

BOOK REVIEWS

EULOGY OF JUDGES. By Piero Calamandrei, translated into English by John Clarke Adams and C. Abbott Phillips, Jr. Princeton University Press, 1942. Pp. 121. Price: \$2.00.

This small book (a translation from the Italian), is a kindly sort of thing, without ebb and flow. It is not a contribution and does not pretend to be. It does not burn with sacred fire and does not blast with categorical imperatives. It speaks of the judge and the lawyer, and their pains and pleasures, but not (by contrast) in the Bentham sense of the governance of these sovereign masters. It presents simply and quaintly the views of the author (a lawyer and professor in Italy) on faith in judges; on the relationship of bench and bar and their common destiny; on lawyers and their prime and precious requisites of honesty, decorum and fidelity; on the proper coherence of truth and advocacy.

There are anecdotes and there is humor, and sentences that are quick. Some of the observations may strike with question mark, thus:

"If revelers, returning from the theater late at night, pass under the lawyer's window, they will find it illuminated; if they look in, they will see him at his desk in the quiet of the night, composing love letters to his lady, who is also being pressed by a rival—letters ardent, prolix, emphatic, boresome, like all of their kind—but the lawyer's letters are briefs, and the lawyer's mistress is the court."

Some are sombrously over-sentimental.

The book is pleasant, and somewhat "education in the obvious;" but as Holmes reminds us, we need that too. We sometimes think that only from a work of close and zealous exposition can we draw value. It is not so.

Joseph Sloane.†

GOVERNMENTAL ADJUSTMENT OF LABOR DISPUTES. By Howard S. Kaltenborn. The Foundation Press, Chicago, 1943. Pp. xiv, 327. Price: \$3.50.

Belying its title, this book is concerned almost exclusively with administrative problems encountered by government labor mediation bodies. The structures and procedures of such agencies as the United States Conciliation Service, the Railway Mediation Board and the various state mediation bodies are successively described and the author's conclusions and recommendations are summarized in a final chapter.

Given the limited subject of inquiry, this book is an extremely welcome addition to the field of labor literature. The author's main thesis, that agencies handling labor disputes should not combine both mediation and arbitration functions, is well buttressed with numerous examples. Considerable weight is given in this connection to the decision of the New York State Mediation Board to eschew arbitration activities altogether on the theory that work in this field would lessen its effectiveness as a media-

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tion body. In similar vein, the author recommends that the United States Conciliation Service and the National Mediation Board should not undertake to appoint arbitrators in cases coming within their respective fields of jurisdiction. The author even questions the advisability of permitting the latter agency to settle representation disputes in the railroad industry, a statement which at first glance seems difficult to reconcile with his comment on the same page that ". . . the method used in handling representation disputes in the railroad industry is superior to the procedure of the National Labor Relations Board." (p. 70).

In one of the most interesting sections of the book, Kaltenborn describes various state and municipal mediation bodies, a phase of the labor field about which little has been written. The author's comments on the strike notice requirements of the Michigan and Minnesota labor laws are particularly timely in view of the Smith-Connally Labor Disputes Act recently passed by Congress. Anticipating our experience under the federal act, Kaltenborn finds that most of the notices have been filed in situations where strikes were not being seriously contemplated. While the author concludes that the strike notice requirements do not seem to have worked too successfully, he does not feel that the available evidence warrants a strong position one way or the other on the issue. His survey of city labor boards leads him to the general conclusion that a widespread development of such bodies "appears neither probable nor desirable," and that the best way for a city administration to serve the public interest is simply to keep state adjustment agencies or the United States Conciliation Service informed of actual and impending strike actions.

