

## BOOK REVIEWS

HANDBOOK OF THE CONFLICT OF LAWS (3d ed.). By Herbert F. Goodrich, assisted by Paul A. Wolkin. West Publishing Co., St. Paul, 1949. Pp. xix, 729. \$6.50.

Judge Goodrich's handbook on the conflict of laws has long since obtained a secure place among the indispensable tools for anyone who is interested in the study of the conflict of laws as developed in the United States. The original author and Mr. Wolkin have now produced a substantially revised and enlarged edition. The number of pages has been increased by 105, but part of the increase is the result of the use of a larger and clearer type and the adoption of a generous system of spacing which frequently has the effect of placing a new section at the top of a new page. Readers will be grateful for these improvements in the format of the book.

Three new sections have been added to chapter one (Introduction and General Principles), namely, § 4 (Reason for Conflict of Laws Rules), § 6 (Conflict of Laws Theories) and § 9 (Characterization, Classification or Qualification). These new sections constitute a marked improvement, so that the chapter as a whole furnishes references to various suggested theoretical approaches to conflict problems. The revised concluding paragraph of § 8 is noteworthy because it substitutes a relatively flexible principle for the rigid principle of the recognition and enforcement of foreign acquired rights stated in the corresponding section of the second edition. The author frankly and sensibly states in the preface: "As years go by . . . there seems to me less compulsion about conflict of laws rules except as the Constitution provides the compulsion. . . . To the extent one abandons the categorical imperative he slips away from the dogmas of Joseph H. Beale, that great teacher who taught us all so much, even when we disagreed with him." (p. v.) In § 10 (Renvoi) there might be added a reference to *In re Duke of Wellington*.<sup>1</sup> The concluding section of chapter one, which in the second edition contained merely a brief reference to the overruling of *Swift v. Tyson*<sup>2</sup> by the then recent case of *Erie R.R. Co. v. Tompkins*,<sup>3</sup> contains 12 pages of discussion of various phases of "conflict of Laws in the Federal Courts."

Chapter 2 contains an ample discussion of the subject of domicile. Two important features of the English doctrine, namely, the revival of the domicile of origin (p. 58), and the rule that a wife's domicile is in all circumstances that of her husband (p. 80), have not secured a place in the doctrine prevailing in the United States. The American is more sensible than the English doctrine and avoids some cases of hardship. The use of the expression "matrimonial domicile" is justly criticized (p. 74).

In suggesting a doubt whether the author is justified in devoting 69 pages in a handbook on the conflict of laws to the subject of taxation (chapter 3), I do not mean to cast any doubt on the great value of the chapter in itself. On page 167, note 1, the author says that jurisdiction to tax is for the most part a phase of "legislative jurisdiction," of which

1. [1947] Ch. 506, *aff'd on other grounds*, [1948] Ch. 118. Cf. DICEY, CONFLICT OF LAWS 53 (6th ed. 1949).

2. 41 U.S. 1 (1842).

3. 304 U.S. 64 (1938).

he discusses another phase in chapter 4 (Jurisdiction of courts). Legislative jurisdiction is of course closely connected with the theory of the recognition and enforcement of foreign acquired rights, which, as already noted, the author has now abjured; but acquired rights language occurs in the black letter text of § 67 and in the comment on p. 167.

Little change has been made in chapter 5 (Substance and procedure). The conclusions stated (pp. 233 ff.) with regard to the proof of foreign law and the presumption that in the absence of proof to the contrary the foreign law is identical with the law of the forum seem to me much more sensible than the somewhat casual, even reckless, practice of English courts in applying this presumption. In Canada fortunately the judgment of the Chief Justice of Canada in *Purdom v. Pavey*,<sup>4</sup> furnishes authority for refusing to follow the rigid English rule.

