

BOOK REVIEWS

THE AMERICAN DEFENSE OF NEUTRAL RIGHTS, 1914-1917. By Alice M. Morrissey. Harvard University Press, Cambridge, 1939. Pp. xii, 230. Price: \$2.50.

The widespread belief that the United States can keep out of the present war by pursuing a course which might have kept it out of the last war has attracted both lay and professional interest to still another study of Wilsonian diplomacy, 1914-1917. The only trouble with this belief as a guide to Rooseveltian diplomacy is that there are so many different ways of not doing what we did the last time.

Dr. Morrissey's work with the Harvard Law School Research on Neutrality is a guarantee of the competence of the present study. The treatment is primarily chronological. This serves to heighten the sense of impending doom, as one follows the slow but persistent drift toward belligerency. The final tragedy of American participation in the European holocaust is thus seen as both inevitable and unnecessary.

The author temperately concludes that toward the Allies "the Americans gave away a good legal case without any compensation".¹ "It failed to earn respect from either of the belligerents; it procured no concessions from the Allies; it embittered the Germans; and it will hamper the United States in the future."² This frittering away of our neutral rights, she believes, robbed Germany of any effective incentive to make concessions since the United States in her eyes could hardly have been more of a menace as a belligerent than she already was as a neutral. As a neutral she had abandoned almost all those neutral rights whose effective defense would have been beneficial to Germany.

Such a conclusion would necessarily make the first surrender of neutral rights in the very early stages of the war seem more important than perhaps some other monographs have done. Of Bryan Dr. Morrissey declares: "Common sense and a whole-hearted desire for peace distinguished him from Wilson's other legal advisers, but while these qualities led him to advocate a high standard of neutral duties, they sometimes betrayed him into the sacrifice of precedents and rights."³ She further emphasizes that this sacrifice of rights took place before the great community of economic interest between the United States and the Allies had rendered economic coercion of the Allies as a method of enforcing American neutral rights no longer feasible.

While agreeing that the absence as a counterweight of an equally strong community of economic interest with the Central Powers paved the way for the transformation of American neutrality into pro-Ally belligerency, the author properly absolves Wilson of the crude charge that he took America into war in order to retrieve Mr. Morgan's five hundred million dollars. As she observes, "the decision in the minds of Wilson and many others was surrounded with an aura of idealism which the disillusioned post-war generation is too likely to minimize."⁴

To those who believe that the best way to stay out of war is to abandon in advance all neutral rights toward all belligerents, or, still worse,

1. P. 198.

2. P. 204.

3. P. 3.

4. P. 192.

toward only one group of belligerents, Dr. Morrissey's slender volume may be prescribed as an effective antidote. Advocates of the storm-cellar school of thought in legislating for American non-participation in the present catastrophe will derive small comfort from the author's conclusions: "If neutrals use their economic assets for bargaining as effectively as belligerents, the contest between belligerent and neutral may be less uneven than it has ever been before. Even to preserve neutrality, co-operation is necessary."⁵

To the man of affairs who has hitherto had to choose between the ponderous monographs of the myopic specialists and the tendentious analyses of the "popular" writers this judicious and sophisticated study will have a high appeal.

William T. R. Fox.†

CASES ON CIVIL PROCEDURE. (Third Edition). By Roswell Magill and James H. Chadbourn. Foundation Press, Inc., Chicago, 1939. Pp. xxxiv, 866. Price: \$6.50.

For one who still believes that an understanding of common law actions contributes indispensable substance to the education and thinking experience of a law student, and yet would like to place a principal emphasis upon the modern developments of procedure and its practical present-day operation, this third edition of *Cases on Civil Procedure* by Magill and Chadbourn presents a happy combination effectively worked out.

A principal purpose of present-day consideration of the common law forms of action is to obtain a better understanding of the substantive law. The recognition of rights and the creation of remedies were a part of the same process. Rights and remedies grew up together. A right without a remedy for its invasion was as useless as a remedy without a right to enforce. Rights and remedies were interrelated and in a legal sense interdependent. The development of common law actions and the origin of equitable remedies emerge with the development of the substantive law itself, it being difficult in many instances to distinguish between the procedure by which relief was obtained and the rights and duties established through the procedure. A knowledge of trespass, detinue, trover, replevin and case creates an understanding of rights and duties pertaining to personal property of present-day value although the forms of action may have but limited procedural significance. A study of common law ejectment gives an enlightening outlook upon statutory procedure to quiet title. The actions of covenant, debt, and general and special assumpsit are basic in the substantive law of contracts and the modern subject of restitution and unjust enrichment. Thus a student of the law today cannot attain a proper background for current law if he has not experienced the battle and enjoyed the triumph of understanding at least the framework of common law actions.

