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THE NATURE OF JUDICIAL PROCESS*

EDUARDO J. COUTURE†

Once upon a time I was conversing with a scientist in the laboratory of an old university. After a while he lifted his eyes from the microscope and apologized for the delay in doing so with these words: "You will, I am sure, pardon me; when one is looking through a microscope one begins to really see things only after two or three hours." Guarding due proportions, something similar has happened to me. Only after more than twenty years of study and reflection on the subject of civil procedure do I now believe that I have begun to understand something.

The reader who happens to be acquainted with my books will notice some similarity of concepts, but also many differences, the consequence of maturity of ideas. This article resembles its predecessors like a bush to a tree. Here the ideas of the author are compressed, not developed.

It is not my purpose either to pontificate or to indulge in propaganda, but solely to narrate a history, the history of my long experience, practical and professorial, in the study of civil procedure at the Bar and in the University. The result of such experience is to penetrate beyond the external examination of procedure. We are all accustomed to deal with the forms, terms and conditions of procedures as if they were ends in themselves. This branch of the law is thus presented, in its outward appearance, as the solemn form, the ceremonial rite, of justice. But experience teaches us that beneath this outer shell there is a profound and poignant content to be revealed.

*Translated by Phanor J. Eder, of the New York Bar, President of the American Foreign Law Association. The present article is based on the stenographic notes of a short course of lectures given at the Faculty of Law of Paris in 1949. A French edition, *Introduction à l'étude de la procédure civile*, 1950, has been published by Sirey, and a Spanish edition, *Introducción al Estudio del Proceso Civil*, Buenos Aires, 1949.

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