In Chapter 6 (Tort obligations) the only important change consists in the revision and elaboration of § 100 in the light of recent cases relating to workmen's compensation acts (pp. 281 ff.). The references to English cases on the subject of tort liability (pp. 262, 268, 274) might usefully have been supplemented by a reference to Professor Yntema's acute analysis in a recent Book Review.<sup>5</sup>

Chapter 7 (Contract obligations) has been brought up to date, without extensive alteration. The author continues, justifiably, to be critical of the theory that the intrinsic validity of a contract should be governed by the law intended by the parties (pp. 325 ff.). The topic of assignment of contracts is disposed of perhaps too concisely, without discussion of the theory that the assignment should be governed by the proper law of the assigned contract.

Chapter 8 (Marriage) contains much instructive material on a topic which is of great social interest from the point of view of comparative law. Emphasis is laid upon the law of the domicile of the parties (pp. 348 ff., 356 ff.), notwithstanding the "general American rule" that "a marriage good where contracted is good everywhere" (p. 351). As regards a marriage by proxy (p. 353), a reference might have been given to *Apt v. Apt*.<sup>6</sup> On the subject of polygamous marriage (p. 370) the important decision of the Court of Appeal in England in *Baindail v. Baindail* should be noted.<sup>7</sup> The author's criticism would appear to be justified both as to the application of the law of the "intended family domicile" (p. 358) and as to the case of *Sottomayer v. De Barros*,<sup>8</sup> (p. 368).

Chapter 9 (Matrimonial Property) contains valuable material (pp. 376 ff.), much of it new in the present edition, relating to the problems arising from the fact that in some of the states of the United States a system of community of property has long existed, and that in other states it has been introduced by statute. The situations and the solutions are complex and interesting. In England and Canada the corresponding problems have presented themselves in a relatively simple form and have been solved in perhaps too simple a manner, the governing decision being that of the House of Lords in *De Nicols v. Curlier*<sup>9</sup> (criticized at p. 387).

4. 26 Can. Sup. Ct. 412 (1896). Cf. Article, 26 CAN. BAR REV. 907, 915 (1948).

5. See Yntema, Book Review, 27 CAN. BAR REV. 116 (1949). Cf. 2 RABEL, CONFLICT OF LAWS 239 (1947), and Book Review, 27 CAN. BAR REV. 375 (1949).

6. [1947] P. 127, *aff'd*, [1948] P. 83. Cf. 26 CAN. BAR REV. 344 (1948).

7. [1946] P. 122; and compare Article, 27 CAN. BAR REV. 1161, 1183 (1949).

8. [1879] 5 P.D. 24.

9. [1900] A.C. 21.

Chapter 10 (Divorce) includes many new passages (pp. 398 ff., 406 ff.), written especially in the light of the overruling of *Haddock v. Haddock*<sup>10</sup> by *Williams v. North Carolina*.<sup>11</sup> The question of the recognition which either will be or must be accorded in one state of the United States to a divorce decreed in another state is of interest to English and Canadian readers by reason of the doctrine of *Armitage v. Attorney-General*.<sup>12</sup> The chapter also covers the topic of annulment of marriage (pp. 417 ff.). The English law on this topic, both as to jurisdiction of courts and choice of law, must now be reconsidered in the light of the important judgment of the Court of Appeal in England in *De Reneville v. De Reneville*.<sup>13</sup> More recently, the topic has been again discussed by the Court of Appeal in *Casey v. Casey*.<sup>14</sup>

Chapter 11 (Legitimation and adoption) includes a discussion of two related but separate questions, the recognition of the status of a legitimate or legitimated child created under a foreign law and the child's right of succession. In England these two questions have been confused in the much criticized case of *In re Bischoffsheim*.<sup>15</sup> It may be respectfully asked whether the author is right when he speaks of inheritance without legitimation (pp. 437, 444). Would it not be more accurate to speak of inheritance by a child who has been legitimated by his father's recognition?

