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### Book Reviews

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## BOOK REVIEWS

**Here's to Crime.** By Courtney Ryley Cooper. Boston: Little, Brown and Co. 1937. Pp. xi, 454. \$2.75.

**Ten Thousand Public Enemies.** By Courtney Ryley Cooper. Boston: Little, Brown and Co. 1935. Pp. ix, 356. \$3.00.

"Here's to Crime!" says Courtney Ryley Cooper. And his toast lengthens into a book of 454 pages. Both his toast and his book take on added significance from the fact that they come after he has written *Ten Thousand Public Enemies*. It carries the conviction of the "sober second thought," even though it is in no sense a retraction but rather an elaboration of its former theme. They are in effect companion volumes; for if one puts the emphasis on criminals and uses crimes to illustrate the criminals, the other puts the emphasis on crimes and uses the criminals to illustrate the crimes. They bring a new type of material to the literature of the criminal law and its administration. To the statutes and decisions and legal texts, to the surveys of commissioners and treaties of criminologists, *Here's to Crime* and *Ten Thousand Public Enemies* through their factual portrayal of authentic criminal careers, throw a greatly needed flood of light on the workings of our society and its laws.

"Crime does not pay those who seek so hard to make it remunerative—the poor. Crime pays . . . the professional crimesters"; men who go "into it with the same determination with which another man has become an artist, an architect, a builder, a merchant"; men who look upon "the risks of the 'profession' . . . with the same viewpoint as prevails with the steel-moulder, the ironworker, the railroad engineer and all other legitimate endeavors where danger to life and limb and earning power form a necessary integral of the trade in which one is engaged"; men of foresight who establish their supporting contacts of lawyers, doctors, facelifters, hairdyers, brokers for stolen bonds, purveyors of kidnap money, dealers in gangster guns, hideout owners, political helpmeets, and other ever present helps in time of trouble. In professional crime as in other professional activities, the race is to the swift and the battle to the strong.

What is worse, Mr. Cooper illustrates his thesis with all the stinging freshness of demonstrated truth. Eighty-one times in and out of the hands of the police and courts on criminal charges is the record of one major criminal. Starting with petty larceny, continuing with assault and battery, disturbing the peace, reckless driving, shooting with

intent to kill, manslaughter, grand larceny, using mutilated license plates, malicious mischief, assault to rape, robbery, and winding up with robbery of a United States mail truck, he rolled up his list of municipal, state and federal infractions only to be released in practically every instance until he was sent to Atlanta Prison by federal officers. "The only modification necessary to make [this story] applicable to any one of the spectacular cases which have occupied public attention within the last few years," says Mr. Cooper, "is to change the name and the locale."

What is still worse, these books offend many of our pet theories of crime. "The public enemies of the last five years, with very few exceptions, came from the village, the small town, or the typically American city. With the exception of . . . a half dozen . . . they were of supposedly clear American stock. Many of them had been reared in an atmosphere supposedly the best of all—that of the little community, and even of the farm. . . . In [almost] every instance, their geographical beginnings were of that portion of America commonly looked upon as good, clean, and God-fearing."

It is related that a book salesman once persisted in asking President Lincoln to indorse a book, seeing and hoping the President would not see the relation of warranty to sale. The President is said finally to have compromised with his gadfly by writing in his own hand on the flyleaf: "This is a good book for those who like it." Mr. Cooper's books are good for those who will not like them. They offer something of an antidote to ignorance—particularly to the ignorance of the educated. They will disturb and perhaps alarm also those people who by accident or design find themselves in the fix where they "can wink and no offense be known, since in the other's guilt each finds his own." They will offend the complacency of many persons who have long subscribed to the notion that because "God's in his heaven, all's right with the world," for Mr. Cooper suggests, if he does not say, that many things may be wrong with the world for that very reason. And for these reasons among others this reviewer recommends the reading of these books.

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**Integrity: The Life of George W. Norris.** By Richard L. Neuberger and Stephen B. Kahn. New York: The Vanguard Press. 1937. Pp. x, 401. \$3.00.

