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New York Practice (3d Edition). By Julian J. Appleton.

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BOOK REVIEWS

Wilson's second great criticism of our present punishment tactics is an obvious one. As he says, "our most serious problem in crime is not the run-of-the-mill convict in a penitentiary. It is the criminal at large who remains so with the knowledge of the populace. It is not reasonable to expect the reformation of small-time criminals while gangsters operate with political and police protection." The only lesson a convict can learn from the freedom of the big time criminal is simply "that the way to make crime pay is to line up with the Big-Time Boys."

The author has his own theories as to why many of the men whom he studied came to follow a life of crime. With these the reviewer is not in a position to disagree, as this is a field of special competence of the psychiatrist and the clinical psychologist, many of whom may disagree with his theories regarding the causes of criminality. In this area, Dr. Wilson is answerable to his colleagues.

My *SIX CONVICTS* presents little in the way of original research, nor was that the author's intention. Any one who is deeply interested in any of the facets of the problems raised by the author has but to turn to the libraries to find well documented studies in the fields covered in this book. Unfortunately, the public is rarely exposed to the scientific findings of the social scientist in the field of crime. Dr. Wilson has attempted to remedy this situation. His book is not a learned treatise, but if it serves to raise some doubts about our present approach to crime, it has served its purpose.

Charles W. Webster

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NEW YORK PRACTICE (3d Edition). By Julian J. Appleton. New York: Practising Law Institute. 1950. Pp. 376. \$6.00.

The slow but steady stream of annual amendments to the Civil Practice Act and Rules of Civil Practice has continued unabatedly since 1921 and has gained momentum since the advent of the Judicial Council of the State of New York in 1934. This has had the incidental effect of outdating, in the course of the years, substantial portions of the standard textbooks on Practice and Procedure generally used by the profession in New York. The gap in procedural literature which developed gradually has been filled, at least in part, in recent years by the publication of up-to-date textbooks of New York procedure, such as the 1946 edition of Carmody's *MANUAL OF NEW YORK CIVIL PRACTICE* by Carr, Finn and Saxe, and Prashker's *NEW YORK PRACTICE*, published in 1947.

Appleton's *NEW YORK PRACTICE*, published in 1947 and now appearing in its third revised and enlarged edition, is another welcome addition to New York's procedural literature. Essentially the volume is a concise, but com-

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plete outline of fundamentals of New York Practice with emphasis upon the practical and functional aspects of remedial devices. It sets forth the rules of procedure in skeleton form and shows how they are applied. Limitations of space and the general purpose of the book prompted the author to condense the material to the very essence, cutting across details and incidentals and restricting the discussion of history, background, and of the theoretical basis of procedural law to a bare minimum. The presentation of the subject is always clear and understandable. It reveals the expert knowledge and skill of the author particularly in the handling of complicated statutory schemes, such as, for example, the provisions governing service of process, covered in twenty-two pages, and interpleader, covered in five pages. Naturally in the boiling down process, finer points are lost or, as of necessity, must be withheld from the reader. An occasional tendency to oversimplify complicated matter is justifiable in a book of this type and detracts nothing from its value.

The book, in the author's own words, is intended "as a study-aid to law students and bar candidates, and as a quick-reference deskbook for practising lawyers." (Preface to the second edition of the work, 1948). The volume should be used in accordance with the author's intentions.

The practitioner who in the heat of a trial or under the pressure of business reaches for a concise, authoritative and up-to-date statement of the law in order to refresh his recollection of some basic rule of procedure cannot do better than to use Appleton's book. Aided by a well-organized index, he will find his point with a minimum loss of time and effort. Brief references to the applicable statutes and rules and selective citations of leading cases will give him a good starting point for more exhaustive research covering the full scope of the subject.

Likewise, the student who is desirous of supplementing classroom discussion and the study of original sources by reading a synopsis of the law or who looks for guidance in reviewing fundamentals of New York procedure for examination purposes will find a real friend in this book.

Appleton's book is meant to supplement, but not to replace, a deeper study of the subject. The author himself contemplates his book merely as an introduction to practice and procedure. (Preface to third edition, 1950). There is no doubt that the student, who has little, if anything, in his prior experience to guide him in this subject, would not be able to digest material served in such a condensed and abbreviated form without the aid of classroom discussion and independent study of original sources and authorities. Moreover, familiarity with the history and background of our procedural system and an appreciation of the theory and philosophy underlying procedural concepts, is indispensable for the understanding of procedure and for anchoring the subject in the mind of the student by a more durable tie than the mechanical memory.

BOOK REVIEWS

In the spirit of the author's own introductory comment, it should be borne in mind that the study of procedural jurisprudence strives for a higher goal than the imparting of a working knowledge of procedural devices and their functions. A presentation of the subject in dogmatic fashion which highlights the hard and fast statutory rules rather than the problems would paralyze the imagination and deaden the interest of the student in the material to be taught. It would operate directly contrary to the educational purpose of the teacher unless the stimulus for a deeper understanding of the subject is provided in some other manner. Instruction in procedural law must go beyond the intricate mesh of statutory details to the theoretical and philosophical basis of the rules of operation which compose the system of procedure. The understanding of this basis is indispensable to a comprehension not only of the adjective law, but also of the substantive law. By familiarizing the student with the background and history of procedure and by illustrating different approaches to the solution of procedural problems under various systems of procedure of our days and of the past, he will acquire a foundation for appraising, criticizing and evaluating the existing rules, rather than accepting them as dogmas. This will accomplish one of the primary objects of all legal teaching, namely, the sharpening of the student's sense of justice through a critical and rational approach to the law in all its aspects.

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JUSTICE IN RUSSIA. By Harold J. Berman. Cambridge: Harvard University Press. 1950. Pp. 322. \$4.75.

JUSTICE IN RUSSIA, the latest in a long series of writings on the subject of Russian law and politics, attempts to cut to the heart of Russian legal thinking in three swift, bold strokes.

Covering each important field of Soviet law, it presents an incisive and well written study with an appeal alike to specialists and laymen. The approach, as stated by the author, is three dimensional. The development of Soviet law is to be sought in the requirements of a Socialist planned economy, the operation of the Soviet "parental" concept of a man as a child to be guided and molded as a ward of the state, and in the influence of Russian history.

The reviewer is not altogether convinced of the validity of the three dimensional outline as the most useful basis of a thorough study. Stratification of legal and social phenomena under these headings may well prove unwieldy in the absence of more carefully selected operational indices. It is difficult to see, for example, that the arbitrary character of the notorious secret adminis-