Chapter 12 (Property) contains an instructive discussion of various problems connected with the creation and transfer inter vivos of interests in immovable things (land) and movable things. Notwithstanding the correctness of the language of the black letter text of the first section in the chapter, the first sentence of the comment which immediately follows says: "Interests in property are classified, for the purpose of applying rules of Conflict of Laws, as either movables or immovables" (p. 453). This sentence may be used as a peg upon which to hang an explanation of one point upon which I venture respectfully to criticize the learned author's language. In note 3 on page 454, he refers impartially and, so to speak, without prejudice, to an article later reprinted in Cook, *The Logical and Legal Bases of the Conflict of Laws*, 252 (1942), and to my *Essays on the Conflict of Laws* (1947), at pp. 433 ff. in which I discuss Things and Interests in Things.<sup>16</sup> The distinction which the author to a large extent ignores, and which, following Cook's lead, I have attempted to elaborate and apply as being essential to the unequivocal statement of certain conflict rules, is the distinction between things (which if tangible are either immovable or movable, and if intangible are traditionally, though not accurately, treated as movable), and interests in things (which are of course intangible legal concepts—as the author recognizes in his remarks on "title" (p. 552)—and at common law are classified as personal property and real property, the former including various interests in land, such as the interest of a leaseholder or a mortgagee, and all kinds of interests in movables). Obviously it is confusing to speak of any interest in a thing, such as real property, as having a situs, and to speak of real property as being equivalent (subject to certain excep-

10. 201 U.S. 562 (1906).

11. 317 U.S. 287 (1942).

12. [1906] P. 135.

13. [1948] P. 100. Cf. Article, 26 CAN. BAR REV. 907, 908 (1948); DICEY, *op. cit. supra* note 1, at 244 ff.

14. [1949] P. 420.

15. [1948] Ch. 79. Cf. DICEY, *op. cit. supra* note 1, at 489, 501, 514; Article 27 CAN. BAR REV. 1161, 1163 (1949).

16. To these references may now be added DICEY, *op. cit. supra* note 1, at 433 ff.

tions) to immovables (*cf.* pp. 382, 453, 454). That the point is not merely one of correct language is illustrated by the author's statement (p. 501) that intestate succession to personalty is governed by the law of the domicile of the decedent at the time of his death. This statement is misleading, to say the least, unless it is accompanied by an explanation that in this connection "personalty" does not mean what it means in domestic common law (that is, as including some important interests in land), but that it means any interest in movables and intangibles, and excludes any interest in land. Would it not be simpler and more accurate to say that succession to movables (including intangibles) is governed by the law of the domicile?

Chapter 13 (Inheritance) contains a good discussion of various problems relating to testate and intestate succession, marred only by the fact, already noted, that the author distinguishes between land and personalty, instead of distinguishing between land and movables (including intangibles).

Chapter 14 (Administration of estates) is instructive and justly emphasizes that administration (in the sense of the management of the estate of a decedent as distinguished from succession in the narrow sense) is based primarily on the situs of the assets, without regard to the domicile of the decedent.

Chapter 15 (Judgments) discusses only the recognition and enforcement of foreign judgments, the subject of domestic judgments having been already discussed in chapter 4 (Jurisdiction of courts). The only important new feature of the chapter is the revision of § 217 in the light of the Restatement of Judgments.

Generally, the statements of English law, including English nonjudicial writing, occurring in various places in the book, have not been brought up to date to the same extent as those of American law. Unfortunately, it would appear that the sixth edition of Dicey on the Conflict of Laws, which was available on this side of the Atlantic only in May, 1949, appeared too late to be used by the author. The new Dicey<sup>17</sup> affords an indispensable source of information for English conflict of laws. In other respects the new Goodrich is thoroughly up to date, and if I have been so bold as to express some doubts on occasional points, there is no doubt as to the great value of the book. We may regret that an author so well qualified as Judge Goodrich has not written more discursively and less concisely on various topics, but we should be grateful for what he has given us, without complaining because he has not written a larger book. The book will continue to be one which must be consulted by those of us beyond the limits of the United States who need a guide to American conflict of laws by way of comparison with the conflict of laws of England and of the provinces of Canada.

*John D. Falconbridge. †*

CASES AND MATERIALS ON THE LAW OF EVIDENCE. By Mason Ladd. Callaghan and Co., Chicago, 1949. Pp. xxvii, 795. \$9.00.

