

April 1935

Lynching and the Law

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Recommended Citation

James B. Blackburn, *Lynching and the Law*, 41 W. Va. L. Rev. (1935).

Available at: <https://researchrepository.wvu.edu/wvlr/vol41/iss3/20>

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BOOK REVIEWS

LYNCHING AND THE LAW. By James Harmon Chadbourn. Chapel Hill: University of North Carolina Press. 1933. Pp. 212.

The fact that there have been almost 4,000 lynchings in the United States in the past forty-five years with no convictions of the lynchers is proof of the need of Professor Chadbourn's study. It is fortunate for us and makes the work more valuable, in as much as it comes from the pen of the professor of a Southern law school, who uses as his basis statistics and materials, those collected by and under the auspices of a Southern commission; for it thus escapes any criticism based on the fact that the author's conclusions were in any way biased. The absence of morbid and gruesome facts, while detracting from the elements to make the work a best-seller, nevertheless are refreshing when we compare this work with other books on lynchings containing all the horrible details.

Basing his conclusions on available, authentic data and replies of responsible persons to a well prepared questionnaire, Professor Chadbourn refutes the usual defenses for lynchers—namely, that the victims are guilty of sex crimes and that justice is too slow; for the recorded facts show that, contrary to general opinion, the victims have in only one-fifth of the cases been charged with sex crimes, and victims have been lynched where trial was immediate; one case after conviction and several following acquittal.

After deriving a definition of lynching the author lists in order of the frequency of occurrence the following causes as the break-down of law enforcement:

- “1. Refusal of persons with first-hand knowledge to testify.
2. Trial jury verdict actuated by local prejudice in lieu of consideration of evidence.
3. Failure of the grand jury to make adequate investigation.
4. Failure of the prosecuting officer to investigate and furnish the grand jury with evidence.
5. Nolle prosequi by prosecuting officer.
6. Adverse trial court rulings on motions and evidence.
7. Reversal by appellate court on non-prejudicial error.”

Following this he details anti-lynching legislation and other methods for combating this evil. In discussing the problem Professor Chadbourn concludes:

“It would seem that no structural inadequacy of existing judicial agencies for the punishment of crime accounts for the

record. Our traditional forms of procedure probably need no fundamental change. The problem is to meet the elusive human factor in a system of good laws administered by fallible men. Surely this factor cannot be legislated out of existence. Nor can it be obscured by the idealistic description of the system as a government of laws and not of men. An anti-lynching sentiment will, when the millennium arrives, make the sequel to the present record a converse expression of the desires of men expressed in the administration of their laws."

Without waiting for the betterment of social relations he then goes on to show what improvement might be made in our present statutes to reduce the number of lynchings; he very carefully shows existing legislative attempts including Federal, and concludes with a Model act which briefly summarized suggests:

- a. Penalizing the county in which the lynching occurs for the benefit of the estate of the victim, and allowing the county to recover against the participants.
- b. Removal of police officer for cause and declaring him permanently ineligible for public office.
- c. Provisions for changing of venue and amending rules of evidence.

The reviewer's only adverse criticism would be that the appendix containing the existing legislation is rather lengthy if not unnecessary.

This volume shows a painstaking, understanding study of a most difficult social problem, suggests an intelligent attack of that problem, and will be valuable for reference and serve as a model for students who in the future when more data is available, desire to continue a study so ably begun in such a scholarly fashion.

—JAMES B. BLACKBURN.

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PROCEDURE AND FORMS COMMON LAW PLEADING. By Roger O'Donnell. Washington, D. C.: National Law Book Company. 1934. Pp. XLIX, 459.

This volume appears to have been prepared primarily for students as a compendium of a more elaborate work designed for use by practitioners. The first part deals with the forms of action, the principles of pleading and a bit of procedure, including within the compass of 283 pages the following 29 chapters: Historical