

LAW MAY BE FAIR, YET HIT POOR HARD

Carnegie Foundation Finds Justice Impartial, but Unequal in Effect

REMEDY IN MODERNIZING

Is the law of the land administered impartially to the rich man, poor man, beggar man and thief?

Bulletin No. 13 issued by the Carnegie Foundation for the Advancement of Teaching undertakes to answer the question.

The answer is yes—with qualifications; but the qualifications are almost positive enough to justify a negative and quite strong enough to justify the book.

For a book it is. It is a bulletin merely by courtesy. It contains not less than 100,000 words. The unusual and pleasing thing about them is that they all mean something.

The title of the bulletin is "Justice and the Poor: A Study of the Present Denial of Justice to the Poor and the Agencies Making More Equal Their Position Before the Law, with Particular Reference to Legal Aid Work in the United States." Its author is Reginald Heber Smith, of the Boston bar. There is a foreword by Elhanan Root and an introduction by Henry S. Pritchett, president of the Carnegie Foundation.

Justice as Chief Objective

In his foreword Mr. Root says that in a broad sense the chief thing for which government is organized is to secure justice, and that its highest obligation is toward those who, because they are weak and friendless, find it hard to maintain their own rights. Our shortcomings have been the result of changing conditions. We have in the main just laws and honest courts. But the rapid growth of cities, the enormous masses of immigrants (many of them ignorant of our language) and the greatly increased complications of life have left the provisions for obtaining justice no longer sufficient. And it is time, he says, that we put our house in order.

Mr. Pritchett in his introduction is equally emphatic, but declares it would be a mistake to assume that the cost of litigation and the law's delay benefit the rich exclusively. For, in a great number of cases, they work to the advantage of the dishonest poor. The question, he says, is not primarily one as between rich and poor, but concerns rather the fundamental necessity in a free country to place justice within the reach of those who occupy any station in life. Our civilization rests upon an honest and sincere attempt to realize this ideal.

Justice Denied Leads to Anarchy

Freedom and equality of justice, says Mr. Smith, are twin fundamental con-

ceptions of American jurisprudence. Ours is a government of laws and not of men. To secure impartial laws and an equal administration of justice the state itself exists. A denial of justice is a short cut to anarchy.

He then proceeds to prove by specific cases that there is such denial of justice; that such denial is not merely negative in effect, but encourages fraud and dishonesty. One case is typical. A glazier undertook to put twenty-two panes of glass in a barn for \$6.00. He did the work, but didn't get the money. He went to a lawyer who told him his fee would be \$10. He went to the Municipal Court where the judge explained he had neither the time nor the money nor the right to undertake the necessary proceedings and that, inasmuch as the expenses would exceed the amount in dispute, he had better drop it. As that man told his story, says Mr. Smith, he was an incipient anarchist.

The first defect of the law is delay. Knowledge of inevitable delay will sometimes prevent the entering of a worthy suit. Delay forces unfair settlements and compromises. Parties without meritorious defenses are encouraged to make a sham contest that they may avert themselves of delay and penalties heap down the claim against them.

A case in Philadelphia before the creation of the Municipal Court in 1913 is cited. A wage-earner had a claim for \$10, representing a week's work. On January 19, 1911, the Legal Aid Society tried his case in magistrate's court. The plaintiff's claim was filed in the Court of Common Pleas, and the case marked for the trial list. Owing to congested dockets the case did not actually appear on a trial list until February 7, 1912.

Here entered a rule of procedure that would be incredible if it did not exist: A case marked for trial Monday or Tuesday must be tried Monday or Tuesday or else go off the list entirely. The wage-earner's case, assigned for February 7, 1912, automatically went off the list. It was remarked and assigned for April 3, 1912. It again went off and did not reappear until October 11, 1912. Fortunately it was reached and tried on that date and judgment entered for the plaintiff. It took one year and nine months and required eleven days in court for both attorney and client to collect the original \$10.

In the original law delay is even more serious, for where the defendant is too poor to furnish bail it is equivalent to a sentence of imprisonment for poverty.

