

BOOK REVIEWS

THE PRISON COMMUNITY. By Donald Clemmer. The Christopher Publishing House, Boston, 1940. Pp. xi, 341. Price: \$4.00.

This book constitutes a real contribution to the literature of penology. The author is objective throughout. His marshalling of the facts is that of the scientist; his reasoning is that of the philosopher; his appraisal of attitudes is that of the expert psychologist; his language is that of the scholar.

As its name implies, the book is a description of the prison community. The author stresses the abnormalities of prison life, tracing them back to the cultural antecedents of the offenders, and interpreting the social processes of the prison community in a manner that is both authoritative and interesting. The author knows his subject and shows a capacity to appraise intelligently the many unusual social factors and human problems encountered behind prison walls. The book is an able and fascinating portrayal of prison psychology, documented by many letters and memoranda written in an intimate way by prisoners.

The stratification of the prison society into social groups with the "elite" at the top and the "hoosiers" at the bottom; the loss of identity which occurs when a man is placed behind prison walls, and the various escape mechanisms to which the inmate resorts to offset it, including sex perversion, gambling and other "hypodermics with an emotional kick"; the peculiar prisoners' code, based on the alarming premise that society and the symbols that represent it are natural enemies of prisoners; these and other factors intelligently analyzed and appraised lead the reader unhesitatingly to the conclusion that a prison is a place of danger where men who are partly antisocial when they arrive are converted into real enemies of society. For those of us who have not lived behind prison walls it is difficult to envisage a culture in which one's prestige is definitely enhanced by being placed in solitary confinement, and where to a large extent leadership is attained by defiance of authority.

If Woodrow Wilson was correct in defining a political community as an aggregation of individuals who think alike and act alike, the prison is not a political community. Its inmates are divided into an indeterminate number of social groups with a myriad of conflicting attitudes, without definite communal objectives—an atomized world with the atoms interacting in confusion. It is a world in which chaos rules instead of order, with symbiosis substituted for brotherhood, with a dangerous warping of personalities due to the pressure of incarceration and the rapid spreading among the inmates of unhealthy sex practices and other vicious habits. The author draws a vivid but apparently accurate picture of the bitterness, the recrimination, the dishonesty, the intramural politics, the scheming, the hatred and the filth of prison life. One cannot but wonder, after reading his description, whether it is not inevitable that such conditions shall result in a net social loss. For we are told that the prison world is a graceless world, filled with filth, stink and drabness and with monotony, stupor and bewilderment as its principal characteristics. There is a tendency for the inmate, as he gradually becomes "prisonized", to become more and more antisocial. The longer the sentence, the greater the danger of complete subordination to the criminalistic ideology. This may well

give pause to those who advocate longer prison sentences as a cure for existing conditions.

The author suggests that sufficient attention has not been paid to "prisonization" as a criterion of parole eligibility. Apparently no single factor would be more valuable to a Board of Parole than proof of the extent to which the prisoner has lost his social sense through absorption into the hopeless and resentful "culture" of the hard-boiled convicts. But such factors are not readily susceptible to appraisal, much less to quantitative analysis.

The high point in the author's conclusion may well cause all of us profound thought: most prisoners are not to blame for their antisocial behavior, but the ideas which they have learned exist in the structure of society, and, more tangibly, the systems of thought and the habits which prisoners develop are inherent in the social group of which they were a part before they were taken into custody. Should we indict society instead of indicting the so-called offender?

Equally startling is the author's refutation of the conventional notion that our prisons are "behind the times". With dishonesty in high places, with political graft a commonplace, with nations making weapons with which to kill, with a brown-shirted fanatic on the way to destroy civilization, can we truthfully say that the prison is far behind what we call civilization? May God forgive us if the author is correct in asserting that our awful prisons "are no less progressive than the rest of a disorganized world". The author reminds us that "the prisons do not let their men go hungry; they do not let disease go unchecked as many free communities do." However that may be, few unbiased persons after reading the author's description of a typical modern prison will question his conclusion that "the protection they [prisons] claim for society is generally exaggerated from the long-term point of view", or that they "work immeasurable harm on the men held in them".

