

BOOK REVIEWS

FELONY AND MISDEMEANOR: A STUDY IN THE HISTORY OF ENGLISH CRIMINAL PROCEDURE, VOL. I. By Julius Goebel, Jr. The Commonwealth Fund, New York, 1937. Pp. xxix, 455. Price: \$5.00.

This first installment is a study of beginnings and brings the story of English criminal law down only to the period of Henry I. Beginning with the earliest traces of Teutonic folk-law as found among the Franks, the author first traces the history of criminal procedure through Merovingian and Carolingian times and notes the developments due to the imposition of a Crown law which modified the processes of the primitive folk-courts and gave rise to the *Rügeverfahren* of Charlemagne. This was an official procedure which supplemented private accusation and laid the foundation not only for the inquisitorial process of Henry II's time but also for the papal inquisition of a later day. Crown law, as such, disappeared in France during the following centuries of anarchy, but its procedures were usurped by feudal lords in varying degrees and thus preserved for future application. The author confines his study of feudal developments to Normandy, whose dukes were to carry to England the Frankish legal institutions which were already greatly modified by the disappearance of the system of composition payments, and for which had been substituted physical and economic sanctions imposed by the lord. In England, Norman institutions were brought in contact with those of the more primitive Anglo-Saxons, "a meeting, strange even in history, of a mature law with the image of its own childhood". The final section of the volume is devoted to a survey of Anglo-Saxon criminal procedure and to the combination of the Norman and English systems by the early Norman kings whose legal genius, backed by an authority unknown on the Continent, enabled them to take from each those features most suitable to the development of a royal jurisdiction over crime.

Maitland once said of Henry C. Lea that he was "one of the very few English-speaking men who had the courage to grapple with the law and legal documents of Continental Europe. He has looked at them with the naked eye instead of seeing them, a much easier task, through German spectacles." This praise applies equally to Dr. Goebel. Not only is he master of the secondary literature of his subject, but he has subjected the extensive, though fragmentary, sources of early law, and especially the obscure materials of the charters, to the most critical scrutiny and has shown his independence by reaching conclusions often at variance with Brunner and other accepted authorities. Thus, he denies the existence among the Franks of any conception of a folk-peace, even in modified form; and he holds that the early courts possessed no sanctions to enforce their authority, either party having the right to resort to the bloodfeud at any stage of the proceedings, even after the final concord. He rejects the idea of a king's peace in the time of Charlemagne and, contrary to Haskins' views, holds that the Dukes of Normandy possessed no rights of high justice in the lands of their vassals. The duke's peace and his pleas of the sword are shown to have originated with his assumption of responsibility for the enforcement of the Peace of God after 1080. Hence no claims to pleas of the crown were carried over to England by William, nor did he find such claims to jurisdiction in the hands of the Anglo-Saxon kings.

These and many other accepted views appear to be successfully controverted by the author. Regarding one point, however, I feel that he has not established his contention; e. g., that no sanctions existed whereby an early Frankish court could enforce its judgments against a contumacious party. Even granting that no direct evidence exists as to outlawry or other penalty for con-

tumacy, the absence of any coercive authority makes the existence of the Hundred court almost meaningless. Vengeance through the bloodfeud was the normal method of settling disputes in that turbulent society. Hence the injured party would appeal to the court for compensation only when he realized that his sib was weaker than that of his opponent. The stronger party would, as a matter of course, choose the feud and refuse to submit to the adjudication if there were no compulsion, and this would make the Hundred court a useless institution. But there is one item of evidence pointing toward the existence of sanctions which has generally been overlooked by commentators. Tacitus, as is well known, asserts that the tribal assembly has the power to try and condemn to death traitors and shameful offenders; but he also asserts in the same passage that the assembly punishes lighter offenses by fines in accordance with their seriousness, a part of the fine going to the king or the tribe.¹ Among such lighter offenses may well be defiance of a Hundred court's judgment. As the authority of the assembly passed largely to the king after the Frankish migration, this may be the origin of the royal power in later times to punish for contumacy.