Dean Ladd's book is courageously brief. Faced with the tradition that evidence casebooks must consume 1000 pages and upwards, he has made bold to cover the usual topics in a mere 795 pages. Such brevity is achieved in part by skilful editing of cases but mostly by generous use of case sub-

17. See Book Review, 66 L.Q. REV. 104 (1950).

† Formerly Dean of the Osgoode Hall Law School, Toronto, Canada.

stitutes. More than any other editor in the field, Dean Ladd utilizes text of his own composition and law review excerpts as time—and space—savers.

The case-hardened teacher who uses this book must therefore alter his routine and develop techniques for teaching these non-case materials. How to “teach” a law review note or article excerpt is a perplexing problem, but it is certainly no criticism of Dean Ladd’s book that its use calls for new pedagogic methods.

The work is thoroughly up-to-date. Recent cases replace many of the old standbys. Extensive use is made of the American Law Institute Model Code of Evidence. Current developments in the area of scientific proof are suggested. In the Preface and throughout the book the student is made aware of policy considerations underlying rules of exclusion and is reminded that evaluation must concern him as much as admission. No student can miss the latter point when so tellingly made as follows:

“In trials it is not uncommon to see attorneys engaged in an enlivened battle over the question of whether certain evidence shall be admitted and when the objection is overruled and the evidence comes in, nothing further is heard about it. If the evidence has significance justifying the battle, its evidential cogency is worthy of systematic appraisal in argument to the triers of fact.” (Preface iv.)

In his selection of cases, Dean Ladd shows a keen appreciation of the picturesque and dramatic. Many a dull principle is illumined by a vivid situation. His notes and explanatory comments have a down-to-earth quality that gives a sense of reality. Touches of humor, which are introduced sparingly but adroitly, ward off monotony. He emphasizes such practical matters as methods of examination, objection, offers of proof, laying foundations and the like—matters incidentally upon which he has done the most significant writing to be found in the books. Users of this book will find it easy to remain anchored to earth, resisting the temptations so beguiling in the law of evidence, to soar above ground.

This concise version of the law of evidence will certainly cause teachers given to more elaborate presentations to question their premises. In these days of the crowded curriculum, it may well be that Dean Ladd offers the proportion between depth and spread which is just right for the course in Evidence.

*James H. Chadbourn. †*

THE CONSTITUTIONAL WORLD OF MR. JUSTICE FRANKFURTER. By Samuel Konefsky. The MacMillan Co., New York, 1949. Pp. xviii, 325. \$4.50.

A judicial opinion explains, at best, how the judge has decided the case he thinks is before him. In the United States Supreme Court, even the material he starts with is a double or triple distillate of the raw facts with which trial counsel began. And it is generally assumed that a case would not have reached the Supreme Court unless it involved issues transcending the scope of the immediate controversy between the formal parties to the litigation.

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† Professor of Law, University of Pennsylvania Law School.

For a student of the Court in its impact on society, there may be more value in examining the nature of the issues rejected at each level of the judicial hierarchy. Reading the opinions of a judge out of context is like trying to solve a single equation in several unknowns.

Mr. Konofsky's selection of some forty-odd "representative opinions" from Justice Frankfurter's first decade on the Court is, however, by no means bare of background material. Each opinion, shorn of the customary fringe of scholarly adornment, is introduced by a page or two of text setting forth the circumstances of the case, and attempting, at least, to place the Justice's views in juxtaposition to the conflicting opinions of the other members of the Court. But the end result is sadly disappointing, and the fault, it seems to me, lies less with the author than with the subject. For the constitutional world of Mr. Justice Frankfurter is subtly different from the real world in which even Supreme Court justices, in their own special fashion, live and work.