This casebook devotes but 160 pages of its total of 852 pages to common law forms of action. The cases are well selected and are accompanied by textual material, notes, and illustrative forms of action at common law so that in this brief space the essentials of the subject are well presented without giving it overemphasis. If this part of the book on common law actions is covered slowly enough for it to be absorbed, the principal value of the subject in the interrelation of the forms of action at common law to

5. P. 207.

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the development of the substantive law should be accomplished. Furthermore, the interest of students in the historic development should easily be sustained through this study, whereas it is hard to make them realize the value of a much more extended study.

While the forms of action and writs at common law are dealt with as a unit, pleading at common law is treated in connection with the particular parts of pleading under modern codes. This seems very desirable as a study and teaching method because students will see the common law procedure in its immediate relationship to modern code developments. Such an arrangement is believed much better than to take the common law pleading in entirety and then take up code pleading as a separate subject. The two work well together and a student's interest is held because he is dealing with what he regards as practical, and at the same time has before him the historical background. A third possibility might have been to abandon a consideration of the common law pleading altogether. If this were done it might be even better to take but one code, and the very latest, and to have students start their procedural study with the new federal rules. The objections to this are obvious. In the first place, outside of the federal courts but few states as yet have adopted the new rules, and students would be at sea in other courts. Furthermore, even the federal rules were not made out of whole cloth but are dependent upon a knowledge of the development of procedural systems generally for their full understanding. The pitfalls of other systems show the need of their avoidance under modern rules. A comparative study of the past with the present and of the different ways of handling the same problem under modern codes is a part of the integration process by which a student acquires an appreciation of the problems of procedure and learns how to use the various procedural devices. This casebook is well adapted to this method of study as it presents the common law material, illustrative provisions of different state codes, and parts of the new federal rules dealing with a particular phase of pleading together so that the whole problem of the pleading issue may be considered as a unit.

The scope of the third edition of the casebook is substantially the same as that of earlier editions and contemplates a presentation of the general field of procedure. Part I deals with the subject of pleadings in actions at common law and under the code. Part II covers the subject of parties, including the real party in interest, joinder of parties, and representative suits. Part III treats of jurisdiction, venue, process and appearance. Part IV goes into the subject of trial, commencing with the selection of the jury, and continues with withdrawal of the case from the jury, instructions to the jury, verdict, and motions after the verdict. The book omits a consideration of judgments, auxiliary proceedings and extraordinary remedies. It does not go into the subjects of discovery before trial, declaratory judgments, and many of the other new methods employed in the solution and trial of legal issues. In organization and material the book does not attempt to confuse the first year procedure course with the wide range of problems primarily dealing with federal jurisdiction, nor does it attempt to be a study of the new Federal Rules of Civil Procedure. Some of the new rules are used, along with the representative state statutes, as being illustrative of the modern developments of procedure, but the book does not purport to present a detailed study of the new rules, which may be much better considered by the student later in law school study in connection with the course in the subject of federal jurisdiction and procedure.

The book constitutes an excellent background study of the whole field of procedure important for the first year students and necessary for advanced study of the new federal rules or the detailed procedure of any state.

The pleading problem is dealt with more extensively than the subject of trial practice, and this would seem very desirable as trial practice ought to receive a much more complete consideration, preferably in the senior year of law study. From the material presented, a student should get a very good notion of trial practice problems perhaps desirable in the first year, but the many problems pertaining to the trial of jury cases, equity trials, the use of witnesses, presentation of proof, methods of submitting cases to the jury, appeals, and other subjects omitted in this casebook should be given careful study at a later period. One of the principal values of this book is that it effectively covers the basic problems of procedure desirable in a first year course without impairing the advanced courses of procedure. In fact, foundation material such as is presented here is necessary to a comprehensive study of federal jurisdiction and procedure where the new federal rules should be considered both as a unit and in their interrelationship to the problems of federal jurisdiction. This book should not preclude a subsequent study of the federal rules and federal jurisdiction but should make it possible to get the most out of an advanced study of this subject. In the same way the book should prove valuable first year material for schools in which courses are given in state practice in the third year or in a more specialized study of general practice.

