

mit his controversy to informal settlement. He may demand the protection of the formal hearing. In practice, however, this option may not be open to him. "In the negotiations leading to settlement a government agency has many advantages. A private party will not want to be in the bad graces of the agency which administers a law affecting his business. There will be a tendency on his part to come to an agreement with the agency rather than to carry the matter into a formal hearing." This is particularly true where the time element is important or where the private party has a business reputation to protect which might be ruined by even the institution of formal proceedings. This is the type of consideration that causes issuers of securities to come to informal agreements with the Securities and Exchange Commission instead of carrying their claims into the stage of adjudication by formal, public hearing. It is in the case of these informal sanctions that Professors Chamberlain, Dowling, and Hays believe greater concern with the protection of private interests should be displayed. "The problem of administrative sanctions is not primarily that of their efficacy. Because efficiency in regulation cannot be the only purpose of government, the effectiveness of a sanction in shaping conduct toward the end conceived by administration . . . is not the sole test of the desirability of the sanctions. Those elements of fair play and individual justice which are called liberty are equally a purpose of government whatever may be their effect on regulatory efficiency. Achieving a balance of interest in the administrative agencies requires a re-examination of procedure in terms of sanctions and in terms of the ends other than the mere dispatch of business which procedure is designed to serve." With the present knowledge he possesses of administrative practice, the reviewer is by no means convinced that it is practical by statute or administrative rule to regulate in detail the employment of informal sanctions by administrative agencies. For the present, at least, he is inclined to believe that the chief protection to the individual must be in the good sense, integrity, and fair-mindedness of the agency personnel. Nevertheless, he welcomes the present study as throwing a shaft of light into what is still a rather dim corridor of the administrative edifice.

RAY A. BROWN\*

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Traffic Courts. By George Warren. † Boston: Little, Brown & Co., 1942. Pp. xxvii, 280. \$4.00.

Few will gainsay the heedless losses and the untold human misery and suffering wrought by traffic accidents. As George Warren has pointed out in his timely and informative study of America's traffic court system: "Fundamentally, the stake is nothing more than our public welfare."<sup>1</sup> The truth of the assertion is evidenced by cold hard facts: the annual toll is nearly 40,000 persons killed, 1,250,000 maimed, crippled or otherwise injured, and a direct economic loss of more than \$1,500,000,000. Any study which proposes a means of attacking the traffic accident problem is therefore more than welcome. And George Warren's systematic and comprehensive evaluation of the many weaknesses in the judicial administration of traffic violations supplements penetrating analysis with ameliorating suggestions. The author displays a series of

\* University of Wisconsin Law School.

† Secretary, Subcommittee on Courts, National Committee on Traffic Law Enforcement.

<sup>1</sup> George Warren, *Traffic Courts* p. 3 (1943).

situations in which general neglect and political control play roles of paramount importance. Indeed, the study is not merely a description but a critique; not a smug generalization of the judicial problem but an indictment of a grave situation; not an apology for a condition at odds with the times but a demand for reform. The keynote to the problem is expressed in the concluding sentences of the first chapter, in which the author sums up the tragedies of traffic accidents and the judicial problem involved: "This, briefly, is the judicial aspect of the traffic law enforcement problem. Back of it, and a primary factor in its present acuteness, lies a system of courts neither designed nor intended to cope with a situation thrust upon them by the changed conditions of an automobile era. This criticism applies to all departments from the bench to the clerk's office and embraces procedure, organization and personnel. Only through fundamental changes and redesign can permanent improvements be expected."<sup>2</sup>

The study, in many respects, is a mutual enterprise. It was begun in the latter part of 1938 under the joint sponsorship of the National Committee on Traffic Law Enforcement and the National Conference of Judicial Councils. Two years later, when Mr. Warren submitted his initial report and the accompanying 57 specific recommendations, the latter were approved by the two sponsors as well as by several other organizations: the National Safety Council, the International Association of Chiefs of Police, and four representative bodies of the American Bar Association, viz., the Section of Criminal Law, the Section of Judicial Administration, the Junior Bar Conference, and the House of Delegates. Thus, the study reflects the approval of a series of organizations, all mutually interested in traffic law enforcement.

