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Book Reviews

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BOOK REVIEWS

DEAN'S LIST OF RECOMMENDED READING. By Julius J. Marke, New York: Oceana Publications, 1958. 178 pages. Price \$3.50 cloth-bound; \$1.00, paperbound. Docket Series, Volume 11.

This is an annotated listing of reading of and about law and relevant for prospective and novitiate law students, as recommended by the deans of seventy-three American law schools, in response to a questionnaire sent out by Professor Julius J. Marke, law librarian of New York University, author of this book and editor of Oceana's well-known Docket Series of which this book is volume 11. The idea for the creation of this compilation was as simple as that for Christopher's standing egg, cracked on the table top, but somebody had to have the idea first!

Obviously, the book is useful, and in more respects than one:

- (1) Students may pick authoritative pre- and extra curricular readings appropriate to their needs;
- (2) librarians may compile suitable open-shelf collections;
- (3) critics may construct theories about deans' educational philosophies and reading notions, and
- (4) prospective law students and their parents may investigate the intellectual climate prevailing at any given school before making a choice.

There were few surprises in the top group of this hit parade. Lleyellyn's *Bramble Bush* is the favorite with over forty votes. "The young fellow who wrote these lectures . . . isn't here any more,"¹ but though the planter may have grown old, the *Bush* he planted will continue to bear green leaves during the spring of every law student's career, and juicy berries in the fall. Thus, top indorsement of this book is no more than appropriate. Beveridge's *Life of John Marshall* ranks second—a pleasant surprise—closely followed by Holmes' *Common Law*, the *Selected Writings* of Cardozo (Hall ed.), Stone's *Handbook of Law Study* and the late Jerome Frank's *Law and the Modern Mind*. There follows Biography (Partridge, *Country Lawyer*) and fiction (Cozzens, *The Just and the Unjust*). Dean Roscoe Pound (*The Spirit of the Common Law*) appears for the first time on an equal ranking with Cardozo's second listing (*The Nature of the Judicial Process*). Three works rank evenly on next place, Brown's *Yankee from Olympus*, Plucknett, *A Concise History of the Common Law* and Redden, *So You Want to be a Lawyer*, followed by Mason's biography of Mr. Justice Brandeis.

1. From the Introduction to the second edition, p. 7.

None of the other books listed received more than twenty deans' recommendations. Indeed, the votes of the deans are widely scattered among the remaining 680 books (total of 694).

Noticeable is the heavy concentration on biography, fiction, plays and poetry and on administration of justice in general. Almost one half of the titles recommended have been published since World War II, which speaks well for the quality of contemporary writings. This, however, does not excuse the deans for neglecting the classics! Aristotle's *Politics* received but two endorsements, Plato's *Dialogues* two, his *Republic* three, Cicero's *De legibus* one, his *De oratore* one and his *Eternal Lawyer* fared only a little better with four endorsements. Charles Dickens did well in comparison, with a total of twenty-eight recommendations on three works. Dostoevsky's *Crime and Punishment* was recommended by four deans. Seemingly no dean recommended the *Bible*, though the author saved the day by including it on his own accord. Incidentally, one dean recommended Sherlock Holmes and another Stone's *Province and Function of Law to pre-law students*! I admire the former dean's sense of humor and the latter's faith in humanity and American secondary and college education.

Fortunately, the number of dubious recommendations is small. The two works cited under the rubric *Mental Disorder* are both thoroughly outdated. This may be indicative of the recommenders' quirks rather than their failure to keep abreast of the literature published during the last generation. Professor Cahn's two outstanding books in jurisprudence,² surely appropriate reading for the intelligent newcomer to the law, received only six endorsements. In the field of *Criminal Law and Criminology*, unquestionably the field of law in greatest need of attention in America, no work listed received more than two endorsements! More important yet, in the world of today where two basic philosophies are engaged in a struggle for world supremacy, only pitifully few deans saw fit to acquaint their students with our opponents' doctrines. There are but two recommendations of *Das Capital* and one of von Mises' *Socialism*, "the most devastating analysis of socialism yet penned."³

A comparison of the opinions held by various deans is challenging. Would one not expect that the routine law factory would present a down-to-earth reading list and the culturally enlightened school (by repute) one which would aim at the education of the well-rounded personality?⁴ But from the very start, such a playful

