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A Kaleidoscope of Justice (Book Review)

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BOOK REVIEWS

A KALEIDOSCOPE OF JUSTICE. By John H. Wigmore. Washington, D. C.: Washington Law Book Co., 1941, pp. xxx, 751.

A year and a half ago John H. Wigmore, having spent parts of practically every one of his working years in the task of gathering, arranging and editing materials on comparative legal ideas, wrote the Preface of this by-product of that work. Your reviewer, taking seriously the great master's statement in that Preface that the book is offered mainly as a source of informational entertainment, has just finished reading it.

Informational entertainment it is indeed.

But the characteristically modest Prefatory statement was misleading. The real truth dawned too slowly upon your reviewer as a consequence. Otherwise his reading and this enthusiastic review would have been completed long ago.

It is simply not true that the inferences of general truths about legal genetics and social policy which can be drawn from this book are secondary in importance to the pleasure of the compiler in compiling and of the reader in reading it.

Dean Wigmore was wrong in his absence of intention to offer the book as a piece of scientific research, for it goes beyond his cautious statement that it has some slight secondary importance in the direction of indicating that there is in many lands undeniable evidence that many truths in law and about legal evolution are general. It does, indeed, constitute demonstration amounting to downright proof that the story of law is like the story of the oyster, of the tree, of mankind, of language: something happened for a start; when and to the extent that the something was a more efficient organism in its environment than the mutations which occurred in it, the organism tended to survive unchanged; otherwise the mutating something tended to survive instead. When both were too inefficient, both died; when both were efficient enough, both survived; when environment changed, survival ended if the change made the organism too inefficient for successful competition in that environment, whether the competition was with rival organisms or only with the environment itself; but if fortunate mutations made for efficiency in the changed environment, survival continued; and so on.

This is not merely a general truth. It is universal truth in social science whose philosopher is a pragmatist as well as a geneticist.

John H. Wigmore is not the first legal geneticist. He is probably not the hundredth or even the thousandth. Nor was the equally great, but more general worker, that earlier but nearly contemporary scholar, Sumner, institutional geneticist upon whom we have all drawn in our thinking about the genetics and evolution of the institution called law, the first or the thousandth. Of the two "evolutions", that which has to do with species of living things dawned later on the human consciousness. Thought about the evolution of behavior almost began with thought. So *Kaleidoscope of Justice* is not more than corroborative. But that, too, is science.

When two organisms with a similar genesis and a similar environment survive, they resemble each other. Hence similarities in languages and legal

systems among the races. This too is not new. This too has been corroborated, most lately by Dean Wigmore. This too is science.

If only modesty and custom had not led him to say what he did in his Preface, if only his Epilogue had been a Prologue (as conclusion is topic sentence or statement of point in a brief, whose form is necessarily *not* syllogistic), the dawn of the truth about this book upon the reader of it would not be so long delayed. By all means read the Preface, *next* the Epilogue, and *then* the book.

Indeed, after reading the Epilogue and before reading the rest of the book, it might be a good idea to read "A Day in Court in Modern Mecca"¹ and "Turkish and English Procedure Compared",² the latter a story in praise of Turkey's justice told by an Englishman, Roger North, from facts related to him by his brother Dudley, a merchant.

* * * * *

In conclusion, your reviewer cannot help but express his pleasure at the evidence disclosed by Dean Wigmore that some things your reviewer has long been turning over in his mind have occupied others.

Mr. Eldon Rutter, the narrator of the first³ of the stories your reviewer has mentioned, who was an Englishman of wide Oriental experience, concludes his tale by saying that the Mekkans set great store by satisfying even the offender, so that Mekkans "do not seek Justice so much as that comfortable feeling which comes of putting one's affairs into the hands of somebody whom one likes".

How efficient in its function, here, is law. But how difficult the task!

Yet how delightful if our judges were all men "whom one likes"! How much easier would be "putting one's affairs" into their hands! How many fewer irate litigants! How many fewer, too, those with little confidence in courts! How much surer a people's survival!

On the other hand, there is the view of Roger North, expressed in his comment upon the other story,⁴ which was told him by his brother: "A wrong determination, expedite, is better than a right one, after ten years' vexation, charge, and delay . . . The reason why justice is so sacred is not because the cause of suit, or thing claimed, in itself is of any great regard [for that argument will bring all things to a levelling, as why should one man have too much, and another want?], but because it preserves peace and quietness among men, which is the greatest of all temporal good things".

If only men and nations of men were wise as Roger North!

DAVID S. EDGAR, JR.*

¹ § 44, pp. 232-237.

² § 69. *Circa* 1660, pp. 358-364.

³ "A Day in Court in Modern Mecca." § 44, pp. 232-237.

⁴ "Turkish and English Justice Compared, About 1660." § 69, p. 362.

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