Notwithstanding certain reservations as to some of Dr. Goebel's conclusions, his book must be considered the most valuable contribution of recent years to our knowledge of the origins of English criminal procedure. His later volumes will be eagerly awaited.

Arthur Charles Howland.†

LAW AND THE MODERN CITY. By Barnet Hodes. The Reilly & Lee Co., Chicago, 1937. Pp. 112. Price: \$1.00.

This little book is the substance of a series of lectures given by Barnet Hodes, Corporation Counsel of Chicago at Northwestern University. The law which he discusses is the Illinois law in particular and the city is Chicago. It should be helpful to the average citizen who knows no municipal law and to the young lawyer who has had no experience with city government and its legal problems. For a completer discussion of the subject matter of Mr. Hodes' book one can turn to Albert Lepawsky's volume on *Home Rule for Metropolitan Chicago*.

These five lectures cover very briefly and clearly the following topics: (1) Law and the Modern City, (2) The Creature Theory in Close Up, (3) Tort Liability: The Mystery Story of Municipal Corporations, (4) The City and the Family of Government, and (5) The Modern Municipal Law Department (again Chicago).

Mr. Hodes denies any pretense to scholarship or discovery. The book is just what he says it is—a non-technical presentation of problems in Chicago's law department. There is a brief discussion of recent relations of the city with the federal government's administration of emergency programs. The author wants home rule for Chicago, the discarding of the creature theory, and an end to the whittling down of local powers by state authority. He is justly impatient with the Illinois Supreme Court for its long history of strict construction against Illinois cities.

The Northwestern lectures are well worth publishing and many will be indebted to Mr. Hodes for his lucid and simple presentation of the problem known as "home rule" which faces many American cities.

Clarence Addison Dykstra.†

I. TACITUS, GERMANIA c. 12.

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CRIME CONTROL BY THE NATIONAL GOVERNMENT. By A. C. Millspaugh. The Brookings Institution, Washington, 1937. Pp. xiv, 306. Price: \$2.00.

This book is the result of work done by The Brookings Institution for the Senate Committee on Investigation of Executive Agencies. Mr. Millspaugh made three specific recommendations: "(1) that certain functions of the Secret Service Division be transferred to the Bureau of Investigation, (2) that certain functions of the Post Office Inspectors be transferred to the same bureau, and (3) that studies be made of the field organizations of the Bureau of Customs and the Immigration and Naturalization Service, to determine the practicability of local consolidations or local interchanges of personnel and work." He divides the field of criminal investigation and apprehension into (a) general criminal activities, (b) criminal activities auxiliary to and resulting from some other form of governmental control, such as smuggling and violation of internal revenue laws, and (c) internal investigations and prosecutions of the personnel of government agencies such as the bulk of the work done by the Post Office Inspectors. He properly assumes that any consolidation is feasible only in the field of general criminal activity. Largely on this basis he limits his study to nine agencies located in four federal departments.

The nine agencies studied are located in four departments: six in the Treasury Department (Secret Service, Intelligence Unit of the Bureau of Internal Revenue, the Alcohol Tax Unit, the Customs Agencies Service of the Bureau of Customs, the Bureau of Narcotics and the Coast Guard); the Department of Justice, the Post Office Department, and the Department of Labor (Immigration Service).

Analysis revealed that these federal police agencies have developed "on their own", and as a result crime control by the national government is poorly organized, is unplanned, has overlapping jurisdictions resulting in duplication of effort, lost motion, jealousy and conflict. The active, fluid and ruthless character of criminal activity makes undesirable any avoidable disunity. Overlapping is not considered an evil in itself, but it presents possible hazards which must be recognized, since some overlapping is necessary. This law enforcement structure has been built up in a practical, experimental way and if it shows some defects, theory alone should not be permitted to dictate its reconstruction, but "it will demand a broad understanding of facts; a studied appreciation and utilization of emotional currents, ideas and philosophies; and a comprehensive reappraisal and revision of public policy."

