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Suggestions from the Law Library

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Criminal Law

DEATH AND THE SUPREME COURT, by Barrett Prettyman, Jr. New York: Harcourt, Brace & World, Inc., 1961. Pp. 311. \$4.95. Mr. Prettyman, the son of a distinguished lawyer, with experience as a newspaper reporter and as a law clerk to three Justices of the United States Supreme Court, a practicing attorney since 1955, believes that "the Supreme Court should be written about and talked about, dissected and analyzed, so that when we come to make up our free minds about it, we act on the basis of fact and not on warped, distorted and biased half-truths." For his analysis of the Supreme Court's work the author has selected six cases in each of which a man's life was at stake: *Fikes v. Alabama*, 352 U.S. 191, involving the exertion of pressure in the procurement of confessions from an uneducated Negro of low mentality or perhaps mentally ill; *Green v. United States*, 355 U.S. 184, and *Louisiana ex rel. Francis v. Resweber*, 329 U.S. 459, where the court found violation of the double jeopardy clause in the first, but not in the second case; *Griffin v. United States*, 336 U.S. 704, where the Court instructed the state court to decide what rule of evidence should prevail in the District of Columbia in the absence of a federal rule as to admissibility of evidence of uncommunicated threats in a murder case in which self defense was claimed; *Crooker v. California*, 357 U.S. 433, where a thirty-one year old college graduate with one year of law school, including instruction in criminal law, made a confession without benefit of counsel; *Williams v. Georgia*, 349 U.S. 375, where a Negro pleaded discrimination in the selection of a jury for the first time in his motion for a new trial, after an unsuccessful appeal to the State Supreme Court.

The author presents the events leading to the apprehension of the murderer, the police investigation, court action in simple, non-technical language. The discussion of the legal issues confronting the Justices and their human reactions in these capital cases are explained with great understanding. The concluding chapter contains observations and suggestions. While the aver-

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age litigant's chances to be heard by the Supreme Court are one in twenty, those of the condemned man are one in four. Procedural safeguards often referred to in newspapers as "technicalities" are necessary protections for all citizens from "overzealous, arbitrary, inefficient, or corrupt people wherever they may be, whatever their position." An important factor in understanding the review process is that the Court does not see or hear the witnesses and cannot measure their honesty from a cold, written record. It can only decide the problems before it and apply the appropriate legal standards to guilty and innocent alike. While the court applies precedents which have defined these standards, the questions: What is cruel and unusual punishment? What is double jeopardy? When is a confession coerced? To what extent and under what circumstances is an accused entitled to the advice of counsel? remain unanswered by precedent, since no two cases are alike, as the chosen examples demonstrate.

The author discusses two possible solutions to the problems facing the courts in capital cases: elimination of the death penalty and a review of state processes which "permit Police interrogations almost at will, breaking into houses without judicial authority and putting medically insane defendants to death."

This is not a controversial book; it is as factual and as objective an analysis of the problems confronting the courts in cases involving the death penalty as its author intended.

Judges

HANDBOOK FOR JUDGES, compiled and edited by Donald K. Carroll, Judge of the District Court of Appeal, First District of Florida. Chicago: American Judicature Society, 1961. Pp. 195. \$3.50. The stated purpose of this anthology is to bring together in one handy book some of the writings appearing in books and periodicals published in this country and England relating to the judiciary. In four parts are assembled the ABA Canons of Judicial Ethics with summaries of important opinions by the Committee on Professional Ethics and Grievances; judicial writings on *Essential Qualities of a Judge*; contributions on the improvement of the administration of justice entitled *The Challenge to the Judiciary*; and passages on judging from the Bible,

Prayers for Judges, as well as writings by Judge Medina on *The Spiritual Side of Judging*. A suggested reading list for judges prepared with the assistance of Mrs. Fannie Klein, Research Coordinator and Librarian of the Institute of Judicial Administration of New York University, concludes the volume. Those engaged in the art of judging and those called upon to discuss before local and state groups the judicial system and its dedicated servants will find this collection helpful and inspiring. It fulfills the objective of the American Judicature Society (to promote the efficient administration of justice) and is another accomplishment of the Society and its supporters who have assisted the compiler in the preparation of the *Handbook*.

Labor

LABOR MANAGEMENT CONTRACTS AT WORK, by Morris Stone. New York: Harper & Brothers, 1961. Pp. viii, 307. \$5.50. About 150 labor arbitrators, represented in this volume, reveal some of the characteristics of the emerging civil law for labor and management as applied to ten critical areas of union contract administration and employer-employee relations: reduction of the work force, seniority and ability, stewards and union officers, foremen and supervisors, call-in-pay, paid holidays, vacation and vacation pay, overtime, discharge, and other forms of discipline and non-disciplinary terminations.

The source material consists of several hundred awards rendered since January 1, 1959, by arbitrators in tribunals conducted under the auspices of the American Arbitration Association. In a concluding chapter the use of awards as precedents, past practice, and predictability is briefly discussed. It is followed by a list of arbitrators, a table of cases, and a subject index.

The acceptance of collective bargaining as a permanent feature of American industrial life and the almost universal use of grievance arbitration clauses in contracts have given rise to a new profession — that of the labor-management arbitrator. Although thousands have served from time to time on occasional cases, there are perhaps no more than 500 men who are specialists. With the increase of industrial development in Louisiana, this volume should be of interest to the legal profession in general as a guide to the interpretation of labor contract law.

