$3.50.

discussed and the rules of pleading are not discussed at all; but the fact that our system of practice is essentially a contest of skill, with the judge a mere moderator, is rightly held up as the most glaring defect therein, and the rules of evidence against hearsay, as to expert testimony and denying one who has made a will "the vicarious privilege" against contestants "of presenting his side of the case through beneficiaries, spiritual advisers, legal advisers and physicians" come in for sarcastic comment. The extent of crime in this country, the enormity of litigating procedure and of tolerating newspaper trials, as we do in the United States, and the suffering of the poor, are all vividly shown; but the other evils incident to our scheme for the administration of justice are for the most part passed by. By way of reform of Legal Procedure there is suggested law revision commissions, declaratory judgments, reform of the press (though probably not by the process of contempt), the abolition of the ease of divorce by uniform laws and the abolition of contingent fees in negligence cases, uniformity of Federal procedure, and conciliation and arbitration, domestic relations courts, administrative tribunals and small claims courts for the poor; but nothing is said about the reorganization of the courts, the appointment of judges, the education of the bar, the theory of criminal law, the disarmament of criminals, the character of the police and enforcement officers, the glorification of criminals and the teaching of law obedience. The author shows his vision when he insists that the theory which requires the administration of justice between individuals necessarily will force us ultimately to administer it between groups of individuals and between nations; and he is undoubtedly right in his position that what substantive law needs is not reforming so much as restatement, and that the American Law Institute is performing an adequate function in this respect.

The author everywhere shows a sane, broad, unbiased viewpoint, and a courage worthy of emulation. It is as encouraging as it is unusual to hear such doctrines and to witness such zeal from a practicing lawyer. Perhaps the explanation of why he does not, like most "legal votaries, cling to technique," lies, as he himself says, in his advance in years and to his membership on law reform committees; but a more reasonable explanation is that Mr. Henry W. Taft is an unusual practitioner.

HUGH E. WILLIS.