Six advantages of the proposed plan of consolidation are listed: (1) It would obviate jealousies and competition. (2) It would be economically sound in that savings would result from the consolidation of some field offices. (3) The resulting larger personnel would provide (a) a greater flexibility in operations, and (b) a more prompt and a more numerous concentration of men in emergencies. (4) It would provide for the consolidation and useful direction of the wide knowledge of criminality now segregated in the various agencies. (5) The total flow of investigative activities would be more constant. A more even load resulting from smoothing out the peaks and valleys of activity would result in better planning of appropriations and operations, and a more intelligent division and specialization of work. (6) Consolidation would attain the maximum of balance and adaptability. At present the more efficient agencies drive criminals from one field of activity into other fields policed by less efficient agencies.

In addition to these three specific recommendations, Mr. Millspaugh makes other interesting observations and suggestions. He believes that the control of vice (the reference is limited to narcotics) should not be put within the jurisdiction of a regular police department or other general law enforcement agency

for the reasons that (a) such activities may become a corrupting influence, or (b) the police agency may neglect its responsibility in this field. The investigative activities of the Alcohol Tax Unit are considered auxiliary since the primary function of the unit is revenue collection and business regulation. For these reasons it is concluded that the Bureau of Narcotics and the Alcohol Tax Unit should not be consolidated with the F. B. I.

Within the Treasury organization the present movement was found to be toward closer coordination and perhaps eventual consolidation, which tendency seems to be sound. The training function should be consolidated within the F. B. I., where instruction in subjects of common interest to all law enforcement officers might be given to agents of the several federal police agencies. This instruction would be augmented by specialized instruction by the separate agencies. Closer coordination should be developed between agencies operating in the auxiliary or internal field of law enforcement to the end that they might be utilized to assist at times in general crime control. The suggestion is made that this coordination be brought about in an informal manner, perhaps by luncheons at which the heads of the federal law enforcement agencies might meet once a week, for the purpose of developing more cordial personal relations and of eliminating jealousies, antagonisms, and some of the dangers inherent in overlapping.

Mr. Millspaugh suggests that law enforcement should be centralized within the states through the creation of state police departments and "allocating to such departments the criminal law enforcement functions of the counties and municipalities except possibly a few of the most populous ones." Such a plan would cut down the number of individual police forces from tens of thousands to perhaps a hundred; coordination among the states would be facilitated; and the police organization of each state would be simplified. He does not favor a State Department of Justice patterned after the Federal Department of Justice.

His criticism of the present trend toward federal centralization is that: (1) It skips the next logical step in administrative development; i. e., the State Police. (2) It fails to include a rational appraisal of the relation of policing to democracy. (3) It fails to adapt itself to an enlightened and coherent program of crime reduction because programs of crime prevention must be locally applied. Crime prevention activities are not considered a police function, because they are "inconsistent with the major purpose of police personnel, their temperamental outlook, their basic philosophy and their specialized skills. Police work, to be efficient must be sharply focused on the detection and apprehension of law breakers."

He recognizes the need for more accurate statistical data regarding crimes and arrests, but thinks that these data should not be gathered by the agencies whose efficiency is to be measured. He suggests that it be compiled first within the states by a state bureau which would obtain information from local police, prosecuting and judicial agencies. The consolidated information by states would then be forwarded to a division of the Department of Justice (but not to the Bureau of Investigation) for further consolidation and analysis. Without more accurate data sound research will not be possible, and without it sound policies may not be adopted.

Two broad fields of research are suggested for the purpose of: (1) fixing the limit of federal participation in general crime control, and (2) accelerating the reorganization of crime control agencies within the several states. When these two aims are realized—"we shall no longer be drifting with a trend; we shall have a policy." A sound national policy should provide division of responsibilities between the Federal Government and the states, and would seek to avoid overlapping and duplication. "It would attempt to differentiate five classes of law enforcement activities: (1) Those that pertain to internal administration

of federal departments and establishments; (2) Those strictly auxiliary to other federal administrative functions; (3) Those directed at general crimes or other evils of an interstate nature; (4) Those concerned with intra-state crimes or intra-state conditions affecting health and morals; and (5) Those necessary for the coordination of the states and the promotion of better state administration."

