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Trials and Appeals (Book Review)

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Some criticism may, perhaps, be validly directed at the portion of the book dealing with the rights of seamen and maritime workers. While this chapter contains a detailed analysis of relevant legislation and case law, one could wish that the authors had noted the words of Justice Gray in *The Paquete Habana*⁵ when he wrote, referring to the works of publicists, that "such works are resorted to by judicial tribunals, not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is." This chapter is so often interlarded with suggestions as to what the courts should have said, and criticisms of what the courts did in fact hold, that one fears that students, in particular, may be confused in determining where the law ends, and the opinions of the authors begin.⁶ Too, the authors seem constantly dismayed that, in an area of factual complexity where the courts must regularly balance the interest of the seamen for protection in a hazardous occupation against the shipowners' quest for minimum liability, the cases have failed to develop the law in an orderly and logical fashion. The doctrine of *stare decisis* seldom works that neatly in any legal field.

The concluding chapter is devoted to an excellent survey of the vital role played by the federal government in shipping. Since it is important that both practitioner and student be aware of the extent and nature of governmental activity in maritime matters early in the game, it might be well to move this chapter to the forward part of the volume in later editions.

It seems clear that this new volume on maritime law is destined for a prominent place on the shelves of admiralty attorneys and law school libraries. Professors Gilmore and Black are to be commended on doing a needed book extremely well.

LAWRENCE JARETT.*



TRIALS AND APPEALS. By Charles W. Joiner. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1957. Pp. XXIV, 594. \$9.50.

The preface to this one-volume work tells us that a lawyer has at least three fundamental objectives: to be a wise counsellor; to be a sound and effective proponent of improvements in our system of administering justice; and to be a strong advocate. The material

⁵ 175 U.S. 677, 700 (1900).

⁶ While the comments are not infrequently valid and perceptive, yet, in the reviewer's opinion, the style and tone are better suited for a law review article than for a standard reference text.

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contained in this volume is directed to the attainment of the second and third objectives.

The material contained in the book consists of text, statutes and rules of procedure, selected forms, and cases. At the end of the book certain fact situations or problems are set forth which are to be solved by reference to the other material. The book is designed primarily for classroom study, but the material dealing with investigation and preparation for trial, which comprises a substantial part of the volume, will be found helpful after admission to practice by the neophyte who enters the field of litigation.

The title of the chapter entitled "Jury Selection" is somewhat misleading. The material contained in that chapter (almost one hundred pages), while interesting and instructive, is confined to the practice in the federal courts where the attorneys for the parties have little voice in the selection of the jury. There, the trial judge performs the task with the limited right of challenge and questioning reserved for the attorneys. In most state courts, the attorneys do the actual selection, and it would seem that the distinction should have been pointed out in some detail.

It has often been said that a good book on practice and procedure must contain forms. The present volume meets that requirement, but it is pointed out that the forms are included, more for the purpose of inviting criticism and discussion by the student, than for use in actual practice.

The material dealing with the trial covers the whole area, from the manner of examining witnesses through the summations of counsel, and contains many interesting suggestions. Much of this, and other material, is not original but is borrowed from others, a fact which the author frankly acknowledges.

In so far as the author has sought to stimulate interest in the need for improving our system of judicial administration, he has set a worthy objective. The problem of procedural reform has occupied the attention of judges and lawyers throughout the country over the past five years; and it must be borne in mind that it is the procedural law of the land, rather than the substantive law, which has been held responsible for the substantial periods of delay in the administration of justice. If the author accomplishes his purpose in this respect, his painstaking devotion to an arduous task will be well rewarded.

If a critical word were to be said, it would be that the work is too limited for general use by law school students. By this, it is not intended to detract from the value of the material contained in the book. The text material is presented in a personal and readable manner, and the cases and other materials reflect a studied devotion to the effort of accomplishing the purpose of the author. For that reason, the statutes, procedural rules and forms set forth are exclusively those governing the practice in the federal courts. The author recognizes this limitation but justifies it by the statement that it is

thought to be necessary to the development of strong advocates that a single system of judicial administration be fully developed. The reader is warned, however, that separate reference will have to be had to the statutes and rules of his particular jurisdiction.

In view of the above limitation, the book cannot be said to be a complete work in the field of trials and appeals. In justice to the author, however, it must be said that he makes no such claim for it. Nevertheless, the law school student and the embryonic lawyer will find much valuable assistance in this volume in working out the problems which will confront him in the field of litigation.

ROBERT L. CALLAHAN.*



DRAFTING MUNICIPAL ORDINANCES. By Thomas A. Matthews. Chicago: Callaghan & Co., 1956. Pp. XIII, 457. \$17.50.

This is a technical book on a technical subject. Nevertheless, it manages to remain readable—no small feat under the circumstances. The avowed purpose of the author is to “aid city attorneys and others in the practical job of drafting municipal ordinances.”¹ Since a municipal corporation may be a village, town, city or other district having powers of self-government, obviously the contemplated area is vast. The manual, however, disclaims all pretensions of being a textbook and defers to McQuillin on *Municipal Corporations*. Nonetheless, both the neophyte and the master will find the book useful and practical. There are many helpful suggestions, particularly for new municipalities.

Only a relatively small portion of the book is devoted to a discussion of the fundamental principles of drafting ordinances. It is this portion of the book that is particularly valuable. The major portion of the book contains forms for various ordinances. These are arranged by subject matter. Some chapters contain forms drafted for a city and companion forms for a smaller unit. However, this is not followed throughout the book.

In referring to the forms, the author states that the suggestions . . . for appropriate wording to express the intention of the legislative body, and the language used is so far as possible language which has been approved by the courts in the course of litigation and which has been found prac-

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¹ P. 1.