In discussing this study, one should keep in mind the sweeping conclusions of the author, that our courts (insofar as the adjudication of traffic violations is concerned) appear as relics of a bygone era and are "neither designed nor intended" to cope with the judicial problems accruing from this modern automotive age. As may be anticipated, this pronouncement grows out of a systematic upward, outward, and downward evaluation of the entire judicial process.<sup>3</sup> The author begins his study with a brief discussion of the problems of law enforcement. Thence, he successively treats of such matters as: the inadequacies of present ordinances and laws as essential springboards of enforcement;<sup>4</sup> the types and kinds of courts where traffic cases are tried;<sup>5</sup> the steps by means of which cases are brought to trial and the faultiness of present procedures;<sup>6</sup> the illogical use of violations bureaus;<sup>7</sup> the problems of non-appearances, continuances, the jury system, and appeal practices;<sup>8</sup> the lack of physical facilities and clerical aids as hindrances to judicial administration;<sup>9</sup> the selection, rotation, and salaries of

<sup>2</sup> *Ibid.*, at 10-11.

<sup>3</sup> For example, the chapter headings indicate the scope: Chapter I, The Problem of Traffic Law Enforcement; Chapter II, Traffic Laws; Chapter III, The Courts Where Traffic Cases Are Tried; Chapter IV, Traffic Court Procedure; Chapter V, Violations Bureaus; Chapter VI, Traffic Court Administration; Chapter VII, Physical Facilities and Clerical Aids; Chapter VIII, Traffic Court Personnel; Chapter IX, Conducting a Traffic Court; Chapter X, The "Fix"; Chapter XI, Punishing the Traffic Violator; Chapter XII, Records; Chapter XIII, The Justice of the Peace; Chapter XIV, A Proposed Traffic Court System.

<sup>4</sup> Chapter II.

<sup>7</sup> Chapter V.

<sup>5</sup> Chapter III.

<sup>8</sup> Chapter VI.

<sup>6</sup> Chapter IV.

<sup>9</sup> Chapter VII.

judges;<sup>10</sup> the functioning of prosecutors and of defense counsels.<sup>11</sup> These are the principal items discussed in the first 111 pages of the volume.

The author continues by baldly describing the prevalence in courtrooms of undignified practices which jeopardize respect of the law.<sup>12</sup> There follows a telling discussion of the "fix," the cancellation of tickets and summonses, deletions and changes of record, the use of continuances, and the reduction of charges.<sup>13</sup> Important consideration is then given to the problem of convictions and penalties, with specific reference to policies relating to fines, sentences, license revocations, violators' schools, psychiatric treatment of offenders, and extra-legal penalties.<sup>14</sup> Brief, very brief, attention is directed to records.<sup>15</sup> Finally, there is a long and extensive treatment (about 50 pages) of the justice of the peace system. Summarized, the treatment is a scathing denunciation of the "j.p." system and a demand for substitution, not reformation.<sup>16</sup> The concluding chapter, as the title "A Proposed Traffic Court System" suggests, is devoted to an examination of possible solutions. It is here that the author summarizes the need of a judicial system capable of effectively handling traffic violations; here that he advocates and defends the proposition that a *statewide traffic court system* is the alternative.

As the shortcomings of our judicial system are exposed by Mr. Warren, one cannot but conclude that our traffic courts are obsolete in many respects; that they are maintained, moreover, too often as an integral part of the political rather than of the judicial system. While we may disagree with, or even challenge, some of the conclusions ably set forth in his "Summary of Recommendations," yet we must thank him for the painstaking research he has given the subject and for his clear presentation of facts. This volume is undoubtedly a "must" for citizen, police officer, attorney, prosecutor, and judge. For injustice in the courtroom cannot but develop an antithetical attitude in the citizenry toward the administration of justice; cannot but demoralize effective enforcement by the police; cannot but cripple the work of bench and bar; and cannot but cast a somber shadow over the democratic traditions of our government.

DAVID GEETING MONROE\*

<sup>10</sup> Chapter VIII.

<sup>11</sup> Ibid.

<sup>12</sup> Chapter IX.

<sup>13</sup> Chapter X.

<sup>14</sup> Chapter XI.

<sup>15</sup> Chapter XII.

<sup>16</sup> Chapter XIII.

\* Director of Research and Information, Northwestern University Traffic Institute.