In concluding, mention should be made of the very careful selection of cases, the balance of which is in favor of the older discussion cases rather than the more recent ones, although an ample number of these is used. The footnote material is not elaborate but is very pointed and contains numerous references to law review material. The twenty-seven page introduction to the book presents the court system in English and American courts and a brief narrative of court procedure as a whole. This is very well done. As study material for a first year course in civil procedure it is believed that this book should meet the approval of many law teachers. The new edition of this book is particularly desirable because it has incorporated many of the modern developments in the subject of procedure represented in the new Federal Rules and some of the most recent cases. The authors are to be commended upon their work.

Mason Ladd.†

ATTORNEY GENERAL'S COMMITTEE ON ADMINISTRATIVE PROCEDURE.

Monographs Nos. I-II.¹ Prepared under the direction of Walter Gellhorn. Department of Justice, Washington, 1940.

The Committee on Administrative Procedure, appointed by the Attorney General of the United States in February, 1939, upon the request of the President, has issued eleven monographs in mimeographed form. The monograph dealing with the Federal Communications Commission is in two volumes which together have 177 pages; the others are in single volumes and average about 70 pages apiece. These eleven monographs are soon to be followed by four others, which have already been completed; and studies now under way are expected to result in the issuance of some twenty-six additional monographs. It is intended that these monographs will analyze all federal administrative procedures "which directly affect persons outside the government, either by adjudication or by rule-making."

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1. Monographs Nos. 13 and 14, dealing respectively with the Post Office Department and Federal Control of Banking, have just been published.

The eleven monographs already issued deal with the Walsh-Healy Act; the Veterans' Administration; the Federal Communications Commission; the United States Maritime Commission; the Federal Alcohol Administration; the Federal Trade Commission; the Grain Standards Act; the Railroad Retirement Board; the Federal Reserve System; the Bureau of Marine Inspection and Navigation; and the Packers and Stockyards Act.

These monographs, together with those to be issued, will present for the first time detailed studies of the various federal administrative agencies, with a critical analysis of their procedures. If the monographs to be issued maintain the standard already established, they will lay the basis for distinct improvements in federal administrative procedures. In fact, the impartial investigations of each administrative body will of themselves serve to remedy many of the defects in the procedure of such bodies. Such a service has already been rendered by a series of similar studies in the Department of Agriculture, prepared by Ashley Sellers and published in mimeograph form in 1939. In fact, the present reviewer has some doubt as to the need of studies by the Attorney General's Committee duplicating those of the Department of Agriculture, although in the one case of published duplicate studies—that dealing with the Packers and Stockyards Act—the two monographs supplement each other.

Within the space here available it is not possible to discuss the eleven monographs that have been published. So far as the present reviewer can determine, they give careful and accurate accounts of the several administrative bodies. Their criticisms are in many cases fully justified; although in others they seem to find basis in the point of view of the investigator and, in his lack of first-hand acquaintance with the problems of the administrative agency. Such a result will necessarily appear to some extent in an investigation as wide in range as that here undertaken.

The monographs give little or no attention to the judicial review of administrative procedure. In this respect they are defective, and this defect cannot be cured by public hearings to be held in the future, although a separate comparative analysis of this subject may suffice.

With the eleven monographs, the Attorney General's Committee has presented a brief preliminary report. In this report it wisely emphasizes the important position of the trial examiner, and the necessity of improving the personnel of such examiners. The Committee expresses itself as skeptical "that a single formula or set of formulæ can properly control the various and changing situations in which administrative action is present" but recognizes "that principles may be established for the guidance of administrative action where it affects private rights." The work of the Committee has had, and will continue to have, a wholesome effect upon the administrative agencies themselves. But it is to be hoped that the work of the Committee will not unduly delay, or interfere with, the adoption by Congress of the necessary standards for the guidance of administrative action. If those interested in the success of the administrative process would join in an effort to adopt such standards, the interest of the individual may be fully protected without interference with the necessary flexibility of the various administrative processes.

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CASES AND MATERIALS IN THE LAW MERCHANT. By Philip Warren Thayer. Harvard University Press, Cambridge, 1939. Pp. xxvi, 1296. Price: \$7.50.

