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Review of “The Mind of the Juror,” By Albert S. Osborn

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selves; and the author allows them to do so by spreading them over two pages of his book.¹⁸ The crude conceptualism and ignoring of facts on the part of the Committee in attempting to segregate "policy determination" from "adjudication" and in its assertion of "irresponsibility" on the part of this Commission and of others, will carry no conviction to Professor Sharfman's readers. To the author it is clear, as it should be to those who follow his exposition, that the "quasi-judicial methods" employed in the performance of the Commission's regulatory functions¹⁹ do not imply that the Commission is there merely judging disputes in the light of previously formulated policy. The policy grows as conditions arise which need to be dealt with. Hence it is "grounded in the realities"²⁰ and the decisions are "equitable in substance,"²¹ at the same time that regulatory policy is stable in comparison with political control. As contrasted with these characteristics of the present set-up, reorganization based upon dogma has little to offer.

As the author brings out, the Commission is confronted at present with an enormously increased load because of the addition of the function of regulating transportation by motor vehicles. It is falling rapidly behind in its docket in that branch of its work. Not only will new administrative expedients have to be devised, but it is of the highest importance that adequate appropriations for accounting and staff services be made. At previous periods in its history the Commission has been seriously hampered by stringency in this respect.²² The present situation is not promising.²³ Thus, ironically, the Commission, devotedly and efficiently rendering an essential service to the nation, finds itself condemned in a report to the Chief Executive and inadequately supplied with funds by the people's representatives at a time when the need for governmental planning and control is being stressed as never before. It has, on the other hand, consistently commanded the confidence and respect of Congress and the courts and of the community at large. Therein must lie the reward of its members, as well as some assurance that the demos will not fail to profit from this unique achievement in the art of government. Its counterparts, as everyone knows, are now numerous in the land.

RALPH F. FUCHS.†

THE MIND OF THE JUROR. By Albert S. Osborn. Albany, New York: The Boyd Printing Company, 1938. Pp. xv, 239.

This book, by the well known author of *Questioned Documents* and *The Problem of Proof*, will be appreciated by all interested in the administration of justice.

As suggested in the preface, the main interest of many pleaders "appears

18. Pp. 263-265.

19. P. 269.

20. P. 365.

21. P. 375.

22. P. 288 ff.

23. P. 299.

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to be in the fact of evidence rather than in the effect of evidence." Perhaps this, in a measure, accounts for the fact that many experienced lawyers regard the verdict of a jury as unpredictable.

It seems reasonable that an intelligent study of the mind of the juror as judge of the facts will point the way to more sense and certainty in verdicts. The advocate himself is incapable of an unbiased approach. The individual juror's service is generally infrequent. The impressions of an experienced witness are invaluable, and these are here recorded with unusual clarity and wisdom.

Within the compass of about two hundred pages, under thirty-three distinct headings, the author has trenchantly stated the experiences and observations of many years spent as a witness in jury trials involving questioned documents that have taken him all over the United States and into most of the provinces of Canada. He has had unusual opportunity to see lawyers as others see them. His unflinching analyses, pitched upon the high plane of the public interest, may well command the attention of judges and practitioners as well as law school teachers and students.

FRANK E. ATWOOD.†

THE LAW OF NATIONS. By Marcellus Donald A. R. von Redlich. Phoenix, Arizona: World League for Permanent Peace, 1937. Pp. XXIII, 640.

The above mentioned book was very severely criticized by Mr. Stefan A. Riesenfeld, in a review appearing in the February, 1938, issue of the WASHINGTON UNIVERSITY LAW QUARTERLY.¹ It is the purpose of this answer to show that Mr. Riesenfeld's accusations were unjust and that his statements were absolutely erroneous.

The reviewer failed to comprehend the statement appearing in the preface, to the effect that "The book sets forth an exposition of legal principles as accepted by the Courts, and, in the main, is based on cases adjudicated in the Courts. Writers on the Law of Nations, who are well known internationally and acknowledged as authorities are cited freely. It has been observed that some writers on the Law of Nations frequently give not what is, but what they believe *ought to be*, the Law of Nations. The author here definitely restricts himself to descriptions of what the Law of Nations *actually is*. Speculation has been consistently avoided and he limits himself to as few personal observations and opinions as possible."²

It is a grave error on the part of Mr. Riesenfeld to say that the book "contains many things which have not the slightest, or very little, connection with the subject." He claims that Admiralty Jurisdiction, the status of the District of Columbia, etc., do not belong within a book of this character. If Mr. Riesenfeld will consult John Bassett Moore's Digest of International Law he will find Admiralty Jurisdiction treated,³ the status of the

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1. Pp. 289-291.
2. P. VII.
3. Vol. II, p. 79.