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Appellate Courts in the United States and England by Delmar Karlen

E. G. Trimble
University of Kentucky

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Book Reviews

APPELLATE COURTS IN THE UNITED STATES AND ENGLAND. By Delmar Karlen. New York University Press, New York, 1963. 180 pp.

This book is a composite report of a comparative study of the English and American systems of handling appellate court cases. The study was made by a distinguished group of American jurists, including Justice Brennan of the Supreme Court, and a corresponding group of English jurists headed by Lord Evershed of the House of Lords. Each group spent considerable time in the other's country. The two cooperated fully and were assisted by other jurists of the two countries.

The study involves consideration of the judicial structure of both countries, with emphasis on the appellate tribunals. Naturally, there were found some similarities and some dissimilarities. Some of the significant differences found were that in England there are fewer appellate cases than in the United States, even in relation to the size of its population, fewer judges devoting full time to appellate work, a greater degree of flexibility in the use of judicial personnel, more separation between civil and criminal cases, and a significant difference in the methods of selecting judicial personnel. All of these factors, it seems, result in a greater economy in the use of judicial personnel.

One important difference found will be elaborated upon here by way of example, although not all of the interesting comparisons in the book can be presented in a review. In England barristers who are experts in presenting appellate cases represent clients before the higher courts. They are trained in this branch of judicial work with the purpose of making this their profession. It is from this group of barristers that the judges of England are taken, while in the United States no such distinction is made. The result is that any member of the Bar in the United States may represent a client before the highest court. This difference also partially accounts for the fact that in England much time is consumed by the judges in open court listening to the barristers, who are expected to explain the technical aspects of the law and the facts of the case to the court. These oral discussions, rather than written briefs, form the basis for the court's decision. Customarily, but not always, the court gives its opinion extemporarily at the end of the oral argument. This contrasts sharply with the American practice, where comparatively little time is spent by the judges listening to oral argument and much time is spent in offices reading the long detailed briefs of the attorneys. It is generally said that the

English judges spend much time in open court and relatively little time in their chambers, while the reverse is true in America. Only in the House of Lords and in the Privy Council is judgment ordinarily reserved in England for a later written opinion.

Many important passages of this book of course cannot be mentioned in a review of this nature. Although the book is somewhat technical, and may not be of great practical benefit to a lawyer who practices in only one country or the other, it does deal with intriguing questions. Consequently, lawyers and interested students of the law will profit greatly by reading carefully the issues discussed in order to understand the difference in the important principles underlying the two appellate systems.

*Dr. E. G. Trimble**

FIFTY YEARS IN THE LAW BUSINESS. By *Advocatus Diaboli*. Philosophical Library, New York, 1963. 194 pp. \$5.

This book is rather a sarcastic approach to the practice of law and an opinion of justice as now rendered in our courts by a writer who has failed to give his name. I quite agree with his decision not to identify himself, because I do not think this book would endear him to members of the judicial system which he so freely criticises. I would not recommend this book to law students or those about to undertake the practice of law, because they might find it so discouraging that they would immediately change to some other profession or business. To one with some experience in the practice of law, there is some truth in the book, but as is so often the case with highly critical works, there is no attempt to suggest a better method. The author also takes the liberty of criticising other institutions and professions, of which it is apparent he has little or no knowledge, and therefore I think his criticism is not justified and hardly worth reading.

It is my personal opinion that this book could be compared to a mental obstruction course, as the author insists upon jumping from one period of history to another, such as that of John Glenn to Chaucer or to Aristotle, and back again. His only intention in doing this seems to be to make the reader aware of the fact that he is familiar with various names that he so lightly throws in.

In short, I would say that reading this book is a mental exercise from which little value is received, and the time consumed in reading

* Professor, Department of Political Science, University of Kentucky.