

CURRENT LEGAL PERIODICALS

The Interpretation of Uniform Statutes. F. A. Mann. 62 *Law Quarterly Review*: 278-291.

This article is concerned with the interpretation of statutes which have been passed to bring into effect international legislation agreed on by representatives of a number of nations. A statute may set out the convention in a schedule and adopt it, or merely refer to it as the reason for the passing of the statute. There may be only a reference to the convention or it may not be referred to at all.

The author reviews the English decisions where rules of interpretation of such legislation have been laid down, then considers its treatment in a number of other countries and finally suggests what, in his opinion, should be done. English courts have tended to apply the rules of construction applicable to other statutes and to follow English authorities. In most other countries treaties are retained in the form of treaties and rules of construction are more liberal and flexible. In the United States, the courts have interpreted uniform state laws sometimes in favour of pre-existing state legislation but more often in such a way as to promote uniformity of law in the states that have adopted it.

The suggested solution of the problem is that courts should apply "the rules of interpretation applicable to treaties and evolved by the rich practice of international tribunals and such municipal courts as the Supreme Court of the United States".

Continuing Education of the Bar. Sidney Post Simpson. 59 *Harvard Law Review*: 694-719.

Mr. Simpson, who is Chairman of the Committee on Refresher Courses for Veterans, Section of Legal Education, American Bar Association, says that "present methods of law school education do not prepare for immediate practice". He thinks that the bar should, in some way, bridge the gap between school and qualification for practice. Also some provision should be made for continuing the education of lawyers, to enable them "to grow with the growth of the law".

Even if law-school courses and methods are greatly changed in the near future it is unlikely that they will give more practical instruction. How is this to be obtained? "There is no real system of apprenticeship" and no "internship" is possible since the

legal profession has no hospitals. Nobody can give this instruction but lawyers and it is the duty of the bar to give it.

Keeping up with the reports, listening to occasional bar association lectures and reading law books and journals are not very satisfactory methods of continuing education. "The capacity of the bar for boredom is substantial but not unlimited." Refresher courses for returning veterans are a start in general continuing education. These are being given by the profession to fill the demand for practical instruction, a review of law-school law and knowledge of changes in the law. Many lecture courses have been given and series of practical pocket-size monographs have been published. Correspondence courses are being given. Mr. Simpson suggests the use of films for the "how to do it" subjects and says that the bar would welcome a "true professional journal" for practising lawyers. Some national organization with directors representative of the American bar should be entrusted with "the national aspects of continuing education".

Blockage Valuation in Federal Tax Law. Harrop A. Freeman and Stephen P. Vinciguerra. 94 *University of Pennsylvania Law Review*: 364-377.

This is a study of the meaning or meanings of the phrase "fair market value" in taxation law, where the property to be valued is a large block of stock. It is no longer held that its value is to be conclusively established "merely by multiplying the value of one share at the market . . . by the number of shares".

Eight methods for making such valuations are listed, with references to cases where they have been used. Closed corporation cases, and cases in which restrictive covenants have affected values, are then considered. The authors conclude that the best way of finding the value "probably lies in an analysis such as a prudent investor would require of an experienced broker". This might require a greater exercise of discretion by the assessor.

The Jury Problem. Julius H. Miner. 41 *Illinois Law Review*: 183-198.

Judges and lawyers agree that justice often miscarries because of the inability of jurors to discharge their duties properly. Judge Miner says that there should be some better method of selecting jurors, some method that would insure "reasonable capacity upon their part". Jurors are bewildered and confused by legal techniques and procedures with which they are unfamiliar. He suggests

oral charges in simple language, a greater use of the "disciplinary power of the court over attorneys" and abrogation in all but capital cases of the requirement for a unanimous verdict.

Prospective jurors should be given a course of instruction on "the nature of a trial and its procedures and principles". Judge Miner sets out material which he proposes to distribute in pamphlet form to prospective jurors. This explains who are the defendant, the complainant and the state's attorney, what an indictment is, the reasons for opening statements and objections, the different steps that will be taken in a trial, the functions of the judge and the kinds of evidence that will be given, such as alibis, confessions and circumstantial evidence. It tells them how they should reach their verdict in the jury room, reminds them of their oath to "well and truly try the issues" and "render a true verdict" and impresses on them the importance of the faithful performance of their duties.

The Economic Status of the Legal Profession. Hon. Edward P. Murphy. 6 Lawyers Guild Review: 473-476.