2. *The Sense of Injustice and The Moral Decision.*

3. At 145.

comparison appeared to turn into a play with dynamite. Suffice it to say that some regional law schools compare rather favorably with their national big brothers. It is gratifying, to say the least to find that a regional law school has enriched this bibliography with its student reading recommendations of Shakespeare, Horace, Martial, Juvenal, Balzac, Twain and the Greek classics.⁵ On many large schools' lists, on the other hand, the classics are conspicuous only through their absence, and their students gain the impression: 'occasionally, when you look for an item in this index you [will find] . . . that the item is not offered . . . because it is . . . out-of-season merchandise.'⁶ Thus, it is frequently the recommendations of the deans of some of the smaller law schools which make this bibliography so valuable.

In fine, Professor Marke's new book is a gold mine of information, reaching far beyond the bounds envisaged by the author, and it is a key to good and cultured reading pleasure.

GERHARD O. W. MUELLER*

FROM EVIDENCE TO PROOF. By Marshal Houts. Springfield, Illinois: Charles C. Thomas, 1956, 396 pages, illus. Price: \$7.50.

This book concerns itself, as the title implies, with the practical methods whereby evidence may be converted into valuable proof. The author indicates the evidential mistakes that are generally made and extends sound suggestions to preclude these errors so that evidence may be preserved and utilized.

In thirty-three chapters, the book presents information in succinct and cogent form with reference to such subjects as confessions, measurements of intoxication, determination of the time of death, alibi, the polygraph, automobile accident cases, document examination and a most interesting chapter on eye witness identification in addition to a chapter on the inestimably important and intricate field of photographic evidence. Further, the author discusses such items of import as fibers, blood, glass, fingerprints, identification of firearms, the spectograph, hair, earth, insanity, sexual offenses and other pertinent materials on evidence. The chapter on poisons contains a chart of 51 poisons and the symptoms whereby they can be generally detected. The appendix contains tables of driver stopping distances for educational purposes (as distinguished from

4. And what about the intellectual-cultural implications arising out of failure to make any reading recommendations? Two-fifths of the law school deans did not respond at all.

5. The University of Kansas City School of Law, at pp. 81-82.

6. I hope I am forgiven for quoting from a book which not a single dean recommended: *The Sears, Roebuck and Co. Catalog 1501* (1956).

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legal or engineering purposes). The book contains over 100 illustrations.

The author presents, in very readable form, the importance of evidential matters that could be obliterated, overlooked or merely not utilized. The book should prove to be of considerable importance to the attorney, law enforcement agent or investigator.

JOHN M. ORBAN.

THE SUPREME COURT IN MODERN ROLE. By Carl Brent Swisher, New York: New York University Press, 1958, 214 pages. Price: \$4.95.

Carl Brent Swisher, Professor of Political Science, John Hopkins University, concerns himself with the significance of some of the important decisions of the Supreme Court in recent years, particularly those decisions that show the changing pattern of judicial restraints on government.

To provide a background for the reader, the author surveys the historical pattern of Supreme Court activity, including the constitutional renaissance of the 1930's and 1940's and the earlier developments and transitions that in their own time seemed to mark crises equal to those in our current experience.

The book is divided conveniently into four main topics. The first is entitled "Checkreins upon Government" wherein the author discusses the limitations on the due process clause of the Fourteenth Amendment in relation to the Bill of Rights. The second section, "The Threat of Subversion", centers around the "clear and present danger" doctrine and what it has meant at various periods in history. The third part, "The Place of the Military", deals with the jurisdiction of military tribunals over civilians. "Race and the Constitution" is the title of the fourth topic which deals primarily with civil rights.

In the summary, the author quotes several times the cynical wit of Mr. Dooley's "the Supreme Court follows th' iliction returns". not the demand of principle. Professor Swisher also questions the extent to which the Supreme Court should be bound by its own precedents stating that "we have built up such a mass of precedents that by selective use of them we can prove almost anything—which, in the end, means: practically nothing".

Presented in the book is the dynamic nature of constitutional law and the influence of the times upon it. From this novel approach, *The Supreme Court in Modern Role* makes interesting reading.

ODELL ASTRUP.



PRESENTATION OF HONORARY DEGREE TO JEROME HALL

Left to right—Dr. George Starcher, President of the University of North Dakota; Jerome Hall, Distinguished Service Professor of Law, Indiana University; O. H. Thormodsgard, Dean, University of North Dakota School of Law.