

Book Reviews

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Maryland Civil Practice Before People's Courts And Justices. By Allan W. Rhyhart and Paul R. Schlitz. Charlottesville, Virginia. The Michie Company, 1961. Pp. 685. \$20.60.

This needed treatise on the small claims courts of Maryland is three dimensional. It sets forth the procedure followed, it deals with the facets of the substantive law most often involved, and it gives the history of the development of these tribunals, so vital in our administration of justice.

The study covers the organization and work of all Maryland courts created to hear and try suits at law involving small sums of money; the jurisdictional amounts, set by statutes, vary from \$100 to \$1,000. The tribunals range from Justices of the Peace and part-time Trial Magistrates, to the full-time Judges of Montgomery and Prince George's counties and of the People's Court of Baltimore City. It is in these tribunals, however constituted, that most people obtain their idea of how civil justice operates. An average of 100,000 private cases, excluding City tax suits, are filed annually in the Baltimore court alone.

In a large proportion of these cases, neither party is represented by an attorney. The procedure worked out in the Baltimore People's Court, while preserving the parties' vital rights, is simple and clear. The statement of claim which must be filed with the suit apprises the adverse party of the substance of the claim he must meet. While set-off is no defense in a tort action, practically, the defendant can reach the same result by filing a counter-suit; the two cases are then tried at the same time. Service by registered mail is used in a large proportion of the cases, with substantial savings of time to litigants and expense to the taxpayers.

One of the most valuable aspects of the book is the inclusion of various forms used in the Baltimore court. The forms of summons, statement of claim, notice by the Court when a defendant is *non est*, continuances, attachments and motions for judgments are stripped of the archaic verbiage of the common law; they are simple and informative to laymen as well as to lawyers. Like good writing in other fields, the apparent effortlessness is the result of cogitation, revision and experience. The book contains a pocket for

annual supplements which will keep the forms, as well as other matters dealt with, up to date.

The chapters on substantive law deal primarily with the legal remedies available after judgment has been obtained, and interests in land. The statutes and cases on exemptions, executions, attachments and *scire facias* are succinctly stated and grouped; they are perhaps more relatively important in the day to day work of a small claims tribunal than in *nisi prius* courts of larger jurisdiction, where the determination of liability generally bulks larger than the collection of the judgment obtained. Equally important in the small claims court is the law of landlord and tenant, ejection, forcible entry and detainer and other phases of determining and enforcing rights and obligations in real estate. It was these subjects with which the common law courts of medieval England were in large part concerned. In our urbanized day, it is the statutory court of limited jurisdiction which hears most of these cases. The real estate litigation in these courts, in general, is with respect to the rights of speedy recovery rather than the construction of documents or the analysis of legal doctrines. Yet it is the development of these doctrines by the courts and legislative bodies which bridges social and economic change. By that bridge, the small claims courts are buttressed as firmly in the common law as were their more august predecessors centuries ago. The chapters of the Rhynhart-Schlitz treatise dealing with rights in real estate constitute a useful hornbook of the applicable Maryland statutes and decisions.

The history of the Maryland small claims courts, and particularly of the People's Court of Baltimore City, shows how the development of courts themselves can be a bridge to make the great concepts of legal fairness and justice as effective in present conditions as they were in the predominantly rural times in which they were developed. The Baltimore People's Court is so firmly embedded in our judicial structure, so well conducted by able and conscientious full-time Judges, that the antecedents of that court and the struggle for its establishment are often forgotten. Rhynhart and Schlitz have narrated that segment of Baltimore's judicial history. They trace the early attempt to transplant the English system of justices of the peace to Maryland and its failure to meet rapidly changing conditions; the partial reform of 1912, in which the fee system was abolished but in which the appointment of part-time judges and all the constables still remained part

of the political machinery; and the investigations and reports which led to the adoption of the 1940 Constitutional Amendment creating the court as it now exists. That history emphasizes the role which a vigorous Bar Association, supported by a determined Governor, the press and independent civic organizations, can play in the elimination of politics from the judiciary in a tribunal which Chief Judge Bond called "a court of the warp and woof of the population."

It is generally recognized that the reconstructed court has fulfilled the highest expectations which led to its creation. Not only has any suggestion of politics been eliminated; its operation is a model of judicial efficiency and economy. The average citizen has come to know that, no matter how small in terms of money the litigation in which he is interested may be, he will receive speedy and impartial justice.

As in the County Courts in the large English cities, the Judges of the Baltimore People's Court are constantly confronted with complicated legal problems, any of which may come before the civil courts of the Supreme Bench of Baltimore. Appeals are relatively few. There is now under way a study of a proposal to increase the court's jurisdiction. One effect of such an increase, if it is found advisable, would be partially to relieve the congestion in the higher courts.

As the late Governor Herbert R. O'Connor prophesied in the ceremonies inaugurating the new People's Court in 1941, the same determined efforts which led to its establishment have now been successful in establishing a full-time Municipal Court in Baltimore, for the trial of minor criminal cases. In one respect, in the establishment of the Municipal Court, the People's Court amendment was not followed. There was no provision under which appointed Judges of the new court would run for election and reelection without opposition and with the voters deciding whether or not the Judges were to be continued in office. Indeed, in 1960, that provision as to the People's Court itself was eliminated as to future Judges by constitutional amendment. It seems clear that this procedure as to the People's Court Judges played a major part in securing Judges of the requisite caliber and in keeping that court completely free of politics during the vital initial years of its existence. Its elimination places the burden of accomplishing the same result upon the Bar Association and the electorate.