As noted above little attention is given to substantive issues such as the closed shop, seniority practices or union wage policies. Nothing is said, even by way of background, about the economic and social causes of labor disputes. For many students of labor relations this approach would seem to rule out the most challenging problems in the field. The causes of labor unrest are not due in any large measure to defective mediation machinery. Nor is it enough to say all that can be hoped for is industrial peace. Certainly numerous "peaceful" settlements are anything but socially desirable. Many of the crippling restrictions in the field of construction labor, for example, have been established without strikes. Similarly in the railroad field, the spread of innumerable employment rules and regulations have gone hand in hand with the development of an elaborate mediation machinery. Merely avoiding strikes in such situations is less than half the problem. The nub of the matter is whether we can avoid serious labor unrest and at the same time keep uneconomic union practices to a bare minimum.

Apparently the author himself felt compelled to give some attention to some of these substantive issues, since in the chapters on the National Defense Mediation Board and the National War Labor Board the questions of maintenance of membership contracts and wartime wage policies are considered in some detail. His review of the government's current effort to control wage increases, voluntarily agreed to by employers and unions, affords striking testimony to the fact that true industrial stability is not just a matter of mediating differences between labor and management. In fact, the author might well have considered whether inflation control is a fit subject for negotiation between interested groups and whether a tri-partite body like the National War Labor Board is the most appropriate kind of organization to deal with the stern necessities of a wartime wage situation.

The author's description and analysis of the work of the National War Labor Board from its beginning in January, 1942, to February, 1943, despite the omission noted above, is in my judgment the best that has been written to date. A clear, detailed picture is given of the structure and operations of the National Board and its twelve regional offices; similarly, a careful analysis is made of the Board's powers and policies under the Executive Orders of January, 1942, and October, 1942. Regarding the "Little Steel" formula, which is currently the subject of bitter attack by various union groups, Kaltenborn finds that as now applied it is "... sound from an economic standpoint and is practical in application." With respect to the Board's treatment of so-called wage inequality cases, the author finds that while economically defensible, the Board's emphasis on historical differences has given rise to tremendous administrative problems. Since this book was written the Board has shifted its policy and now disposes of inter-plant inequality cases on the basis of comparisons with the sound and tested going rates for particular jobs and labor market areas. This shift, which was made necessary by the Byrnes' directive of May 12, 1943, has created no little administrative problems of its own, but now that tested rates have been established for most of the important jobs and communities, inequality cases are being disposed of much more rapidly. The treatment of Board policy with respect to substandard wages and manpower issues is necessarily brief, since the most important developments in these two phases of the wage control program have occurred in the last six months.

The survey of the Board's treatment of dispute cases contained in this book, is a record of a very difficult job well done. In this connection the author gives chief attention to the development of the Board's union security policy, his case by case analysis showing the tri-partite system at its best. First came the maintenance of membership clause, then the fifteen day escape clause, finally the anti-coercion clause to protect employees from undue union pressure. When the issue of union membership was first broached at Board meetings, the three groups were miles apart, but a mutual interchange of views extending over many months time finally led to a compromise solution which made a coherent policy possible.

This book, while not as outstanding a contribution to the field is a worthy sequel to Witte's, *The Government in Labor Disputes*. It contains much valuable information, is well organized and clearly written and its author's approach is both objective and incisive.

Frank C. Pierson.†

FEDERAL INCOME, GIFT AND ESTATE TAXATION. By Jacob Rabkin and Mark H. Johnson. Mathew Bender & Company, New York, 1942. Pp. 1154. Price: \$25.00.

This type of work on Taxes is needed by Practitioners. Messrs. Rabkin & Johnson have planned and written a masterful condensed guide for the practitioner in his problems concerning the entire field of Federal Income, Gift and Estate Taxation. It is true that the multi-volumed services are essential tools in the libraries of Attorneys, Certified Public Accountants and Tax Consultants, but a single volume loose leaf service,

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such as this one, may be of great value as an initial reference or a ready source of authority.

