

## REVIEWS

SURVEY OF METROPOLITAN COURTS DETROIT AREA. By Maxine Boord Virtue. Ann Arbor: University of Michigan Law School, 1950. Pp. xxx, 315. \$5.00.

THIS interesting study of metropolitan courts was prepared for the University of Michigan Law School and the Section of Judicial Administration of the American Bar Association. The joint sponsorship is useful as insuring an approach at once scholarly, but also practically concerned with possibilities of improved law administration. Mrs. Virtue, the author, is a Yale-trained lawyer and student who spent two years in field study, analysis, and preparation of her manuscript. The result is a careful report of social data affecting an important area of local government.

As might be expected, what we see is a picture of overlapping activities which—to quote from the Foreword of Presiding Judge Jayne of the Wayne County Circuit Court—makes one wonder “that democracy works as well as it does.” The normal legislative propensity to create another court when business increases, rather than improve the efficiency of the courts at hand, is proverbial. So in the Detroit Metropolitan District we find a total of 145 courts. Naturally the most numerous are those on the lowest level, namely, the township justices, who number 104. The sober depiction of the facts here points unmistakably to the advantage of a businesslike structure for the courts with a directive head for the proper allocation of judicial activity. Judge Jayne suggests that court administration in a metropolitan district is a problem distinct from the administration of the courts in a state as a whole, and not to be solved by inclusion in any plan for statewide court integration. There is undoubted basis for concern lest differing problems be lumped together for a universal solution. Yet the idea of the integrated court for the Detroit area itself seems the clear solution if ever these infinite diversities are to be canalized for both business and judicial efficiency.<sup>1</sup> Whether such a court should also be integrated into the over-all state system is not so important as the primary step; it may well depend on local or even temporary administrative convenience.

The book has a wealth of useful information as to personnel, its capacity and training; as to caseload in the various types of court business, criminal, civil, probate, juvenile; as to the use of juries, of pre-trial conferences, and the like devices of trial; as to the relationship between the courts and other law enforcement and welfare agencies. In a brief review it is only possible to name these generally and to indicate their uses not only to legal reformers, but to social students generally. We have not yet begun to realize the wealth

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1. See Clark & Clark, *Court Integration in Connecticut: A Case Study of Steps in Judicial Reform*, 59 YALE L.J. 1395 (1950); Clark & Clark, *A Proposal for Court Reform in Connecticut*, 24 CONN. B.J. 385 (1950).

of social material available from such studies as these. They are all too infrequent. Indeed the outstanding accomplishments of the amazingly complete federal system of judicial statistics are all too little appreciated and made use of by scholars.<sup>2</sup>

A usual reaction is that such studies tell us only what we already know. The thought seems untrue, as well as irrelevant. In fact, this type of information does tend to arouse connotative recollections in our breasts, so that we are led to exclaim, "Why that is just what I always thought." Such stirring of remembrance permits us to overlook, however, (1) the number of things we did not know, (2) the number of things we knew which were not so, and (3) the hazy, vaporous, and therefore inconsequential state of our knowledge upon what we thought we knew. And the idea is largely irrelevant, because no social reforms can be predicated on inexact guesswork. It is hard to the verge of impossibility to secure improvement on the basis of concrete, sorely-distilled facts; when we come to mere guesswork that is coin less valuable in our democratic process than frank resort to emotion, politics, or our other standard substitutes for facts. But to the reformer or student, there is no substitute for information such as we find here, as indeed the congressional committees are demonstrating in the use they now make of the federal data currently provided by the Administrative Office.<sup>3</sup>

It must be conceded, nevertheless, that the gathering of such material is an expensive, time-consuming process requiring also skill and judgment. In essence it must always be so. But I could wish that a successful study such as this could lead more immediately and easily to other such studies so urgently needed than has been customary in the past. I think we have failed to capitalize as we should upon the experience already had, limited as that unfortunately has been. In my judgment these projects tend to suffer from two combined defects: overcollection of unimportant details and diffidence in stating conclusions. These defects stem from desirable qualities found in the true scholar, largely resulting from his modesty lest he venture beyond his own evidence. But such modesty can be carried so far that the one who knows most says least about his subject and meanwhile diligently collects much data which he does not want, but which he fears another scholar may

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2. Shafroth, *Federal Judicial Statistics*, 13 *LAW & CONTEMP. PROB.* 200 (1948); *Report of Committee on Judicial Statistics*, 7 *FED. B.J.* 292 (1946); 1949 *REPORT OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS* 71-113; 1950 *id.* 67-74, 87-125. The effective New Jersey statistics follow the same model. WOELPER, *ANNUAL REPORT OF THE ADMINISTRATIVE DIRECTOR OF THE COURTS OF THE STATE OF NEW JERSEY 1948-1949*, 1-15; *id.* 1949-1950, 1-27; Vanderbilt, *Our New Judicial Establishment: The Record of the First Year*, 4 *RUTGERS L. REV.* 353 (1950); Vanderbilt, *The Record of the New Jersey Courts in the Second Year under the New Constitution*, 5 *RUTGERS L. REV.* 335 (1951).

3. The yearly reports to the Judicial Conference of the United States of its Committee on Judicial Statistics set forth various examples of increasingly extensive use of federal judicial statistics by congressional committees in connection with the creation of new judgeships or other housekeeping for the federal court system.

find instructive. To give him the support and confidence he needs, while at the same time to narrow the task within manageable limits, to save much time in preliminary planning as well as in the form and substance of the ultimate report would seem a task in fashioning principles of methodology of real challenge to a person of the rich experience which Mrs. Virtue now has. It would be well if some appropriate organization could now sponsor a study in the making of studies in court organization. The proper delimitation of the subject matter, the elimination of various nonessentials, the making of bold hypotheses leading eventually to definite conclusions—all these and more could be made subject to defined precepts so as to relieve the task of much of its drudgery, waste, and expense. For the material is so necessary if we are to get anywhere in efforts to improve the administration of justice.

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ESTATE AND GIFT TAXATION: CASES AND MATERIALS. By Boris I. Bittker. New York: Prentice-Hall, Inc., 1951. Pp. xviii, 494. \$7.00.

THE publication of Boris Bittker's cases and materials on estate and gift taxation reflects the recent trend toward a separate course to cover this particular branch of Federal taxation.<sup>1</sup> This development is an understandable one. Statutory and case law as well as supporting legislative, administrative and text materials in the field of federal taxation is now so extensive as to make inadequate the traditional survey course covering both income and estate and gift taxes.

As Professor Bittker makes evident in his preface, the estate and gift taxes are, in many respects, the answer to a teacher's dream. Within a relatively narrow and workable framework a student can look at a wide variety of interesting problems which are an intellectual challenge. The constant interplay of legislative, administrative, and judicial functions stands out clearly.

The history of graduated death taxes provides evidence of frequently conflicting social and political forces that have been reflected over a period of more than thirty years in the three main divisions of Government. Estate and gift tax receipts are of minor importance in relation to total federal revenues. But, since these taxes have their principal impact on the relatively very wealthy, they have seemed to some to symbolize much of the disagreement of our times on social and political policy. Of course, the imposition of progressive death taxes may represent a taxing philosophy which simply

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1. The book deals almost exclusively with the Federal law, although a short part is devoted to the problem of State jurisdiction to impose death taxes, and a useful publisher's supplement containing the current Federal law and regulations also has the death tax law of any one state chosen by the instructor.