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## Book Reviews

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# Book Reviews

COURTS ON TRIAL. By Jerome Frank. Princeton University Press, 1949. Pp. XII, 411. \$5.00.

"The rankest amateur in psychology knows how faulty observation is . . . Human observation is obviously fallible, subjective." (p. 17) "As silent witnesses of the witnesses, the trial judges and juries suffer from the same human weaknesses as other witnesses." (p. 22) "A trial court's findings of fact is, then, at best, its belief or opinion about someone else's belief or opinion." (p. 22) "The pulchritude of the plaintiff or his religion or his economic status, or the manners of the respective attorneys, or the like, may well be the determining factor inducing the decision." (p. 54) "His (the trial judge's) impressions, colored by his unconscious biases with respect to the witnesses, as to what they said, and with what truth and accuracy they said it, will determine what he believes to be the 'facts of the case.' His innumerable hidden traits and predispositions often get in their work in shaping his decision in the very process by which he becomes convinced what those facts are." (p. 152) "Certain kinds of witnesses may arouse his (the judge's) attention more than others. Or may arouse his antipathies or win his sympathy. The 'facts' it must never be overlooked are not objective. They are what the judge thinks they are. And what he thinks they are depends on what he hears and sees as the witnesses testify—which may not be, and often is not, what another judge would hear or see. Assume ('fictionally') the most complete rigidity of the rules relating to commercial transactions. . . Still since the 'facts' are only what the judge thinks they are, the decision will vary with the judge's apprehension of the facts." (p. 55) "The axiom or assumption that, in all or most trials, the truth will out, ignores, then, the several elements of subjectivity and chance." (p. 20)

From the above quotations and many others in similar vein in this book, it may be gathered that Judge Frank's main thesis runs something like this:

(1) All men are possessed of many frailties—fallible eyesight, fallible hearing, fallible memories, and many prejudices, predispositions, and psychological inhibitions that warp their minds, and therefore they cannot be relied upon to ascertain and state the true facts.

(2) A witness is a man. Therefore he cannot be relied upon to ascertain and state the true facts.

(3) A juror is a man. Therefore he cannot be relied upon to ascertain and state what the witnesses said were the true facts.

(4) A trial judge is a man. Therefore he cannot be relied upon to ascertain and state what the witnesses said were the true facts.

(5) An appellate judge is a man. Therefore he cannot be relied upon to ascertain and state what the trial judge said that the witnesses said were the true facts.

From this concatenation it would seem to follow that:

(6) Since Judge Frank is a man he cannot be relied upon to ascertain and state

what the appellate judge said that the trial judge said that the witnesses said were the true facts.

(7) I am a man. Therefore I cannot be relied upon to ascertain and state what Frank said that the appellate judge said that the trial judge said that the witnesses said were the true facts.

(8) But neither can any other man. So why should anyone read Frank's book or this review?

All of which would seem to indicate that Judge Frank is the victim of his own devastating logic. By trying to prove too much he fails to prove anything. Over and over again throughout his book, in order to support his thesis that the verdicts of juries and the findings of fact by judges do not conform to the true facts, he relies (as indeed he must) upon what he conceives to be the facts in law suits or about law suits, as ascertained by other persons, sometimes three or four stages removed, or upon generalized statements in or about law suits, of other persons based upon their interpretation of facts, as gathered by still other persons. But all these persons are as fallible and therefore as unreliable as the witnesses upon whom juries and judges rely. A few examples selected at random will suffice to show this. On page 114 the author says "Longnecker" in a certain book said "In talking to a man who had recently served for two weeks on juries, he stated" etc. Then there is set out what this juror said other jurors said in connection with reaching a verdict. On the same page Frank states what Judge Rossman said that jurors had said about the procedure used in reaching verdicts, all of which evidence Frank takes, without so much as a qualm, as proof that juries do not decide cases in accordance with the evidence.

Then on page 163 Frank quotes Montaigne: "For it is certain that we meet with judges who are at times harsher, more captious, more prone to convict and at another more easy going, complaisant and more inclined to pardon," the conclusion being that even judges are not controlled by the evidence or are not objective.

Since Judge Frank was not himself a witness of the facts in the cases he discusses it is only upon the basis of such evidence or opinions as the above that he can state that the "true" facts in a particular case are different from what the judge or jury in the case said they were. But his main thesis throughout the book is that evidence of this sort is unreliable because of defects in sight, hearing, or memory, or because of the prejudices, or predispositions of the witnesses through whom the information passes. If Frank's conclusion is true that a judge's or jury's finding of facts does not conform to the true facts because of the general unreliability of witnesses then there is no way of proving it, or if there is a way of proving it, then the conclusion is not true.