O. W. Wilson.†

CASES ON PERSONAL PROPERTY. By W. Lewis Roberts. Callaghan & Co., Chicago, 1938. Pp. xiv, 588. Price: \$5.50.

This is the first of a new series. *Quaere*: Is it a new casebook or merely a book with different cases? The answer may be found by an analysis of the contents, which discloses that the drift of cases and the topics are substantially the same as in the other casebooks, with two exceptions. First, emblem cases are missing; second, in a section on Statutory Liens, eight cases on mechanics' liens are found, sandwiched in between a section on Common Law Liens and other sections on Liens on Chattels of Third Persons, and Assignability and Loss of Lien.

The material on Pledges covers 159 pages, having thirty-nine cases grouped under the following sections: Nature of a Pledge, Rights of Pledgor, Rights of Pledgee and Conversion by Pledgee. The excerpts from many of the cases in this chapter, and also in most of the other chapters, could have been shortened measurably without impairing their usefulness. Aside from this, the chapter marks a distinct improvement over the meagre treatment invariably given to pledges.

Common law liens for services requested by an owner are covered satisfactorily and, except for the slighting of repairmen with only one case, there is ample material on liens for services requested by a possessor or sale-security debtor. Assignability is overemphasized with seven cases, while on loss of lien, a much more important topic, there are only nine, with none on the effect of taking other security, securing judgment on lien claim, purchase by lienor, or lapse of time. Chapter 6, "Liens", falls far short of the standard set by the chapter on Pledges, and also suffers by comparison with other casebooks.

Regarding the only novel feature claimed by the editor in the preface, the inclusion of cases on mechanics' liens, it can only be said that both the treatment and the place allotted to them are open to serious question. Failure to refer to the Uniform Mechanics' Lien Act is striking, as the text of the Uniform Act would be of more benefit than the cases reprinted. Also, if material on mechanic's liens is to be worthwhile, it should include cases intended to acquaint students with more important problems, viz., those on priority among lienholders, and, above all, ones in which priority is claimed by holders of mechanics' liens over mortgagees with a mortgage containing an after-acquired clause, and, especially, mortgagees under a construction mortgage, stipulating that loans are to be made in installments as the work progresses.¹ Without these, factors of construction finance cannot profitably be considered. Nor can the first subsection of the section on Statutory Liens, entitled "In General", be used as a background for a study of mechanics' liens. The material presented consists of only five cases. Here again, it seems an attempt should have been made to deal with some of the many matters covered by mechanics' lien statutes.²

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1. See Note (1926) 36 YALE L. J. 129.

2. See *Report of the New York Joint Legislative Committee Investigating the Lien Law* (1930) LEGIS. DOC. 72 (containing a digest on forty-nine topics).

There appears to be no connection between the material on mechanics' liens, which are entirely statutory, and the three sections which follow; namely, Liens on Chattels of Third Persons, Assignability, and Loss of Lien. True, the mechanics' lien cases present problems of which these headings are descriptive but their solutions are totally unrelated to those of problems arising in connection with common law liens. Assuming that mechanics' lien cases ought to be included in a casebook on Personal Property, the most likely place is near the material on fixtures. The subject matter is the same, and there are many questions common to both. For example, each presents problems as to interpretation of statutory provisions relating to the creation of liens on realty and of the terms of improvement leases, as well as problems involving the effect to be given to recording of leases. Furthermore, additional material would have greatly improved Chapter 8, which is much shorter than any chapter on fixtures in other casebooks. As it stands, with only twenty-five pages, the filling of gaps around the eleven cases will impose a heavy burden on any instructor. The summary treatment of fixtures, without anything on domestic and agricultural fixtures or the effect of lease provisions, like the total lack of emblement cases, is hard to account for. Only three cases are included on the protection of sale-security merchandisers. The first and third do not shed much light on the most important fixture problem, namely, what constitutes material injury to the realty, and there is nothing to show that the New Jersey view, followed in the second case, is accepted in only a few states and that it has been severely criticized.³