The authors by no means imply that they are offering a substitute for all of the standard services, U. S. Tax Court and court decisions, or other works on the subject. From their own frequent references to many of these we can list some of the works and services which are necessary in the library of a practitioner handling a volume of tax cases:

Internal Revenue Code

Treasury Department Regulations 103

Treasury Department Regulations 104

Treasury Department Regulations 109

Treasury Department Regulations 110

Treasury Department Regulations 111

Treasury Department Regulations 105

Treasury Department Regulations 108

Supreme Court Reports

Federal Reporter

Federal Reporter—Second Series

Federal Supplement Reporter

CCH Board of Tax Appeals Service

CCH United States Tax Court Service

United States Tax Cases—(CCH)

American Federal Tax Reports (Prentice Hall)

Cumulative Bulletin, Bureau of Internal Revenue

Internal Revenue Bulletin

The Law of Federal Taxation—Mertens

A complete set of all Federal case reports is the basis of any tax library and certainly the volume of material—case and otherwise—makes a digest of some type equally essential. At least one of the standard services annotating the Internal Revenue Code and the Treasury Regulations and editing applicable court decisions should be available. In addition, a practitioner called upon to deal with special problems may have to refer to treatises foreign to his own special competence. When, for instance, practitioners are engaged in preparing and supplementing applications for relief, under Section 722, they will add much to their supplies of pamphlets and books by a large number of works on "Economics," "Business Cycles" and "Statistics."

This work is highly commended to all. The practitioner who is steeped in the law of Federal Taxes and is busily engaged therein will find in it a quick guide to the answers to those questions requiring a prompt answer. That practitioner will be depended on to know where to look for the support required to sustain his position.

The lawyer who seldom faces Tax problems, or who handling them frequently cannot spend the time in research can surely make good use of it. As long as he heeds the authors' advice and realizes that from this service he will not expect to find the history of the treatment of his question over the past thirty years and so long as he will supplement his labors to bolster the "advice" he is giving or the "memoranda," or the "Brief" that he is filing—he will in this service get a quicker answer than elsewhere.

The features we must commend as offered in this service only, are many. It is contained in one volume, which is loose leaf and supplemented monthly by:

- (a) *Replacement Pages* containing rewritten basic text.
- (b) *Supplemental Pages*. Cumulative material following each section referring to the text which it supplements.
- (c) *Taxes today*. Discussion of important legislative, judicial and administrative development.

The arrangement of the volume is such as to enable the practitioner to secure a comprehensive review of the Federal problems to be faced with respect to particular transactions, whether Income, Estate or Gift Tax.

The book is divided into eight major sections. In front of each section are charts clearly outlining the contents following it. These sections are listed below:

Tax Patterns—Income and Excess Profits
 Entities
 Corporations and Corporate Distributions
 Securities and Indebtedness
 Real Estate
 Gift, Trusts and Estates
 Insurance and Annuities
 Procedure

The charts are especially interesting to review when referring to a single question and the tie-in of the indexing of the material saves considerable time. Preceding each set of charts is a helpful synopsis. The summaries in the charts are then made the headings for the body of the text itself, which is written in non-technical language containing frequent references to the Code, Regulations, and cases.

Lewis J. Laventhol.†

THE COMPLETE JEFFERSON. Assembled and arranged by S. K. Padover. Duell, Sloan & Pearce, Inc., N. Y., 1943. Pp. xxix 1322. Price: \$5.00.

Of this edition of Jefferson, it is merely necessary to note that, far from being "Complete," it represents, one guesses, about a tenth of Jefferson's written work, omitting letters that are among his most significant contributions; that the arrangement seems to have been contrived rather hastily; that the reader is left uninformed regarding the number of, and differences in, the various editions of Jefferson's publications; and that the printing and paper can only be condoned as war-time exigencies. But I assume that the Editor of this Review wishes me to "review" the subject-matter of this volume—an impossible assignment, of course, but which, nonetheless, I am glad to venture upon under the mild obsession that some improvement in legal education and in prevalent conceptions and standards of "lawyers' work" will result if teachers and lawyers can be stirred by the vision of their immortal brethren.

