

# California Western Law Review

---

Volume 22 | Number 1

Article 8

---

1985

## Books in Brief

California Western Library

Follow this and additional works at: <https://scholarlycommons.law.cwsl.edu/cwlr>

---

### Recommended Citation

Library, California Western (1985) "Books in Brief," *California Western Law Review*. Vol. 22 : No. 1 , Article 8.

Available at: <https://scholarlycommons.law.cwsl.edu/cwlr/vol22/iss1/8>

This Prefatory Matter is brought to you for free and open access by CWSL Scholarly Commons. It has been accepted for inclusion in California Western Law Review by an authorized editor of CWSL Scholarly Commons. For more information, please contact [alm@cwsl.edu](mailto:alm@cwsl.edu).

## BOOKS IN BRIEF

**ANIMAL RIGHTS AND THE LAW.** By Daniel S. Moretti. Dobbs Ferry, N.Y.: Oceana Publications, Inc., 1984. Pp. 147. \$7.50.

In this book, the author discusses seven areas of animal welfare legislation: 1) anti-cruelty laws, 2) laboratory animal welfare laws, 3) animal trapping laws, 4) animal fighting laws, 5) wildlife legislation, 6) humane slaughter laws, and 7) animal transportation laws. Each is accompanied by a corresponding section in the appendix. This appendix gives the law being discussed or information as to where the actual law may be found. The author suggests that there are a number of state and federal laws aimed at protecting animals from mistreatment. However, in his view, these laws have been largely ineffective. A principal reason for their ineffectiveness can be attributed to a lack of funding, which could provide the manpower necessary for enforcement. For example, state officials cannot always check cars, trucks or trains to determine whether animals are being transported under cruel conditions. Likewise, there are not enough forest officials to make sure traps are checked within the prescribed trap-checking times. In spite of the many impediments to enforcing animal protection laws, the author suggests in his final chapter, several thought provoking alternatives, which if implemented could improve the legal status of animals.

**APPELLATE LITIGATION.** By Richard R. Lynn. New York, N.Y.: John Wiley & Sons, Inc., 1985. Pp. 542. \$25.00 (cloth edition-\$75.00).

Many lawsuits remain alive and difficult to settle until the final appellate remedy has been exhausted. While there are several general works available to guide practitioners through the appellate process, the premise of this book is that there are fundamental changes taking place in appellate courts which should alter the basic attitude of appellate lawyers and dramatically change old habits. These changes have been discussed in journals and bar meetings, however, attention is usually focused on only one issue at a time. Among the issues discussed are crowded appellate dockets and oral argument restrictions.

This book is intended to be a comprehensive restatement of appellate procedures and strategies in a modern context. It covers civil, criminal, and administrative agency appeals in both state and federal courts. The Federal Rules of Appellate Procedure are the starting point for much of the discussion, and many principles in the Federal Rules are reflected in the state appellate system. Where they differ, the procedures in both state and federal appellate systems are outlined. Appellate procedure in the United States Supreme Court is discussed in detail, while practice before

the various state supreme courts is described in broader terms. No appellate practice book can supplement the need to closely follow the appellate court in your state. Continuing legal education and practice materials generated by state bar associations furnish details which are beyond the scope of any nationwide publication. Nevertheless, this work prepares you to anticipate change in appellate procedure and to adapt easily to appellate work in other jurisdictions. Included are charts on various appellate practice topics, designed to briefly summarize the readily available statutes or rules in each jurisdiction regarding that topic.

**CONSTITUTIONAL CHOICES.** By Lawrence H. Tribe. Cambridge, Mass.: Harvard University Press, 1985. Pp. 458. No Price Given.

This book moves beyond the much debated issue of which judicial approaches to enforcing the Constitution are "legitimate" and which are not. The author argues that all claims to legitimacy must remain suspect. Instead, the book focuses on the choices that must be made in resolving actual constitutional controversies. To do that, there is an examination of problems as diverse as interstate banking, gender discrimination, church subsidies, the constitutional amendment process, the war powers of the President, and first amendment protection of American Nazis.

The author challenges the ruling premises underlying many of the Supreme Court's positions on fundamental issues of government authority and individual rights. The book discusses how the Court increasingly resembles a judicial office of management and budget, straining constitutional discourse by "balancing" what it counts as "costs" against what it deems to be "benefits."

The author next explains how the Court's "calculus" systematically excludes basic concerns about the distribution of wealth and power and conceals fundamental choices about the American policy. What is needed is more candid confrontation of those choices and of the principles and perspective they reflect. The author expresses what he perceives has gone wrong with judicial opinions and suggests ways in which the Court can begin to reclaim the historic role entrusted to it by the Constitution.

**THE FEDERAL RESERVE: AN INTENTIONAL MYSTERY.** By Thibaut de Saint Phalle. New York, N.Y.: Praeger Publishers, 1985. Pp. 315. \$14.95.