This book is the case history of a really independent politician. It covers the career of Senator Norris and his development as an independent from the time in his early life when he turned on a party asso-

ciate in Nebraska and said that every sincere Republican should support the selections of the organization, and that the only place to protest a potential candidate was in the caucus of the party, until the election of 1936 when, without any party affiliation or label whatsoever, he ran as an independent against regular nominees of the Republican and Democratic parties and won. The book gets its title from the unswerving integrity with which he has, ever since attaining political maturity, pursued his ideal of independence. Senator Arthur Capper of Kansas is quoted as having described him "as a living, perambulating Declaration of Independence in human form." He sits in the Senate today as the only senator, and probably the only member of the entire Congress, utterly and completely independent of party affiliation.

The book gives an interesting account of his opposition to the entrance of the United States into the World War and his opposition to preparedness measures such as arming merchant ships, which he felt would inevitably force us into the war. By reason of the filibuster which he and eleven other senators engaged in to block a preparedness measure, he and they were characterized by Woodrow Wilson as "a little group of willful men" who were rendering the great government of the United States "helpless and contemptible." Senator Norris' actions upon this occasion, while they do not illustrate his independence of party because both parties were pretty well united behind Wilson, do, to a marked degree, illustrate the fidelity that he has consistently maintained to his ideals of the proper conduct of national affairs.

His political independence finally became so irritating to the higher-ups in the party that certain of them participated in the crude conspiracy to have an unknown groceryman by the name of George W. Norris file for the Republican senatorial nomination in 1930 in opposition to Senator Norris for the purpose of completely confusing and mystifying the voters. The conspiracy did not succeed on account of technical defects connected with the groceryman's papers, but it succeeded in completely severing what then remained of Senator Norris' allegiance to the Republican Party as a party.

Interesting accounts are given of the Senator's fight for the development by the U. S. Government of Muscle Shoals and other immense hydro-electric plants, and one rather comes to the conclusion that the Government is many years ahead of where it would otherwise have been in such developmental work but for his efforts and dogged determination.

He is entitled to the distinction of being one of three men in our history personally responsible for amending the Constitution. The other two were Jefferson and Lincoln. The amendment that he spon-

sored is, of course, the one that eliminates the lame-duck session of Congress and provides for the inauguration of the President in January.

Single-handed he persuaded Nebraska to amend its Constitution to provide for the one-chamber legislature, and his passion for political independence shows up in the following phraseology contained in that amendment: "Each member shall be nominated and elected in a non-partisan manner and without any indication on the ballot that he is affiliated with or endorsed by any political party or organization."

The book does not contain any account of how Senator Norris, while he was at least a nominal member of the Republican Party, handled the question of patronage. It would be interesting indeed to know how a man of absolute integrity deals with the army of office seekers that surrounds every man in Congress.

While Senator Norris has, in the main, been sound in his support of public measures, I cannot say the same thing for his ability as a picker of Supreme Court justices. He militantly opposed Justice Stone, and he led a bitter and unyielding fight against Justice Hughes. Most ironically of all, he worked to defeat Judge Parker. All of this was done in the name of liberalism!

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**Studies in Current Tax Problems.** Prepared under the auspices of the Committee on Taxation of the Twentieth Century Fund, Inc. New York: Twentieth Century Fund, Inc. 1937. Pp. xxiii. 303. \$3.50.

Earlier in the year there was published under the auspices of the Committee on Taxation of the Twentieth Century Fund, Inc., a cooperative study of the major tax problems confronting the people of the United States. It was entitled *Facing the Tax Problem* and was reviewed for the *North Carolina Law Review* by the present reviewer.<sup>1</sup> It was concerned with a description of the salient features of current tax system, an appraisal and criticism thereof, and recommendations pertaining thereto. It was necessarily set forth in rather summary form, and at many points embodied the results and conclusions of detailed studies whose complexity and length made them unsuitable for use in that volume if that were to serve what was undoubtedly its primary purpose. The present volume consists of some of the more important memoranda prepared in connection with the preparation of some of the more important of the special reports found in the earlier volume.