As stated in the introduction, "the cases collected in this book center around the sale of goods and the matters ancillary to it so far as directly relevant". The justification for the new title may be found in the emphasis given to cases dealing with foreign trade. The reviewer is quite in sympathy with the editor in his use of briefed cases of types similar to the leading cases in the expansion of certain phases of the leading topics. The chapters on letters of credit and bills of exchange place emphasis on subject matter which is highly desirable for the exposition of the use of trust receipts, bills of lading etc. The cases have been carefully selected and well edited and from a contract approach would seem to be an ideal casebook where emphasis is to be placed on the problems of foreign trade.

There are several excellent, well-organized casebooks in the law of Sales presently used in the various law schools. The casebook under consideration may not be so well adapted as these casebooks for the problems commonly or usually confronting the everyday lawyer. The lack of emphasis, in fact exclusion, of cases dealing with recording statutes, the Bulk Sales Act and the retention of possession doctrine seems somewhat unjustifiable. As a substitute for the present Sales course in the usual law school curriculum this book may be inadequate; as an advanced course it includes too much of the subject matter common to the present Sales course. Its field would seem to be limited, as suggested in the outset, to students who are interested primarily in foreign trade. The appendix is unusually voluminous and, of course, subject to such use as the instructor desires.

Leslie J. Ayer.†

CASES ON EQUITABLE REMEDIES: Chapter 6, REFORMATION AND RESCISSION FOR MISTAKE. By Zechariah Chafee, Jr. Published by the Editor, Cambridge, 1939. Pp. v, 235. Price: \$1.00.

Professor Chafee has here added to his *Cases on Equitable Remedies* a new chapter dealing with equitable remedies for mistake. The material is divided into three sections dealing respectively with mutual mistake of fact, unilateral mistake of fact and mistake of law. In the preface he states that the present material will in the future be bound with the preceding chapters.

This chapter is organized on the same plan as the preceding ones,¹ and, like them, is based on the material contained in Volume 2 of Ames *Cases on Equity*. An examination of the cases selected shows that the greatest percentage of new cases added is in section two, dealing with unilateral mistake of fact, and the greatest percentage of omissions is in section three on mistake of law, where fourteen of the eighteen cases in Ames are omitted and only four new ones added. These proportions agree with what we would expect in view of the modern tendency to give relief more freely in cases of unilateral mistake, and to discard the distinction between mistakes of law and those of fact.

The reviewer is strongly of the opinion, even though he apparently stands alone on the question, that it would be better to consider the cases

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1. See my review of the earlier chapters in (1938) 87 U. OF PA. L. REV. 250.

dealing with reformation apart from those dealing with rescission. The radical difference in the consequences to the parties, in that the latter relief denies all benefits of the contract while the former preserves to both parties all of the benefits they expected to get by the agreement, should require the courts to apply entirely different principles in the administration of the two remedies, and the commingling of cases dealing with the two forms of relief with respect to each problem involved cannot avoid suggesting to the student that the treatment should be the same. There are many cases indicating that the courts have often acted on the assumption that similar principles are applicable and have cited cases dealing with rescission as authority in reformation cases. Assuming that the kind of mistake which entitles a party to seek reformation has been proved with the certainty required, or has been admitted, is there any reason why the relief should not be granted, except in those cases where the nature of the contract, or the personal conduct of the plaintiff, makes any intervention by equity improper, or where the instrument sought is one of gift and the donor has changed his mind?

Perhaps it is good mental exercise for the students to be compelled to work out these problems for themselves, but, especially in equity courses, time is extremely limited, and there are enough intrinsically difficult problems to occupy the entire time of the instructor and the student. Certainly we might expect the confusion would not be increased by the arrangement of the materials, as is the case in the note on unilateral mistake in contracts² where extracts from cases or other authorities dealing with both reformation and rescission are commingled so as to require careful reading to determine which remedy is under consideration in each. What is even more confusing, there is an excerpt from the *Harvard Law Review* suggesting reasons why the "jurisdiction to rectify [unilateral] mistakes" should be more freely exercised in cases where there has been no reliance on the contract. Of course, the comment is talking about rescission, but the term "rectify" is commonly used in England as the equivalent of "reform", and the use of this excerpt seems to place on the instructor a needless burden of explanation to make sure that the student is not misled.

But, aside from criticisms of the sort of materials used and their arrangement, which are largely matters of individual opinion, this work of Professor Chafee's, like all of its predecessors, is entitled to nothing but praise. All who have occasion to work in the field of equity will be forever grateful for anything Professor Chafee may write or edit, knowing that it will be scholarly and thorough.