As Dr. Padover states: "In these pages the multiminded Sage of Monticello speaks on liberty, discourses on philosophy, discusses religion, writes on agriculture, proposes educational systems, analyzes linguistics, suggests labor-saving devices, sketches inventions, comments on scientific classifications, tell how to construct a pedometer, explains how to survey

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a plat, introduces a new system of coinage, and—pens a poem to his love. The Jefferson who emerges from these pages is nearly incredible." These words are plain statements of fact; hence the first technique of any experienced reviewer must be to disregard the major portion of such a volume and confine comment to selected samples.

It is Jefferson, the lawyer and the lawyer-statesman who, no doubt, is most interesting to the readers of this Review, but that limitation, judged by the standards of the Bar of his day, is not nearly so restrictive as we might imagine, conditioned as we are by the severe, legal specialization of the past half century. Even a very brief mention of some of his legal pursuits indicates the considerable range of his professional interests. His *Bill for Proportioning Crimes and Punishments* (1779) reveals, as did Livingston's major contribution forty-odd years later, that the Criminal Law, far from being scorned and shunted, was a major concern of the leaders of the Bar. Jefferson's draft of his Bill is profusely annotated, references including not only the classical English treatises from Bracton to Blackstone but also Montesquieu, More and Beccaria. While this Bill contained much that would now be considered archaic, it is evident, also, that Jefferson was among the first Americans to carry the influence of the rising humanitarian reforms to these shores—a matter equally important for our criminal law and our Bill of Rights. Perhaps Jefferson's modernity is nowhere better shown than in the annotations to this Bill that deal with the drafting of legislation. ("In its style, I have aimed at accuracy, brevity, and simplicity . . . the modern statutory language, with all its tautologies, redundancies, and circumlocutions, would have spread itself over many pages, and have been unintelligible to those whom it most concerns.") I am not aware that our students of draftsmanship study Jefferson, but, assuredly, this volume provides many models worthy of close analysis. For Jefferson was one of the great legislators of modern times; his *Proposed Constitution for Virginia* (1776), and his *Draft of a Constitution for Virginia* (1783) are among numerous like documents, included in this volume, that will reward careful examination. So, too, the international lawyer will find Jefferson's *Opinions* on appointments to foreign service, on neutrality, on treaties, and on foreign debts of more than historical importance. And, of course, his papers illuminate numerous problems of constitutional law that are currently agitated.

Jefferson wrote extensively on educational problems, and, among others, introduced a *Bill for the More General Diffusion of Knowledge* (1779) and for *Establishing a Public Library* (1779). His opposition to sending American students abroad reveals an acute observation of the laxity of European institutions of higher learning at that time. His observations on the value of Greek and Latin, on library classification, and on the education of women are thoughtful and not infrequently provocative. His well-known, self-chosen epitaph indicates the debt to him of the University of Virginia and of university education generally in this country as an essential adjunct to democratic government.

Of particular interest at this time are Jefferson's views on legal education. For, however greatly legal educators differ in their specific programs, if they can arrive at common ground concerning the major needs of post-war lawyers, there is hope for the Bar's creative participation in the solution of countless problems, many of which lie beyond the boundaries of the established specialized fields. At least in inducing a more hospitable attitude towards experiments designed to broaden the training of lawyers, Jefferson can be a powerful influence even if we disagree with his partic-

ular proposals. An early letter (1767) published shortly after he began the practice of law, counselled on both prelegal and legal education. In the former, he recommended foreign languages, mathematics and philosophy. The law course, in addition to the then usual legal subjects, was to include the study of science, religion, ethics, philosophy, politics, history, literature, rhetoric and oratory. Contrary to the present predilection, Jefferson believed that "the carrying on several [different sorts of] studies at a time is attended with advantage." He supplied a bibliography of the above various fields, including a number of volumes of Select Cases, and, if law students imagine that their professors have invented case-briefing, they should read Jefferson's injunction: "In reading the Reporters, enter in a common-place book every case of value, condensed into the narrowest compass possible, which will admit of presenting distinctly the principles of the case. This operation is doubly useful, inasmuch as it obliges the student to seek out the pith of the case, and habituates him to a condensation of thought, and to an acquisition of the most valuable of all talents, that of never using two words where one will do. It fixes the case, too, more indelibly in the mind." Writing on this same subject a good many years later (1821) when he needed his granddaughter to copy his letter, Jefferson, after supplying a brief legal bibliography, stressed Reeves' History and the reading of select, leading cases. He noted, also, that though a lawyer was not expected to be "an adept" in, yet he should have a "decent" knowledge of admiralty, ecclesiastical and international law. All of the above professional reading, he thought, would require six hours a day; "there would still be six or eight hours for reading history, politics, ethics, physics, oratory, poetry, criticism, etc. as necessary as law to form an accomplished lawyer."

