



**PennState**  
Dickinson Law

**DICKINSON LAW REVIEW**  
PUBLISHED SINCE 1897

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Volume 65  
Issue 1 *Dickinson Law Review - Volume 65,*  
*1960-1961*

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10-1-1960

## Book Reviews

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### Recommended Citation

*Book Reviews*, 65 DICK. L. REV. 68 (1960).

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## BOOK REVIEWS

FELIX FRANKFURTER REMINISCES, by Felix Frankfurter as recorded in talks with Dr. Harlan B. Phillips. Reynal & Company, 1960, 301 pages. Price: \$5.00.

At Columbia University, a novel program has been initiated under the Oral Research Department. The purpose of the program is to record interviews on tape with certain historically significant personages in the world today. In this manner, it is hoped we will be able to record a more accurate description of our time for future generations rather than having them depend almost entirely, as in the past, on the results of some biographer's honest, but perhaps inaccurate research.

Six years ago, Justice Felix Frankfurter consented to review certain aspects of his life with Doctor Harlan Phillips of the Oral Research Department and *Felix Frankfurter Reminiscences* is the product of that series of interviews. The book is a printed copy of the recorded responses of Justice Frankfurter to the probing questions of Doctor Phillips. The interviews were directed at Justice Frankfurter's pre-judicial years rather than his life as a Supreme Court Justice. They begin when he arrived in America from Vienna as a boy of eleven in 1894 and chronologically review his life until his appointment to the Supreme Court in 1939.

Primarily, the book reveals the extraordinary intellect of this great man. He is well-read and well-informed on a variety of subjects to a degree paralleled by few persons. Each of the interviewer's questions immediately motivates a whole host of ideas, thoughts, opinions, and vivid, detailed recollections which are communicated with a facility of expression and an amazing aptitude for finding the right word. The events portrayed, while fascinating in their detail, are of only secondary importance. Yet, most students of history who are acquainted with such figures as Woodrow Wilson, William Jennings Bryan, Chaim Weizman, Franklin Delano Roosevelt, and Oliver Wendell Holmes will gain some insight from the author's discussion. Justice Frankfurter has known these men—some more intimately than others—and candidly states his impressions regarding their character and ability. He also refers to other historical personalities. His admiration for Secretary of War Henry L. Stimson, under whom he served prior to going to Harvard as a professor, is evident. On the other hand, he manifests an unabashed lack of respect for Henry Morgenthau, who, as Ambassador to Turkey during Wilson's presidency, attempted to effect a detachment of that country from

Germany and Austria in 1917: "He was incapable of continuity of thought, or effort. . . . That was something new to him; that you have to have an idea before you expressed it." As for Woodrow Wilson: "He was dogmatic, intolerant, fundamentally didn't like his kind. He believed in democracy in the abstract, but didn't care for people."

The author's description of his relationship with Franklin Delano Roosevelt is a highlight of the book. Such fascinating recollections as—his dilemma upon meeting Roosevelt for the first time as President and not knowing whether to address him as Franklin or Mister President; Roosevelt's proposal to appoint the then Professor Frankfurter as Solicitor-General of the U.S. as a stepping-stone to the Supreme Court and the author's rather blunt refusal—serve to make this book an extraordinary historical account. In addition, Frankfurter's description of Roosevelt visiting the aged Oliver Wendell Holmes and their hour-long discussion, ranging from prize fighting to Roosevelt's willingness to exempt the gold medal given Holmes by Congress from the executive order calling in the gold, exemplify this eyewitness account of history in the making.

His description of famous legal scholars, who were professors while Frankfurter was a student at Harvard Law School, are particularly amusing—especially to the lawyer who is familiar with the writings of these men. Of Dean Ames, he said: "He was a wonderful teacher, an original mind, and he illustrates to a degree unexcelled by anybody I ever knew anything about, the conception of Socrates of a teacher, that of a mid-wife." He also vividly describes Joseph Beale, Grenville Clark, Jeremiah Smith and John Gray. Although his pre-occupation with Harvard is a bit annoying at times, his discussions about it are very interesting.

Another area of interest is his discussion of the controversial *Sacco-Vanzetti* case which involved two foreigners who were accused of a brutal murder during a robbery in 1920, and, think many, "railroaded" to conviction and execution. The case divided the country into two sides and as Justice Frankfurter points out, the issue for many was not should justice be done, but should we weaken the whole structure of our legal system through lack of respect for the courts. He then lists the factors which led him to write his famous book, *The Sacco-Vanzetti Case*. One of the most important factors was a newspaper account of the district attorney's handling of a key witness for the prosecution, Captain Proctor, a ballistics expert. In pretrial conferences, Captain Proctor had repeatedly told the district attorney that there was no evidence which linked the bullet taken from the victim to the particular pistol taken from Sacco. Yet, despite this, the district attorney framed the question on the stand in such a way as to preclude the statement from being made. When the district attorney did not deny this charge which

appeared in Captain Proctor's affidavit, Justice Frankfurter was moved to write a book about the case which did much to clarify the issues.

