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Clarence J. Ruddy

F. T. Ready

Arnold Levandoski

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Book Reviews

FOR THE DEFENCE: THE LIFE OF SIR EDWARD MARSHALL HALL. By Edward Marjoribanks, M.P. New York: The MacMillan Company. 1929. pp. 471.

The publishers of this volume declare that it "is not only an unusually full picture of the life of a great lawyer; it is also a record of many famous criminal cases." They are right; Sir Edward Marshall Hall appeared for the defence on almost every *Cause celebre* tried in England from 1885 until 1927. To every case he devoted all of his time and all of his genius, and to every client his unswerving loyalty. Not only did Marshall Hall endeavor zealously to secure an acquittal, but he always believed passionately in his client's innocence. Hence, "when his wife once teasingly asked him how many murderers he had got off in his life, he answered hotly, "Not a single one." (p. 100). His sincerity was evident at every step during the course of a trial. When a spectator once snickered during the examination of a witness in a capital case, Hall quickly turned and publicly rebuked him, reminding him that "a man's life is at stake." This intense sincerity, evident to all who observed his conduct in a trial, helped a great deal with juries; who could resist returning a verdict in favor of a defendant whose lawyer was so patently sure of his innocence? At times, with eyes gleaming and voice confident, he would *dare* the jury to convict his client; he would *demand* an acquittal. The prosecution's strongest kind of case would wither before the passionate logic of Hall's reasoning, and the jury, helpless in the grasp of a master advocate, would accede to his demands.

Not always, of course. There were times when even Marshall Hall's clients would hear the death sentence passed and feel the ground slip away. . . . And though such defeats were not of great aid to his unfortunate clients, they do rather console his admirers. A lawyer who never loses a case would not, I imagine, be very popular with his legal brethren.

They would believe him to be abnormal in the first place, and a liar in the second place. To have portrayed Sir Edward as an advocate who won every case he tried would have discouraged all those lawyers who (mistakenly or not) believe themselves possessed of talent in the trial of lawsuits, but who unfortunately lose a case occasionally; and they would not so readily either purchase or recommend the book. As it is, however, Hall is seen to be a real lawyer, a man who worked hard on every case in which he was retained, who was often rewarded by success, but who was not invincible.

“For the Defence,” however, serves a more useful purpose than to eulogize an English advocate or to entertain American lawyers. In a vastly more interesting way than commencement orators, it proves the truth of the platitude, “Success depends on small things.” Here is an example. A young unmarried mother was charged with the murder of her infant. One of the strongest points against her was a statement made a few days before the baby died, in which she said to a nurse: “How can anyone get rid of a baby?” Taken as they stand, those words certainly seem to show a contemplation of murder. Marshall Hall proved, however, that the actual words used by the girl were “How *can* anyone get rid of a little baby like this,” with the accent on the *can*. The change of emphasis, coupled with the fact that at the time the words were uttered the defendant was fondling and feeding the child, changed the whole aspect of the case, and the defendant was found “not guilty.” (p. 115 et seq.) Had not Hall studied that pivotal sentence with all its possible inflections and asked the Crown’s witnesses about the exact emphasis, the verdict might well have been less happy for his client.

At another time a Mr. Seddon and his wife were accused of having murdered a roomer by a dose of arsenic. Marshall Hall defended on the ground that the deceased had been in the habit of taking small doses of arsenic over a long period of time to palliate a disease. An authority on poisons testified that he had found a considerable quantity of arsenic in the body of the deceased, and on cross-examination admitted that some was found even at the “distal” end

of the hair (the hair away from the roots). Now, it was proved that arsenic does not seep through the entire human system to the distal hair until long after it has been consumed; hence, the finding of the poison in the hair was consistent with the theory of the defence, but not with that of the crown. Had Hall stopped his cross-examination with the admission by the doctor, all might have been well. As it was, he wanted to drive his point home, so he repeated his question. The doctor, given time to think by the repeated questioning, finally realized that the presence of arsenic in the distal hair might have become contaminated by the blood-stained fluid which had been dispersed all over the coffin, and thus have absorbed the poison. An experiment made by the expert later, while the trial was still in progress, confirmed his conclusion and Frederick Henry Seddon was sent to the gallows. (p. 277 et seq.) The thought that the verdict might have been different had not his advocate been so eager to establish a point probably was not of great comfort to him.

All of the cases narrated demonstrate the need for a course in trial tactics. As yet, none is given; possibly it cannot be. It would be helpful, though to take a course which would aid a lawyer to decide which of two equally legal paths to take in a sharply contested case. Should this witness be called, or no? Should a dangerous point be glided over—with the possibility that the jury will see through the attempt of evasion, or should a bitter fight be made to destroy its effect,—with the added danger of emphasis to the whole matter if the fight be unsuccessful?

At any rate, "For the Defence" is valuable for whatever purpose it is bought—whether for instruction, or to add to one's stock of legal lore, or merely to while the hours away.

—CLARENCE J. RUDDY.

ECONOMIC DEMOCRACY, AMERICA'S ANSWER TO SOCIALISM AND COMMUNISM;
by Robert S. Brookings. The Macmillan Company, Publishers, New York City, 1929.

While a review of this small volume is perhaps a bit out of place in a law review, since it treats rather with eco-

nomics than with law, yet since law and economics are necessarily closely related and interdependent, a brief review of this late and interesting book may not be too inappropriate here.

