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Book Review: The Business of Judging

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sometimes fails even to provide footnotes to indicate where further materials on these subjects may be found. Although it is not necessary to engage in a detailed discussion of each of these points, the current approach is somewhat disappointing in its brevity.

Second, in attempting to be contemporary and accessible in his language, Glenn sometimes overshoots the mark, referring, for example, to trespass as “the mother of all writs” (p. 213) and defining non-factual assertions as “non-observable or, to be fancy again, metaphysical” (p. 137). While such colloquialisms may put students at their ease, they appear flippant to others and mar the overall tone of the book. Because Glenn expresses even the most sophisticated ideas clearly and simply, he has no need to resort to slang to appeal to the younger members of his audience.

One of the most striking aspects of this book is that, although it was clearly written with students and non-specialists in mind, it will also appeal to experienced comparativists. Few academics are able to undertake the kind of global, interdisciplinary analysis that Glenn does, and this book will undoubtedly give readers a fresh, vigorous outlook on their own work. While there is a price to be paid for taking such a broad-based approach, in that the book does not contain the type of detailed analysis of specific problems that some specialists would appreciate, there can be no greater achievement than to reinvigorate interest in an area in which one has worked for years. In this, as in so many things, Glenn has succeeded magnificently.

S.I. STRONG

The Business of Judging: Selected Essays and Speeches. By TOM BINGHAM.
[Oxford: Oxford University Press, 2000. viii, 413 and (Index) 20 pp.
Hardback £35.00. ISBN 0-19-829912-5.]

LORD BINGHAM of Cornhill is no stranger to the business of judging. Senior Lord of Appeal in Ordinary, former Lord Chief Justice of England, former Master of the Rolls, he has been sitting on the bench in one capacity or another for the last twenty years—twenty-five if one counts his tenure as a recorder. Although he began his career at the bar in 1959 as a commercial and civil lawyer, his appointment in 1996 as Lord Chief Justice placed him at the apex of the criminal justice system. In becoming senior Law Lord, Lord Bingham has expanded his purview yet again, thus enabling him to write about all aspects of the law from a unique position of knowledge and experience.

The current collection of lectures, speeches and essays makes full use of Lord Bingham’s wide range of insights. The thirty individual items are arranged in nine sections, which include *The Business of Judging*; *Judges in Society*; *The Wider World*; *Human Rights*; *Public Law*; *The Constitution*; *The English Criminal Trial*; *Crime and Punishment*; and a miscellaneous section which touches on some earlier themes as well as some new ones, including the future of the common law and the history and future of legal aid. The pieces, which were written between 1985 and 2000, are published in their original form, a device that is not without potential pitfalls, since, in some cases, events have not turned out as anticipated. Still, Lord Bingham writes that he “hope[s] that these blemishes will not deprive the contents of any interest there may be in the contemporaneous response of

one senior judge to what seemed to him to be topics of concern, interest, and importance" (p. v), and, in fact, the historical aspect of the book is one of its more captivating qualities, providing a snapshot view of how matters ranging from judicial ethics to the right to privacy were debated at the time.

This is not to say that every essay is of equal weight and interest. Some, such as "Mr. Perlzweig, Mr. Liversidge, and Lord Atkin," which recounts the admittedly seminal *Liversidge v. Anderson* and Lord Atkin's important dissent in that case, and "The Old Despotism," which effectively reviews Lord Hewart of Bury's 1929 book, "The New Despotism," lack a sustained connection to contemporary affairs and could have been omitted without diminishing the overall effect of the book. It may be that the pieces were well-suited to the occasions at which they originally appeared, but the need for their re-publication is not immediately apparent. Indeed, the inclusion of these primarily historical pieces detract from stronger and more topical offerings such as "The Mandatory Life Sentence for Murder."

"Anglo-American Reflections," which is one of the two articles in the section entitled "The Constitution," illustrates a second shortcoming common to the publication of lectures and speeches, namely that of uneven presentation. In this case, the article sets forth a number of arguments concerning the differences between English and American law. Unsurprisingly, the English position is presented more fully and more persuasively. While the form of the original presentation—a lecture at King's College, London—may have precluded detailed comparisons between the two systems at the time, one expects a written article to discuss both sides of a debate in equal measure. The countervailing arguments are readily apparent to those working in the field, but the essay could unintentionally mislead novices in this area of law by presenting one position as stronger than it really is. The problem could be easily solved through the inclusion of a short footnote referring the reader to sources discussing the US position more fully, thus eliminating the possibility of confusion while still respecting the author's desire to retain the form and content of the original lectures. Although unevenness in presentation is not a major problem in the collection as a whole, it is a concern in a book that is primarily aimed at non-specialists who might be not be aware of the ongoing debate in any particular field.

These two minor flaws are not sufficient to mar what is, in many respects, a thoroughly enjoyable book. The author himself notes that the collected materials "are not the result of deep scholarly or profound original thought" (p. v), and it is no mark of disrespect for the author's formidable talents to agree with him on this count, since none of the essays goes into great depth. However, this is a collection which is ideally suited to the general reader, whether lay person or lawyer, who wants to know a little about a lot of subjects. The book is well written—always clear and concise, often insightful and amusing—and well researched, and the fact that it is not aimed at an academic audience does not diminish its value. Indeed, an overview of the issues and an insight into one of England's leading legal minds is, and should be, more than enough to justify perusal of Lord Bingham's writings.