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Book Review: Progress of the Law in the U.S. Supreme Court, 1930-1931, by Gregory Hankin, and Charlotte A. Hankin

Reuben A. Gorsky

The interest of the student and practitioner of law who must primarily be a psychologist whether he realizes it or not, or whether he understands the process by which he works must necessarily be aroused by a text, which discusses such topics as the psychology of testimony, the psychology of the criminal himself, and crime prevention insofar as psychology can contribute to that problem.

The initial chapters deal with errors in testimony by honest witnesses caused by errors in perception, memory, attention and effect of suggestion. Others of paramount interest are entitled "Breathing and Crime Detention," "Blood Pressure and Mirror Methods" and one on eugenics. Each chapter is followed by a convenient summary which together with a very adequate index makes for facility in the use of this text.

The book is liberally interspersed with scientific data, results of experiments and even with legal citations. The latter lend a legal aspect rather than add anything of value to the lawyer, however, since the principles pronounced are generally so fundamental as to belie contradiction.

There remains but to say that the book is written in a manner which makes it comprehensible to one without more than a very basic knowledge of psychology and perhaps even to one with no scientific background of the subject. The broadening aspect and the practical value of this text should make it a welcome addition to every lawyers library.

EUGENE H. CHRISTMAN.

Progress of the Law in the U. S. Supreme Court, 1930-1931. By Gregory Hankin, and Charlotte A. Hankin—Director of Legal Research, Member of the District of Columbia and Maryland Bar; Charlotte A. Hankin, Member of the District of Columbia Bar respectively. Published by Legal Research Service, Washington, D. C., (1931) 525 pages.

This is the third annual publication reviewing the work of the U. S. Supreme Court, since 1928. In addition to subjects like: Insurance, Taxation, Trade regulation, Labor Problems, Criminal cases, Political Problems, Religious Questions, just to mention a few, there is a treatise on Liberalism and Conservatism in the Supreme Court which is extremely novel in its application.

The authors adopt a highly ingenious conception of that constant variable —Liberalism. They subject it to four tests: 1. How often does a justice dissent? 2. Does he agree with men like Holmes, Brandeis, and Stone, or with others? 3. How does he line up in controversies between the "privileged" and the "underdog"—between public utilities and the people? and 4, What are his ideas on the social and economic problems of today? The thoroughness of treatment, and the minute details of discussion of each of the above, coupled with tables and computations calculated to prove the authors' assertions, are prohibitive in length for the purpose of reproduction here. Suffice it to say that Chief Justice Hughes, around whom, the entire dissertation revolves, and to whom—incidentally—the book is dedicated creditably passes each of the above tests of Liberalism. The court, as a whole was "liberal" during the 1930-1931 term, by a five to four majority.

The proof is almost conclusive that the misgivings of the senators in opposing Chief Justice Hughes' elevation to his present position were entirely unfounded on fact, or intelligent investigation of his previous record. In this connection, one cannot resst the temptation of singling out the "Alabama Peonage Case," where Justice Hughes, in the face of opposition on technical grounds by a man of Justice Holmes' calibre—had the penetration and courage to see through an attempt on the part of unscrupulous employers to enslave negroes for non-payment of debts. He found that the necessary and inevitable effect of the Alabama Statute, even though harmless enough on its face, was to enforce contracts for personal service in liquidation of a debt, contrary to the Thirteenth Amendment of the Constitution. This is merely a *sample* of the *numerous* opinions on kindred subjects, where Chief Justice Hughes is indeed in the apt words of the dedication: "A Protector of Human Rights."

There is an ever-present element of human interest permeating the entire work. Its style is clear and lucid, and devoid of all abstract references. It is not merely a chronological tabulation of events, or cut-and-dried cases. A most expert use is made of "connectives" in meaning and sequence, making the book a symmetrical whole. Upon close study one never ceases to wonder how the authors could find their law through a complicated labyrinth and maze of ideas showered upon them by the many cases with which the Supreme Court of the U. S. is confronted yearly. Although the book will prove of great economic, political, and social value and interest to the laymen, as well as to the student of constitutional law.

REUBEN A. GORSKY.

What Price Jury Trials? By Irvin Stalmaster. Published by The Stratford Company. (1931 pp. 143).

The author of this small but interesting volume, formerly a member of the Nebraska Bench, seems to have become disgusted with the injustices resulting from the jury trials, as seen by him in his experiences. It is a plea presented to the public—not to the lawyers—for an abolition of the jury trial.

In his plain, but convincing style, the author goes into the history of the jury trial, explaining that the original jury was selected for its special knowledge of the facts in the case rather than for its lack of knowledge of the same, as is the practice today. The reader is made to realize that the present jury is composed of those, least fitted to try the fact, in so far as anyone acquainted with the case, or the courts, as judges, sheriffs, jailors, etc., who would make excellent jurors, are not eligible. It is a well known fact that the average juror knows little about what is going on before him, but, nevertheless, he determines the fate of the parties to each case.

Unfair practices of lawyers in producing verdicts from jurors are disclosed as well as the evil effects such have as disrespect for courts, efforts to avoid court trials of controversies, belief that lawyers who befuddle juries are the most competent and the like.

In conclusion it is argued that since all reforms of this jury system thus far attempted have been complete failures, the only remaining move is to abolish the jury trial, and to have the judge try the facts as well as the law.

HARRY T. O'CONNOR.