Economic Democracy is but a compilation of lectures delivered in various parts of the United States over a period of several years, each of the lectures treating some phase of the development of economic democracy in the United States. The author is a man eminently well qualified to make observations (a great many of them unorthodox from the point of view of the old school of economic writers) on economic questions. Mr. Brookings entered the business world at the early age of seventeen and soon rose to an executive position with a large corporation at Saint Louis, Missouri. He retired from active business at the age of forty-six to become president of the Washington University Corporation, Saint Louis, and since then has devoted virtually all of his time to educational and research work. He has, among other activities, been connected with the government, having been chairman of the Price Fixing Committee during the World War.

The author points out that since the year 1900 there has been developed in America an economic democracy, more important in many respects than our vaunted political democracy, through the working out of the "sound economic relation of capital, labor, management, and the public to each other, and the just or fair distribution of production among these interests." The most important eventuation of this relationship, the author points out, is that labor now receives a "saving wage," which Mr. Brookings characterizes as "America's answer to socialism and communism."

Mr. Brookings attributes America's great material wealth and the relatively high standard of living prevailing among our working classes to our much-condemned large corporations. He points out that, while increasing efficiency in production necessarily cuts down the demand for labor, yet this but makes for a higher scale of wages per hour and fewer hours of labor per day, insuring that leisure necessary for intellectual, moral, and spiritual growth. He points out,

too, that the corporation renders a valuable service in distributing the national wealth through offering investments in its securities. In this connection, the author also makes the point that many large corporations encourage their laborers by assisting them to invest their savings in the corporation—tending toward a real economic democracy. In defense of the large corporation Mr. Brookings argues another proposition (with which a great many thinking people will differ), namely, that the great American corporation does more to develop than to stifle individual opportunity.

All in all, as the commentator on Mr. Brookings' *Economic Democracy*, I can say no more than that, to those who are interested in our continued economic welfare, the volume is well worth reading.

—F. T. READY.

BLACK ON BANKRUPTCY; Annotated; Second Edition; by Henry Campbell Black, West Publishing Company, St. Paul, Minnesota. 1930.

This new member of the familiar Hornbook Series, which follows the first and original edition of this author's work on the subject, is indeed a thoroughly "up to date" text, and therein lies its chief value. This very recent newcomer is everything that its title, "Handbook of the Law and Practice in Bankruptcy," implies. The very name of its author, would in most instances convey a highly favorable impression with regard to the value of the material between the covers, but nevertheless the outstanding features of this work will be here outlined.

Above all it appears that this handy volume is of equal value to the student as to the practitioner, in that the work presents a useful compendium of the principles of the law and practice in Bankruptcy, now fairly well settled, arranged according to the admirable plan of the popular Hornbook Series. As in the original edition minute discussions of minor and unusual problems, long lists of cases supporting settled and undisputed rules, and the application of general principles to an infinite variety of facts, are all omitted to the great advantage of the user, in that it eliminates the necessity of wading through a complicated and detailed mass of language, which is unquestionably always

confusing, as well as resulting in a great loss of time and accuracy. Yet this advantageous elimination has not been made at the expense of any omission of a single important principle, which ordinarily is the quest of the non-specialist in this field. The author expressly negatives any pretense of doing the impossible, namely to be exhaustive in the citation of authorities, which obviously is foolhardy in a volume the size of this handbook. For purposes of economy of space the Act itself is not to be found in the body of the book. This, however, does not result in any serious disadvantage as the General Orders, which are really part of the substantive law itself, the Official Forms, as well as the Act itself are set out in the Appendix for handy reference. A most noteworthy feature in this regard is that all the repealed sections are stricken out, and are replaced by an incorporation of the corresponding amendments. The fact that the recent statutes are in themselves most important and far-reaching makes this feature outstanding to the present day practitioner as well as student. That the author is thoroughly "up to date" in this work is shown by the incorporation of the latest developments in this branch of the law, including orders and forms promulgated as recently as January, 1930.

At the very outset a time-saving cross reference table is inserted indicating where the various section of the Bankruptcy Act may be found in the United States Code Annotated. The value of this table is immediately apparent.

The arrangement is adaptable to the customary use of "short cuts" in finding the law in that the Table of Contents contains a list of the chapters, with the name of the subject treated thereunder, followed by its subdivisions, all properly numbered with reference to the inclusive pages in which the matter may be found. Thus one might first turn to the table of contents and after selecting the proper subject (chapter) covering the question at hand, a check of the subdivisions will bring one "close to home." On turning to the body of the work, it is not necessary to search through all the pages covering the particular subdivision, as a mere reading of the succinct statement of the principle (set out in bold type) treated in that subdivision, will indicate whether or not the

material sought will be found in the several pages covering the subdivision in question. The extended commentary, the text proper, elucidating the principles, which follows the bold type of each subdivision, contains the references to cases and notes, which furnish the guide—the ultimate purpose of the book. However, it is not necessary to read through all the text in the subdivision as each paragraph is preceded by a statement of the point involved, which is set out in italics. After proceeding with the steps heretofore mentioned only a check of the italicized lines is necessary in order to arrive at the particular paragraph needed. This method of search is made possible in this volume in addition to the more or less “hit and miss” method via the index customary in the use of text-books. The presence of the index, in addition to rendering the make-up complete, serves to satisfy the fancy of the individual, in leaving it to his option as to which starting point will be used in tracing a given point. The index is very complete, and there is nothing about it that merits an omission to note its presence.

On the whole this convenient volume is practically indispensable to anyone interested, or engaged in the practice in this field of the law. It is brief and clear in statement, complete in scope, and reliable in present day practice for reasons aforementioned.

—ARNOLD LEVANDOSKI.