Acquisition of title is dealt with in chapters 2, 3 and 4. Chapter 2, "Acquisition of Title by Judicial Process", contains two sections, one on Judicial Sale and the other on Satisfaction of Judgment. Of the four cases under Judicial Sale, two involve decrees of an admiralty court. No consideration is given to enforcement of judgments against parties to bailments, liens, pledges, conditional sales or chattel mortgages, although the uncertain state of the law, particularly with reference to bailments⁴ and conditional sales,⁵ makes this a matter of prime importance. The second section of the chapter leads off with a case holding that judgment in trover against a sheriff, for wrongful seizure of goods owned by the plaintiff under an attachment against another, does not pass title to the sheriff. Unfortunately, the opinion in this case is devoted largely to distinguishing a Michigan case, recently overruled,⁶ holding that judgment plus execution bars an action against other tortfeasors. A student observing this distinction and failing to note that Justice Knowlton, its chief propounder, dissented in *Miller v. Hyde*,⁷ the next case reprinted, might easily fail to detect the error of a recent textwriter, who not only adopted the judgment plus execution view but also said that it was applicable to all types of cases.⁸

"Acquisition of Title by Accession and Confusion", is adequately dealt with in the thirty-two pages of chapter 3, but the succeeding chapter on "Gifts", is not well rounded, lacking both arrangement and content. Singularly, in this chapter, which contains twenty-nine pages, the donee was a relative of the donor in all but two of the nine cases and those involved affianced persons. Very little of the material in this chapter will aid an instructor in pointing out recognized distinctions between chattels and documentary intangibles on the one hand and non-documentary intangibles on the other, and showing the present status of

3. See Niles, *The Intention Test in the Law of Fixtures* (1934) 12 N. Y. U. L. Q. REV. 66 n. 94; see also Note (1937) 22 CORN. L. Q. 421.

4. For an interesting discussion see Note (1921) 70 U. OF PA. L. REV. 112.

5. See Note (1929) 13 MINN. L. REV. 247.

6. *Verhoeks v. Gillivan*, 244 Mich. 367, 221 N. W. 287 (1928), 27 MICH. L. REV. 348 (1929).

7. 161 Mass. 472, 37 N. E. 760 (1894).

8. BROWN, *PERSONAL PROPERTY* (1936) 42.

the delivery rule. Clearly, there is need of other cases, to make feasible adequate classroom discussion or critical comment, especially when use is made of such decisions as *Mackenzie v. Steeves*,⁹ and *Lee v. Lee*.¹⁰

"Bailments", peculiarly termed "Bailments (In General)", is particularized in the five sections of Chapter 5, as follows: Nature of a Bailment, Bailment Distinguished from a Sale, Bailment Distinguished from a Conditional Sale, Bailment Distinguished from a Trust, Rights and Duties of the Bailee, Rights and Liabilities as to Third Persons. Although the chapter has only thirty-four cases covering one hundred and fourteen pages, all but the last two sections shape up fairly well. Both of these sections are weak; one not only lacks cases on the duties of innkeepers and carriers, but also those on misdelivery, either by a voluntary or an involuntary bailee; the other fails to deal with the legal relations created by bailments for a term. With respect to the latter, it may be said that their consideration provides foundation work, without which a student will rarely appreciate the difference between "contract" rights and "property" rights. As was recently pointed out by Dean Bordwell,¹¹ the distinction between contracts of bailment and lease is noteworthy, and it is currently used as a basis of decision.¹²