Occasionally he limits his statements to disputed cases, but most of the time they are general and without qualification. Anyway, dispute or no dispute, all witnesses have the human frailties which Frank says makes their evidence unreliable.

Frank calls himself a "fact-skeptic" (one of the originals) as well as a "rule-skeptic," (though he has weakened considerably on his rule-skepticism since 1930, cf. p. 16 with his *Law and the Modern Mind*, Chaps. 13 & 14). Many other so-

called realists like Oliphant, Llewellyn, Cook and Judge Cordozo are "rule-skeptics" but not "fact-skeptics," and unless one is a "fact-skeptic" he is a victim of "legal magic" just like the mine-run of lawyers and professors of law. "The rule-skeptics" says Frank, "are but the left-wing adherents of the old magical tradition." (p. 74)

The base of the judicial structure, argues Frank, is the trial-court, because it is the agency for finding the facts and unless the facts are found correctly (and they cannot be) so that legal rules can be applied to them, prediction of the outcome of litigation becomes impossible, and the element of certainty in the law is completely illusory.

What is his remedy? One suggestion is more witnesses. Let us have witnesses (psychologists) of the witnesses. (p. 100) But he does not tell us by what magic he would make these witnesses of the witnesses any more reliable than the witnesses themselves. Or he would have government officials independently dig up the facts. (p. 98) But they would still be fallible witnesses. Another proposal is to abolish the jury in civil cases and let the trial judge find the facts. But Frank spends whole chapters showing that judges are as frail as jurors. ("Are Judges Human?") It seems rather obvious that if we accept the author's premises there is no remedy.

What is the fallacy in Frank's line of reasoning, if any? Since the evidence upon which he relies to establish his case is the same kind of evidence, he contends is completely unreliable, something of value can be salvaged from his book only by assuming that he does not mean all that he says. True he repeatedly poo-poops the idea that "the truth will out." But unless it is assumed that he says this with his tongue in his cheek, he is simply engaged in promoting futility, and I don't believe he is interested in that. The author can hardly be unaware of the evidence all about him that people, frail as they are, must accurately interpret what they see, hear and feel everyday of their lives. Their very survival depends upon it. That man has survived up to now, shows at least that he has not always been mistaken about the conditions which surround him. That he has been able, not merely to adapt himself to his environment but to modify it for the purpose of satisfying his needs and desires, and that he has been able to set up social and political institutions (including the courts themselves) to enable him to live as a part of civilized society, furnish substantial evidence that he has the capacity for collecting, appraising and analyzing the facts of life. An individual, a committee, a commission, a board, a judge, a jury can and do get the facts in matters assigned to them for investigation. They are sometimes wrong but they are, I think, most frequently right. There are so many ways of correcting, checking, and verifying evidence—witness with witness, document with document, witness with document, improbability with probability, the unreasonable with the reasonable, the unscientific with the scientific, the un-scholarly with the scholarly, that it is believed most frequently "the truth will out." Has the perfect (undetachable) murder yet been committed?

It is true, as Frank vividly points out, that there are a number of factors connected with trial-court procedure that actually hamper the ascertainment of the true facts. Among them may be mentioned the sporting or game-of-chance aspect of a trial in which lawyers use evidence "as one plays a trump card, or draws to three

aces" (p. 91), the intimidation and badgering of witnesses especially on cross-examination, excess of partisan zeal on the part of attorneys leading to the suppression or distortion of evidence, application of certain rules of evidence which hamper a witness in telling his full story, inability of a party to pay for an investigator before trial to obtain evidence necessary to his case, and the disparity in the ability of legal counsel on the two sides. I agree with Frank that these and other defects in trial procedure should be eliminated if possible.

However, Frank does not show that these handicaps are not more than offset by advantages which a court has over individuals and committees for getting at the truth. Some of these are: irrelevant issues are eliminated before trial; the solemnity of the court room and the requirement that witnesses be placed under oath impress witnesses with the seriousness of the matter and make them more cautious and accurate in their statements; the partizan zeal of attorneys makes it more probable that relevant facts will not be overlooked, than if the investigation is left to a dispassionate examiner; certain rules of evidence, like those requiring original or certified documents, and the "best" evidence as distinguished from hearsay, tend to make evidence more reliable; and the court's power to compel the attendance of witnesses and the production of documents or other tangible evidence gives the court a material advantage over individuals and non-governmental committees and boards in getting at the truth of the matter under investigation. So I think it likely that trial courts are at least as dependable as individuals and private investigating groups in getting at the facts in particular situations.