There is only one thought which I would add. The author lays inadequate stress on the danger of releasing certain types of prisoners—the morons, the congenital sex offenders, the hopelessly confirmed criminals. As I come to deal more and more with these types I am increasingly convinced of the unsoundness of the theory of releasing such men merely because their sentence has been completed and their so-called debt to society paid. We should realize that a prisoner may be, at the expiration of his sentence, utterly unfit to be released. But if I should take the author to task for not dwelling on this point, he would probably reply that his is a study of the prison community and not a study of release procedures. And his point would be well taken.

Wilbur LaRoe, Jr.†

PENNSYLVANIA BANKING AND BUILDING AND LOAN LAW. (Three volumes.) By Bernard G. Segal, Editor-in-Chief, J. D. Bloom, Horace H. Eshbach, Joseph First, E. Jack Sitgreaves, Associate Editors. Washington Law Book Company, Washington, 1941. Pp. xxxiv, 769; xxvi, 580; xxvi, 447. Price: \$24.00.

The name of Bernard G. Segal is not new to readers of this Law Review. His excellent articles while a member of the Board were a preview of the splendid work he has accomplished in the years since he has been at the Philadelphia Bar. A discussion of the history of the new

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codes under which the Banking Department of the Commonwealth of Pennsylvania operates (the Banking, Department of Banking, and Building and Loan Codes) is reason enough to understand why this reviewer is prejudiced in favor of the monumental work and indispensable reference in the above three fields incorporated in the set of books now cited by every Pennsylvania Court, and all lawyers practicing in those branches, as *Segal on Pennsylvania Banking and Building and Loan Law*.

It is interesting to recall the hectic year of 1933. A legislature was in session in Harrisburg confronted with the greatest debacle known in American financial history. In Washington a new President had attacked the banking problem with great courage. The Congress followed his leadership and was enacting a series of laws which had for their purpose the safeguarding of the deposits of the American public in all types of financial institutions which could be affected by federal law. Many of the state legislatures were absorbed in reweaving the fabric of their local banking laws so that sudden stress would not cause the collapse which was experienced in 1933. The legislature of the Commonwealth of Pennsylvania turned to the Attorney General who has the reputation of the greatest accomplishments in that office in the history of the Commonwealth. He took time and patience to gather ideas from representatives, senators, bankers, business men, investment counsel—and in all these discussions he had by his side a trusted subordinate—the aggressive, scholarly young man who had just completed serving his Gowen Fellowship at the University of Pennsylvania Law School, Bernard G. Segal. Mr. Segal made copious notes and did a tremendous amount of research.

The pressure was on. The legislative dead-line had to be met. Other men in the office were also turned loose on research to fill in gaps which Segal called to the attention of his Chief. The office hummed. The final push was on. Miss Ernestine Lewis, the brilliant Executive Secretary of the Department of Justice, arranged for a continuous chain of stenographers to take Segal's dictation. Ten hours—fifteen hours—twenty-four hours—another day—two whole days, and several hours more, Segal sat at the desk, his food brought to him, proof-reading the manuscript as it issued forth. At last the Banking Code is completed. He turns to Miss Lewis and says "It's done!" and falls over in a faint. Of course the doctor, the then Secretary of Health, rushed over, brought Segal around, sent him away for the week-end with another of Schnader's brilliant boys, Charles Klein, now a learned Judge in the Orphans' Court of Philadelphia County, after which they returned and got busy on the Building and Loan Code.

It is unusual for a reviewer to give a narrative like the foregoing. It is done with malice aforethought, so that those who read this can understand the reason for the excellence of the three volumes which are the subject of our review. Segal and his associates were the men who helped create the Codes. They are the men who did the essential research necessary to discard obsolete provisions, add new provisions which had been tried and found feasible in other jurisdictions, develop experimental provisions which might give added strength and logic to so vital a branch of the law.

