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## RECENT BOOKS

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## RECENT BOOKS

This department undertakes to note or review briefly current books on law and matters closely related thereto. Periodicals, court reports, and other publications that appear at frequent intervals are not included. The information given in the notes is derived from inspection of the books, publisher's literature, and the ordinary library sources.

## BRIEF REVIEWS

*John Russel Dykema*

CRIMINAL PROCEDURE FROM ARREST TO APPEAL. *Lester B. Orfield*. New York: New York University Press. 1947. Pp. xxxiv, 614. \$5.50.

This study is the sixth in the Judicial Administration Series, published under the auspices of the National Conference of Judicial Councils. The author is professor of law in Temple University, and is the author of *Criminal Appeals in America*, published by the National Conference in 1939. The present book is a survey of the entire scope of criminal procedure: the chapters are Arrest, Preliminary Examination, Bail, Grand Jury, Indictment and Information, Arraignment and Preparation for Trial, Trial, Motion after Verdict, and Sentence and Judgment, of which that on Trial is by far the most extensive. The author's purpose is stated to be not merely to set forth existing doctrines and practices but to "attempt a criticism of existing law with a statement of needed reforms." To this end he has made much use of analytical and critical literature: books, law review articles and other sources. The author refers often to contemporary studies and formulations of doctrine, such as the American Law Institute Code of Criminal Procedure, the Institute's Model Code of Evidence, the Federal Rules of Criminal Procedure, the National Commission on Law Observance and Enforcement (Wickersham Crime Commission), Report on Criminal Procedure (1921), the Illinois Crime Survey (1929), the Minnesota Crime Commission Report (1927). A certain choppy style is the result of frequent use of quoted material, but is more than compensated for by the extremely thorough documentation and bibliography here made available.

FREEDOM OF THE PRESS: A FRAMEWORK OF PRINCIPLE. *William E. Hocking*. Chicago: The University of Chicago Press. 1947. Pp. xi, 243. \$3.

This study is a report from the Commission on Freedom of the Press;<sup>1</sup> its basic thesis is that the nineteenth century liberal definition of freedom of the press or freedom from external restraints must be reexamined in the light of what the twentieth century and the press have in fact become. Professor Hocking argues that there is no moral right, and hence there should be no legal right, to absolutely unbridled expression. Libel and obscenity laws recognize this, and the author maintains that the idea implied in these laws should be extended generally, so that, "when expression becomes equivalent to aggressive action, it incurs the general legal responsibilities of action."<sup>2</sup> On the other hand, the idea of freedom of the press should be expanded to include the other side of the coin: the right of the reader, not only to select his fare from what is available, but to

<sup>1</sup> See 45 MICH. L. REV. 925 (1947) for a note on the Commission's general report, A FREE AND RESPONSIBLE PRESS (1947).

<sup>2</sup> P. 126.

have presented to him an honest and balanced picture of the world. Underlying this argument is the conviction of the author that democracy grants a right and at the same time imposes a duty on its citizens to keep themselves informed, and to that end he suggests that the press be considered to some extent as a common carrier of ideas, with space available to all opinion on equal terms. The need for honest and complete public information has forced social responsibility on the press; "it has lost the common and ancient human liberty to be deficient in its function or to offer half-truth for the whole."<sup>3</sup>

HOW SHOULD CORPORATIONS BE TAXED? A SYMPOSIUM. New York: The Tax Institute, Inc. 1947. Pp. xii, 251. \$4.

This symposium consists of twenty brief discussions, dealing with half a dozen problems of corporate taxation: recent proposals for reforming corporate taxes, partnership treatment of corporate earnings, the effect of corporate taxes on international trade, the effect of the present corporate tax system as a deterrent or stimulant of business enterprise, and the question of whether the taxing power should be used for revenue only or as a partial regulator of the economy. The presence of papers by H. Christian Sonne, chairman of the National Planning Association, Roswell Magill, of Cravath, Swaine and Moore, Matthew Woll, of the AFL, Stanley H. Ruttenger, of the CIO, W. L. Hearne, of U. S. Steel, H. E. Humphreys, chairman of the Tax Council of the NAM, Richard Goode, of the United States Treasury Department, Leon Henderson, of the Research Institute of America, and Richard A. Musgrove, of the Board of Governors of the Federal Reserve System, indicates the scope of interests and the variety of talent represented. The brevity of each presentation makes thorough discussion impossible, and there is great variety in the quality of the arguments advanced, but the cumulative effect of the collection is an excellent cross section of current views. The book contains a very good bibliography on the taxation of corporations and related subjects.

20TH CENTURY CONGRESS. *Estes Kefauver*<sup>1</sup> and *Jack Levin*. New York: Duell, Sloan and Pearce. 1947. Pp. xiv, 236. \$3.

This book is neither a theoretical analysis of the functions of Congress nor a descriptive manual of its operations. It is a discussion of some dozen or fifteen aspects of Congressional activity that, in the view of the authors, require improvement. Their chief desideratum is informed and efficient lawmaking; their premise is that Congress was intended to be in fact the chief if not the only source of federal statute law in the United States. They recognize the necessity in a complex society for many administrative bodies exercising both judicial and legislative functions, but they maintain that these creatures of Congress should be subject to their creator. The specific proposals of the book are focussed on the Legislative Reorganization Act of 1946, considered to be a long step, but only a step, in the right direction. The recommendations aim, for the most part, at efficiency, to the end that members of Congress have at their disposal more time and more instruments for effective government. They are convinced of the soundness

<sup>3</sup> P. 197.

<sup>1</sup> Member of the House of Representatives from the Third District of Tennessee.

of representative government, and wish it to achieve the best possible balance between effectiveness and responsiveness. They advocate, among other things, the abolition of seniority as the sole basis of selection of committee chairmen; further simplification of the committee structure of both houses; provision for qualified administrative assistants for members of the House of Representatives, after the pattern of the act of 1946 providing such assistants for Senators; closer and more mutually informative liaison with the executive; and use of electric voting equipment in both houses. The arguments both for further change in general and for the proposals set out seem unanswerable.