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## Book Reviews

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## BOOK REVIEWS

AN ALMANAC OF LIBERTY. By William O. Douglas. Garden City, New York: Doubleday & Company, Inc., 1954. 409 pages. Price: \$5.50.

An adequate introduction of such a world renowned figure as Justice Douglas would be impossible in a short space. The author is known in the literary field primarily as a writer of travel whose books have generally dealt with the little known corners of the earth. Justice Douglas' *Almanac of Liberty* is a history of sorts—a history of the events which the author feels have had the most profound effect upon the formation of the liberty we enjoy. The presentation is unique in that few events are discussed for more than a page and there is no chronological order. The day is the important factor and in view of that, it is natural that the reader finds July the fourth dealing with the signing of the Declaration of Independence. Similarly, throughout the book it is the significance of the particular date that determines the subject matter treated on the page.

Each page contains a thumbnail sketch of some event showing at times the great strides of democracy and at other times the value of failure. On August 7th the book *Ulysses* is discussed. That was the day in 1904 the Court of Appeals affirmed Judge Woolsey's decision that James Joyce's *Ulysses* was not obscene. Mr. Douglas pulls no punches in making it plain to the reader that he is against most kinds of censorship. On the following page, August 8th, the title is "Unofficial Censorship." The event treated is the arbitrary censorship of Mencken's magazine, the *American Mercury* by an unofficial Boston society. "Dilution of the First Amendment" is the page title given October 29th. Speaking of the convictions on that day of various communist leaders in this country, the author states, "The theory underlying the cases is that if an act can be punished, its advocacy can be, *provided* the utterance is a call to action immediately or as speedily as circumstances permit, and not merely a reflection of a philosophical attitude." January 24th provides the reader with the timely title, "The Power of Congress to Investigate." That was the precise day in 1881 that the Supreme Court handed down a decision curtailing this power. Historically, the author points out, there were three purposes for such investigations: determining the eligibility of its own members, ascertaining

what legislation was needed, and checking on the administration of the laws—The undertones are not arduous to discern.

Justice Douglas considers the decision in the steel seizure case “. . . the most important one in our history concerning the separation of powers between the President and the Congress, and the role of the Court in enforcing the separation.”

*An Almanac of Liberty* is an important addition to every library. It is fast and fascinating reading. Political history can easily become dull and monotonous or it can, with proper application and presentation, be alive and interesting. By all comparisons this book fits in the latter classification. It is an example of the high caliber of thought and understanding which is represented on the Supreme Court of the United States.

JON N. VOGEL

CONSTITUTIONAL LAW, CASES AND MATERIALS. By Paul G. Kauper.

New York: Prentice-Hall, Inc., 1954. 1118 pages. Price: \$9.50.

This book is a systematic case study of Federal Constitutional Law designed primarily for law students. The substance of the subject is presented through an extensive examination of two groups of Supreme Court cases. The first group deals with questions concerning the extent of governmental power under our federal system. These take into account the powers of the three departments of the federal government and the distribution of powers between it and the states. The remaining portion deals with questions relating to rights, privileges, and immunities under the Constitution as limitations on the federal government and the states.

The author has been a professor at the University of Michigan since 1936. Mr. Kauper is a graduate of Earlham College and received his Juris Doctor degree from the University of Michigan School of Law in 1932. He is a member of the Bar in three states. In addition to private practice and teaching, Mr. Kauper worked with Pan American Petroleum & Transport Company while on a leave of absence from the University during World War II. A number of articles on Constitutional Law and taxation written by Mr. Kauper have been published in the Michigan Law Review.

The author adopts the usual topical method which presents his subject through relevant cases in an effort to give the reader a critical understanding of basic concepts currently employed in the

process of constitutional adjudication. Also included is an appendix which contains, *inter alia*, materials on anti-poll tax and anti-lynch legislation illustrating well the exhaustive technique of the author.

This work apparently reflects the experience of the writer in teaching this subject by emphasizing a feature not usually included in most casebooks, that of procedural and remedial problems peculiar to constitutional litigation. The reader will soon note the functional approach which the author deems necessary to a basic course in Constitutional Law. Some notable examples are the manner in which questions come before the Supreme Court, jurisdiction of the several federal courts, appropriate situations for raising federal questions and a consideration of procedural problems in a chronological manner with reference to the steps involved in a criminal prosecution. Though the book is comprehensive, no attempt is made to develop certain subjects, such as the problem respecting full faith and credit, admiralty, and administrative tribunals, which represent highly specialized areas of Constitutional Law and which are more adequately dealt with in other courses.

The book is a very lengthy one, including an extensive development of some 160 principal cases. It would seem that a class would be rather pressed to cover the entire text in the usual sixty hour course. The author states that the general organization is such that certain sections may be omitted at the option of the professor or that one section of the book may be used for a special course of a seminar nature designed to deal more intensively with problems of civil liberties. The principal cases together with the notes contain Supreme Court cases through the end of the 1952-1953 term plus materials on some of the leading decisions of the 1953-1954 term. Such up to date material even includes the recent decision on the question of public school segregation.<sup>1</sup>

The most impressive characteristic of this work is the tremendous amount of research which the author put into preparing digests of collateral cases and bibliographical references to texts and law review materials, as well as to the editor's own comments dealing with related subjects not covered by the principal cases. To the student, or the person using this volume for research, this back-

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1. *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

ground information should be invaluable. Only a personal examination of the contents can accurately reveal the thorough coverage of the subject matter.

