

Books Noted (v. 9, no. 1)

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BOOKS NOTED

Justice in the Back Room. By Selwyn Raab. Cleveland and New York: The World Publishing Company, 1967. \$6.95.

On August 28, 1963, two young girls living in an apartment on New York City's "safe" and fashionable East Side were found murdered. Selwyn Raab, a former newspaper reporter and currently a news editor for N.B.C. news, examines in detail the attempts to solve this murder, and in so doing, focuses on the issue of forced confessions. Although most of the book is devoted to the facts of the murder itself, Raab also explains why the police feel they have to resort to questionable tactics in solving crimes and thus have to withdraw to the "back room" to find the answers. Raab warns that until a sound system of verifying confessions is established, there will be no way of forestalling the kind of inconclusive and questionable confessions which resulted in this murder case. His suggestion as to a solution, which he feels will protect the police as well as the suspect, is the introduction into the "back room" of an impartial observer. This so-called "Thirteenth Juror" would hold the conclusive evidence of whether or not the police acted properly or if the defendant intelligently waived his constitutional protections, as required by the Miranda Rule. For anyone interested in the explosive issue of forced confessions and the implementation of the Miranda Rule this book makes excellent reading.

The Bill of Rights—Its Impact on the American People. By Marjorie G. Fribourg. Philadelphia: Macrae Smith Co., 1967, 254 pp., \$4.95.

While the first ten amendments to the United States Constitution are highly revered as the express safeguards of basic American freedoms, public reaction to, and comprehension of, Supreme Court decisions thereunder have not infrequently been characterized by misunderstanding and superficiality. In this book Mrs. Fribourg attempts to elucidate in non-legal language a number of the important decisions and disputes that have arisen under the Bill of Rights, from such emotion-tinged issues as prayer in public schools and civil rights to the crucial counterbalancing of interests in the cases involving libel of public officials. To the legal facts of each controversy she adds the color of human interest material, providing insight into the plights of those who seek determina-

tion of their rights, and of those who, as justices and lawmakers, have had to deal with their requests. Following each of the book's six constitutional categories is a helpful reference bibliography. Informative and interesting for lawyer as well as layman, this work is a comprehensive compilation in an area which is increasingly dominative in both state and federal jurisdictions.

Justice William Johnson: The First Dissenter. By Donald G. Morgan. Columbia, South Carolina: University of South Carolina Press 1954, 298 pp., \$6.50.

Professor Donald G. Morgan has created a thoroughly researched work about one member of the neglected group of Supreme Court judges that sat with Chief Justice John Marshall on what is known as the Marshall Court. Most of the judges that sat with Marshall were Federalists and were content to follow his lead. Thomas Jefferson desired to create a balance on the Supreme Court; and when his first opportunity came, he appointed thirty-two year old William Johnson of South Carolina. This well documented book explores Associate Justice Johnson's career and his influence on the Court. Johnson was a dissenter, but not a chronic one. He was extremely independent, because he would not forsake his principles even for his home state or his president. Professor Morgan has done much to complete our concept of the climate of the Marshall Court, while noting the importance of the little known but well respected William Johnson.

Understanding Our Constitution. By Jethro K. Lieberman. New York: Walker and Company, 1967, 282 pp., \$5.95.

Understanding Our Constitution is a logically structured, clause-by-clause analysis of the United States Constitution. In non-technical, yet persuasive language, Mr. Lieberman considers the philosophical and political background of this most important document. The history, meaning, and import of each clause are presented, and often the author employs case law to emphasize a principle. An alphabetized and numbered table of 175 leading constitutional law cases complements the text, and appropriate footnote references to these cases appear throughout. This book is a concise presentation of the fundamental aspects of the Constitution.

Arrest, Search and Seizure. By Howard Boyle and Raymond Dahl. Milwaukee, Wisconsin: Hammersmith-Kortmeyer Co., 1961 (Current Supplement), 182 pp.

This book is directed at police officers. Its purpose is to give the officer a working knowledge of the law so that he may better fulfill his duties. It discusses, among other things, how to arrest (with or without a warrant), when force may be used and when entry into a building is authorized. The average law enforcement officer with little, if any, formal instruction in law will find this book very valuable. It tells him what the state of the law is on a particular subject, and then gives him practical examples of its application. It should remove many of the doubts in his mind as to the extent of his authority and enable him to perform his job more efficiently. The authors of this book, Raymond Dahl, an inspector on the Milwaukee police force, and Howard Boyle, an attorney, have successfully combined their practical and legal knowledge of the field to produce a workable handbook.

Property Law Indicted! or The People vs. Blackstone, Kent, Gray, and Stare Decisis. By W. Barton Leach. The University of Kansas Press, 1967, 94 pp., \$2.25.

Whether lawyer or layman, nearly everyone who has an interest in real property will sooner or later discover that some of the laws relating to property have outlived their usefulness. This survey of the pitfalls of property law and their possible remedies is enlivened by many piquant examples. Readers not deterred by "the Pontius Pilate syndrome" from contemplating the desirability of change will learn here of the "Fertile Octogenarian" and other legal oddities. In attacking archaic and unwise property doctrines, Professor Leach makes important points with characteristic flair and wit, including footnotes that should delight connoisseurs of Leachiana. (Those who are familiar with Professor Leach's writing realize that he has raised the humble footnote to an art form in legal literature.)