Even a casual reading of the volumes reflects study of notes and data which would not be available to the average person doing research in the field covered. Every chronological change in any phase of the law involved is traced with relation to the section being discussed. Every statute is cited by year and page numbers if it cannot be found in *Purdon's Digest of Pennsylvania Statutes*, and its influence on the legislation under discussion is shown in the light of the study made by Segal and his associates.

The book does more than that. Where provisions are taken from the laws of other states, these laws are cited, so that the lawyer using the volumes can go to the state of origin to examine judicial interpretations of the language and intent of the provisions. Cases of other jurisdictions bearing on the specific provision are logically and thoughtfully woven into the discussion. This is one of those rare compilations, text book and treatise, on a phase of statutory law, which gives the practitioner and the businesses affected by that law the benefit of the stated intent of the draftsmen of the law, and of those who have assisted in the drafting of every amendment to those codes. When a lawyer wishes to argue the intent of the draftsmen, he can cite the intent by chapter and verse in *Segal on Pennsylvania Banking*.

There is another valuable service which this book renders to the many banks, building and loan associations, banking department officials, and lawyers who practice in those fields. It collects and discusses every opinion, formal and informal, written by the office of the Attorney General of the Commonwealth of Pennsylvania—a feat in itself; but more—it sets forth positions taken by the Banking Department in situations where no opinion was obtained, but where the circumstances were important enough with relation to the problem for the Department to set down its formula for its solution. This latter feature, obviously, is of inestimable value to those engaged in the fields covered by the work.

This work is the first serious effort to present this material since the Commonwealth of Pennsylvania published an annotation of the Banking and Building and Loan Codes, shortly after their enactment into law. Segal prepared that compilation, too.

Collateral subjects are touched upon in the discussions germane to them. Thus the reader learns of the application of sections of the Uniform Stock Transfer Act, Bank Collection Act, Negotiable Instruments Law and others. References to specific sections of federal law which affect the subject matter are found in abundance.

From the wealth of their background and experience in the fields covered by their work, Mr. Segal and his associates give a true perspective of the worth of the sections of the Codes. They are quite frank in confessing which provisions do not measure up to their high hopes—they do not spare praise for provisions which are of inestimable benefit to the public and the business of banking. They are quite thorough in their criticism of provisions which do not work. Best of all, they have the courage to suggest changes which they believe would be beneficial to the structure of banking and building and loan operations. It is with this phase of the work that many readers may find a difference of opinion. However, such differences of opinion cannot in any way impair the general impression of a reliable and trustworthy reference book.

Most important, from the standpoint of the busy lawyer, is the thorough indexing and cross-indexing of the subject matter. It is a great time saver, as is also that rare feature in a work of this type, the table of cases. There are 128 pages of index and 61 pages of cases, which gives a bird's-eye view of the immensity of the job of preparing this work. There are 72 pages of "State and Federal Regulations and Forms" in connection with the Banking Code, a great comfort to those who have need of such items.

That the work is comprehensive is assured because it was prepared by five recognized experts—three of whom were associated with Segal in drafting the codes—Messrs. Sitgreaves, Eshbach, and Bloom. Horace H. Eshbach is still with the Banking Department as Chief of The Building and Loan Bureau; J. D. Bloom is a Special Deputy Secretary of Banking,

Secretary of the National Association of Supervisors of State Banks, and Secretary of the Banking Board of Pennsylvania. Eshbach is a national authority on administration and regulation of building and loan associations. Bloom is an expert on banking and banking department administration. Joseph First was a member of the staff of this Law Review and is a successful lawyer. Sitgreaves, a former Deputy Secretary of Banking, is an important member of Pennsylvania Bankers Association and is presently executive officer of a Pennsylvania bank and trust company.

Isidor Ostroff.†

MODERN TORT PROBLEMS. By Laurence H. Eldredge. George T. Bisel Company, Philadelphia, 1941. Pp. vii, 311. Price: \$3.50.

This book is a compilation of lectures and articles by one who has been an active practitioner at the Philadelphia Bar, an assistant reporter of the Supreme Court of Pennsylvania, and who at present is a professor of law in the University of Pennsylvania Law School. He has also been one of the advisers of the Reporter on Torts of the American Law Institute.

