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BOOK REVIEWS

PROGRESS OF THE LAW IN THE U. S. SUPREME COURT: 1930-1931.
Gregory Hankin and Charlotte A. Hankin. New York:
The MacMillan Company, 1931. 525 pp.

This is the third annual review of the work of the Supreme Court of the United States. It is necessarily limited to the cases of a single term. At the outset, the authors have a significant chapter on the question whether the Liberals or the Conservatives of the court are in control. In an interesting discussion, the decisions of Chief Justice Hughes have been analyzed from the time that he was originally appointed as an Associate Justice down to and including the decisions of the two years during which he has presided as the Chief Justice of the court; the conclusion drawn from this study is that while Judge Hughes was inclined to be liberal in his views both as a practicing lawyer and associate justice of the court, he has shown a tendency during the last two years to become more conservative and in a way more independent in his judgments.

Next is considered the problems which have arisen with respect to cases which have been brought on certificates of difference of opinion by the judges of the lower courts; next, cases brought on appeal or certiorari; and lastly, appeals from specially constituted district courts presided over by three judges who have jurisdiction of cases involving the constitutionality of state statutes or administrative orders.

The cases decided during the year under consideration are of much interest to attorneys; they include the decisions on the private car cases involving the validity of orders of the Interstate Commerce Commission, rate regulation cases between the southwestern roads and the western truck lines, and appeals from orders of the Interstate Commerce Commission dealing with the issuance of securities by common carriers. Other questions which are included at length in the volume are the decisions relating to federal and state taxation, and above all the decision in *Farmers Loan & Trust Company v. Minnesota*, which reversed the decision of the Supreme Court in *Black-*

stone v. Miller on the question of the validity of an inheritance tax on intangibles located in another state.

The cases on the Federal Employers' Liability Act are dealt with at great length and cover a number of important questions on the assumption of risk, the validity of safety appliance acts, and measure of damages. The book is both instructive and highly important to students and teachers of constitutional law.

LEGAL PSYCHOLOGY. Harold Ernest Burt. New York: Prentice-Hall, Inc., 1931. 467 pp.

The psychologist will immediately recognize the author as a contributor to many psychological and educational publications. The lawyer, however, will perhaps need an introduction. In brief, Mr. Burt is a psychology professor in the College of Education at Ohio State University. Included in his courses is one bearing the same title as the book. He has for some time been interested in research on problems of testimony or crime detection, has conducted experiments and rendered expert testimony in litigation over trade names, has conducted psychological examinations in the probation office of a municipal court, and has given mental tests to delinquent youths. The present work is a summary of his experiences together with a survey of similar experiences and conclusions gleaned from literature in the field.

Such a book as this should be received with particular interest because of the prevalent criticism, both by laymen and lawyers, of our court systems, our methods of obtaining testimony, and our ability to detect and prevent crime. The author, of course, does not offer his suggested remedies, based on scientific psychological data, as a panacea for all legal ills, but he does point the way to a more scientific means of solving our problems. The lawyer without the background of academic psychological training need not hesitate in selecting this book, for the parlance of the psychological expert is used but seldom; where it has been employed, it is fully explained.

Psychology of testimony, psychology of the criminal himself, and psychology as an aid in the problem of crime prevention are dealt with from the point of view of the laboratory and the court room. Under the psychology of testimony are treated such subjects as sensation and perception, attention, and memory.

In his discussion of memory the author views critically evidence which has been admitted or excluded in various cases. It is apparent that he has confused admissibility with credibility. On the other hand, a witness may appear to give his testimony in a straightforward and convincing manner, inducing the credence of the jury, when as a matter of fact, unknown even to himself, his testimony is inaccurate. A knowledge by an examining attorney of the psychological factors which produce inaccuracies in memory could be turned to good advantage in assisting the jury in weighing the evidence.

The dangers of suggestibility to certain classes of witnesses and in the manner in which negative expressions are used are pointed out by the author, who bases his statements on the result of experiments by a number of noted psychologists.

Of some interest is the result of experiments to determine the relative ability of laymen and women, and of experts to evaluate testimony. The experts were far superior to either men or women, but the latter were somewhat better than the men. There could be no stronger recommendation for women on juries. The author suggests that some day we may sufficiently realize the superiority of expert evaluation to permit counsel to waive a jury trial and agree upon an expert evaluator to act as a friend of the court.