With unification of court organization and simplification of procedure un-conscionable delay may be swept away.

Court Costs Reduction Urged

The second defect of the law is court costs and fees. Costs are neither fundamental nor immutably bound up with our legal institutions. They are neither established by our constitution nor the product of common law. They exist solely as creatures of statute.

The actual expenses in a trial court, exclusive of witness fees, may be reduced to the writ or summons, the service of process, entry fee, calendar

fee, trial fee, entry of judgment and issuance of execution. The bulletin gives an interesting list of charges in various cities, representing the minimum cost of an ordinary case. The costs run from fifty-two cents in the small claims court of Cleveland to \$15.51 in the Superior Court of Hartford. Following are the costs in the various municipal courts in the country: Boston, \$2.65; Chicago, \$3.50; Cincinnati, \$2; Dayton, \$2; Minneapolis, \$3.50; New York, \$2, and Philadelphia, \$11.

Costs, declares the writer, present no inherent difficulty. A reduction can easily be effected if there is a will to do it.

A third defect of the law is the expense of counsel. The expense of counsel, says Attorney Smith, is a fundamental difficulty because the attorney is an integral part of the administration of justice. Part of the need is undoubtedly artificial. There is no need that a court summons should read (as it does in the Municipal Court of the city of Boston), "We command you to appear before our justices of the Municipal Court on Saturday the 21st day of December, A. D. 1918, at 9 o'clock in the forenoon. Fail not of appearance at your peril." So that it is necessary to employ counsel to explain that the plain English words do not mean what they say, but in law mean that you are not required to appear before the court at all, but must file an answer with the clerk any time on Tuesday, December the 24th. A little modernizing, he says, will eliminate such purely parasitic service. But, he concludes, with all reformations of procedure and reorganization of courts, the true and essential functions of the

attorney will remain and the need for his services will be the same.

The second part of the book considers the remedial agencies which can be employed to make the position of the poor more equal. Small claims courts with their informal procedure, domestic relations courts using probation officers and industrial accident commissions administering workmen's compensation acts are excellent beginnings meriting wide extension.

For the multitude of cases beyond the jurisdiction of these agencies, the report argues that the only solution is to supply lawyers' services gratuitously to the poor, through the public defenders in criminal cases and the legal aid organizations in civil cases.

Part III discusses these agencies in detail, stressing the need for their rapid development.

Plans Radio Course

A course in wireless telegraphy will be opened next Monday by the Philadelphia Military Training Corps, of which Major A. J. Drexel Biddle is the commandant. Members and all young men who join the corps in the future may take the course. The school is to be located in the armory of the old Second City Troop at Thirty-second and Lancaster avenue.

Relief or Welfare Work in Europe

Professional man, illustrator, of forty, decides to devote six months or year to relief or welfare work in any part of Europe any of present active war zones preferred, or in other capacity where such characteristics as adaptability, willingness to endure hardships, etc., are required. Remuneration other than living expenses not desired.

A 127, LEDGER OFFICE.

AUTOMATIC PHONES IN YEAR

Keystone Company Head Says Instruments Will Be Adopted

Automatic telephones will be installed in the Philadelphia district within a year by the Keystone Telephone Company, according to an announcement made today by Edward M. Cooke, vice president and general manager of the company.

Mr. Cooke explained that the new device would work simply. "So far as the telephone subscriber of today is concerned," Mr. Cooke said, "this contrivance presents exactly the same physical instrument to them as the one they now have in daily use, except that a small rotating dial is attached to the upper service of the base of that device. The subscriber takes his receiver from the hook exactly as he does now, and then, instead of talking to a human operator at the central exchange, rotates the dial to certain numbered points and instantaneously the bell of the called party begins to ring, summoning that party to his telephone."

Blaze Routs Hotel Guests

Guests at the Hotel Normandie, Thirty-sixth and Chestnut streets, hastily fled their rooms at 8:20 last night when an alarm of fire was sounded and apparatus from Engine Company No. 5 clanged up to the hotel. The blaze was in the basement locker room and quickly extinguished.

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