In chapter 1, "Ownership Acquired by Occupancy", sections on Finding and Adverse Possession follow those on Wild Animals and Abandoned Property. There appears to be no case dealing with the rights of wrongful possessors against third parties, decisions on which played such a large part in the early development of the law and are even now of great importance. Apparently, in deference to the heterogeneous nature of the concept "possession", the editor quotes in full Brown's Special Note on Possession,¹³ at the end of the section on Wild Animals. Surely the fact that possession is a variable could be better demonstrated to students by the inclusion of different types of cases, as well as by a fair presentation of the modern approach.¹⁴

Law review references are lumped, usually at the end of a section or chapter, and only two are placed with cases reprinted, although many of them are noted or commented upon. Notes are few in number and scattered. Sometimes they embody a question but more often consist only of a statement of facts and the holding of a case, always without critical comment. The insertion of notes immediately after opinions, instead of at the bottom of pages, detracts from the appearance of the book and serves no useful purpose, for all of the notes are in small type.

The casebook, like most of the other casebooks, does not contain material showing the forms of property, or the origin and functions of the "property"

9. 98 Wash. 17, 167 Pac. 50 (1917) (upholding an oral gift of automobile to donor's fiancée, although she did not secure possession until after donor's death). This case is criticized in Mechem, *Requirement of Delivery in Gifts of Chattels and Choses in Action Evidenced by Commercial Instruments* (1926) 21 ILL. L. REV. 341, 358.

10. 55 App. D. C. 344, 5 F. (2d) 767 (1925) (denying that a gift could be made by an unsealed writing). Cf. Mechem, *supra* note 9, at 568, 583-84.

11. See Bordwell, *Interests in Chattels Real and Personal* (1936) 1 MO. L. REV. 119, 122.

12. See Blossom Products Corp. v. National Underwear Co., 325 Pa. 383, 191 Atl. 40 (1937); see also King Features Syndicate, Inc. v. Victory Printing Co., Docket 57C, fol. 1176 (Balto. City Ct. 1925) (contract to make cuts from drawings of Mutt and Jeff and print books, entitled "Funny Folks"); Denny v. Belsinger, 52 Ga. App. 851, 184 S. E. 914 (1936) (owner of car allowed to replevy it although garage man had ordered parts and made arrangements to have work done); cf. Pease v. Golightly, 168 Okla. 582, 35 P. (2d) 469 (1934) (lessee to whom livestock, fowls and farming tools and equipment had been bailed could defeat action of replevin brought by bailor before expiration of term).

13. BROWN, PROPERTY 18-21.

14. See Shartel, *Meanings of Possession* (1932) 16 MINN. L. REV. 611.

concept. This omission, of what would make the course on Personal Property one of lasting value, causes much more regret than the failure to include cases dealing with the protection accorded bona fide purchasers, which tradition properly requires.

Viewed realistically, the book contains cases which are different and more recent than those found in other casebooks, but it can hardly be considered as a new casebook, in the sense that it embodies a departure from the set course, which would make it conform to the needs of today. Whether its contributions outweigh its shortcomings can be determined only by a full consideration of each.

William T. Fryer.†

BOOK NOTES

THE LEGAL PROTECTION OF THE WORKER'S JOB. By James P. Rowland. Philadelphia, 1937. Pp. 168.

The writer of this monograph has labored in a jungle of decisions and statutes where guide posts implanted by earlier exploratory writers are few and far apart. He endeavors to describe and evaluate the safeguards that the law, either through judicial fiat or statute, has evolved to protect the worker against loss of his job. Unfortunately, however, the author appears to have been handicapped by an absence of legal training and a lack of experience in legal research. Furthermore, he manifests a somewhat myopic viewpoint of social expediency in labor law. For example, he concludes that those jurisdictions¹ which do not allow outside unions to apply economic coercion to an open-shop employer in order to achieve collective bargaining with such employer are protecting the worker's job against interference, and, he feels that the decisions in states such as Wisconsin² and New York³ result in destruction of such protection. At no point does the writer manifest a realization that it is the latter decisions, demonstrating a perception that ultimately the worker's job can only be protected by the achievement of universal collective bargaining and therefore rendering judicial aid toward that end,⁴ that truly protect the worker's job tenure.

