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BOOK REVIEWS

THE FACES OF JUSTICE, a Traveller's Report, by Sybille Bedford, Simon and Schuster, 1961, 316 pages. Price: \$4.50.

This Traveller's Report, covering selected courts of England, France, Germany and Switzerland, has managed to catch a panorama of the law "on the wing." We are deposited in courtrooms *in res media*, from the Old Bailey to Schaffhausen, we witness cases from stolen cheeses to manslaughter, and, like the author, are at first bewildered by the unfamiliar phrases and procedures. In each court the author sits, listens, observes and pens the passing dialogue. The telling details of court personality are carefully recorded: a smirk here, a shrug there, the ill-concealed irritations, nothing revealing is omitted. Gradually, the scene before us takes on shape and meaning; ultimately, we find that what has been etched becomes unforgettable in the mind.

Of the four countries on Mrs. Bedford's itinerary, France is revealed in the worst light. The adage that justice is blind takes on new life in Paris as the wooden-faced judges mete out punishments mechanically, abstractly, in seeming disregard of the human equation. This reviewer would suggest that Mrs. Bedford is at her best in the English courts, perhaps because with these she is most familiar.

The bulk of this writing is devoted to the German courts which seem to hold a fascination for the author. In the German courts there is a strong degree of watchfulness. Mrs. Bedford poses the question through her observation, can a German judge be this wise, this temperate? Are the rules really applied regardless of who is before the bench? The elaborate niceties, the bland politeness, the smugness, so to speak, of present-day German judicial procedures goad the author to prod memories while conversing with a public prosecutor in Karlsruhe:

"And when it (the sentence) becomes valid, as supposedly it must one day, what then?"

"The convicted man will be notified."

"By post?"

"In some cases."

"You mean nobody is ever whisked away on the spot, whisked away below stairs?"

"Please?"

Mrs. Bedford's impressionistic style and restrained presentation are

in keeping with her purpose. The author is not trained in the law, but may be recalled for her previous work, *The Trial of Dr. Adams*.

In a 1957 interview with the author, Harvey C. Webster wrote, "Sybille Bedford's books (published and to come) cannot change either the world or the human condition. Nevertheless, they should and will persist both because they show us how things happened and because, in quiet voice and with subtle indirection, they suggest a better way."

JOAN COVEY*

FEDERAL JURISDICTION AND PROCEDURE, by Harry G. Fins, Bobbs-Merrill Co., 1960, 240 pages. Price: \$6.50.

Few areas of the law are more vast than that of federal jurisdiction and procedure. The gamut is run from the delicate intricacies of federal-state interplay, through venue, interpleader, admiralty, bankruptcy, to trial and appellate practice generally—each of which subjects, to mention only a few, is a formidable challenge in itself. Multi-volume treatises have been prepared purporting to cover in depth the entire range; single-volume works have been devoted to detailed consideration of some of its facets; and, through legal periodicals, scholars have attempted to point up, elucidate, and solve specific problems.

The book under review has undertaken the well-nigh impossible task of covering the vast area of federal jurisdiction and procedure in a mere 188 pages. To the reviewer's mind, the author has succeeded in accomplishing the "impossible." It should of course be understood—to use the author's words—that this book "is not intended to take the place of a digest or encyclopedia."¹

It consists of fifteen chapters: Modern Federal Practice, Jurisdiction in Civil Cases, Federal Corporations, Bankruptcy, Admiralty and Maritime Jurisdiction, Three-Judge District Court, Habeas Corpus, Ancillary Jurisdiction, Restrictions on Jurisdiction, Venue, Service of Process, Removal from State to Federal Court, Civil Proceedings, Criminal Proceedings, and Appellate Practice.

This reviewer would take issue with the order in which some of the subject matter is presented. Modern Federal Practice, consisting of a running account of recent key dates and significant events, from 1938 through 1958, is an illuminating introductory chapter. However, the chapters deal-

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1. Preface to FINS, FEDERAL JURISDICTION AND PROCEDURE iii (1960).

ing with jurisdiction in general might have been grouped together: Jurisdiction in Civil Cases, Ancillary Jurisdiction, Restrictions on Jurisdiction, and Removal from State to Federal Court. Service of Process and Venue might have followed, in that order. This reviewer has no strong feeling as to the order of the remaining chapters.