Only a lawyer, thus trained, could have made Jefferson's great contribution to our Bill of Rights, indeed, to the cause of civil liberty everywhere, e. g., his influence on the drafting of the *Déclaration des Droits de L'Homme*. His valiant efforts in behalf of freedom of religion in a day when the right was by no means established, is well known, but the original papers as they came from Jefferson's pen will repay careful reading. Even after he was bitterly attacked in the newspapers and was re-elected President, he nonetheless affirmed his philosophy of liberty, especially of the Press, in simple language that is far from irrelevant to the most basic problems of this century—when lawyers, of all citizens, must somehow reconcile the traditional liberties with the newer economic claims, styled in the self-same language of natural right.

There is no easy road to the required proficiency, and even a thumbing of these pages discloses a thoughtful philosopher and social scientist working in and through the instrumentality of law to achieve a profound ideal of a good American society. It presents a challenge to those whose duty it is to know what makes great lawyers, and to provide the necessary opportunities, as best they can. Even more, it is a revelation of the vital importance of the great lawyer who serves the Republic as statesman. For the great leaders of a democracy are perennial founts of inspiration and encouragement. In paying them our homage, we but renew our own vitality and courage to meet the challenge, not so much of the great crises, but rather of the inertia of each day's routine assignment. To keep the vision of one's potentialities alive, to stir the embers of self-criticism, and to rededicate oneself to the individual and social ideal—these values have today a special significance in the context of all the deeper spiritual and intellectual meanings of a western culture whose ultimate principles

are being tested on the field of battle. The Great Dead of this nation whom we honor all-too-infrequently, and of whom we know much too little, are those who, whatever their station, had the wit and sensitivity to appreciate the nature of such basic issues, and the determination to wage the good fight. Such a man was Lawyer Jefferson.

Jerome Hall.†

THE INTERNATIONAL LAW OF THE SEA. By A. Pearce Higgins and C. John Colombos. London: Longmans, 1943. Pp. xvi, 5-647. Price: \$17.00.

The present volume constitutes a strange mixture of the old and the new, the solid and the uncertain, the British and the international. In its more than six hundred pages and its twenty-odd chapters it tries to deal with the international law of the sea in all its aspects, in peace and in war. And it employs the classical methods of treatise-writing, of Anglo-American case law, and of more modern political science all in the same good cause.

Thus in Part I we have a chapter devoted to the question of the sources and development of maritime law which inevitably contains a certain amount of material on the general science of international law and on modern conditions all over the world. But we also have a very great lot of talk about the Admiralty, jurisdiction of the Admiralty courts, the Royal Navy, and so on. And as between the two the treatment of the latter element seems much more substantial, confident and assertive than the former.

The remaining chapters in Part I and the comparable chapters (XI-XXI) in Part II reveal the same feature: the universe is made up of Britain and whatever else. On the other hand it is in these chapters, dealing with the details of substantive law, that Professor Higgins' well-recognized technical mastery is most evident—even though here also the distinction between international law and British law seems always in danger of being ignored. In a section dealing with "British contributions to the freedom of the seas" there is displayed either an incredible lack of perceptiveness or a brutal refusal to recognize non-British feeling,—one is inclined to believe it is the former.