The first three subjects: "Negligence—What Is It?"; "Absolute Liability in Tort Law", and "Tort Liability for Mental Distress" are substantially a reproduction of lectures delivered at the Institute of the Cleveland Bar Association in April, 1940. The remaining subjects are articles from periodicals appearing in publications connected with law schools. The whole series is interesting and practical. The articles not only bear the fruit of study and teaching, but of an active experience at the bar. They deal with judicial decisions and trends in the law, rather than with material derived from social statistics. Notwithstanding this limitation, which may not satisfy some schools of thought, they are lively, interesting, full of practical suggestions, and not lacking in independence and originality. While there can be no doubt that sociological material is often highly useful in determining needed changes in the law and in furnishing bases for legislative reform, and that familiarity with it is important for the teacher, judge and practitioner, yet such matter may be given undue weight in determining the action of the courts within the field of their jurisdiction. A failure to observe the proper confines of this field is likely to make the law entirely unpredictable and to create a series of discrete decisions dependent on little more than the individual notions of the judges who render them.

The most interesting of the articles are the three somewhat informal Cleveland lectures we have mentioned. They are particularly stimulating and suggestive, and afford most useful material for the practitioner and student in the difficult field of torts.

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BOUNDARIES, POSSESSIONS, AND CONFLICTS IN CENTRAL AND NORTH AMERICA AND THE CARIBBEAN. By Gordon Ireland. Harvard University Press, Cambridge, 1941. Pp. xiii, 432. Price: \$4.50.

This is a companion volume to Professor Ireland's study dealing with the same kinds of problems in South America.¹ The general techniques of treating these problems which made the first volume such an excellent study have been utilized in the volume for Central and North America.

Professor Ireland has not forgotten the lawyer, the historian, or the political scientist in marshaling and presenting his facts. For the lawyer, he has set forth in compact manner the legal facts involved in the various disputes, the legal contentions made by the parties to the dispute, and finally the settlements agreed upon. For the historian, he has stated the historical facts out of which these disputes grew. For the political scientist, he does an admirable job of tying all this together into a picture which is complete in matters factual, and easily comprehensible because of clarity of presentation.

There are three divisions made in treating the general topic. The first is concerned with land boundary disputes and their adjustments in the area under consideration. It is in this section that the most valuable contributions are to be found, for it is in connection with the land boundaries that the problems were most involved, the facts most difficult to obtain and organize, the road to settlement most complicated by political, historical and emotional considerations. Anyone who reduces such to submission, as Professor Ireland has done, has made a contribution to the understanding of the political history of an area which increases in practical importance to the United States every day that the world continues to become more confused by events in Europe and Asia.

The second chapter deals with "Island Possessions". Here the problems are not so complicated. It is more a matter of "who took what when", and generally speaking, after these questions are answered the task is completed. In general, the stories of the "Island Possessions" are not stories of a protracted evolution of ownership shot through with legal and emotional considerations as is the case with those of the land boundaries discussed in the first chapter.

The third section is a compilation of citations to existing multi- and bipartite treaties providing for arbitration of boundary disputes. There is a brief statement of the nature of the provision as well as pertinent information concerning signature and ratification of the treaties. The absence of treaty commitments between particular states is also noted. The organization of this section is both alphabetical and regional thereby enabling most convenient and ready reference.

There is an appendix in which "Marine Boundaries" are discussed.

This volume, as is the case with the one on South American disputes, is of interest and value to anyone interested in the problems of amicable adjustment of territorial problems. The material is collected and presented with great care and discrimination. The book is so organized that its use for reference entails a minimum of lost motion and searching. Every student of inter-American affairs, regardless of the direction and nature of his interest, will find this volume of great value to his investigations.

William Marion Gibson.†

1. IRELAND, BOUNDARIES, POSSESSIONS, AND CONFLICTS IN SOUTH AMERICA (1938).

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MARGIN CUSTOMERS. By Edward H. Warren. The Plimpton Press, Norwood, 1941. Pp. xi, 464. Price: \$4.00.

