Justice Brandeis, dissenting in *Whitney v. California*, 274 U. S. 357, 378 (1927). And in a case arising under a statute imposing criminal sanctions upon the members of some secret organizations which did not furnish specified information, the Supreme Court has taken judicial notice of the Ku Klux Klan's activities to sustain the application of the statute to Klan members. *N. Y.* ex rel *Bryant v. Zimmerman*, 278 U. S. 63 (1928). Although the present statutes may be construed to forbid some innocuous conduct, it has been believed that they will operate primarily to ban conduct with a high potentiality of immediate catastrophe. See N. Y. Times, May 29, 1939, p. 1, col. 6; *Hearings before Special Committee on Un-American Activities*, 75th Cong., 1st Sess. (1939) 3 *et seq.* In these circumstances, it may be that a state has the power to forbid all such conduct. *Gitlow v. New York*, *supra semble*; cf. *Herndon v. Lowry*, 301 U. S. 242, 257 (1937), 50 HARV. L. REV. 1313. Assuming such power, it seems possible to distinguish a recent Supreme Court case which held that a "red flag" statute was bad for indefiniteness because it prohibited not only conduct which it could, but also conduct which it could not constitutionally forbid. *Stromberg v. California*, *supra.* It may be that the comparative utility of uniforms in the arena of free discussion and peaceful agitation is so slight that a court should not be astute to find their wearing guaranteed by the constitution.

BOOK REVIEWS

LAWYERS AND THE PROMOTION OF JUSTICE. By Esther Lucile Brown.[1] New York: Russell Sage Foundation. 1938. Pp. 302. $1.00.

This is the fifth of a series of monographs sponsored by the Russell Sage Foundation dealing with certain established or emerging professions in the United States. Earlier publications in the series have concerned social work, engineering, nursing, and medical care. The "philosophy and method of procedure" of these studies have been to view the professions "primarily in relation to their effectiveness in meeting public needs," and thereafter with respect to their success in satisfying professional and group interests. The author is thus well-experienced in analyzing occupations and has a judicious and fair-minded approach to her subject. The result is, as indeed its sponsorship promised, an objective and readable account of our profession seen through the eyes of an unusually well-informed layman. In general, the information here contained should not be news to a lawyer who has made any attempt to keep abreast of developments in the law. It is, however, an excellent summary for the lay reader. And while the author is restrained — certainly too much so to make her book exciting reading — in forming and presenting her own judgments, nevertheless the showing here made of what the lawyers are doing, and perhaps even more of what they are not doing, deserves serious thought, and perhaps some disturbing reflections, on the part of both those within and those without the profession.

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Of the book itself, somewhat more than one-third is devoted to the subject of legal education and admission to the bar. There is a sympathetic account of the movement for stricter standards of bar admission and of more adequate preliminary education before admission to the state examinations. If this seems too well-trodden ground, that overconfident conclusion should be shaken by recalling the swift passage in the closing hours of the last Senate of Senate Bill 1610, which would make illegal any requirement of law school or college training for government service. This bill was supported as breaking the "monopoly" which certain law schools were thought to have with respect to legal positions in the Federal Government. Like all movements to debase standards, such a statute, if ultimately enacted, will not harm the thoroughly established educational institutions. It will, however, by both its express restrictions and the minatory nature of its declared policy, sadly hamper public personnel executives in the already one-sided contest between government and industry for high-grade legal service. Even this book, moderate as it is, has been condemned by a dean of a non-association school for too ready acceptance of the educational program of the American Bar Association and the Association of American Law Schools.[2] The story here retold apparently cannot be repeated too often.

Sections of the book which deal with the history of the legal profession in this country and which list various reforms in the administration of justice are less satisfying. The historical material is slight; the account of law reform is not adequate. Here again the summary nature of the material presented suggests its greatest usefulness for the lay reader; and perhaps such a one would be a more adequate reviewer for it than persons who have tried to struggle with some of the problems here discussed. But the record of the lawyer in law reform, short though it is, is longer than here indicated and is happily growing longer. Thus no note is made of improvement in matters of practical detail in court operation affecting criminal and civil procedure. These are fields where the lawyer should be useful because of his expert knowledge, but where in the past the dead weight of his opposition has been strongly felt. Now, however, activity and interest in them is shown by all the organized associations of the profession; and the recent accomplishments, particularly in the field of civil procedure, and in the federal courts where they can best be an object lesson to the country at large, have been so far-reaching as to constitute one of the major features of the law today.

Personally, too, I should have liked greater warmth in the treatment of the movement for the public defender, rather than the cold listing of arguments pro and con (perhaps because actual experience seems to me to demonstrate how unreal are the arguments con). So too the American Law Institute has provoked serious and considered differences of view among informed scholars which are hardly reflected in the dignified precision of these pages. The attempt to deal with the growth, present status, and possible reform of administrative commissions in a few pages, largely of quotation from conflicting sources, was to essay the impossible.

I might go on in this strain, but I have the feeling that to do so would be unfair, that such defects can be easily overstressed. They arise from the necessity the author was under of seeking secondary sources, and the published material is scattered, fragmentary, and often partial, if not prejudiced.

[2] E. T. L., Book Review (1938) 4 JOHN MARSHALL L. Q. 285.

Moreover, the sections here on delay and uncertainty in the courts, the prohibitive expense of litigation, the failure to punish wrongdoing by disbarment, the lack of interest of the rank and file of the bar in the promotion of justice and of acceptance of their social responsibilities, summary as they are, probably convey at least as good a picture to the general reader as would a more detailed and technical statement.

The final section of the book, dealing with the economic condition of the bar and with the two related movements of justice for the poor and more adequate legal service for persons of moderate means, is in some ways the most stimulating portion of the book, as these subjects are now the most absorbing in fact. Here is a showing that lawyers are becoming alive to their own needs and in some measure at least to those of the society in which they live. Justice for the poor, still not completely achieved, nevertheless represents a program with accomplishments in which the lawyer can take justifiable pride. Legal service for the forgotten man is our next objective and this book shows the active interest in this cause now being engendered in the profession. It is true the account is summary. One must go to such a momentous publication as *The Economics of the Legal Profession*, edited by Dean Garrison and his associates of the A.B.A.'s Committee on the Economic Condition of the Bar, for a more vital and stimulating call to action. And some subjects where the bar's view has been decidedly one-sided, such as the "unauthorized practice of the law," are here handled gingerly enough indeed. But there is a picture of movement and development here which is of importance to the growth of the profession. As yet at least no such split in the profession has developed as in the medical profession with reference to "socialized medicine," perhaps because the lawyers have been less closely organized, perhaps because we have progressed less far than have the doctors. One may hope that such a division may be avoided and that practical projects now being organized in Chicago, in Philadelphia, and elsewhere may show the way to successful accomplishment. The prominent place given in this book to what is yet an embryonic development is deserved and helpful because of its future potentialities.

All in all, this is a helpful manual, of most value to the general reader, but not to be overlooked by the lawyer. It is not a definitive statement of the lawyer's place in the administration of justice. But then many of us would hate to see that made at the present time; for we hope to make a better showing shortly.

CHARLES E. CLARK.*

SWORDS AND SYMBOLS: THE TECHNIQUE OF SOVEREIGNTY. By James Marshall.[1] New York: Oxford University Press. 1939. Pp. 168. $2.00.

This book has been (dis)praised as "a new Machiavelli for our troubled times." And this it is — with a double difference. It is this because it makes the constant of sovereignty to be prowess. While sovereignty does not mean supreme power, it must connote power superior to any other in the premises;

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