The authors of this book are uniquely qualified for the task they have so ably performed. Paul R. Schlitz is the Chief Attorney of the Legal Aid Bureau of Baltimore, which this year celebrated its fiftieth anniversary. Appropriately, that Bureau is housed in the People's Court Building where it supplies invaluable assistance to many of the litigants who need, but are unable to afford, legal counsel. Allan W. Rhyhart has been Chief Judge of the People's Court since its creation. With the aid of his colleagues, he is responsible for the remarkable success it has achieved. The book, of which he is co-author, shows how the court works. It cannot show how he, more than any other man, by his dedicated leadership, has made it work.

REUBEN OPPENHEIMER*

Mr. Tutt At His Best. By Arthur Train. Collected, with Introduction by Judge Howard R. Medina. New York. Charles Scribner's Sons, 1961. Pp. xiii and 357. \$4.50.

Included in this volume are 16 of the well-known Arthur Train stories of that redoubtable practitioner of the New York criminal courts — Mr. Tutt. The stories were collected from the books and *Saturday Evening Post* articles written between 1920 and 1941; most of them have been unavailable for years. Much has been written of Arthur Train and of the ethics and practice of Mr. Tutt. Judge Medina, in his introduction, p. XII, summarizes the feelings of those at the bar who have known and loved Tutt: "I think the reason [that Tutt has remained popular for so many years] is that he touches our hearts so closely and because he represents the ideal of what lawyers and those who are not lawyers think lawyers ought to do. Above all he has a sense of humor, and with it a tenderness and kindness that go well with his profound knowledge of the law and his wily ways and stratagems."

To many members of the bar, Tutt served as an inspiration. To those who have but recently begun to practice there are few finer ways to view the profession than through the eyes of Mr. Train.

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The Mentally Disabled And The Law. Edited by Frank T. Lindman and Donald M. McIntyre, Jr. Chicago. University of Chicago Press. Pp. XIII, 443, with index, plus index of cases. \$7.50.

This first comprehensive volume covering the law pertaining to the rights of the mentally disabled is the outcome of a project approved early in 1956 by the Board of Directors of the American Bar Foundation, the purpose of which was to analyze, classify, and describe the pertinent statutes and court decisions affecting the rights of the mentally disabled in the light shed by examination of treatises and other written literature in the field. Predicated upon the work of a project staff of twenty or more persons, with advice and suggestions from The American Bar Association Special Committee on the Rights of the Mentally Ill, the book is by its own denomination a Report in eleven chapters covering the following topics: historical trends; involuntary hospitalization; voluntary admission; release and separation from mental institutions; the rights of hospitalized patients; eugenic sterilization; domestic relations; incompetency, guardianship, and restoration; personal and property rights; sexual psychopathy and the law; and criminal insanity or irresponsibility. As a basis for the text of the report, there are included a large number of charts or tables comparing relevant statutes of the forty-eight states which existed when the project began, of the District of Columbia and also the *Draft Act Governing Hospitalization of the Mentally Ill* (Public Health Service Bulletin No. 51, 1952). A summary of the hospitalization provisions of Hawaii and Alaska (which became states after work on the tables of the other states had been substantially completed), and also of the Commonwealth of Puerto Rico is set forth as Appendix D. The Draft Act (above referred to, and out-of-print currently), Title I of H.R. 6376 of the First Session of the Eighty-fourth Congress (intended to modernize the mental health legislation of the then Territory of Alaska and representing a revision of the Draft Act, thus serving as a useful guide to states in modernizing their legislation), and the legislative history of said Title I are set forth respectively as Appendices A, B and C. These appendices and the tables constitute invaluable tools for research in this field, where many of the statutory provisions are otherwise difficult to find. The bibliographies and tables of cases which appear at the end of each chapter greatly enhance the value of the work as a tool for research.

With statistics indicating that at current rates of hospitalization one out of every twelve persons will probably spend a portion of his life in a mental institution, the present volume will be a valuable addition to all public libraries, law libraries, and the shelves of doctors, lawyers, and other citizens desirous of getting a quick insight into the current state of the law (the cut-off date for the tables was October, 1959). The instant reviewer found the treatment of Maryland's Defective Delinquent statute (at p. 299, as part of the general discussion of sexual psychopath laws) somewhat less thorough than this most modern of statutes dealing with mentally and emotionally deficient criminals would seem to deserve (and there may be similar short text treatment of other significant modern developments). However, it should be noted that the introduction to the Report warns that "the Report does not discuss the problem legislators, judges, and practicing attorneys face in keeping abreast of the rapid advances made in the field of psychiatry and, more important, of appropriately incorporating these advances into the mental disability laws" (p. 3), and indicates that a field study is being made to supplement the Report by dealing with the day by day application of the laws (currently as to hospitalization and discharge procedures) which should supply additional and valuable information for future development of the law. The Report is a much needed, carefully prepared, and very readable survey of a largely uncharted field.

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