In the United States in 1929 the average net income of lawyers was \$5534. In 1933 it was \$3868. In 1941 one-fourth of the lawyers cooperating in a survey made at that time had annual net incomes of less than \$2000. The median net income of salaried lawyers was \$270 above that of the self-employed. Lawyers stood third in the professions, below doctors and dentists. In the same year "50 per cent of the self employed lawyers received only 17 per cent of the total income". Lawyers do better after the age of 55 than members of other professions but worse between 27 and 37 years of age. "In New York City in 1933, 33% of the lawyers earned under \$2000 of annual net income" while a national survey indicated that, in the country as a whole, 48.6 per cent made less than that amount. The number of lawyers in the country increased from 129,100 in 1929 to 179,554 in 1940.

How can the economic condition of the profession be improved? Mr. Murphy says that it can best be done by extending legal service to those who do not now receive it, either because they do not know when they need it or because they think they cannot afford it. A Connecticut survey indicates that of persons interviewed who had been involved in legal transactions over 64 per cent had had no legal advice. Neighbourhood law offices in Philadelphia reported that 80 per cent of those served in the first six-month period after their opening had never before consulted a lawyer. To remedy this situation it is suggested that bar

associations should institute a publicity campaign. Pamphlets, radioprogrammes and newspaper or magazine articles might be used to indicate where legal advice should be sought. Neighbourhood law offices and registries of lawyers willing to advise "in particular fields of the law", and at minimum rates, would help to take the law to those who need it. Finally, the laws against unauthorized practice should be enforced and a stop should be put to the practice of certain administrative agencies of discouraging the employment of lawyers.

Proof of Alcoholic Intoxication. Henry W. Newman, M.D. 34 *Kentucky Law Journal*: 250-267.

This is one of the series of articles dealing with "Scientific Proof and Relations of Law and Medicine" now being published in legal and medical journals.

First, definitions of the terms "intoxicated" and "under the influence of intoxicating liquors" in different jurisdictions are set out and compared. Types of proof are divided into three categories: observations by lay witnesses of the behaviour of the individual, examination by persons "with professional experience in the chemical diagnosis of intoxication", and "chemical data concerning the concentration of alcohol" in the brain. The author then explains what takes place when alcohol enters the body and summarizes the results of the correlation between alcohol concentration and degree of intoxication.

Finally he discusses the methods adopted in estimating the alcohol concentration of the brain. As the brain itself cannot be tested, spinal fluid, urine, air in the lungs, breath and blood are used, the blood test being the most satisfactory. Advantages and disadvantages of each method are indicated.

The conclusion is that by securing all available evidence it should not be difficult to present a clear picture of the condition of the suspect, on which may be based a valid conclusion as to the presence or absence of intoxication.

Reducing the Volume of Published Opinions. Glenn R. Winters. 30 *Journal of the American Judicature Society*: 45-51.

In one recent year the decisions of American courts filled 74 volumes of 76,362 pages in the National Reporter System of reports. In the same year 8,939 pages of laws were enacted by Congress and State legislatures. The Federal Register contained 11,134 pages of rules and regulations of national Government

agencies. To this must be added the "judicial and quasi-judicial output of federal and state administrative agencies", the digests, encyclopaedias, annotated cases, services and legal periodicals. "The entire field of legal literature suffers from elephantiasis."

The discussion here is confined to the problem of reducing the volume of law reports. They are criticized as containing great numbers of decisions of no value to the profession and as being, generally, too long. Also, they are published at least twice and sometimes oftener. One reason for their length is that they contain "lengthy quotations from other reported cases, extravagantly long lists of citations . . . and an occasional flight into irrelevant dicta".

It is suggested that cases involving no new point of law be listed as in the United States Reports, one paragraph per case, and that a committee be appointed by each court to select the decisions to be reported in full. Florida opinions, averaging 3.69 pages, are referred to as models of brevity. The problem of duplication is the most difficult one. In each state there is an official publication and opinions are published also in units of the National Reporter System. 94 per cent of Florida lawyers in 1940 took the Southern Reporter while less than half took the official Florida Reports. The only reasons given for continuing to publish the official reports rather than the commercially published series are simplicity in citation and "state pride". On the other side, the Reporters take up less shelf space and have a digest system which correlates the law of all the states. Mr. Winters says that "it would be a boom to the entire bench and bar of the country if double reports and the accompanying nuisance of double citations were done away with and the Reporter system made official under proper supervision in all states".

He would have the American Bar Association create a new standing committee on legal publications and law reporting. The multiplication of law books is likely to bring us to a worse state than that in which the law of imperial Rome found itself at the time of Justinian.

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