The major issues in Mr. Justice Frankfurter's world are issues of power and procedure, rather than of policy. He is concerned with jurisdictional conflicts between state and federal government,<sup>1</sup> between courts and administrative agencies,<sup>2</sup> between the executive, or the legislature and the judiciary.<sup>3</sup> He is concerned with the route by which a case has reached the courts,<sup>4</sup> the point in the proceedings at which the Court's judgment is sought,<sup>5</sup> and above all he is concerned with the "special competence" of the Court to judge the particular controversy before it.<sup>6</sup>

These questions arise, of course, at the outset in any case before the Court. Indeed, their consideration is of the essence of the judicial process, and the ability to recognize them is a judicial skill of the highest order, as well as a hallmark of justice in a free society. But their resolution is inseparable from recognition and analysis of the substantive issues at stake. And the judge who stops short of substance because he is unduly concerned with form and power is able to deal adequately with neither. This is true when he is so much disturbed by the prospect of judicial intervention in the practices of a state educational system that he cannot see the necessity for the court to protect freedom of conscience "not by authority of our competence but by force of our commissions."<sup>7</sup> And it is equally true when he is so much concerned with the proper allocation of the power to issue subpoenas between courts and administrative agencies, that he loses sight of a real abuse of the discretion he finds lodged in the court.<sup>8</sup>

The latter case illustrates another characteristic of Mr. Justice Frankfurter's world, perhaps a consequence of the first—a certain formalism unexpected in so sophisticated a thinker. The SEC was appealing from the denial of an order to enforce a subpoena by civil contempt, which would have confined the subpoenaed corporate executive until he produced the documents required of him. The district court did impose a fifty dollar fine by way of criminal contempt penalty. The guts of the order was of course the denial of any effective remedy, and the fine was in the nature of

1. *E.g.*, *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 646 (1943).

2. *E.g.*, *Penfield Co. v. S.E.C.*, 330 U.S. 585, 603 (1947).

3. *E.g.*, *United States v. Pink*, 315 U.S. 203, 234 (1942); *Colegrove v. Green*, 328 U.S. 549 (1946).

4. *E.g.*, *Carter v. Illinois*, 329 U.S. 173 (1946).

5. *E.g.*, *Columbia Broadcasting System v. United States*, 316 U.S. 407, 429 (1942).

6. *E.g.*, *Tigner v. Texas*, 310 U.S. 141 (1940).

7. *West Virginia State Board of Education v. Barnette*, *supra* note 1.

8. *Penfield Co. v. S.E.C.*, 330 U.S. 585, 603 (1947).

a light tap on the knuckles; but Justice Frankfurter gravely observed: "At the same time, he [the district judge] was justified in finding that because Young had disobeyed the subpoena . . . he should be fined and made to feel that one cannot flout a court's authority with impunity."<sup>9</sup> In another case, involving the issue of "intelligent waiver of counsel" by the defendant on trial for murder in an Illinois state court, the Justice refused to look beyond the formal averments of the common law record, not because "questions of fundamental justice" may not be raised outside the record, but because of the posture in which the case stood in the Illinois court from which it had come.<sup>10</sup> By the next term of court, the Illinois procedural labyrinth was expressly condemned by at least three justices,<sup>11</sup> but Carter was then beyond judicial help.

Reluctance to overcome formal obstacles seems to go hand in hand with an almost passionate devotion to formal justice. Protection of patent rights against challenge by a patent licensee bulks larger in his world than the problem of effectuating antitrust policy in the patent field.<sup>12</sup> And a consent decree in an antitrust proceeding is almost as immutable a bargain between the government and the defendant company,<sup>13</sup> as was the Dartmouth College charter.<sup>14</sup>

In a world where function follows form, rather than vice-versa, it must be particularly distressing to find the court, on occasion, not functioning in the governmental structure at all in the way a court is traditionally expected to function. The Justice is far too good a student of the court's history not to be painfully aware of its traditionally anomalous and illogical position. But he seems to avoid every attempted new departure from its strictly judicial aspect. If the court cannot play its traditional role in a new situation, it should, he seems to feel, hold its hand altogether.<sup>15</sup>

His hesitation is illustrated perhaps most sharply in the antitrust cases, where he has been reluctant to concur in designing new and positive judicial remedies to curb offenses not amenable to traditional sanctions.<sup>16</sup> It finds expression when he reverts to the most traditional—and outmoded—language to announce the court's abandonment of any affirmative attempt to solve the vexing problem of state gross receipts taxes.<sup>17</sup> And it extends even to the administrative agency, where flexibility has always been the

9. *Id.* at 608-609.