The character of the material in the present volume is in large part

<sup>1</sup> Rottschaefer, Book Review (1937) 15 N. C. L. REV. 446.

of such a nature that it is certain to appeal to a much narrower circle than did the former study. This is due to several reasons. There are many interested in current tax problems whose training is sufficient to understand an orderly, and even theoretical, presentation thereof in general terms or in respect of specific problems, but insufficient to follow fully the more detailed technique required to derive or support the general findings and conclusions presented in the earlier study. The present volume is wholly composed of studies applying techniques of more or less complexity. It is, therefore, primarily important for those sufficiently trained to understand those techniques. There are, however, certain values to be obtained from a study of the various memoranda by even those who are not themselves experts in the employment of those techniques. There underlie many of the important data and conclusions of the earlier volume certain assumptions and presuppositions. The only way in which these can be fully discovered is by examining in detail the methods by which the conclusions were derived. The present studies have one of their principal values in affording students of the earlier volume an opportunity to do just that.

The three most important studies reported in the present volume are those concerned with an estimate of the tax burden on different income classes, with a comparison of the aggregate burden of federal income tax and state income tax in certain selected states, and with estimating income and estate tax yields. The first of these is a study of what, under certain assumptions, is the relative tax burden borne by different income classes. The study is based on an analysis of the total tax burden borne by ten families resident in New York and ten resident in Illinois. The principal assumptions made relate to the amount and character of property owned by the different families, the amount and sources of their income, the character of the disposition made of their several incomes, and the extent to which taxes of the kind levied within the states are shifted either forward or backward. The several assumptions are varied so as to give five major hypotheses. The relevant tax data are then analyzed and the tax burden computed for each of the typical families on the basis of these hypotheses. These results are in their turn analyzed for the purpose of deriving therefrom such conclusions as they seem to warrant. Perhaps the most interesting of these conclusions are the following: That the combined federal and state tax systems are as a whole regressive for income groups that are not subject to income and death taxes, that the regressive elements are more numerous and important than the progressive elements at the lower end of the income scale, and that the tax system as a whole is progressive for the income groups that are subject to income and death taxes. These

conclusions bear out the underlying assumption of those who have advocated state income and death taxes that these are necessary not only to give the state tax system a reasonably progressive character but also to give that character to the combined operation of the federal and state tax systems within a state. The validity of the conclusions based on this study depends, of course, on the extent to which the assumptions that underlie it are true in fact. It is the apparent impossibility of completely establishing this relationship between the assumptions and the facts that has induced the author of this study to enter the *caveat* that "the estimates can be used only to a very limited extent as a basis for judging existing tax systems." It is, however, the reviewer's opinion that they possess greater value than that indicated by the author's modest claims.

The next study that deserves particular mention is that making a comparison of the aggregate burden of federal income tax and state income tax in eleven states levying such tax. The problem arises because state income tax acts differ among themselves in respect of many of the important factors determining the amount of a taxpayer's income tax liability. The aim of the present study was to indicate the effect of these differences on the aggregate income tax burden of those liable to federal and state income taxation in the selected states. The assumptions on which the computations were made are briefly indicated, and the results of the computations are set forth in appropriate tables at the end of the study. The study is one that should be read and analyzed by all who are interested in devising a state income tax system for states that do not already have an income tax, and by those who wish to appraise the existing income tax acts of the states now imposing such tax. The study concerned with estimating income and estate tax yields is quite technical. The bulk of it is devoted to a description of the rather complex processes involved in arriving at these estimates, and the development of a fairly generalized technique for the performance of those tasks. It is a study from which even the non-expert may derive some benefit, but it is primarily intended for, and of interest to, those possessing the requisite technical training and equipment.

The present volume is a valuable contribution to those interested in grasping the magnitude of the task involved in the study and analysis of tax problems and the technique of government in relation thereto. It serves, however, as a sample by which one can the better appraise the value of the former volume, *Facing the Tax Problem*. All of its studies reveal the vast extent to which assumptions enter into the studies and conclusions set forth in that earlier publication. The present volume should, therefore, help to correct any tendency to hasty con-