Frank's overall conclusion is that because of the inability of the courts and juries to find the "true" facts, accurate prediction of court decisions is impossible. But his argument as I have tried to show, consists so much of overstatement and generalization, so much of using the same kind of evidence that he repeatedly condemns, that his case is unconvincing. Suppose we examine this question of predictability a little further.

It is amazing to me that a legal realist would restrict his concept of law to what transpires in the courtroom and completely exclude what happens in the outside world. Frank's theory of rights and duties is limited to what courts decide in particular cases. He says "If no court-order has been entered with respect to any of your legal rights or mine, then those rights are not yet known, but can only be guessed. Maybe you have some particular right and maybe you haven't. The only way you can find out definitely is to see what a court will do about it." (p. 9) "Whether it will sometime be decided that any one of you is to go to jail, or to lose or keep your house, or collect the money on a mortgage you hold, or have the custody of your children, or remain the president of your company—any of such matters may be determined by a now unpredictable future court decision in a case relating specifically to you. Whether any such suit will arise, and how it will be decided, no one now knows. For no one can now prophesy if, or when, or where, any such suit will be brought; or if one is brought whether there will be conflicting testimony; or if so what it will be; or whether the suit will be tried by a jury or a judge, or what judge, or how the jury or judge will react to the testimony. Where-

fore, until those cases arise and are decided, your legal rights and duties are unknown." (p. 12) And further on the author states "Legal rights and duties mean law suits lost or won." (p. 25) (I wonder why Frank stops with the court's judgment. A judgment may be set aside for fraud or lack of jurisdiction.)

Suppose an inexperienced old lady came to Attorney Frank (a practicing lawyer) and said to him "I lent my neighbor a \$1,000 and he signed and gave me this paper agreeing to repay it in one year. Now I don't know anything about business or law. Does this written statement of his amount to anything." An inspection reveals that the statement is an ordinary negotiable note. By questioning the old lady, it is ascertained that the neighbor does not deny receiving the money or executing the note, that there is no question as to the sanity of the neighbor or his financial responsibility, and it appears that the parties are on friendly terms. Each of these points is verified by questioning the neighbor and other persons, and no evidence is found which would render the note invalid. The old lady then asks "What are my rights?" To be consistent with the views expressed in this book, Frank would have to say "I'm sorry to have to tell you, my dear lady, that if you have any rights, they are unknown. You will have no rights until you sue on this note and get a judgment against your neighbor. This is true, because no one can predict how such an action would turn out. Some lying witness might appear and swear he saw your neighbor repay you the \$1,000; or that you induced him to sign the note by misrepresentation or trickery, or any other of a number of facts that could defeat your recovery. These possibilities make the outcome of litigation on this note uncertain and therefore unpredictable. So as matters stand I cannot say that you have any rights whatsoever. No doubt this will be a source of worry to you, but because of the nature of law that is the best opinion I can give you."

If the old lady asked for Frank's opinion on the title to her property which she had acquired 50 years before, showed him her warranty deed to it, and an abstract which indicated title in her with no imperfections, and evidence showed that there were no liens or mortgages of record against the property and that no one now or ever had questioned her title to the property or asserted a claim against it, Frank would have to say "While all you tell me appears to be true, I cannot say that you own the property. Ownership consists essentially of certain legal rights with respect to property, and it cannot be known that you have any legal rights until you have gone to court, and obtained a judgment establishing them. It is impossible to predict what the outcome of that litigation would be. So I cannot advise you that you are the owner of the property."

The basic fallacy of Frank's position in this matter, as I see it, is that he almost completely ignores the law of probabilities. He dismisses the whole subject on page 222 with the aphorism "Of course we must rely upon probabilities," (which if he did, would destroy much of all he had said on the 221 preceding pages) and a short quotation on pp. 340-341 from Jevons to the effect that "Attempts to apply the theory of probability to the results of judicial proceedings have proved of little value" (the kind of proof that Frank takes great pains all through the book to show untrustworthy). To Frank all future events are certain or uncertain and

