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MACHINERY OF JUSTICE IN ENGLAND (2d ed.), by R. M. Jackson. Cambridge University Press, Cambridge, 1953. Pp. ix-372. \$6.00.

Maynard E. Pirsig

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## Book Reviews

MACHINERY OF JUSTICE IN ENGLAND (2d ed.), by R. M. Jackson.  
Cambridge University Press, Cambridge, 1953. Pp. ix-372.  
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Because of the basically common procedural systems of the two countries, the legal profession of the United States has always followed with interest the developments in the administration of justice in England. Many procedural principles have been adopted here after being tested and approved in British procedure. Hence, a book which explains the practical operations of their judicial system is always welcome. The first edition of the book under review was published in 1940 and was widely and favorably received. The new edition is on the same high level and incorporates the more recent changes that have been made in England.

There are but seven chapters. The first deals with the historical development of British justice, covers but eighteen pages, and is, therefore, of necessity elementary and sketchy. The more substantial second chapter describes the courts of England having civil jurisdiction and gives a limited account of civil procedure. The third chapter is the largest in the book and deals with criminal justice. That it should occupy such a large portion of the author's attention reflects the importance which is placed in England on the administration of criminal justice and in part the author's own concern with it. The next chapter, on Personnel of the Law, deals not only with members of the legal profession but also with judges, juries, and court officials. Chapter V, while but twelve pages, presents a very incisive account of the problems of the costs of litigation and their distribution between the public and the litigants. Administrative agencies is the concern of the sixth chapter and is far more penetrating and revealing than one would anticipate from a brief treatment of forty-two pages. The final chapter deals with methods of securing legal reform, the problems being largely peculiar to England.

But one hundred statutes and thirty-six cases are cited. This is not a source book of material on the administration of justice in England. It represents instead the information that the author has acquired, his analysis of the problems, his conclusions, and his suggestions for possible improvement. He is a solicitor of

the Supreme Court and Fellow of St. John's College, Cambridge. Measured by what he undertakes to achieve, the book is a superb product. It reveals an unusual understanding of the fundamentals of the administration of justice both in the civil and criminal law fields. The author has a broad historical perspective and a capacity for clear and understandable presentation.

A few points of special interest to American lawyers and judges may be noted:

1. Improvement in the administration of justice in England has come about largely through the creation of commissions which have examined specific subjects assigned to them and made their recommendations. Most major improvements in England in recent years have come about by this process.

2. The legal machinery of the administration of criminal justice is quite unique. For the vast majority of criminal cases, involving the lesser crimes, the trial courts consist of lay justices of the peace. This system has been retained notwithstanding very substantial measures taken to improve conditions in these courts in 1949. When one considers the low estate to which the justice of the peace has fallen in the United States, their retention in England may appear as a striking and puzzling phenomena. From the account given by the author, the use of lay justices in the lower courts appears to be successful in England for several reasons. The justices are appointed for life with care being taken in making the appointment. They function without compensation. Most important, each court has a clerk who must be a member of the legal profession and who advises the lay justices concerning the law applicable. As the author notes, the function of this official is to guide the justice "in all matters of practice and advise them on points of law."

3. The division of the legal profession into two branches, the solicitors and the barristers, remains as vigorous and impregnable as in the past. The author in general defends the division. He believes that the barrister has greater objectivity in outlook since he is not dealing directly with the client. He thinks also that the amalgamation of the two branches would bring only a slight reduction in the cost of litigation.

4. The author deplors the high cost of litigation in England. He points out also that the policy of imposing the costs of the winning party, including lawyers' fees, on the losing party has its adverse effects. It induces unfair settlements and gives a

great advantage to the wealthy litigant. "Many appeals are little more than gambling on the costs."

5. The author strongly favors the Legal Aid and Advice Act enacted in 1949, sometimes characterized here as socialized law. He points out, what is commonly ignored in this country, that the administration of the act is in the hands of the legal profession, primarily the solicitor, and that the principal contribution of the government is to finance the program. He observes, "It secures the service of professional men without there being any feeling of regulation or control of their activities, and it goes a long way to ensure that assisted persons will be treated like ordinary clients." Yet he points a warning: "There are obvious dangers in entrusting the legal aid service to the legal profession, for any close body may become insensitive to public needs."

The book represents a deep and understanding study of the judicial system in England. It is required reading for any student of British justice for it contains explanations and information about the practical operation of their system not to be found in any other source. Its reading will compel reflection on corresponding problems arising in American justice. There is a genuine need for a similar examination of the machinery of justice in America. There is none now.

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DESKBOOK ON LAND TITLES AND LAND LAW, by Thomas J. McDermott. The W. H. Anderson Company, Cincinnati, 1954. Pp. 711. \$20.00.

Any undertaking of the nature of the work expressed in the title to McDermott's book must conservatively be said to be an ambitious one indeed. Uniquely in the field of property law, statutes, decisions and customs of the jurisdiction in which the problem arises control. To be sure, there are many of the so-called fundamental concepts which are also said to be universally applicable; however, the adherence to these by the courts is more noteworthy by their breach, as evidenced by the enormous list of cases reflecting studied distortion of the facts which evoke decrees of nonapplicability of the general accepted rule.

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