In the language of the author, the material "is presented in concise form and simple style in the hope that it may prove useful to the members of the legal profession."² This conciseness of form, of course, made it possible for the author to cover a huge area in a relatively few pages. While, necessarily, the text on the whole is terse and "outline-ish" in form, the footnotes are numerous and heavy. Pertinent statutes, cases, and some explanatory matter are set forth at great length³—and the cases, it might be noted, have been brought up to very recent date. In addition to a comprehensive index and table of contents, a table of cases keyed to the pages of the text is included.

To the mind of this reviewer, legal practitioners generally could find this book useful. It is small enough to be manageable, and comprehensive enough to accord one, after a single reading, a fair familiarity with federal practice in general. Further, it is valuable for purposes of research. The author's stroke has been so sweeping that most of the more important problems have at least been alluded to. While in many cases the information available might be somewhat sparse, it would nevertheless constitute an excellent "beginning point" in research—it would especially be of value to the practitioner who is a "stranger" in the field of federal practice. It is clear, however, that the book would not be appropriate for law school "classroom" purposes. The form by which the materials have been presented does not lend itself to the kind of analysis and discussion that law study requires. Undoubtedly, the author had no such purpose in mind. His target seems to have been the legal practitioner.

Every lawyer may someday find himself in the federal courts. He should strive to know: *When* he has a case that is cognizable in such courts; *how* to gain access thereto; and *what* to do after he is there. This book can help him: He may acquire, after a single reading, a fair familiarity with federal practice in general; he may employ the book as an excellent beginning point in the research of a specific problem.

CHARLES E. TORCIA*

2. *Ibid.*

3. For example: Footnote 41 on page 20 (supporting a two-line statement in the text), in addition to supplying the pertinent statute, refers the reader to twenty-one cases, with a brief description of the significance of each case.

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BEYOND A REASONABLE DOUBT? by William M. Kunstler, William Morrow & Co., 1961, 289 pages. Price: \$5.95.

"It was exactly 10:03:15 a.m. Almost imperceptibly, Dickson nodded to a man in a dark business suit standing beside him. There was a slight click as the trigger released the cyanide pellets into the bucket of sulphuric acid solution under the chair in which the man sat motionless. As the invisible fumes swirled up toward the nostrils, he turned his head to the right where the witnesses were pressed up against the heavy glass windows."

Thus on May 2, 1960, came the violent end of a man who had led a violent life—"The case of *California versus Caryl Whittier Chessman* was at long last unalterably closed."

But for the world who for weeks, months, and years meticulously followed the Chessman case, its sinister poignancy will retain a certain air of the eternal. Championed by such personages as the Queen of Belgium, Dr. Albert Schweitzer, Aldous Huxley, and the Vatican, a cacophony of millions protested "the execution of a man who had, by his literary and legal skills, succeeded in making himself a dramatic symbol in the perennial struggle against capital punishment."

Although providing the personality for Kunstler's *Beyond a Reasonable Doubt?*, Chessman as an individual is not the object of the novel's treatment. Rather, *Beyond a Reasonable Doubt?* is the result of a conflict in the author's mind. It seems that early in 1960 Governor Edmund G. Brown of California was urged to grant clemency to Chessman. The Governor replied that he had read the transcript of the case and believed that "The evidence of his guilt is overwhelming." On the other hand, Chessman, with the tenacity of a spider, maintained his innocence until the last moment. However, it is not the author's intention to sustain either the Governor's or the convict's conclusions as to the evidence, but rather to present it objectively.

"What is of lasting importance," he says, "is whether the means of making that determination—the adversary method of trial—is relatively trustworthy." In other words, the ultimate answer to his question is Kunstler's legacy to his readers. So, in customary philosophical fashion, the verdict must rest in the logic and conscience of each individual as he examines the evidence.