predictions can be made only upon the basis of certainties. Hence in the old lady's cases discussed above, he could not advise her as to her rights. Yet the strong probabilities in her cases are that in the first place there never would be a dispute about her note or about the title to her property, and in the next place, if there were a dispute, a lawyer, upon the basis of known rules of law and the facts ascertained by him, could direct a correct disposition of the case without going to court. Of course it is possible that a lying witness might appear to throw the case into the realm of doubt, but it is highly improbable. Even if one did appear the probabilities are that the lie could be exposed. At any rate a lawyer could weigh the probabilities, venture a prediction and make a decision, and upon the basis of the facts assumed above, he would be warranted in advising the old lady that her note was valid and enforceable, and that she was the owner of the property in question. Action of the Client in reliance upon the probabilities would be justifiable. It seems to me that unless we accept probability of outcome as the basis of decision, not only in law but in all walks of life, we are completely stalemated—stymied, because about the only certainties upon which we can rely are death and taxes. Legal action, like other action, must be based upon a calculated risk. Yes, certainty is an illusion, but probability is a reality.

It is probable that if I walk to school I will not be run down and hit by a car. I rely upon that probability and walk to school. In the great majority of cases the reliance proves justifiable. One morning I may be hit. But that does not disprove the probability. Most decisions in life as to a future course of action must be made upon the basis of probabilities. A surgeon decides to operate, though there is a chance that his patient will not survive the operation. With a deciding run on second, a baseball manager directs his pitcher to pass a strong batter in order to get at a weak one. Even though the weak hitter sometimes comes through with a hit that wins the game, the strategy is still good, because most of the time it works. Similarly decisions as to legal rights must be made. And as Holmes says the prediction itself is what makes the right or duty.

"Every day, if not every year," said Holmes, "we have to wager our salvation upon some prophesy based upon imperfect knowledge." Frank quoted this sage remark of the great Justice, but it came so near the end of his book (p. 246) that he completely overlooked it in his discussion of predictability.

A great majority of legal transactions never get to court—possibly 99% of them—and one of the reasons they never do, is that the parties, or their lawyers agree that there is a high degree of probability as to how the case would be decided if it went to court. Since there is agreement as to how the court would hold, if suit were brought, no suit is brought. Litigation does not arise when predictions are accurate, but only when they are inaccurate (*i.e.* conflicting). Frank tries to prove that all decisions are unpredictable by selecting those cases in which predictions are conflicting, and omitting all others. That is like saying that if you line up a group of patients in a hospital and find that they are all sick, the conclusion is that all people are sick.

Of course there are other reasons than accurate prediction, that keep legal

transactions out of court. Lack of financial resources to go to court, desire to avoid worry and loss of time, and fear of the outcome are some of them. But many more transactions never get to court, because no dispute arises, or if one arises, settled law makes it possible for a lawyer to direct a disposition outside the courtroom. According to Frank, the more predictable the law becomes the less there is of it, because the fewer would be the cases taken to court. If decisions in all cases (by means of some device yet uninvented) became predictable, then by Frank's theory, law would completely disappear, yet it would then be most effective.

Now it may be admitted that in many cases, when facts are in dispute, and one lawyer advises suit and another advises defense rather than settlement, the probabilities of outcome are about even, and the result cannot be predicted. But that is true of only a very small percentage of the total of legal transactions. It may be also admitted that in many cases the facts as found by the trial-court differ from the "true" facts (but who knows the "true" facts), and that facts assumed by the court of appeal differ from the "true" facts. Still the rule applied by the court of appeal to the assumed facts will serve as a guide to a lawyer who has a case with facts, which in his judgment are like those assumed by the court. Judge Frank admits that an appellate judge or a lawyer is an "excellent predictor of decisions" upon an assumed state of facts. (p. 16) So the rules of law applied by appellate courts upon assumed states of fact (or even upon completely hypothetical facts) serve as guides to lawyers in directing the conduct of their clients, and advising them as to the consequences of their action. This type of direction and advice gradually trickles down to credit managers, salesmen, bank officers, real estate agents, insurance agents and adjusters, labor leaders, notaries public and the common man, and determine their conduct and their direction and advice to others.

Judge Frank criticizes legal scholars (perhaps rightly) for an over emphasis upon appellate-court law to the exclusion of trial-court law. But Frank commits, what seems to me, a greater sin of overstressing trial-court law to the almost complete exclusion of lawyer's law, notaries' public law, credit manager's law, real estate agent's law, insurance agent's and adjuster's law, form-drafters' law, bank teller's law, labor leader's law and the common man's law. He almost completely ignores the bulkiest part of the law,—that part which operates most effectively and peaceably as a guide to and regulator of people's conduct in millions of transactions of daily occurrence—that part in which no disputes arise, or if they arise are settled without going to court.