An especially interesting episode in the author's life is the manner in which he received his appointment to the U.S. Supreme Court. In 1938, President Roosevelt told Frankfurter, by way of apology and for political reasons, that he could not appoint him to succeed Cardozo and requested the professor to check on a few potential appointees. On the seventh or eighth of December, he received a telephone call from the President who, after a bit of teasing, informed Frankfurter that he was sending his name to the Court the next day at twelve o'clock. The rest is history.

This book is interesting for the layman, lawyer and historian alike. While it reveals the thinking of a great lawyer and a great judge, and discloses the result of many years of legal training and the practical application of legal principles, it does not profess to satisfy those lawyers who desire a legal history of the author's life. The book is simply a fascinating eye-witness account of some of the highlights of half a century.

LEONARD HORN

PARTIES AND POLITICS IN AMERICA, by Clinton Rossiter. Cornell University Press, 1960, 188 pages. Price: \$1.65.

"No America without democracy, no democracy without politics, no politics without parties, no parties without compromise and modification. So runs this string of assumptions on which hangs this exposition of the politics of American democracy."

Clinton Rossiter is the Professor of American Institutions at Cornell University. As author of *Seedtime of the Republic*, he has been accorded the Woodrow Wilson Foundation Award, the Bancroft Prize, and the Institute of Early American History and Culture Prize. In addition he has written six other highly acclaimed works. In his latest book Professor Rossiter has accomplished a most difficult task of describing the American political system—the pattern, function, composition and future of the national and local political party.

The modern political party is an American invention but, unlike the airplane, automobile and television, we Americans "have been strongly reluctant to take pride in our handiwork." However, upon reading *Parties and Politics in America* one can readily see the logic and need for our political system.

This political system has served to keep our country united, despite a civil war and political direction demanded by various and conflicting pressure

groups. Political parties have served to fill the vacuum left by the framers of the Constitution, who did not provide for a method to choose our leaders. By means of the party machinery, candidates are selected and are placed before the electorate. As a result of this American process, the posts of government are filled in an efficient manner. Professor Rossiter ably points out that, were it not for the political parties, one could imagine the confusion that would attend the fulfillment of this necessary element of our democratic system. Nothing but the political party, as we know it, could solidify the fifty state party organizations and their subinfeudates for purposes of a national election.

One might ask, that if the Constitution were adequately amended so as to provide a scheme for electing men to public office, could we abolish the party system? In answer to this question the author points out other additional functions of the party that could not be served by a Constitutional amendment: The political party by way of a platform illuminates the issues of the times and thus serves as a means of education for the people. The party also serves as a symbol, in that its characteristics and policies developed through successive campaigns have resulted in the formulation of a distinct social philosophy. In addition, the political party, as a social group, fulfills the fundamental need of identification and it is sufficiently multifarious to meet all the requirements of its constituents. Thus, it can be readily seen that the political party extends beyond the sphere of government.

The poignant language and humorous observations illustrated by way of statistics present the reader with a fast-moving, enjoyable, yet educational text. This book makes one proud of a system, the defects of which are far less disturbing than the benefits derived, for it is this system which produced Jefferson, Lincoln, Wilson, Roosevelt, Truman, and Eisenhower.

One of the most fascinating sections of the book is the author's analysis of the composition of the two political parties—who is a Democrat and who is a Republican and why? It appears paradoxical to many to find a Clark of Pennsylvania and Byrd of Virginia in the same party while, at the same time, a Javits of New York and Goldwater of Arizona in the other. But, the author convincingly states that, without the two wings within both parties, there could be only Liberals and Reactionaries remaining. “[L]iberals would always win,” as they would probably control the heavily populated urban centers, wherein the balance of voting power exists due to the population shift from rural to industrial areas. However, the two parties have split on the issues which separate liberals from conservatives. What seems to have happened is that “the Republicans have been traveling the same road as the Democrats, but they are ten to fifteen years behind and have not enjoyed the trip nearly so much.” But, due to present-day exigencies,

the gap appears to have been closed as evidenced by the existing party platforms.

The future of parties and politics depends upon what we ask of it. "Let us ask more of our politics than we have hitherto received, but let us not make the mistake of asking more than it can give. Our party system will continue to serve us well as long as we keep the old definition firmly in mind: Politics is the art of the possible. Whatever America finds necessary to do in the years to come, the Politics of American democracy will surely make it possible."

A. RICHARD GERBER