limited to a single reason or basis. The difference may be material, for if it is in an evidential sense, injustice may be made less frequent by the allocation, as well as a loading, of the burden of proof. The difference may be material for other reasons, even though the circumstances will usually provide a basis for application of an objective standard in either sense of the word.[9] If the author is using the term "objective" in a policy sense, really intending to eliminate mens rea, it may very well be that he is suggesting a change in the law.

His main purpose, however, is to clarify and standardize the law. He has little faith in the wisdom or effectiveness of the "negligent homicide" statutes that seek additional convictions through changing the name of the crime and narrowing the scope of the issues.[10] The reviewer agrees with the implication that the jurors who, in cases of inadvertent conduct, have refused to convict, even though the law would permit them to do so (and the judges who have insisted upon advertence?) are wiser than the groups that press such legislation. The reviewer also agrees that the phrase, "conduct deserving punishment," is significant and helpful. In fairness to the jury they should be told what they are doing. The word "reckless," falsified by the qualification that it need not be personal and actual, alone will hardly tell them. It can be assumed that they will understand and correctly appraise the value of a sojourn in a modern, i.e., contemporary, prison for ignorant, or stupid, or inattentive, although well-disposed, individuals.

The author's rationale, so far as made explicit, does not carry him deeply into the ends and methods of the criminal law. He sticks to words in common legal use and remains at the "legal level," and he may be inviting the use of tort cases that were controlled by aims irrelevant, or worse, to those of the criminal law. Nevertheless, the work is far from superficial and will be helpful to all who desire the conclusions of one who has given a difficult problem some earnest and creative thought.

ALFRED L. GAUSEWITZ*

Questioned Document Problems, The Discovery and Proof of the Facts. By Albert S. Osborn, revised and edited by Albert D. Osborn. Introduction by Dean Roscoe Pound. Albany: Boyd Printing Co. 1944. Pp. xxviii, 486. $6.00.

In preparing a review of *Questioned Document Problems* the reviewer is at once struck by the opening sentence of the introduction by Dean Roscoe Pound, which reads: "A book by Mr. Osborn on the problem of proof as to questioned documents needs no introduction by anyone. His name is sufficient guarantee of matter which judges and lawyers and all who have to do with such problems must look into and, in the words of Captain Cuttle, when read 'make a note on't'." To which statement needs only to be added that any review is likewise superfluous.

Combined herein is a valuable supplement to Mr. Osborn's earlier works, *Questioned Documents* and the *Problem of Proof*, which should be included in the reference library of all lawyers who may be called upon to defend or impeach a questioned document. This volume is made up of a combination of previously published papers, sup-

[9] Michael and Wechsler, Criminal Law and Its Administration 196–97 (1940).

[10] P. 134.

* Professor of Law, University of Wisconsin.

plemented and augmented by a number of new chapters, all of which discuss the various aspects of the investigation and trial of questioned documents.

A large portion is devoted to problems of particular interest to those lawyers who have at hand a disputed document. Among the subjects discussed are: Steps to be taken in a questioned document case, the expert as a witness, the relationship between lawyer and expert, handwriting evidence and the law, and other legal problems arising out of the investigation of documents. A thorough understanding of the interrelationship between expert and advocate, which is brought out in these chapters, shou'd assist both parties in presenting more effective testimony on such special problems.

The interesting problem of form blindness—that failure in a person's sight to be able to distinguish between similiar but different forms—which was first discussed by Mr. Osborn in his *Problem of Proof*, is further examined herein. This is a subject vital to all questioned-document trials, as it is necessary for a jury to see and to understand what they are seeing, if expert evidence is to be of its fullest value. The writing-comparison problems which are used to illustrate this chapter should be studied at length by any lawyer about to try a document case, since much can be learned through such a study of the values of various identification factors which are considered by the expert.

Several chapters which do not deal directly with questioned document problems are of particular interest to the lawyer. These discuss various aspects of the law, particularly the jury system and the practice of law. Here is a brief analysis, as seen through the eyes of a person who has been a part of numerous trials, not as an advocate, but as one who can be best described as a participating layman. Certainly the author is well qualified to speak and the message he has is worthy of consideration by the legal profession.

The hope expressed in the author's introduction has been accomplished, for the book "will be especially helpful to the beginning practitioner of the law, wholly without experience, and also to his more mature brother whose practice has furnished him with little experience in this special work." Certainly for all lawyers who have to try cases involving disputed documents *Questioned Document Problems* contains facts and discussions which are not available from any other source.

ORDWAY HILTON*

* Examiner of Questioned Documents.