H. L. McClintock.†

CASES ON CREDITORS' RIGHTS. (Third Edition.) By John Hanna and James A. McLaughlin. Foundation Press, Inc., Chicago, 1939. Pp. xxviii, 1144. Price: \$7.00.

The third edition of Hanna's *Cases on Creditors' Rights*, as one would expect, is a worthy descendant of an illustrious line. Professor McLaughlin collaborated, but to what extent is not divulged. Yet one may draw his own inferences from the fact that the sole chapter to be entirely rewritten is Chapter VII, on Corporate Reorganization under the Chandler Act.

The remainder of the book is the second edition with but few material changes. Indeed, the only apparent case alterations in the first four hun-

² P. 603.

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dred or so pages consist of an omission or two, a substitution or so, and a condensation here and there. However, the entire book shows painstaking care, abundant erudition and an exceeding amount of labor expended in the contraction, expansion and rewriting of the prolific number of notes which make this edition an even better working instrument than the one which it succeeds. It is evident that the notes in this book are a labor of love.

The arrangement of the two editions is similar. Successive chapters treat the Enforcement of Judgment, Fraudulent Conveyances, General Assignments, Creditors' Agreements, and Receiverships including four cases on receivership reorganization. This accounts for four hundred and twenty-two pages. The following six hundred and ninety-three pages are devoted to a methodical and thorough treatment of Bankruptcy including Corporate Reorganization, two hundred forty-two pages.

Materials on Bankruptcy vary but slightly from the earlier edition. New cases are surprisingly few. Old stand-bys illustrate well-known problems. Footnotes call attention to changes created by the Chandler Act. The subject matter marches in a direct manner from beginning to end. No features seem unduly emphasized. Notes and original texts appear where judgment calls for clarification or time saving. And while this device of written explanation instead of case material occasionally causes one to wonder whether a deliberate attempt is being made to over-simplify a complicated subject matter, the thoroughness of treatment corrects the impression.

Corporate Reorganization, on the other hand, is expanded from a single section of thirteen or fourteen cases to a chapter of ten sub-heads and of fifty-seven cases. The newness of the field and the multiplicity of litigation in it are evidenced in the selection and substitution of cases. "To the modest extent represented" the subject seems adequately and adroitly handled.

So much for arrangement. The authors are correct in stating in their introduction that teachers may select by topics what phases of Creditors' Rights they either choose or have time to present. The book is clearly a compilation of related but separate subjects which concern creditors' rights in estates of financially defunct debtors. As such it is a well done piece of scholarship. But the reviewer has one general criticism.

In the casebook field one may approach the teaching of insolvent business units from one or more of at least three points of view, recognizing that choice is merely for sake of emphasis. First he may use the Chandler Act as a basis and select such an excellent casebook as Professor Billig's recent fourth edition of Holbrook and Aigler's *Cases on Bankruptcy*. He may choose the point of view of a creditor's interest in an insolvent estate and select the present Hanna and McLaughlin edition of *Creditors' Rights*. Or he may prefer the viewpoint of rehabilitating financially ill business units, and use Sturges' *Cases on Debtors' Estates*, now undergoing revision by Professors Poteat and Rostow.

For one who wishes to emphasize debtor rehabilitation, the difficulty with *Cases on Creditors' Rights* is that debtor interest is only secondary or possibly even incidental. The first edition was essentially devoted to the collection of bad debts, in and out of bankruptcy. Twenty-five pages dealt with corporate reorganization in receiverships. As bankruptcy has been broadened to include debtor relief in fields once outside its scope, of necessity *Creditors' Rights* has been expanded to include "Debtor Relief Without Liquidation" and "Corporate Reorganization under Chapter Ten"—retaining, of course, materials on receivership reorganization and on

bankruptcy. To this extent *Creditors' Rights* deals with debtor rehabilitation. But for a thorough book on rehabilitation it still lacks a chapter on common-law compositions. Had the authors included such a chapter, even though the title would be slightly misleading, the book would be adequate for presenting debtor as well as creditor aid.

