

## BOOK REVIEW

**LAW: THE SCIENCE OF INEFFICIENCY.** By WILLIAM SEAGLE. The Mac-Millan Company, New York, 1952. Pp. x, 167. Index. \$7.00.

That the law is wretchedly in need of reform is perspicuously evinced in this book. The book itself, however, is not even a whimper for reform as much as it is a queer, subtle warrant for the *status quo*, seemingly asking: "How about it?"

It is easy to pick out the book for its fineness in the use of the epigrammatic genre. It is conspicuously packed with ponderable *bon mots* that are equally amusing. As epigrams quite naturally lend themselves to hyperbole—gross hyperbole not so uncommon in this book—the reader nonetheless, all-too-understandably, cannot deny that *certain effect* which such pithy statements produce in him. Take these few from Mr. Seagle for instance:

"The law has remained, immemorably, a method of subordinating rather than reconciling conflicting interests to each other."

"The courts are always asking what a reasonable man would have done under particular circumstances; but the only definition of a reasonable man which they have ever supplied is that a reasonable man is a man who is reasonable."

On the "case" or "controversy" requirement: "Every democracy boasts that its courts are always open, but they are open only to those who have already involved themselves in such difficulties that the courts will be helpless to extricate them."

"There are so many precedents that any litigant may choose some to suit his case."

"Litigants have often demanded their 'day in court,' but all too often it has proven to be a fearfully trying day. The problem of getting into court is sometimes simple compared with the problem of getting out of it."

"The powers of the police in the detection of crime are enmeshed in so many technicalities that it would take a policeman who was smarter than a Supreme Court justice to know when he crossed the bounds of legality."

Of course, the author's language should not be taken as too sweeping or unduly exaggerated, as the author himself graciously begs for "due regard to the latitude of the satirist."

In the same temper, Mr. Seagle waxes witty about "philological upheavals" in judicial and statutory diction, "procedural chicanery," "astute lawyers," "excrescences of judicial procedure," "the law's delays," "judicial sabotage," "the ordeal of procedure," "judicial love of formulas," the "formidable gantlet of legislative procedure," "self-judicialization" of administrative agencies—only to proceed to the paradoxical conclusion that whether we like it or not, law must, by its very nature, be a "science" of inefficiency. The inefficiency of the law is both its virtue and its curse, he seems to say.

Even as it is admirably pithy, the book is sadly replete with what might be called "book obiter." The author obviously could not sublimate his urge to advance suggestions, though perhaps parenthetically only, upon such treatise-requiring subjects as double jeopardy and the system of appeals, court procedure,

constitutional limitations on police methods, treatment of criminals, politics and the separation of powers, administrative agencies. But, then, as might be expected, these "obiter"—in so far as they are not suggestions or hints of law reform—very well corroborate his point.

It seems quite clearly that the thesis of Mr. Seagle is—in a nutshell—that the ultimate ideal of law is inefficiency, such inefficiency as perpetuates its *raison d'être* rather than defeats it. Working under the realistic theory that some sort of inefficiency is inevitable, he does not pass upon the question whether efficiency is at all desirable but rather goes on to show that this all-too-useful legal inefficiency has been very well worked out under American constitutional law. The book could have very easily been a mere caricature of American law and government were it not for the author's intimation, so carefully kept unexpressed all throughout the book, that, after all, it is precisely this inefficiency that makes the United States of America click.

Even as Mr. Seagle\* may not be a jurist, he surely has very matter-of-fact ideas of the law as it is today.

All in all this much may readily be said of Mr. Seagle's book: it gives the reader, especially the student of law, a valuable insight into the paradoxical nature of this thing called "law." One would almost be astonished upon realizing what the author is really driving at—when it is made clear why, in spite of all the stomach-ache-producing red tape and the frightening expenses that law is heir to, the American people are so downrightly and so willingly stuck in it. The book boldly maintains that it is nothing to be surprised or to be sorry about that the law produces inefficiency because if it is not inherently so, it is intentionally so. The book would make a convenient supplementary reading in any Legal Philosophy course.

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\* Mr. Seagle was law editor of the *Encyclopedia of the Social Sciences* from 1928 to 1934. From 1937 to 1940, he was trial examiner for the embattled National Relations Board. Since 1941, he has been handling problems of Indian law as an Assistant Solicitor in the U.S. Department of Interior. He is the author of *The Quest for Law* (recently translated into German) and *Mens of Law: From Hammurabi To Holmes*, as well as several other books.

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