10. *Carter v. Illinois*, *supra* note 4.

11. *Marino v. Ragen*, 332 U.S. 561 (1947); and see *Katz, An Open Letter to the Attorney General of Illinois*, 15 U. OF CHI. L. REV. 251 (1948).

12. *MacGregor v. Westinghouse Electric & Mfg. Co.*, 329 U.S. 402, 408 (1947); *Katzinger Co. v. Chicago Metallic Mfg. Co.*, 329 U.S. 394, 408 (1947). These cases, and those cited in notes 13, 14, 16, 18, and 24, do not appear in Mr. Konefsky's collection, but he can scarcely be criticized for not molding the materials exactly to someone else's thesis.

13. *Ford Motor Co. v. United States*, 335 U.S. 303 (1948).

14. *Trustees of Dartmouth College v. Woodward*, 4 Wheat. 518 (U.S. 1819).

15. In this connection, it is interesting to note his insistence that inaction, as in denial of certiorari, is not also a form of action. *Maryland v. The Baltimore Radio Show, Inc.*, 18 U.S.L. WEEK 4090 (U.S. Jan. 10, 1950).

16. Note his concurrence with the majority in *Hartford-Empire Co. v. United States*, 323 U.S. 386 (1945); *Bruice's Fruit Juices v. American Can Co.*, 330 U.S. 743 (1947).

17. *Freeman v. Hewit*, 329 U.S. 249 (1946). For an extreme example of tyranny of labels, compare *McLeod v. Dilworth*, 322 U.S. 327 (1944) ("sales tax"), with *General Trading Co. v. State Tax Comm'n*, 322 U.S. 335 (1944) ("use tax").

keynote, largely because of the Justice's pioneering efforts. When he sees the Interstate Commerce Commission making findings of over-all regional rail rate discrimination between North and South, he fails to grasp the nature of the Congressional mandate being carried out, because of the novelty of the method.<sup>18</sup>

To describe Mr. Justice Frankfurter's constitutional world is not, however, to explain it. Mr. Konefsky sets the stage for an explanation very neatly in an opening section consisting of excerpts from the Justice's early admirers, his later detractors, and his staunch defenders. But thereafter we are treated to a series of abstract, albeit delightful Frankfurterean essays on the federal system, on separation of powers, on the administrative process, and we can discern only dimly the operative facts behind the (highly sophisticated) text book propositions looming large in the foreground.

From the many theories advanced to account for Justice Frankfurter's course through the U. S. Reports, several obvious contributory causes may be singled out. His career as a scholar, particularly in the procedural aspects of the court's work, helps to explain what amounts almost to an obsession with technique. Perhaps there is something about the scholarly life itself that reinforces a natural tendency to abstraction. The Justice's great opinions—the *Morgan*<sup>19</sup> and *Pottsville*<sup>20</sup> cases in administrative law; the *Hutcheson*<sup>21</sup> and *Phelps Dodge*<sup>22</sup> cases in labor law, the *McNabb*<sup>23</sup> case in federal judicial administration—are largely in fields where the factual as well as the legal issues had become familiar to him through previous scholarly investigation. Then too he may be influenced by a long memory for the excesses committed in the name of the Constitution by the Old Court. And yet he is willing to read constitutional prohibitions more sweepingly than Mr. Justice Black,<sup>24</sup> while he inclines to strict construction of statutory grants of power.<sup>25</sup> Professor Louis Jaffe, in his recent scholarly and thoughtful article on the Justice,<sup>26</sup> suggests that his work expresses a consistent concern, in the areas of freedom of expression, of labor law, of judicial administration, with the right of privacy, in all its ramifications. He traces the thread of consistency as far as it goes, but one is left wondering whether such a philosophy, by itself, is adequate for a citizen of an increasingly non-Jeffersonian society.<sup>27</sup>

The real significance of Mr. Justice Frankfurter's position is not, however, in any subjective explanation. It is rather in the fact that at least one Justice of the Supreme Court can with good conscience express, in currently

18. *New York v. United States*, 331 U.S. 284 (1947).