Perhaps it may be urged that debtor point of view is sufficiently represented, since the Chandler Act now handles compositions well in Chapter XI on Arrangements and in Chapter XIII on Wage Earners' Plans. However, these chapters are only summarily treated in *Creditors' Rights*. Also, the writer feels that the main advantage in such a composite course as *Creditors' Rights* or *Debtors' Estates* is that it acquaints students with the comparative merits of various legal devices which deal with creditor-debtor problems, so that later as lawyers they may choose the device most suited to the needs of a particular client. And in the writer's view the enlarging of compositions in the Chandler Act, rather than superseding "friendly adjustments", may have the opposite effect of strengthening them by the very threat which Chapters XI and XIII of the Act offer to recalcitrant minority creditors. At least it is not clear that the Chandler Act will eventually supplant compositions—used either alone or with general assignments; nor that Chapter X or XI of the Act will assuredly replace reorganization of small corporations by means of mortgage-foreclosure receiverships.

There is still merit in a comparative study of methods. Hence, in as far as *Creditors' Rights* limits an effective comparative study of creditor devices by omitting common-law compositions, its usefulness is confined to treating creditors' rights. And this is so despite the fact that the broadening of bankruptcy under the Chandler Act of necessity extends the subject matter of *Creditors' Rights* into the field of *Debtors' Estates*.

The omission is unfortunate. It seems to the writer that the difficulty lies in retaining such an artificial distinction as the one which exists between *Creditors' Rights* and *Debtors' Estates*—a distinction, now that Billig and Carey on *Administration of Insolvent Estates* has not been revised, which is supported by one book in each field. It would seem that a casebook on debtor-creditor relations should be broad enough to cover the subject. Choice of a casebook could then be made on merit or on arrangement of materials, rather than on selection of materials alone.

Doubtless many will regret that the present edition includes neither the General Orders in Bankruptcy nor the Bankruptcy Act. The latter omission is partially atoned for by furnishing as a supplement the authors' excellent, joint annotation of the Chandler Act. An additional compensation is that this edition is two hundred twenty-five pages shorter than the second one. Heavy, black-type printing adds to the attractiveness and readability. On creditors' rights this is an excellent casebook.

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CRIMINAL APPEALS IN AMERICA. By Lester Bernhardt Orfield. Little, Brown and Company, Boston, 1939. Pp. xiii, 321. Price: \$5.00.

This book, published under the auspices of the National Conference of Judicial Councils, is a valuable contribution to legal scholarship in the field of criminal procedure. Though numerous articles have been published on various phases of criminal appeals, this is the first work that has treated

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the subject as a whole. Essentially it is a survey which brings together what has been written in both England and America. The author traces the development of the criminal appeal from its beginnings in English history to the English Criminal Appeal Act of 1907, and shows how the procedures of the English system, while they were yet in an undeveloped and crude form, were transplanted to America.

Here, with forty-eight states and the Federal Government each in its own separate way fashioning and confusing these procedures, the pattern has become complicated indeed. Professor Orfield has done an admirable piece of work and performed a real service in tracing the trends of development through this odd assortment of materials. The history of criminal appeals in the various American jurisdictions over a considerable period was marked by an increasing number of divergencies. Only recently have there been serious attempts to rationalize and simplify these procedures. The Supreme Court Rules of 1934 and the Model Code of the American Law Institute are noteworthy examples of programs of this type. In them the development of criminal appeal procedures has reached its highest development in the United States. Nevertheless, laudable as these programs have been, they appear still to fall short of the excellence of the English Act of 1907.

The reviewer has referred to this book as a survey. It is more than that. Professor Orfield relates not only the developments in these procedures; he analyzes them and takes his position on debatable issues. This is quite as it should be, but it gives the reviewer an opening to criticize his position. For example, the author holds that the defendant should have the right to appeal, but that the state should have no such right. Throughout, Professor Orfield is concerned over the rights of the defendant and perhaps not enough so over the rights of the state. The view that the state should have an appeal, at least on some issues, has much to commend it.

One chapter is devoted to a discussion of technicalities and prejudicial error. The author brushes aside, a bit lightly, it would appear, the criticism against courts that they reverse too often for technical considerations, without weighing sufficiently the havoc created in criminal law administration and in public morale through decisions that turn on legalistic reasoning. It is not a sufficient answer to remind the critic that only a small portion of the cases tried in the lower courts are taken to the appellate courts, and that these courts sometimes assign technical reasons for reversals where reasons on the merits exist. On this point Professor Orfield might have made good use of the Illinois Crime Survey, to which scant reference is made.

But these are minor matters and should not be taken as detracting from the merits of this exceedingly useful study. Professor Orfield deserves high credit for having brought these materials together, and for his clear and cogent statements on appellate reforms. His book should be both a stimulus and a guide to the accomplishment of these reforms.

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