In the second part of the book and its concluding chapter we encounter the discrepancy again. The "law" of naval warfare (blockade and contraband, visit and search and capture, etc.) is set out in a way quite out of keeping with the existing uncertainty concerning the content of that law. This is done largely by dwelling on historical aspects of the matter and refraining from forcing the issue: just where do matters stand today? Then finally, in Chapter XXII, comes a discussion of the future of naval warfare, of international organization, legislation, and police action for suppression of international violence, which is quite in harmony with current thought. It is, however, as far removed from the rest of the treatment as Washington, Moscow, and Geneva are from Ipswich, Yarmouth, and the Declaration of London.

Every student of maritime problems and even of maritime law should have a copy of this volume at hand (except for the absurd price). He will have a mine of material, largely historical, and the observations of a partisan lawyer who yet has much sympathy for international community

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interests in maritime matters. He will not, however, be misled into feeling that he has any objective, unbiased, or reliable guide ready at hand, and his partisan guide will remain apparently unaware of the degree of his own partisanship!

Pitman B. Potter.†

THE PERMANENT COURT OF INTERNATIONAL JUSTICE, 1920-1942. By Manley O. Hudson. The Macmillan Company, New York, 1943. Pp. 807. Price: \$7.00.

In all the literature concerning the Permanent Court of International Justice there is nothing comparable to Manley Hudson's monumental treatise. Taking advantage of the wartime lull in the Court's activities, Judge Hudson has been able to bring to his task the objectivity of the trained scholar, the insight and experience gained from sitting as a justice on the high tribunal he is describing, plus years of special expertness in the field of international juridical organization.

This book is designed for the scholar, not for the layman—for the latter Mr. Hudson has provided elsewhere clear and persuasive analysis of the Court's functions as an instrument for peaceful settlement, and its contributions toward a more orderly and stable world. Nor is it primarily a juristic study, except in so far as the detailed description of procedure and practice may prove to be of value to the jurist. It is, rather, a serious effort to appraise the structure and operation of the Court as an important international institution: a political scientist's detailed descriptive study of the origin, structure, and functioning of a governmental institution.

Basically, this is a revision of Mr. Hudson's earlier treatise, *The Permanent Court of International Justice*, published in 1934. Comparison of chapter and section headings would seem to indicate reallocation of material, and revisions to bring up to date such matters as the analysis of the Rules of Court, rather than a completely new approach; but a careful reading of the two volumes shows the changes to be more far-reaching than they would appear from a cursory survey. True, some of the descriptive sections stand practically unaltered, but there has been considerable re-writing throughout the book, bringing to bear on all aspects of the subject both the experience of the Court in the intervening years, and the new perspective gained by the author from sitting as a judge on the bench. There is also some entirely new and valuable material, especially the chapter describing the proposed International Criminal Court (Ch. 6), some important new sections on access to the court by individuals and international organizations (§§ 420-423), on special agreements conferring jurisdiction (§§ 441-3), on the choice of law by the parties (§§ 544-6), and on the role of precedent and the cumulation of case law as a result of decisions of the Court (§§ 556-7).

Part I presents a careful and illuminating appraisal of the structure and work of other international tribunals: the Permanent Court of International Arbitration, International Commissions of Inquiry, the Central American Court of Justice, and three proposed tribunals—the International Prize Court, the Court of Arbitral Justice, and the International Criminal Court. This comparative study of the precursors of the Permanent Court of International Justice sets the stage for a historical study in Part II: the drafting of the relevant provisions of the League Covenant,

