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Book Review

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*Reviewed by Andrew J. Humphrey**

NOT GUILTY, by Jerome Frank and Barbara Frank. Published by Doubleday & Co. Inc., Garden City, N. Y., 1957.

The average man believes that his personal liberty is well secured by our legal system. The number of instances of an innocent man being convicted is very limited. Yet Judge Frank felt strongly enough about these cases to study and analyze them, and to present them for general public examination. He was helped in making his book more readable by the co-author, his daughter.

The subject of this book is a compilation of some thirty-five cases in which innocent men were imprisoned for crimes committed by other people. These cases took place over a thirty-eight year period and are probably fairly representative of such cases in which finally justice was done.

Taking first the general impression made by a swift reading of the book, we find that in many of the instances cited justice would have been done at once, had not some other agency interfered. In some of the cases it was deliberately malicious perjury, by the chief witness against the accused, that caused the miscarriage of justice. In others it was an unreasonable rush by the police, over eager to find a suspect for a particular crime, the suspect to serve as an "example" whether he was guilty or not. In still other cases, identification of the prisoner by witnesses was erroneous, though made in good faith. In nearly all cases, when the real criminal was discovered and had confessed, so that he was known to be the criminal beyond a reasonable doubt, there was surprising lethargy among the judges and government officials about ending the imprisonment of the innocent victim. This, to me, seems inconsistent with the principle that a suspected criminal must be found guilty beyond reasonable doubt. Once reasonable doubt is introduced the victim should be granted a new trial, with the utmost promptness.

Judge Frank was much troubled by abuse of police privilege through the use of the third degree, known in England as the "American Method." Use of physical compulsion in order to obtain a confession is, in effect, adjudication of a suspect as a criminal without a trial. Identification of suspects through the

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means of police lineup, in which the suspect is made to stand out from the other suspects, is condemned. Most of these improper actions by the police are attributed to the bad influence of a negligent prosecutor, in that he is not interested in obtaining only the true facts, nor in the methods by which they are obtained. Or an ambitious prosecutor may be willing to sacrifice high ideals of justice for personal advancement, and wants a record of successful convictions above all else.

Too many of the innocent victims have been convicted because of their own choice of a poor lawyer, or through the inadequacy of the lawyer secured for them by the court. It is notable that it is highly unlikely that a rich man is ever likely to be convicted of a crime he did not commit.

This book was written primarily in order to influence the public to demand legislative reforms of legal procedure. But any lawyer or judge who deals with criminal law would do well to read it, too. Then he may well ask his conscience if he is really living up to the ethics of the legal profession.

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*Reviewed by William Samore**

THE FEDERAL TORT CLAIMS ACT. William B. Wright. Published by Central Book Company, Inc., New York, N. Y., 246 pages, 1957.

The most surprising fact about the Federal Tort Claims Act is that it took Congress so long to enact it. This was not until 1946. Before the passage of the Act, relief for injuries caused by United States Government agencies was by private bills in Congress. The first bill granting this relief became effective in 1792. In the years just before 1946, Congress was deluged by thousands of private claim bills. This mounting volume, the cumbersomeness of Congressional machinery, the uncertain results, the delays, the absurdity of Congress deciding legal claims—all these combined finally to bring about the passage of the Act.

This book, like many others on specialized fields, is a treatise; that is, it is definitive in scope. But it is done in minia-

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