The Federal Reserve was created in 1913. It is interesting that so little is known about its regulatory activities and how it controls United States monetary policy. Part One of this book discusses regulation of United States banks at home. Part Two is concerned with regulation of United States banks abroad. The author believes that it is essential that everyone understand not only the mechanics of how the federal system actually works, but also the impact it has on each of our lives. As a powerful organization, it requires continual surveillance. Only if we understand

how the federal reserve functions can we hope to reform that organization to better serve us. This book is recommended not only for the 535 members of Congress who must make future decisions on the financial services industry, but also any American concerned about the impact of government on the economic and banking systems.

**LEGAL ASPECTS OF CRIMINAL EVIDENCE.** By J.R. Hanley and W.W. Schmidt. Berkeley, Cal.: McCutchan Publishing Corporation, 1984. Pp. 423. No Price Given.

An investigative law enforcement officer must be concerned with gathering evidence in such a way that it will be later held admissible in court. The most successful way to accomplish this often complex task, is to have a thorough knowledge of court decisions and the rules of evidence. If the investigative officer's knowledge is incomplete and evidence is gathered in a manner not legally acceptable, several things may occur. First, it may seriously affect a person's life, liberty or property. Second, the reputation of the officer and the law enforcement agency by which he is employed is called into question. Finally, if the evidence is not admissible in court, conviction of the guilty may not occur. The authors have written this book to inform not only law enforcement officers, but also students, on the rules of evidence that guide the enforcement of criminal law at both the investigative and trial stages. The book is written in a style that is understandable to both lawyers and non-lawyers alike. Therefore, it is recommended reading for anyone within the criminal law field.

**OBSCENITY AND PORNOGRAPHY: THE LAW UNDER THE FIRST AMENDMENT.** By Daniel S. Moretti. Dobbs Ferry, N.Y.: Oceana Publications, Inc., 1984. Pp. 147. \$7.50.

This book is more than just a statement of the law of obscenity and pornography. The author spends a great deal of time analyzing the development of case law in the area. He also educates the reader on the vocabulary required to thoroughly understand the subject. These combined factors allow the reader to gain insight into not only judicial reasoning, but constitutional principles as well.

The book is organized by first defining obscenity in the early years. From there it is followed by a discussion of the Roth Test. After these sections, there is a chapter which discusses the 1973 Obscenity and Pornography decisions. The book then delves into specific topics of pornography. Representative examples of the topics discussed are: child pornography, pornography and motion pictures, and cable television and pornography. There are also appendices, which include a table of cases, a list of statutes, movies banned in the United States since 1908, and other valuable information for those interested in this area of the law.

**TANGIBLE EVIDENCE: HOW TO USE EXHIBITS AT TRIAL.** By Deanne C. Siemer. Clifton, N.J.: Law & Business, Inc., 1984. Pp. 326. \$55.00.

The author points out that the most important events within a case can be bolstered by the sound use of tangible evidence, which will complement the oral testimony of witnesses. Most people learn and remember more readily when they can see the material being explained. Also, most people find exhibits more interesting than oral testimony and, in subtle ways, more reliable. Both judges and jurors are affected by these phenomena. To work with tangible evidence effectively, you need to know what objects or techniques are available, what kind of media to select for a particular situation, and how to qualify the material as evidence.

In Part I of the book, the author discusses the general requirements for bringing tangible evidence into the trial through either the illustrative materials used by the attorney, a view of the scene by the fact finder, or exhibits used with the testimony of witnesses. In Part II, there is a discussion of specific evidentiary foundations, objections, technical problems and tactical considerations with respect to twenty different kinds of tangible evidence. The materials in this section are directed to the procedural problems presented by the various kinds of tangible evidence that may be available when a lawyer plans a trial. Because of these problems, the discussion is detailed, so as to assist both the beginning attorney and the attorney with a specialized problem. To facilitate these diverse needs, the chapters are subdivided using a standard format so that the various subject matters are easy to locate. This book is recommended for all attorneys who are concerned with how to present and use tangible evidence more effectively at trial.

**WOMEN ON TRIAL: A STUDY OF FEMALE SUSPECTS AND DEFENDANTS IN THE SYSTEM OF CRIMINAL JUSTICE.** By Susan S.M. Edwards. Dover, N.H.: Manchester University Press, 1984. Pp. 288. \$18.85 (cloth edition).

All the actors in the drama of crime, trial and punishment apply to their roles an ideology of crime, sometimes conscious, often not. This is a study of the ways in which these theories and prejudices influence the treatment of women suspects and defendants. The author spent two years interviewing all the participating groups in the criminal justice system and analyzing their actions, prejudices and weaknesses. She examines the attitudes of police officers, store detectives, probation officers, lawyers, legislators, and bureaucrats, but the center of the study revolves around the principal characters—the women on trial.

The book examines the proposition that women, whether as suspects, defendants or offenders, are dealt with in accordance with the degree to which their criminal behavior deviates from what is expected of them in their appropriate gender role. Some of the expectations placed on women

are the degree to which they are seen as a good wife, mother and homemaker, how decent and moral they are, and above all whether they are feminine.

This study throws new light on the cumbersome and sometimes incongruous processes of the law. It deals with a crucial area of concern about sexual discrimination and offers a challenging perspective on several current debates, such as that over the admissibility of pre-menstrual tension. The audience that will find this book of interest is not limited to the sociologist or criminologist. Those concerned with the current legal status of women in the criminal justice system will also benefit from the author's research.