Products Liability

PRODUCTS LIABILITY, by Louis R. Frumer and Melvin I. Friedman. Albany: Matthew Bender & Co., 1960. 2 v. loose-leaf. \$45.00. The authors are of the opinion that a considerable number of products liability cases have been incorrectly decided because of failure to utilize or because of improper utilization of the skill of expert witnesses, due to the fact that comparatively little has been done in the scientific legal field toward melding the skills of the lawyer and the engineer. This set is intended to fill the need of the lawyer and of industry for a complete picture of all phases of products liability.

In nineteen chapters the authors cover manufacturer's liability in negligence, in warranty, and in deceit; the retailer's and the middlemen's liability; food and beverages; allergies and peculiar susceptibility; drugs and druggists; inflammable substances; conflict of laws; statutes of limitations; derivative actions; death actions; indemnity; discovery techniques; and products liability insurance. Appended are tables of cases categorized as to product, food and beverages. Bibliographical references to non-legal materials appearing in various parts of the set deal with sampling of legal cases, scientific legal aspects of design negligence, medico-legal information on food poisoning, exploding bottle cases, allergic skin reactions, and inflammable fabrics.

To this date, most of the writing on products liability could be found in comprehensive texts on torts and in legal periodicals. Cases are assembled and annotated in *American Law Reports*, and in the two loose-leaf sets on Negligence and Compensation Cases published by Commerce Clearing House and Callaghan. To cull the cases through the digests and encyclopedia pocket parts would be a most time consuming process. Frumer's set is therefore a useful addition to any Negligence library. It has received favorable comments from Louisiana torts experts who have had occasion to use it.

Professional Negligence

PROFESSIONAL NEGLIGENCE, by Thomas G. Roady, Jr. and William R. Anderson. Nashville: Vanderbilt University Press, 1960. Pp. 332. \$10.00. This volume contains in book form, with a table of cases and a subject index added, a number of articles

which appeared originally in a symposium issue of the *Vanderbilt Law Review*. They deal in scholarly, but practical, fashion with problems of medical malpractice litigation; insurance against professional liability; professional negligence of pharmacists, architects, engineers, teachers, attorneys, abstractors, public accountants, funeral directors, insurance agents and brokers (in procuring or maintaining insurance for an owner); artisans, and tradesmen. As Dean Wade states in his Foreword: "There has been a need for . . . a treatment placed in proper perspective by corresponding treatments of the other professions for comparison purposes. A similar growth in litigation has been observable in most of the other professions, though it has not been as extensive as in the medical profession. . . . Lawyers will find the studies in this volume not merely interesting but also immediately and distinctly useful."

THE LAW OF MEDICAL PRACTICE, by Burke Shartel and Marcus L. Plant. Springfield: Charles C. Thomas, 1959. Pp. xxi, 445. \$12.50. This work developed out of a series of lectures which the authors, both members of the law faculty of the University of Michigan, delivered to senior medical students in the Medical School of that university. The book is addressed not only to medical students, but also to medical and legal practitioners. The titles of the chapters best reveal the scope: The physician's professional services, compensation for medical care, the physician's liability for malpractice, other tort liabilities incidental to medical practice, licensure of physicians and other practitioners of the healing arts, the physician's business transactions and relationships, his public duties and liabilities, operation of the legal system. This book will not be consulted to find the case in point, but rather for its able presentation of many professional problems facing both disciplines and for their solutions in practice.

TRIAL OF MEDICAL MALPRACTICE CASES, by David W. Louisell and Harold Williams. Albany: Matthew Bender & Company, 1960. Pp. xvii, 1022. Loose-leaf. \$25.00. The authors, professors at the School of Law, University of California, Berkeley (Dr. Williams is the holder of both medical and law degrees) have dedicated their work "to all lawyers and physicians who realize that their vocations are *professions*, not merely businesses." Their book aims to help in a realistic way the practicing lawyer and the judge. It is a textbook of malpractice law and procedure for the lawyer and the judge, written in the light

of the underlying medical realities. In lieu of further comments on this comprehensive text a quotation from Dean Prosser's Foreword follows: "More important than this extensive information . . . is the frank discussion of the sore spots, the confession on the part of both authors that neither profession is to be regarded as free from all imperfection or entitled to cast stones. To either a lawyer or a doctor, this review of the ancient dispute, with its attempt at impartial evaluation of the complaints from both sides, will be very enlightening, and a great aid to understanding of the other man's position. Whenever there is such understanding, difficulties tend to be solved, or to disappear."

French Judiciary

Histoire de la Magistrature Française des Origines à nos Jours. Paris: Librairie Plon, 1957. 2 v. Pp. vi, 448; 437. Illus. About \$35.00-\$40.00. Dr. Rousselet has been a member of the French judiciary since 1920; he served as President of the Tribunal de la Seine from 1944-50 and as President of the Court of Appeal of Paris since 1950. He is the author of several publications on the history of the French courts.

This work is the fruit of thirty-five years of study and experience. He has drawn on previous publications for the historical parts in which he surveys the administration of justice under the old and the revolutionary regimes, the reforms under the Consulate and Empire, and from the Restoration to the present time. In the second volume he treats the "recruiting" of judges, their qualifications and the families of famous judges, *e.g.*, Aguesseau, Portalis, and those of the 19th and 20th centuries. The last part deals with judicial robes and ceremonies and the judge's professional concerns in the execution of his duties.

Dr. Rousselet hopes that the young lawyers who read his work on this "beautiful profession of self-negation and hard work" will continue the tradition set by their predecessors and that they will rise above materialism and live for the law. If he can instill this desire to become a judge in the young lawyers, it will be his best award for his labor.