The analysis of trade agreements presents in excellent fashion a factual survey of important instances of such agreements. The usual clauses indigenous to this type of contract are described, classified, and occasionally evaluated. There follows, however, an unanalytical and uncritical statement of the elementary dogmas offered by the courts as the "good" reasons for sustaining such agreements; the "real" reasons are left wholly unexplored.

This method of treatment is particularly noticeable in Chapter V, "Judicial Regulation of the Internal Affairs of Labor Unions", where the writer appears to see only a mass of decisions and dogmas without rhyme or reason. The entire chapter consists of the facts of miscellaneous cases and quotations from them. Actually this subject is extremely interesting and a study of the cases reveals the emergence of principles, strikingly similar to the rules which obtain in administrative law, although independently reached. For example, judicial review of

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1. *E. g.*, *Keith Theatre v. Vachon*, 134 Me. 392, 187 Atl. 692 (1936); *Gevas v. Greek Restaurant Workers' Club*, 99 N. J. Eq. 770, 134 Atl. 309 (1926).

2. *American Furniture Co. v. International Brotherhood of Teamsters, etc.*, 222 Wis. 338, 268 N. W. 250 (1936).

3. *Exchange Bakery v. Rifkin*, 245 N. Y. 260, 157 N. E. 130 (1927).

4. See *Frey, What's Behind the Strikes?* (Jan. 1938) 176 *HARPER'S* 168.

the action of labor unions is generally said by the courts to be contingent upon all intra-union appeals having been first expended; in administrative law this is phrased: exhaustion of administrative appeals is a condition precedent to judicial review. Again, the courts will grant relief to a union member who has been disciplined by a labor tribunal if the accusation was not communicated to him prior to his trial; in administrative law the rule is: notice and hearing must precede administrative (quasi-judicial) action. Unfortunately, the writer saw none of this.

The study concludes with an examination of the constitutionality of statutes such as the Railway Labor Acts and the National Labor Relations Act. The result is merely a succession of abstracts of the constitutional cases involved with no criticism, evaluation, or statement of the effect of these cases. The presentation in full of a few selected cases would have been more illuminating or perhaps the chapter might have been omitted.

Despite these shortcomings it must be remembered that for the most part this monograph is a pioneer work. It should have the salutary effect of stimulating others to do research in the field and will also provide a recent secondary source aid to newcomers.

Albert B. Gerber.†

THE LIE DETECTOR TEST. By William Moulton Marston. Richard R. Smith, New York, 1938. Pp. 179. Price: \$2.00.

It is interesting to find that the most important use of the Lie Detector Test seems to be in the field of crime prevention and psychological adjustment rather than in the field of crime detection. For, as Dr. Marston points out, the criminal's greatest weapon is his power to deceive. If by submitting to the test, a potential criminal can be convinced that he no longer has this power, the Lie Detector Test can act as a powerful deterrent to crime. The value of the test when used in this way is indicated by the number of banks and department stores which require their employees to submit to the test regularly. Similarly, the test has proved to be a valuable tool to consulting psychologists in making personality adjustments.

In the courts the importance of the Lie Detector Test has been limited by objections to its admissibility as evidence. It has been most widely used by the police in the elimination of suspects, and it is surprising to see the number of confessions which have been made by criminals, who, after submitting to the test, have realized that their power of deception was gone.

In this little book, Dr. Marston, who is a lawyer as well as a psychologist, presents a forceful, though perhaps not convincing, argument for the systolic blood pressure test which he is credited with having "invented". There is a chapter showing the standing of this test in the courts; another describes the part it played in the Hauptmann case. However, no lie detector can be more reliable than the psychologist who utilizes it. For the result depends on his expert opinion in interpreting the physical phenomena upon which the test is based. The two strongest factors which have influenced courts in excluding the test have been a feeling that it was still in the experimental stage and the possibility of fraud in its administration. This book should do much to dispel the first objection. And until a competent method can be adopted to obviate the other, the test should prove of increasing value in other fields.

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