Critically speaking, it is possible the reviewer expected too much from *Beyond a Reasonable Doubt?*. Perhaps it is too much to ask of any writer to try to divorce the romantic image of Caryl Chessman, the man, from the inorganic transcript of his criminal trial. Whatever the cause, attorney Kunstler assumed the burden of such a task; and for that assumption he is given credit—but not so for its accomplishment.

The author's approach to a play-by-play account of Mr. Chessman's

fatal "day in court" lacks a certain amount of stimulation. Instead of each paragraph depending for its intrigue on the one before it, the reader is content to halt at any given place, and return to read another day. Rather than anticipating a sequence of events, he feels the discipline of finishing something he started, merely for the sake of finishing.

Favorably, however, it might be commented, *Beyond a Reasonable Doubt?* is rather easy reading, and the evidence is objectively presented. The supposedly established role of the trial judge as "impartial" becomes highly questionable when Judge Fricke determines for himself what standards impartiality requires. Admirable also is a "method" of questioning and the virtual irreparability of the so-called "positive identification." Generally speaking, the significance of what appear to be superficially minute facts is properly emphasized.

Beyond a Reasonable Doubt? is substantially what its jacket proffers: "For both layman and lawyer—an eminent legal expert's dramatic and authoritative account of the original Caryl Chessman trial."

This reviewer's quibble is largely with the use of the word "dramatic."

STANLEY W. BALICK

TRIAL AND TORT TRENDS, Proceedings of the Belli Seminar, Mathew Bender & Company, 1961, 705 pages. Price: \$10.00.

Trial and Tort Trends is a composite of the proceedings of the famous Belli Seminars. Twice each year, Melvin Belli and his friends gather together to relive last year's tort victories and to lick last year's wounds. These annual pilgrimages produce valuable ideas and insights for the negligence practitioner. The Belli Seminar which precedes the N.A.C.C.A. Conventions enables Mr. Belli and his colleagues to artfully pursue the elusive "adequate award in personal injury litigation."

This collection includes discussions of the most interesting and controversial legal questions of our time, headed up by men who are leaders in personal injury law. Lawrence Vold discusses strict liability in tort and delves into the mysteries and recent advances in the areas of seller warranty liability, defamation and competing and confusing slogans. William L. Prosser, the Dean of American Tort Law, contributes a discussion of Trespassing Children, including an historical account of the problem, the Restatement position and recent case rulings in the area.

Included is a discussion of appellate technique; the purpose being to keep the negligence lawyer up to date on the modern methods employed by successful lawyers across the country.

The excerpts dealing with "Law and Medicine" and the latest developments in modern trial techniques are perhaps the most useful. A piece entitled "Ten Years of Internal Medicine-Differential Diagnosis of Importance to Trial Lawyers," presents a panel discussion by five outstanding West Coast doctors. Various ailments as well as the cause, effect and implication of psychological forces on a patient. These accounts are designed to aid the Negligence Bar in understanding the relationship of emotional feeling and damages. The medical aspects of trial preparation in a personal injury suit are also considered. Medical records, X-rays and other scientific proof are discussed from a legal point of view. Articles on Trauma as a force which complicates operations and illness is explained in terms of an element of damages. Rounding out the medical-legal comments is an excellent contribution by Albert Averboch dealing with "Forensic Medicine."

The article of most interest to the reviewer was entitled "Retrolental Fibroplasm: The Story of Baby Mary." Baby Mary was returned to her parents fifty-nine days after birth. Thirty-seven of those days had been spent in an isolate under oxygen. A few days after returning home, the baby was discovered to be blind—the cause, Retrolental Fibroplasm. This ailment, it was discovered, is caused by excessive oxygen during the incubation period. The manuscript relates the technique of collecting medical information on the ailment, operation of medical equipment and medical practice relating to incubation. The story of Baby Mary points up the importance of background and factual medical information in handling a personal injury claim.

In conclusion, it can be said that *Trial and Tort Trends* makes very interesting and profitable reading for anyone connected with personal injury law.

GERALD S. LESHER