RICHARD VINCENT WICKA

**MILITARY LAW.** By Daniel Walker. New York: Prentice-Hall, Inc. 1954. 748 pages. Price \$9.75.

"Every effort has been made to include in this book materials from all important sources of military law as it exists in the present day armed services." With all fairness it must be admitted that the author has done a remarkable job in compiling his materials and cases to accomplish the purposes expressed in the foregoing excerpt from his preface. However, even the author has admitted that the materials contained in his book are "only samplings from a very broad field."

Though casebooks on military law are not new in the United States, this book is unique in that it is the first casebook to deal with military law since the effective date of the Uniform Code of Military Justice in May, 1951. And since concurrent with the effective date of the Uniform Code of Military Justice a civilian constituted Court of Military Appeals was established, the vast majority of cases cited and reported in this work are decisions of that newly established court.

The book is primarily concerned with and emphasis is placed upon military criminal law, "because," in the author's own words, "of the increased prospects of involvement in this field directly and indirectly by practising lawyers." Parenthetically, this will be only too true in our own area with the establishment of the two Air Force bases in North Dakota in the very near future. Therefore, this book offers a very good opportunity for the study of practical problems in military trial procedure and statutory interpretation, the basic work of the practising attorney. The book is also important, because the reader is shown the translation of basic public policies and pressures into active military law, and the struggle of the judicial and legislative branches of our government with the conflict between fundamental and democratic principles and the need for unfettered executive and military action in time of emergency.

The book begins with a discussion and case history of the nature and sources of military law, namely the Constitution of the United States, laws of Congress, Regulations, Orders and Directives of the executive of our country and the military hierarchy, judicial, administrative, or quasi-judicial decisions and interpretations, and customs and usages of the Armed Services. The book is particularly effective in discussing the nature of military law as derived from the Constitution. Next in order of discussion is the nature, history and source of military law and offenses under the broad heading of Military Criminal Law. From there the book moves into an extended and lucid presentation of the military court procedure including the nature, composition and personnel of the court-martial, pre-trial procedure, jurisdiction of the various military courts, rules of evidence as applicable in courts-martial, and review and appeal procedures.

The last chapter, entitled "Civil Relief Acts", should prove to be extremely valuable to the practising attorneys anywhere, since even lawyers not located near Armed Forces installations are often involved with problems concerning the Soldiers' and Sailors' Civil Relief Act. Although the chapter admittedly does not cover every aspect of this Congressional legislation, it does a remarkably effective job of analyzing the portions of the act considered. The appendix includes a copy of the Uniform Code of Military Justice, which is cited so often throughout the text.

The book should make a valuable addition to the practising attorney's library, but even the author acknowledges that it is not a complete study of military law and anyone desiring either to teach military law or study it as particular problems arise should also acquire a copy of the *Manual for Courts-Martial*, United States, 1951, a text that is cited quite frequently throughout the book. As a practical working tool for use in acquiring knowledge of military court procedure and preparing for trial before a court-martial, the book can be of undoubted value.

DARWIN H. MUELLER

HOW TO WIN A TAX CASE. By Martin M. Lore. New York: Prentice-Hall, Inc. 1955. 243 pages. \$6.50.

The title of this book is actually somewhat deceiving. The author, an established authority on taxation, is more concerned with

avoiding than winning tax cases. "Winning" a tax case often is a Pyrrhic victory. Realizing this, the author has dedicated the main stream of the book to ways and means of solving tax difficulties before they reach the courts. The first rule to observe according to author Lore is: the taxpayer should not try his own case. Less than 2% of the persons who have done so have won.

Mr. Lore is a member of the Committee on Tax Court Procedure of the American Bar Association and a visiting lecturer at several law schools. He draws from a long experience as a representative of the government and the taxpayer. He has divided the book into nine chapters detailing, step by step, the procedure in protesting a tax assessment. As in any legal difficulty, the final outcome is determined to a large extent by the adequacy of preparation. Ample illustrations of actual experiences add effectively to the completeness of this work. The complete coverage of the subject is best indicated by some of the chapter divisions: "Settlement Procedures", "Procedure Before Trial", "Tax Court Trial", and "Appeal". A history of the Tax Court followed by rules of evidence completes the volume. Perhaps the most valuable part of this book is an appendix containing an actual Tax Court case setting forth every document used in the trial.

Mr. Lore has taken a very human approach to the problem of government-taxpayer relations. He quickly dispels the notion that all revenue agents are on a crusade to balance the budget—starting with your tax return. Quite to the contrary, every effort is made to amicably settle a dispute without resort to a trial.

There is no effort to make this book a technical treatment of tax procedure, the bulk of it being directed to anyone concerned with tax work. Since few business arrangements are free of tax considerations, it is well to know your rights and duties as a taxpayer. As Lore says, ". . . it is only by the universal knowledge of all rights to deductions and other special considerations by all taxpayers that the tax burden will be borne as Congress intended." In business, the legitimate minimization of taxes is as important as production costs.

Since 1945 there have been an increasing number of books in the field of taxation. Most of them deal with a particular phase of tax procedure. Lore's work is a needed synthesis of the complex and oft-changing tax picture. Much of what the author has to say repeats well-known techniques of a good trial lawyer or good tax accountant. Application of these techniques to specific

tax problems forms the interesting legal core of the book. Mr. Lore has done an eminently successful job of translating his varied legal background into a practical guide for the tax novice.

JAMES H. O'KEEFE