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the drafting and revision of the Court Statute and of amendments subsequently adopted, and the effort to provide for U. S. accession without League membership. Part III, describing the organization of the Court, is particularly valuable for its appraisal of the election system and of the resulting membership of the bench (Ch. 12). It includes also a detailed examination, article by article, of the 1936 revised Rules of Court (Ch. 13), an interesting account of the often-overlooked but important work of the Registry (Ch. 14), and discussions of the Court's finances, privileges, and organizational problems. Part IV deals comprehensively with the jurisdiction of the Court, including the right of access, compulsory and advisory jurisdiction, and jurisdiction conferred by treaty. Part V describes the procedure and practice of the Court, and has been greatly elaborated since the earlier edition, presumably in the light of Mr. Hudson's experiences as a judge since then; it portrays very clearly the various procedural steps from the initiation of a case, through the deliberations and voting to the rendering and execution of the decision. Part VI, "Application of Law by the Permanent Court of International Justice," seems to this reviewer one of the most valuable parts of the book, and certainly of greatest interest to the legal profession in general and to international lawyers in particular. One could wish indeed that Mr. Hudson had expanded the two brief chapters—the last sixty pages of the 661-page text—into which he has packed such a wealth of legal analysis. To be sure, there are other works where appraisal of the Court's jurisprudence can be found—notably Mr. Hudson's own annual series of articles for the *American Journal of International Law*,—but this reviewer would have liked to see in the present treatise more emphasis on the type of juristic analysis most valuable to the international lawyer, as distinguished from the student of institutions. However, where so much has been included it is perhaps unfair to cavil at what is a matter of emphasis, rather than actual omission; certain it is that no scholar in the field of international law can afford to neglect this treatise. Appendices republish the full official texts of all the major instruments relating to the constitution and procedure of the Court, plus lists of its members and officers, and of its work and publications, making the treatise doubly useful for reference.

Helen Dwight Reid.†

I CAN GO HOME AGAIN. By Arthur G. Powell. The University of North Carolina Press, Chapel Hill. Pp. 301. Price: \$3.00:

Judge Powell was born in Blakely, Georgia, and has seen it grow from a village of 200 souls to a town of 3000 persons. He is still proud of his "home town." Although the vicissitudes and fortunes of politics and the practice of law have carried him away from the "scenes of his childhood," he is still, in retrospect if not in fact, a "country lawyer."

Southern hosts and hostesses of other days often entertained guests by giving them personally conducted tours through the family albums. Usually there was an interesting fact or story about each one whose "likeness" was preserved between an album's covers. *I Can Go Home Again* unfolds the Blakely and the Powell albums to the public. Judge Powell is the host.

The book gains nothing except its title through the Judge's having left Blakely and its environs. Powell is at his best (often an entertaining best) when recounting little incidents of the rural courtroom and of the little people to whom that room is the greatest of all theaters.

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It is to be regretted that the author digressed to insert his sensational statements about the Leo Frank case. The book is destined to be remembered not as a pleasant little volume of memoirs, but as an exposé of "justice denied."

Judge Powell states, "A sad feature of the case was Judge Roan himself. I knew him intimately—knew how fair and fearless he was. * * * When he was preparing his charge to the jury, I sat on the bench at his side and he said to me, 'This man's innocence is proved to mathematical certainty.'"

The "fair and fearless judge," despite the "mathematical certainty," overruled the motion for a new trial.

The Governor of Georgia, according to Judge Powell, had information which indicated Frank's innocence, yet he granted a commutation to life imprisonment rather than a full pardon. This he did in the belief "that in a very short while the truth would come out and the very men who were clamoring for Frank's life would be demanding a pardon for him."

Judge Powell adds, "I am one of the few people who know that Leo Frank was innocent of the crime for which he was convicted and lynched. I know who killed Mary Feagan, but I know it in such a way that I can never honorably make the information public as long as certain persons are still living."

As a Southern "country lawyer" I have never known even a "weak-kneed" judge who would allow a verdict to stand when convinced of the defendant's innocence. I have never known a Governor who would deny clemency until such time as the public might clamor for it. Although knowing Judge Powell only through his book, I am convinced that he knew of Frank's innocence too late for that knowledge to serve Frank. My brothers at the bar would consider "honorable" only the fullest measure of positive action required of them to protect the innocent from unjust punishment. Judge Powell is a "brother-at-the-bar,"—a "country lawyer." That is why he can go home again to Old Blakely.