Trial-courts are important, just as hospitals are important, for taking care of pathological cases, and by all means let us improve their procedures to make their decisions more just. But let us not make the trial-court the center of the judicial universe. After all, the principal function of a trial court is to settle a dispute between two persons. Those two persons are usually the only ones directly affected by the outcome. An appellate court, not only settles an issue between two persons, it lays down rules which are intended to and which do affect all members of society. And these rules are applied to thousands of cases by lawyers in advising and directing their clients, and through lawyers are passed down to bank

officials, salesmen, businessmen, industrialists, labor unions and farmers throughout the realm. The office of the lawyer is the clearing house for this gigantic enterprise. As I see it, this is the big tent. The court-trial is the side show.

Lack of space forbids extended discussion of the author's strictures on legal education. A number of his criticisms are worthy of serious consideration. Legal education has much to learn from men who have had the experience of Judge Frank. But Frank's conception of the law as centering in the trial of cases, his simulation of the law to the hand and foot skills, such as dancing, haircutting, automobile driving, swimming, cooking, golfing and surgery (p. 229) and his conclusion that law should be similarly taught (*i.e.* by looking and doing) make some of his views on legal education seem archaic and out-of-focus. No doubt a student of anthropology should study hospital patients, but he would get a distorted view of man if he made that the center of his education. Just so it seems to me that the student of law should study court trials (the pathological cases) but he would get a warped view of the law if he made that the core of his study.

Yet *Courts on Trial* is a needed and valuable book. Limited to the scope indicated by its title, it persuasively demonstrates that "the trial court's job of fact-finding in each particular case . . . looms up as one of the most important jobs in modern court-house government" (p.102) and it shows that that job is not being done satisfactorily. The book contains numerous brilliant passages that illuminate dark and damp recesses of the law. It is full of learning. It is readable. It is stimulating. I would especially commend to readers, as an antidote for much that I have criticized in the book, the perusal of Judge Frank's penetrating and illuminating analysis of the correct judicial attitude in the making of decisions, taken from one of his own opinions, and quoted on pages 412-415. The book is one to be read and pondered by every student of the law whether he be pupil, teacher, lawyer or judge.

GEORGE W. GOBLE\*

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SOVIET CIVIL LAW—Private Rights and Their Background under the Soviet Regime.

By Vladimir Gsovski. Ann Arbor: University of Michigan Law School. Two volumes, 1948, 1949. Pp. xxxvii, 909; xx, 907, incl. index. \$15.00.

Several years of work by a highly qualified scholar went into the preparation of these volumes. The first volume is the treatise; the second is comprised of translations of the major Soviet codes and statutes affecting private rights.

The author is a former member of the Imperial Russian Bar and for some time has been the chief of the Foreign Law Section of the Library of Congress.

As Professor Yntema remarks in the foreword, it is indeed remarkable that this highly significant work should have waited more than thirty years after the 1917 Revolution to appear. A compensating factor today, however, is that as a result it is up to date, or very nearly so, and its timeliness can scarcely be overstressed.

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There is much more here than a legal text and a translation of codes. For the lawyer, the law teacher, the political scientist and the student, old or young, of contemporary international problems for whatever purpose, this work has special importance. Here one finds a remarkably full treatment of virtually the entire post-Revolution Russian system of internal government and law. And of course this kind of work is far more enlightening, because presented dispassionately, far more frightening, because naked of adjectives, and gives far more insight, because apparently unmotivated by a preconceived thesis, than any mere tirade against "the Red menace," however eloquent.

A foreign lawyer wishing to gain a really penetrating insight into the American way of life could perhaps gain it quickest by studying our main institutions of private law. For private law is in many ways more revealing than is anything else of those characteristic things in our nation's life which are closest to the people and felt to be enduring. So it is with the American lawyer wishing to gain a really penetrating insight into the Russian way of life—Mr. Gsovski's present work should be first on his list.

Here is the actual source material against which to test one's preconceptions, and through which to arrive at an informed opinion, regarding a vital subject that has heretofore been presented sketchily and second-hand at best. Here the hide of propaganda is stripped from the Bear and a skillful autopsy is performed which reveals much of what makes him tick, exposing the system in the image of which he seeks to remake the world.

Many intellectually honest people have doubtless felt a certain insecurity in constantly damning a system of law and government, a system of administering justice, about which they knew very little by way of specific fact. Now that knowledge is available, in a form especially valuable to the lawyer. Incredible though it may seem, the major Soviet Civil Codes have never before been translated into English. Mr. Gsovski has obviously rendered an invaluable service in making that translation, and to it Volume Two is devoted.