Professor Warren has written an extremely interesting and valuable book. Unfortunately, it has been lamentably misnamed. The cover name (in gilt letters) is *Margin Customers*. That is woefully inaccurate and incomplete. The title page name is *The Rights of Margin Customers against Wrongdoing Stockbrokers and some other problems in The Modern Law of Pledge*. This is better, but places the emphasis on the wrong subject insofar as the reading public is concerned. It is true that the leit-motif of the treatise is the relationship between a margin customer (species "sucker") and his stockbroker (often of the genus "gyp"). However, the subject matter transcends that mundane and sordid topic. The author has also included, but not limited himself to, (1) an excellent analysis of the nature of mortgages, pledges and liens, (2) historical studies—of the lives of many justices, and of legal concepts (from maintenance to disseisin), (3) an essay on the law of trover and conversion, (4) an analysis of Rules X-8C-1 and X-15C2-1 of the Securities and Exchange Commission, (5) old examination questions on personal property and the Professor's answers thereto, (6) a remarkable dialogue between the author and Professor Williston on the "legal" as opposed to "equitable" assignability of debts before default, and (7) illustrations of Littleton, Coke, Kent, Blackstone, Story, The New York Stock Exchange, and William McC. Martin, Jr. (formerly President of the New York Stock Exchange and now a clerk in the Army War College as a result of the Selective Service Act).

The itemization can present only a hazy idea of the true catholicity of the book. Actually, any representative enumeration of the subjects covered would require a listing beginning with Advwoson (pp. 42, 43, 55) and Ames (pp. 31, 42, etc.), go through Bankruptcy (pp. 215-220, etc.) and Blackburn (pp. 135, 138, etc.), Cardozo (pp. 1, 4, etc.) and Contributions (pp. 360, 374, etc.), and end with Warranties (p. 55) and Williston (pp. 79-91).

Although Professor Warren has treated a heterogenous mass of material, there is no evidence of diletantism. On the contrary, each topic is profoundly and exhaustively analyzed. For example, in a chapter entitled "The New York Law in Detail" and concerning tortious transfers of securities, every New York case, from 1863 to 1939, is briefed and discussed down to the minutest detail.

Despite this thoroughness the book is not intended solely for the specialist. In fact, the publisher's glossy blurb states that the "author has attempted to state the law in a manner easily understandable by an intelligent layman." This is probably gross exaggeration.

The discussion of the style of the book leads naturally to the preface which contains a gratuitous discussion of style in legal writing. The preface is priceless. No matter what the cost of the volume, it is worth it to have the preface. In it the Professor lays down seven rules for writers. He states: 1. Never dictate anything requiring careful thinking. 2. Spend ten minutes a day reading the Psalms, Proverbs or Gospels. 3. (This point *must* be quoted verbatim and in toto.) "See to it that not less than sixty-six per cent of your words are words of one syllable, and that not less than eighty-three per cent are words of one or two syllables." 4. Work over your drafts. 5. Crack a joke now and then to lighten a "tough juristic topic". 6. But don't be cheap. 7. (Again paraphrasing or summarizing would be unfair.) "Let learning be your servant, not

your master; the deepest learning is the learning that conceals learning. The bread of an idea is worth more than a stone of information. Do not spread out in full your laboratory notes. Do not be *magis in operatione quam in opere*. Appraise your 'productivity' not by quantity but by quality. Read much, discuss much, ponder most, write a little."

With that last sentence staring me in the face as I write this out in *longhand*, tallying the syllables of my words as I go, I should certainly bring this review to a close. But I cannot resist mentioning one other interesting item of the fascinating preface. The text contains some severe criticisms of a Cardozo decision, of a few Massachusetts cases, and of some of the teachings of Dean Ames. Professor Warren wanted to insure his fairness and consequently asked Mr. Justice Frankfurter and two other authorities whether he had made any inaccurate or incomplete statements in his criticism. The author then informs us, "Each of the three wrote me a carefully considered reply."

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