

BOOK REVIEWS

AMERICAN JURISPRUDENCE PROOF OF FACTS ANNOTATED, 10 volumes, 1959, publisher: The Lawyers Co-operative Publishing Company, Rochester 3, New York, distributed by The Lawyers Co-operative Publishing Company, Manila Branch.

"Proof of Facts," the latest contribution of the Lawyers Co-operative Publishing Company in the creative publishing field, introduces for the first time a unique trial guide for lawyers in proving a case. In the words of the editors—

"It consists of an extensive collection of 'proofs' in hundreds of articles. Each article contains one or more 'proofs' on some particular fact, or group of facts. Each 'proof' outlines, in question and answer form, how to prove the fact under discussion. Articles are arranged alphabetically according to the factual content, not their legal significance.

"The proofs are presented in the most graphic form—suggested questions which should be asked the witness at the trial to establish a specific fact."

In other words, while other books tell the lawyer what the law is or what legal forms to use in pleading and practice, this book shows him the ultimate facts to be proved in a case and how to prove them in actual trial.

Written in the finest tradition of *American Jurisprudence* legal publications, the set, now nearing completion, is yet the most comprehensive and exhaustively annotated law book on the subject hereabouts with a complete coverage. The topics discussed cover almost every situation that may possibly arise, on which "proofs" are offered, with appropriate reference and cross-reference to the Annotated Reports System and the *American Jurisprudence* Text, Pleading and Practice Forms. The presentation of the material is clear and generally follows a uniform pattern throughout, to wit: Each topic is prefaced with an introductory comment which traces its history, coupled with definitions and distinctions. Then follows a check-list under title heading of *Elements of Proof* "which shows precisely which evidentiary facts when taken singly or collectively, will prove the issue in question." Next is a series of questions purposely designed to elicit the right answers from a witness to establish the fact in dispute—together with the correct answers themselves. And finally, the elements of damages to be proved. In between these questions are textual notes explaining the purpose of the questions. These questions provide the lawyer with a wide range of choice in selecting which would best prove his theory from available facts on hand.

The first task of the lawyer is to get the facts. Once gathered, the problem of proof comes in. And here is where "Proof of Facts" does its job. It shows the way—the right way—how to prove, by competent evidence, the ultimate facts essential to a case or defense. Hence, its importance to the practitioner.

We can better appreciate the value of this work when we consider the following quotation from Lord MacMillan:

"We lawyers are constantly tempted by the seductive desire to concentrate on the law problem rather than the fact problem because it is a lawyer's business to know the law. Yet experience at the Bar proves that the lawyer's first duty is to ascertain the facts. A lawsuit is more often than not a quarrel over what the law is but over what the facts are or what they prove. Legal brilliance or high reputation at the Bar will seldom compensate for an accurate and full knowledge of the facts of a case."

ALFONSO MARTINEZ, JR.*

* A.B. (Far Eastern University); Book Reviews Editor. Student Editorial Board, PHILIPPINE LAW JOURNAL. 1960-61.

THE PROFESSOR AND THE COMMISSIONS by Bernard Schwartz; Alfred A. Knopf, New York 1959; pp. 275.

"The Professor and the Commissions", as its title suggests is a book written by a young, brilliant, professor of law, especially renowned in the field of administrative law, on the operations and conduct of the "Big Six" Commissions of the Federal Government. In other words, this book contains the actual experience and most especially the problems he has encountered in these bodies during his entire incumbency as counsel of the Special Subcommittee created by Congress to study and investigate these Commissions.

The "Big Six" Commissions existing in the United States have counterparts in our country. The workings of these bodies have certain similarities with that of the actual operation of the administrative agencies we have. These commissions are all created by Congress to carry out more effectively the functions of government which can not possibly be lodged solely on the three departments. The sole and main purpose for their creation by the legislature is to serve public interest. Public interest, according to Prof. Schwartz, does not mean the interest of the "regulated" or of the delegating powers, or of those of strong political groups or persons, but the interest of all people in the country.

These commissions are given different and independent tasks to perform. They are likewise given very broad discretion in the performance of their functions which discretion they seem to exercise in most cases under several circumstances in total disregard of the purpose for which they have been created. As the author actually observes, which observation may well be considered and may hold true in our country, the decisions rendered by these bodies are more often than not subject to outside influence. Their conduct, functions, and decisions, may forever be subject to the irresistible pressures of other government departments, political groups or persons. This easy exercise of outside pressures may be attributed to the fact that no complete independence has been established between these bodies and these outside groups. It is this incomplete independence that gives rise to the present-day legal problem of improprieties and irregularities being continuously and increasingly committed in these bodies.

Thus the author gives some suggestions to remedy the present problems of irregularities or "corruption", committed in the Commissions of Federal Government. These suggestions may also be considered in solving the similar problems we have in our government agencies. He suggests among other things the removal of the President's complete control over the Commissions' finances and tenure. He believes that if these men constituting the Commissions be given the security of tenure as that given the members of the judiciary and financial independence, all the present irregularities and improprieties may be lessened if not rendered non-existent.

On this matter the author states: "The present delay can be eliminated by full judicialization of commissions' decision-making powers. Only a court, manned by judges endowed with what the Supreme Court once termed 'that independence of action without respect to persons, can hope to withstand the political and other pressures to which administrative agencies inevitably succumb.'"

REMEDIOS T. ANTONIO *

* Member, Student Editorial Board, PHILIPPINE LAW JOURNAL. 1960-61.