Malcolm B. Sewell.†

ALEXANDER JAMES DALLAS. By Raymond Walters, Jr. University of Pennsylvania Press, Philadelphia, 1943. Pp. vii, 251. Price: \$2.50.

This book is the eighth volume in the series of Pennsylvania Lives, published by the University of Pennsylvania Press. It is the biography of a man who did much to mold state and national history in the early days of the nation; and the story, much of it compiled from manuscript sources and hitherto not generally known, is well worth the telling.

Alexander James Dallas is one of those great names which made the expression "a Philadelphia Lawyer" synonymous with outstanding ability at the Bar coupled with unselfish public service. The present Philadelphia Bar, particularly, owes a debt of gratitude to the author and publisher for bringing together in this readable volume the highlights in the career of the man whom most lawyers know only as the first reporter of the decisions of the Supreme Court of the United States and of the Supreme Court of Pennsylvania.

Dallas was of distinguished Scottish ancestry. Born in Jamaica, and educated in England, he came to Philadelphia from Jamaica in the Spring

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of 1783. He was then 23 and with him he brought his beautiful 18-year-old wife whom he had wooed and won in England before she was 16. He had had no formal legal education and spent his first two years in Philadelphia acquiring a knowledge of American and Pennsylvania law. In 1785 he became the 34th member of the Philadelphia Bar. In the next five years he established himself at the Bar, edited his reports, a newspaper, and a monthly magazine.

By 1790 Dallas had made such an impression that Governor Thomas Mifflin offered him the post of Secretary of the Commonwealth, which Dallas accepted and held for the next ten years. He used this position to make himself, next to the Governor, the most powerful official in the state government and for the rest of his life played a leading role in politics and public life as well as at the Bar.

In short chapters the author sketches Dallas' work as one of the leaders in transforming the Pennsylvania Anti-Federalists into the Democratic Republicans, his part in suppressing the Whiskey Rebellion of 1794, his opposition to the Jay Treaty and some of his early important cases in which he defended Democratic Republican clients against Federalist prosecutions.

After Jefferson's inauguration he named Dallas United States Attorney for eastern Pennsylvania, a post which he held from 1801 to 1814. At that time the United States Attorneys worked closely with members of the President's cabinet and Dallas performed work of great importance to the Federal government. During this period Governor McKean offered him one appointment as chief justice and another as attorney general, both of which, for reasons given by the author, were refused. During those same years Dallas acquired a most lucrative private practice and by 1814 his income had risen to more than \$20,000, in an age when a farm hand received \$75 a year. Yet his fees were very modest. His most enjoyable work was in the federal Supreme Court, and the author tells us that "Invariably the appearance of Dallas and his colleagues in the Supreme Court was triumphant. Once, as they strode into the chamber together, Justice Bushrod Washington was heard to exclaim: 'This is my bar!'"

In 1814 Dallas reluctantly left Philadelphia to become Secretary of the Treasury, and for the next two years played a leading part in extricating the United States from the financial difficulties brought on by the War of 1812. At one time he simultaneously performed the duties of Secretary of State, of War and of the Treasury. Three months after his return to private practice he died on January 16, 1817 in his 58th year.

In this little book great names and great events stalk across the pages. Dallas numbered among his friends, clients and associates, men who were leaders in the city, state, and nation, and his fashionable home, graced by Mrs. Dallas, was one of the gayest social centers of Philadelphia life. The name he made for himself during his 31 years at the Philadelphia Bar is seen in the fact that his pall-bearers included Judge Richard Peters, Chief Justice William Tilghman, Jared Ingersoll, Judge Thomas Cooper, Joseph B. McKean and Horace Binney, and that the members of the United States Supreme Court resolved to wear crepe on their left arms during the February term, "as a mark of respect" for his illustrious talents.

Lawyers who put aside an evening or two to read this book will find the time well spent, and will close it with renewed pride in and inspiration from the ancestry of the Philadelphia Bar.

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