The danger in the present practice of accepting confessions as denoting the defendant's true state of mind are pointed out. This danger extends not only to obtaining confessions by third degree, which is denounced for what it is, a medieval method, but to pathological confessions and false confessions for ulterior reasons.

Modern methods of uncovering guilty knowledge are described. The methods are not new in psychology; for a number of years these methods have been open to adoption in legal fields, but it is only recently that any wide movement has appeared toward

their practical application to criminal justice. These methods include what is known popularly as the "lie detector," an apparatus for measuring variations in blood pressure. The Benussi theory of correlation of variations in breathing with the telling of truth or falsehoods may in the near future be applied, if not alone, at least in substantiation of the blood pressure test.

There is no question but that crime prevention would be advanced by understanding of psychology. Many dollars might be saved the state and many lives saved if steps were taken to prevent crimes by application of the learning that is available. The example of the Jukes family in New York, descendants of a feeble-minded fisherman, a family which cost the state an estimated million and a quarter of dollars in a period of five generations, should serve as a stimulus to constructive legislation.

MECHANICS' LIENS IN ILLINOIS. Stephen Love. Chicago: Callaghan and Company, 1931. 547 pp.

The new and ever-changing economic order, especially as it has increased the complexity and extensiveness of modern building operations, has made those rights grouped as mechanics' liens of vast importance to an ever-increasing portion of our people. Building improvements today involve architects and engineers, dozens of trades, owners, tenants, financiers, and a growing number of material and supply dealers. Of late years could be added numerous manufacturers of such fixtures as refrigerators, gas stoves, heaters, fans, oil burners, and stokers. All of these classes have rights of lien under the mechanics' lien statutes. These rights are more or less understood, or perhaps we should say misunderstood, by even some of the well-informed lawyers and contractors. Therefore, a volume such as this, which is thorough as a reference and as readily readable by the layman as the lawyer, is a welcome addition to the literature.

The volume, written in a clear, simple style, presents a logical and easily comprehensible outline of the entire body of mechan-

ics' lien law, both statutory and as embodied in the decisions of the Supreme and Appellate Courts of Illinois. The decisions of the Illinois Supreme Court to page 424 of volume 341 and those of the Illinois Appellate Court to page 209 of volume 259 are analyzed, bringing the law down to December 19, 1930.

The work is carefully indexed and the various paragraphs have full cross-references to the other paragraphs that deal with special features or other phases of the questions discussed. The limitations of liens both as to subject matter and time are covered in considerable detail. The inner front cover contains a chart showing the limitation periods as they relate to the liens of different classes of contractors. This chart can profitably be memorized by everyone connected with building operations.

Liens against public improvements, railroads and water craft are also discussed. Twenty-six forms compose a valuable last chapter.

The decisions of the courts of other states are not considered, since the law on the subject is purely statutory, and the present Illinois statutes are not identical with those of other states.

Mr. Love is to be congratulated on making clear and logical the somewhat muddled ideas of our legislators.

CRIMINAL JUSTICE IN ENGLAND: A Study in Law Administration. Pendleton Howard. New York: The MacMillan Company, 1931. 436 pp.

The author of this book, who is Professor of Law in the University of Idaho, aims to describe the working of the judicial process in England, in so far as it pertains to the institution, conduct, and disposition of criminal prosecutions. It is based upon the investigation of English methods of procedure which was carried on over a period of more than a year. It does not deal with any questions relating to the cause of crime, ethics of punishment, prison administration or probation and parole. In short the book is a study in criminal law administration.

Referring to the surveys of criminal justice which have been made from time to time on law observance and enforcement, the author asserts that three facts of immense significance have emerged from these surveys. One of these is the constantly expanding power and influence of American prosecuting attorneys. Another is the number of prosecutions disposed of by some other method than trial by jury; the third, the part which political factors play in law enforcement. He undertakes to determine, as far as possible, how far these important deductions compare with the results obtained by a study of the English system.

He begins by showing that private prosecution of criminal offenses has always existed in some form in England and exists to the present day, and that in these prosecutions the solicitor and barrister retained by the complainant has charge of the action and not the public prosecutor. He describes at length the development of the movement for public prosecution of crimes in England and the changes that have been made as a result of the Prosecution of Offenses Act of 1879. The chief value of this book is rather in pointing out the portion of our criminal justice which has become archaic and as constituting an inspiration toward betterment of the judicial system than as a reference book.