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BOOK REVIEWS

THE AMERICAN LEGAL SYSTEM. By Lewis Mayers. New York: Harper Brothers, 1955. Pp. iv, 589. \$6.50.

The author of this book is professor of law not in a law school but in a college, the City College of New York. The book seems to have grown out of courses meant to constitute a part of a general college education rather than the preparation for the legal profession. It is addressed not, or not so much, to the law student or the lawyer but to the citizen who wishes to inform himself about the legal machinery of his country. The book should also be of value, however, to the member of the legal profession who for once intends to see not only the trees but the forest. It should be of help to the young college student who considers the law as a possible future career. It will be of special interest to that steadily growing number of foreign observers who are looking for an American exposition of the total structure of the administration of justice in the United States.

Until quite recently it was difficult to find a book to which one could refer such an observer or which could be used as a basis for courses on introduction to American law for foreign students, such as are offered at the University of Chicago Law School, or at such foreign universities as Frankfurt, Paris, Oslo or West Berlin. A collection of cases and materials, such as those contained in the excellent books by Pirsig or Benson and Fryer, would be of little use to a foreign student without the guidance of an American law teacher. Kinnane's text on the common law is usable for the purpose but limited to the basic elements. Torstein Eckhoff's fine introduction is sealed to all but the few who can read Norwegian. The recent French treatise by André and Suzanne Tunc has become available only this year. It is written by a pair of continental scholars for continental readers, and understandable only to those who know French. For all those who cannot make use of the European books, Professor Mayers' book will constitute the most suitable introduction. Those who can will regard it as a welcome addition, not only because its American flavor cannot be reproduced abroad but also because its subject matter is not the same as that of the books just mentioned.

This subject matter is not fully recognizable from the title, which might be understood to indicate that the book deals with the entire legal system of the United States including or, perhaps even emphasizing, the substantive law of the country and its sources. This is not the case, however. It is the sub-title which gives a more descriptive indication of the contents: "The Administration of Justice in the United

States by Judicial, Administrative, Military, and Arbitral Tribunals." Not the substantive law of the United States is the concern of the author, but the machinery by which it is administered, the tribunals and their procedure. As also indicated by the sub-title, the description is not limited to the "courts" in the commonly understood sense of the term. Professor Mayers' survey goes far beyond the traditional, though artificial, limit; it covers every kind of dispute-deciding or law-administering agency in the United States, the courts of the nation and the states on all levels from the justice of the peace to the Supreme Court of the United States, the administrative agencies, boards, commissions and tribunals, the various kinds of military courts, including military commissions, occupation courts, military government and High Commission courts, and even the private agencies of arbitration in commercial, labor and other matters. The only tribunals of which no description is given, although they are mentioned, are the consular courts. They have not fully disappeared, as the author seems to believe. These manifold agencies are described not in the sense of a presentation of the individual features of every particular administrative or other agency, but by way of a general treatment of the features by which the various kinds of deciding agencies and their procedures are characterised. Owing to the fantastic complexity of our American system the task is enormous. It is also difficult intrinsically. Every expositor of a technical subject for lay readers constantly finds himself caught upon the horns of a dilemma: on the one hand he must concentrate on the essentials and present them in a style which the layman can understand; on the other hand he must be sufficiently accurate so as not to mislead the reader or bore him with generalities. A good popularization requires not only a full technical mastery of the subject but also the gift of empathy and the skill of good, vivid writing. Professor Mayers has well approximated these ideals, even though he has in parts succumbed to the temptation of being more legalistic than the purpose of the book might justify. The very first chapters, which are concerned with the tortured topic of the distribution of powers between the nation and the state, constitute particularly arduous reading.

The next following chapters on the administration of criminal justice will reward the reader with the relief of greater liveliness and understandability. Within a short space of just a little over one hundred pages one finds a vivid description of the course of a criminal prosecution from the first investigatory steps of the police to the final stages of appellate proceedings. It is close to life and tied to that general body of knowledge which the average citizen can be expected to have. The author has also well succeeded in making understandable the much more intricate features of civil procedure in its several American variants. For the legally-trained reader the most rewarding part of the book may well be the sequence of chapters on "administrative

tribunals and their supervision by the courts," in which a vast mass of heterogeneous material is neatly arranged so as to throw into clear relief its significance, the basic problems and the manifold attempts at their solution.

Throughout his book, the author not only describes the present state of affairs and its historical background but also subjects it to sagacious criticism, often combined with suggestions for constructive improvement. He also does not fail to point out the many ways in which our administration of justice is subject to political influences, legitimate and illegitimate, and how they operate. Occasionally, comparisons are made with what is apodictically called the continental system and which appears to constitute the common, although not always fully accurate, American view of French institutions.

Although not strictly limited to a presentation of the "law" concerning the administration of justice in the United States, the book does not go very much beyond it. In contrast to Dr. R. M. Jackson's recent work on the *Machinery of Justice in England*,¹ Professor Mayers' book contains neither statistical nor much other factual data. It has a distinctly legalistic flavor, without consistently maintaining the full accuracy of a law book. But as we have already observed, the task of the author has been enormously difficult, and he has handled it with remarkable skill and competence.

MAX RHEINSTEIN*

THE SUPREME COURT IN THE AMERICAN SYSTEM OF GOVERNMENT. By Robert H. Jackson. Cambridge: Harvard University Press, 1955. Pp. 92. \$2.00.

Among the leaders of the New Deal, none was more aggressive than Robert H. Jackson. As Assistant General Counsel of the Treasury, he espoused the use of the taxing power to equalize income and distribute wealth, and he proudly defended a proposed estate tax on the ground that its effect on the Henry Ford fortune would be to "convert what is now a family industry into a widely owned one." He was the New Deal's most outspoken foe of big business and, as Assistant Attorney General for the Anti-Trust Division, he created a national furor by charging that the 1937 recession was deliberately contrived by a "strike of capital" against the government for the purpose of embarrassing the administration's reform program. Next to Roosevelt himself, Jackson was the most articulate advocate of the use of governmental power to bring about economic and social, as well as political, democracy; he said that he supported the New Deal with

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1. 2d ed. 1953.