19. *United States v. Morgan*, 313 U.S. 409 (1941).

20. *F.C.C. v. Pottsville Broadcasting Co.*, 309 U.S. 134 (1940).

21. *United States v. Hutcheson*, 312 U.S. 219 (1941).

22. *Phelps Dodge Corp. v. N.L.R.B.*, 313 U.S. 177 (1941).

23. *McNabb v. United States*, 318 U.S. 332 (1943).

24. *E.g.*, *Adamson v. California*, 332 U.S. 46, 59, 68 (1947); Comment, 58 *YALE L.J.* 268 (1949).

25. *E.g.*, *10 East 40th Street Bldg., Inc. v. Callus*, 325 U.S. 578 (1945). And see his Cardozo Lecture, *Some Reflections on the Reading of Statutes*, 47 *COL. L. REV.* 527, 533-535 (1948).

26. Jaffe, *The Judicial Universe of Mr. Justice Frankfurter*, 62 *HARV. L. REV.* 357 (1949).

27. Indeed it may lead to such Hamiltonian opinions as in *Pennekamp v. Florida*, 328 U.S. 331, 350 (1946); *Craig v. Harney*, 331 U.S. 367, 384 (1947); and perhaps *Saia v. New York*, 334 U.S. 558, 562 (1948).



acceptable language, the results of the Court's deliberations on the curious assortment of mixed political, economic, and social problems that come before it, frequently without touching the real issues implicit in its decision. Justice Frankfurter clings to the philosophy of Holmes and Brandeis. But he falls short—and he is not alone—of Brandeis' grasp of the facts and Holmes' "feel for the jugular."

In the meanwhile, Mr. Konefsky has given us, if not a companion to his fine study of judicial process at work,<sup>28</sup> at least a pleasant collection of essays on the judiciary.

*Adam Yarmolinsky. †*

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28. KONEFSKY, CHIEF JUSTICE STONE AND THE SUPREME COURT (1945).

† Member of the New York Bar.

## BOOKS RECEIVED

- ANNUAIRE SUISSE DE DROIT INTERNATIONAL (Vol. 5). Société Suisse de Droit International, 1948. Pp. 286.
- CASES, COMMENTS AND MATERIALS ON UNFAIR TRADE PRACTICES. By S. Chesterfield Oppenheim. West Publishing Co., St. Paul, 1950. Pp. xxxvi, 1534. \$9.00.
- CASES AND MATERIALS ON FEDERAL COURTS (2d ed.). By Charles T. McCormick and James H. Chadbourn. The Foundation Press, Inc., Brooklyn, 1950. Pp. xxix, 922. \$8.00.
- LIVING LAW OF DEMOCRATIC SOCIETY. By Jerome Hall. The Bobbs-Merrill Co., Indianapolis, 1949. Pp. 146. \$3.00.
- MINIMUM STANDARDS OF JUDICIAL ADMINISTRATION. Edited by Arthur T. Vanderbilt. The Law Centre of New York University, New York, 1949. Pp. xv, 752.
- RECORDS OF THE COURT OF CHANCERY OF SOUTH CAROLINA (1671-1779). Vail-Ballou Press, Binghamton, 1950. Pp. 676. \$10.00.
- TAXABLE AND BUSINESS INCOME. By Dan Throop Smith and J. Keith Butters. National Bureau of Economic Research, New York, 1949. Pp. xv, 342. \$4.00.
- Erratum:* The prices of MOORE, COMMENTARY ON THE UNITED STATES JUDICIAL CODE and MOORE'S FEDERAL RULES AND OFFICIAL FORMS, reviewed in 98 U. of P. A. L. Rev. 455 (1950), are \$12.00 and \$5.50 respectively instead of \$9.00 and \$5.00.