Volume One, on the other hand, consists of a masterful survey of the background, development and general characteristics of the Soviet political and legal systems, followed by detailed essays on particular major fields of Soviet law corresponding to our main fields of private law, such as contracts, torts, property, corporations and so on, plus several other topics which are necessary or helpful to a rounded picture, such as "Discontinuity of Prerevolutionary Law and Vested Rights," "Conditional Protection of Private Rights," and "Rights of Aliens and Foreign Corporations." But there are also excellent treatments of Constitutional Law, Labor Law, Family Law, Agrarian Legislation and Collective Farming, and finally an account of Civil Procedure and Appeals.

Other reviewers have summarized certain of the Soviet legal theories which have tell-tale political significance. I shall therefore only allude to the story of the nearly complete reversal of the original attempt to abolish inheritance, the revival of the

notion of fault in tort law, and the phenomenon that Soviet labor law is to a great extent criminal in character.

If for nothing else, Mr. Gsovski's work would be worth reading for the light it throws upon one's previous dark suspicion that private law in Russia is infinitely more subservient to the demands of the state than American private law could ever be—even if our concept of "public policy" should be invested with a sweep and status far in excess of those it presently enjoys. Indeed, as Mr. Gsovski notes, in the Soviet view all Soviet law is public.

The most valuable part of the work to the general reader is probably the initial survey in Volume One. These first chapters cover, in some 270 pages, the stages of development, often sharply twisting and reversing (like the Party Line?), of the Soviet political and economic order since the Revolution, and the accompanying Soviet conceptions of the place of law in society. These latter range from a virtual contempt for law, as being purely an instrument of policy of the ruling clique, to something approaching a respect for law, as an instrument of stability because it "fortifies the stamina of the political regime and the span of governmental discipline." Even this newer attitude is a long way from Anglo-American ideas of the rule of law, it will readily be seen. The Soviets appear to brush aside all the deeper problems, however, with the assertion that, the Soviet Union being a classless society, it is impossible that there can be any conflict between the interests of the citizens and the interests of the government which represents them. Naturally, I would suppose, any citizen who *thinks* he has a conflicting interest, in some particular fact situation, must be wrong *a priori*. Yet curiously enough against the background of such an attitude toward public law, more private rights are protected in the Soviet Union today than one would have thought, at least as between individuals. This is of course not inconsistent, but it may whet the curiosity as to just what kind of legal system Russia really has. Mr. Gsovski supplies the answers.

The potentialities of this compact work for the comparative method in teaching a number of standard subjects in the law school curriculum should certainly not be overlooked. The world situation being what it is, it could hardly fail to be exceptionally stimulating and useful to both professors and students to compare American and Russian law as they go along in a course. Until this work was published, that was practically impossible, but lack of familiarity with the Russian language can no longer be an excuse. Better insight into both systems can just about be guaranteed.

The only fault this reviewer can find which may be worth mentioning here is the lack of "cases." This is probably unavoidable for a variety of reasons, from unavailability of materials to considerations of space. But the Anglo-American lawyer misses "facts." The "law" is fully covered, and that is a great deal more than we've had before.

ELVIS J. STAHR, JR.\*

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MAX D. STEUER, TRIAL LAWYER. By Aaron Steuer. New York: Random House, 1950. Pp. 301. \$3.50.

Though the writer never personally knew Max Steuer, he admired him from afar, having read much concerning him.

When he learned that Mr. Steuer's son had written an informal biography of his father, he eagerly grasped the opportunity to read it. But as he finishes doing so, he has a feeling that a fine opportunity has largely been lost.

Of course there is interest in the five summaries of Mr. Steuer's cross-examinations of what are termed "his most important cases." These summaries prove that Mr. Steuer was a master of the art of cross-examination and from them one may learn many lessons regarding that art. They prove further that Mr. Steuer was a careful and hard worker and that he gave of his best to the tasks before him. However, this was already known, and his cross-examination in some of the cases covered in this book had already been contained in other books of national distribution and were read long ago by the writer.

What had not previously been done adequately, and what Mr. Steuer's son must be exceptionally well qualified to do, was to give an intimate story of the life and character of Mr. Steuer. Perhaps, the writer's disappointment in this book is caused by his love of real biography. He feels that one from such a book should learn more fully than he learns from Aaron Steuer about the home life and the struggles of the subject of the biography and should discover what facts caused his life to take the course it did. There are stories not found in this book which tell some of this. Would that the son had given us the full history.

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