

Speaking of the results of democratic government, the author says of judges that "When their independence is lost, their efficiency is lost. Judges dominated by fear of the populace have proved as inefficient and as despicable as judges dominated by fear of the king."

The book closes with the prediction that the same spirit which brought the law through its struggles with the crown will save it from subversive influences found in a democratic form of government and will eventually establish institutions under which men will live and develop with a maximum of freedom, a society in which the law and its administration will be the result of pure reason and not a means of imposing power.

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ANNOTATIONS ON SMALL LOAN LAWS. By F. B. Hubachek. Chicago: Russell Sage Foundation. 1938. Pp. lxxv, 255.

This volume is not only very well written and comprehensive but also quite timely. The plight of the necessitous borrower has in recent times increasingly engaged public attention. The individual with a pitifully small income and little or no collateral is often faced with the necessity of obtaining money to meet an emergency in the provision of food, clothing, or medical care. Knowing nothing of the usury laws and being willing to sign anything and to agree to anything, to obtain this money, he falls an easy prey to the loan shark. The broad economic and social aspects of his problem have been studied by many groups but by none more thoroughly than the Russell Sage Foundation. This book is the latest of the Small Loan Series published by the Foundation. The author, who has previously written ably upon a related subject,¹ is qualified by experience and study to write this book.

This work is based largely upon the Sixth Draft of the Uniform Small Loan Law as revised January 1, 1935. The Uniform Small Loan Law does not exist as a statute but merely as a model form of an act, the precise provisions of which have not been adopted in their entirety in any state. This volume is offered not as a text book but as a reference work, intended not only for lawyers but as well for laymen familiar with the field. The text is divided into three main parts, *viz.* "General Annotations," "Sectional Annotations," and "Evasion of Statutory Interest Limitations, in General."

The first of these divisions discusses the purpose and interpretation of small loan laws and who may question their constitutionality. A complete list of cases dealing with the constitutionality of small loan laws follows, classified by states and by specific constitutional provisions invoked.

Part two is concerned with Sectional Annotations. Each section of the Sixth Draft, from the title through the last section, is treated as a com-

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1. *The Constitutionality of Small Loan Legislation* (1931), also published by the Russell Sage Foundation.

plete unit. First, the provisions of the section are stated, accompanied by a list of all related provisions in the other sections of the Draft and a recital of comparable provisions in earlier drafts. Next, under the subhead "Comment," appears a discussion of the historical development of the section and of the general deviations from the uniform law found in the several states. Then come cases on the constitutionality and finally cases dealing with the interpretation of the various provisions of the section.

Part Three takes up the very practical and interesting subject, "Evasion of Statutory Interest Limitations, in General." As the author states, "This discussion is not intended to be a treatise on usury laws. Its purpose is to expose certain devices for the evasion of such laws." In this he has been very thorough. The subject is prefaced by general considerations of interest, its nature and computation. Attention is given to some of the means employed to confuse its computation, such as the charging of fines for delinquency in the payment of installments, the requirement of commercial banks that borrowers of substantial sums maintain supporting balances as a condition precedent to the granting of loans, the deduction of interest at the maximum rate in advance, coupled often with provision for repayment in periodic installments. The elements of the proof of evasion are not ignored. The most interesting portion of this subject deals with the devices for evasion—the sheep's clothing worn by the wolves of usury. The subject is so thoroughly covered that it is hoped the reader will heed the author's admonition to use the book for reference, not as a text. These devices logically divide into three groups: those used to conceal the fact that the transaction is a loan, those used to disguise the fact that the benefits received by the lender are compensation for the use of money, and those which constitute downright fraud, such as shortchanging, false computation, and other chicanery.

In the first classification we find purchases of salary at a discount, transactions in the form of purchases of property by the lender from the borrower with the right in the borrower subsequently to regain title at an increased price, and transactions in the form of sales of property to the borrower at a high price to be paid in the future. Another device mentioned is use of a straw party, without whose endorsement or guaranty the loan will not be made, and who exacts a charge for lending his credit—this charge, of course, going to the lender. One subterfuge is the use of "hazard agreements," which are covenants or conditions designed to make a loan immune from usury limitations. This is an attempt to take advantage of the principle that a loan must be repayable in all events in order that interest limitations may apply. These include provisions that the loan shall be unenforceable should the borrower become disabled or die, or the chattels given as security be destroyed.

In the second type of device the lender sometimes refuses to lend unless the borrower buys property from him considerably above its market value, or unless the borrower buys from him life insurance, or insurance on the chattel mortgaged; sometimes insists that part of the proceeds of the loan be taken in the form of merchandise coupons, usable on a very restricted

basis; sometimes uses an intermediary, *e. g.*, the dummy "loan broker," who, for the use of the lender, exacts a "commission" from the borrower.

The third and more direct type of subterfuge consists of exaction of a charge from the borrower, ostensibly for something other than the use of money but in fact conveying a benefit to the lender under such guises as "service charge," "fee," "bonus," "commission," "brokerage," or "loss reserve." Not meriting even the questionable honor of classification under the caption of "devices" are those practices which constitute sheer, stark dishonesty, such as dating notes prior to delivery of the money to the borrower, use of notes expressing a larger principal amount than that lent, and levying "fines" for delinquency.

Following this interesting discussion is a consideration of the relevant provisions of the Uniform Small Loan Law, showing how this law attempts to meet and prevent these evasions. The work concludes with very helpful appendices—the First Draft of the Uniform Small Loan Law (1916), the Fourth Draft (1923), the Sixth Draft (1935), Citations of Small Loan Laws (as of December 31, 1937) containing a condensed legislative history of the enactments in each state which has a regulatory small loan law in effect, Chronological Classification of Small Loan Laws and Their Relation to the Uniform Small Loan Law (as of December 31, 1937), and a Classified Bibliography.

It is difficult to conceive any manner in which the subject-matter of this book could have been treated more completely or presented in a more usable or understandable manner.

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PREDICTING CRIMINALITY. By Ferris F. Laune. Chicago: R. R. Donnelley & Sons, 1938. Pp. 163.

Searching for *the* causes of crime and formulating *the* proper basis for the prediction of success on parole have been the principal plagues of criminologists for the past decade. This book is another interesting expedition in that quest for the "open sesame." The author assumes the social necessity of parole. He introduces his discussion with this terse and thoroughly acceptable statement:

The fact remains that nearly all prisoners will, at some time, leave their prisons, either on parole or by discharge, and since the former method is preferable, from a social point of view, for the sake of the supervision thus obtained, the chief question facing a parole board is not *whether* to parole, but *when* to parole.

The author correctly assumes that those who are responsible for the selections of parolees are interested primarily in doing what is best for society—not to release anyone who is likely to resume anti-social behavior but to release as early as possible the inmate who has learned his lesson and who can no longer be considered dangerous to society.

Even where a parole prognosis is available to the agency selecting

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