The Defendant's Rights Under English Law. By David Fellman. Madison, Wisconsin: The University of Wisconsin Press, 137 pp., \$4.00.

English law has won international respect for its effective and humane approach to the classic dilemma of balancing the claims of the individual against those of the state. This new book by the distinguished political

scientist David Fellman provides a succinct and stimulating examination of the rights enjoyed under English law by an individual accused of a crime. Mr. Fellman has brought together in this short account material that has until now been widely scattered through legal literature. His judgments are reasoned and solidly documented, and his book presents a concise evaluation of a very significant topic.

That's My Opinion. Michael A. Musmanno, edited by Wilmore Brown. Charlottesville, Virginia: The Michie Company, 492 pp.

Justice Musmanno, of the Supreme Court of Pennsylvania, has earned for himself a broad reputation. This reputation is founded not only on the very fact of his seat on the high bench, but also upon his outspoken comments while there. This book is a collection of excerpts from Musmanno's opinions—majority and dissenting—as a Supreme Court Justice. The excerpts vary from one sentence to twelve pages, and their quality is as diverse. The introduction by the editor prepares the reader for “gems of humor, pathos, irresistible logic and eloquent declarations in behalf of pristine justice and in support of injured humanity . . . ,” but the reader will probably discover that many of the “gems” turn out to be uncut industrial diamonds. Justice Musmanno loves the use of simile and metaphor—sometimes to the result of effective and enjoyable reading. For example, a decision by the majority which held that a burning dump located a mile away from a small boy's home was too remote to be an attractive nuisance evoked from Musmanno the response that “to a boy in summer time, distance into the woods is only a song.” Other times Musmanno's style becomes trite and cheap. In the excerpt entitled “George's bank book was Sara Jane's favorite literature” marriage is the “sea of matrimony,” one breaking an engagement “refuses to voyage”; if the engagement is broken for the love of another, it is a “transfer to another ship.”

The substantive legal views expressed in the excerpts were extracted from the gamut of cases appearing before the Court. However, Musmanno has achieved his greatest notoriety on the Court as a dissenter from such Common Law rules as that which denies recovery for fright or nervous shock unaccompanied by physical contact. Another example is the Common Law rule excepting dying declarations from the hearsay rule, which Justice Musmanno calls an “absurdity”. Musmanno also questions the “enigmatic” legal rules which allow the conclusions of a sanity commission composed of specialists and experts to be rejected in

favor of the opinions of "passerbys". However, in cases dealing with censorship, Musmanno would lean far towards regulations to preserve our "moral health"; and he would evidently narrow the protections of the Bill of Rights through laws and regulations against Communists.

That's My Opinion will evoke a wide range of reaction by readers, but all will probably agree that Musmanno makes interesting reading. Also, this book was printed with busy lawyers in mind for it can be put down and picked up again later without the loss of continuity.

Movies, Censorship and the Law. By Ira H. Carmen. Ann Arbor, Michigan: The University of Michigan Press, 1966. 324 pp., \$7.95.

Who decides what movies we should see? This is the central question dealt with by the author in this study of motion-picture censorship in America. Mr. Carmen begins by reviewing the early treatment of the question of movie censorship by the Supreme Court from the period 1915 to 1952. He then analyzes the present state of the law; covering the Obscenity cases, and the extension of *Burstyn v. Wilson*. The latter part of the book treats the censorship problem through an investigation of censorship in selected states and localities. The great value of the book lies in the fact that the author looks behind and through the Supreme Court's delineation of rights to be enjoyed by the motion picture industry in our society to the role of the local political unit, city and state, in conforming to or implimenting the judgments of the nation's highest court. As a result, *Movies, Censorship and the Law*, serves to explain the real effect of the important movie censorship decisions on the relevant political activities throughout the country. Especially valuable are the case studies which comprise the latter portion of the book. These provide much needed guidance for analyzing local film censorship statutes in the light of judicial pronouncements relating to the meaning of the First and Fourteenth Amendments as they protect the exhibition of motion pictures.

The Liability of Strikers in the Law of Tort. A Comparative Study of the Law in England and Canada. By I. M. Christie. Kingston, Ontario: Industrial Relations Centre. 1967. 198 pp., \$8.00.

The Liability of Strikers in the Law of Tort deals with the development of the grounds upon which strikers have been held liable for private wrongs committed in the course of industrial conflict. Recently, union

activities have focused public attention on the issue of injunctions against picketing. Before the courts will issue an injunction the plaintiff must establish at least *prima facie*, that the picket line is illegal. It is with this illegality that this book is primarily concerned. The author treats, in other words, the grounds upon which unionists may be sued, rather than the remedy which may be awarded. Mr. Christie concludes this study by suggesting that the Canadian tort law of strikes and picketing should be codified. His thesis is that picketing should, as a general rule, be made unlawful only when it is in support of an unlawful strike. The book is concise and well written and should be of considerable interest to those concerned with comparative labor law.