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Book Review

Lee E. Skeel

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Book Reviews

Reviewed by Judge Lee E. Skeel*

EQUAL JUSTICE FOR THE ACCUSED, by a Special Committee of the Association of the Bar of the City of New York and The National Legal Aid and Defender Association. Published by Doubleday & Company; Garden City, N. Y.; 144 pp.; 1959.

Equal Justice for the Accused is a timely presentation of a very urgent and necessary reform desperately needed in the administration of criminal justice.

Crime is, in the main, the product of ignorance and poverty, and in part may be ascribed to some who are mentally ill. In attempting to defend the public against the devastating results of crime, frequently the rights of those accused are lost sight of. It may be that we, as a social order, when giving consideration to this problem, revert in our thinking to the historical beginning of the development of the Criminal Law when punishment of the wrongdoer was a private matter motivated by vengeance. Or what is more likely, because of complete lack of interest (not being directly involved), no thought is given to the problem at all.

No system of administering the law (it being dependent upon human institutions) can be without fault. This fact, together with our basic concept of justice—that the innocent must be defended and only the guilty punished after a clear showing of wrongdoing—requires the continued development of basic common law concepts of the means to ascertain the truth of disputed questions of fact in criminal cases without prejudice or passion. Basically this means an adversary proceeding as distinguished from one which is inquisitorial in character.

The defendant who is unable to employ counsel (his right to due process being largely dependent on being afforded competent legal representation after arrest) may be the victim of the inquisitorial process, although such procedure was not intended. Zeal in maintaining liberty under law is ever the serious concern of every lawyer at the bar.

The purpose of *Equal Justice for the Accused* is to make a

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strong public appeal for community support, looking towards the adoption of a proper system for making counsel available for indigent defendants. Three means by which this purpose may be accomplished are clearly and fairly analyzed and the experience of many communities in attempting to provide competent counsel is set out in a clear and understandable fashion. Past experience is fairly documented. The means set out are (1) "assignment of counsel by the court", (2) "voluntary defender" and (3) "public defender" systems. The conclusions as to usability and effectiveness of these systems are a most valuable contribution to legal literature.

Communities should understand the need for a competent defender system for indigent defendants in criminal cases. This is an important part of the procedure in criminal cases, without which justice may not be afforded to all alike.

* * *

*Reviewed by Jack F. Smith**

COURTROOM KNOW-HOW, by Joe H. Cerny. Published by W. H. Anderson Company; Cincinnati, Ohio; 312 pp.; 1958.

The author, Joe H. Cerny, has been an official court reporter in Oklahoma since 1921. As such, he was in an extremely advantageous position to observe the faults and virtues of trial lawyers.

When this reviewer first saw "Courtroom Know-How", he thought from the title that here was a book that should be well worth reading. In part, it was.

The table of contents promised an educational experience in reading: "Careless Word Habits", "Preparation for Trial", "Preparing Witnesses for Trial", "Pointers on Juries", "Cross Examination", and so forth. All the chapter headings seemed to promise something of value for the neophyte or experienced trial counsel.

A goodly number of constructive points are presented by the author in a more or less haphazard fashion, interspersed

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