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Book Review of The Biography of a Legal Dispute

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stability of the system is its chief virtue rather than its encouragement of citizen participation in the decision-making process. Obviously, other political systems are stable—the U.S.S.R. power structure seems in no danger even after fifty years of operation—but one would want to believe that the chief thrust of a democratic political system is its qualitatively different concern to provide those forms of representation which support a truly open communication and interaction between the people and their government. Political scientists need to concern themselves with the creation of adequate devices which would encourage and support the kinds of representative processes our modern culture calls for.

CHARLES S. BEDNAR*

THE BIOGRAPHY OF A LEGAL DISPUTE. BY MARC A. FRANKLIN.¹ Mineola, New York: Foundation Press, 1968. Pp. 196.

The issue of what the aims of a sound legal education ought to be has been answered by law teachers in many ways. At the risk of oversimplification, two basic schools of thought may be identified. One camp would emphasize "practical" training in the course of a student's law study, while the other would place heavier emphasis on what might be called "legal theory." It seems to this reviewer that law school is capable only of exposing students to selected areas of the law and of doing so in such a way as to bring on care in analysis, logic in thinking, and precision in expression. A familiarity with the details of the actual practice of law is important; but a sharpening of analytical techniques is more important—especially if one considers that not every graduate intends the actual "practice" of law. Formal legal education consumes only three years; we pass this way only once; the law school graduate has the rest of his life to learn the practice of law. In short, the law school does its job if it produces a graduate who, in addition to "knowing some law," has been imbued with such analytical techniques as to be able effectively and expeditiously to learn the practice of law.

Of course such offerings as Moot Court and Trial and Appellate Court Practice should always be included in the law school curriculum. This kind of exposure brings home to the student in fairly realistic terms the type of activity (if he decides to practice law) to which he will be devoting his life. His first appearance in court eventually as

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a lawyer will not, then, be his first. To this limited extent, "practical" training is warranted and beneficial. The balance struck is a healthy one, the major pre-occupation of the student being with theory and analysis. While the book under review has a predominantly "practical" orientation, its subject matter is on the order of the courses just mentioned and its inclusion in the law school curriculum would be equally warranted and beneficial.

Professor Franklin has selected the record of an actual case and has depicted its progress, step by step, literally from beginning to end. It is a libel action against a newspaper in Vermont. The book begins with the plaintiff's retaining counsel. Other matters are then described such as the selection of the proper court, the mechanics of service of process, the pleadings of the parties, efforts toward settlement, the pre-trial conference, and selection of a jury for trial. Since the trial itself was not long, the author included the entire proceeding verbatim: the examination of witnesses, the objections of counsel and the rulings of the trial judge thereon, and the court's charge to the jury. As it happened, the jury returned a verdict for the plaintiff and, after certain motions were disposed of, the defendant took an appeal to the Vermont supreme court. Defendant's appellate brief is included verbatim, and the substance of plaintiff's brief is stated. The appellate court affirmed and its opinion is set forth at length. The case—and the book—ends with the satisfaction of judgment.

This book is not simply the equivalent of the record of an actual case. But rather, interspersed throughout the entire book are comments on the part of Professor Franklin explaining and evaluating each of the steps involved and, at times, launching into an independent exposition of the subject matter. Also, in appropriate places, the author has included excerpts from relevant articles and books of other scholars.

This is a book that would fit neatly in a first-year course in Civil Procedure as an adjunct to the normal casebook. Perhaps it should be utilized near the end of such a course to place in more meaningful perspective the host of procedural rules already studied. Although a first-year student might not as yet have much familiarity with some areas of the law touched upon in this book (such as rules of evidence), an introduction to them at this time would itself be beneficial. Ideally, the book could be discussed at length in class. If time would not permit this, at least the students would profit from reading it and thinking it through on their own.

Quite apart from the book's pedagogic value in the law school curriculum proper, it would be extremely useful for undergraduate students in an "Introduction to Law" kind of course. The students in such a course may or may not decide eventually to enter law school. Hence, the primary purpose of such a course is—or ought to be—to "inform," *i.e.*, to provide non-law students with some understandable notions of the legal process generally. The book under review could easily qualify as the sole required text for such an introductory course.

Professor Franklin is a careful and effective writer. He has succeeded in achieving the virtually impossible result of gearing his book not only to the level of the sophisticated law student but also, at the same time, to the level of the undergraduate student who might not have had any formal legal training. While this reviewer would agree with the author's observation that the libel case selected for his book is a "part of everyday experience and can be grasped readily,"² perhaps a personal injury case arising out of an ordinary automobile accident might have provided the reader—especially one with little or no legal training—with a vehicle with which he could more easily and effectively identify.

As this reviewer interprets the following suggestion by the author in the preface, the book is intended to satisfy a need even beyond a pedagogic one and to reach as an audience the non-student citizenry generally: "All too often the law is veiled in mystery. This book is intended to enable the citizen to become more aware of the workings of the American judicial system, and particularly the role of our courts in resolving civil disputes."³

This is not a large book—being just under two hundred pages—but it is large in value.

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2. FRANKLIN, *THE BIOGRAPHY OF A LEGAL DISPUTE*, iii (1968).

3. *Id.*

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