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Book Reviews

BOOK REVIEWS

YOU OUGHT TO PATENT THAT, by Stacy V. Jones, The Dial Press, Inc., New York, 1962, 206 pages. Price: $4.00.

The author, a columnist for The New York Times, has covered the Patent Office beat for a number of years. He brings to his book a newspaper style (who, where, when, what, why) and provides an entertaining and subliminally informative treatise on inventions, their cause and their cure.

His account of some of the more famous inventions, as reflected by the records of the United States Patent Office, provides an interesting bit of Americana. Various chapters deal with technological advances which are now accepted as commonplace. Dr. Carothers' nylon (1937), the Wright brothers' airplane (1906), and Enrico Ferme's atomic reactor (maintained in secrecy for many years) are duly recorded, along with a myriad of better mousetraps of lesser importance. Additionally, the book identifies inventions having greatness thrust upon them because the inventor acquired fame in other fields. Abraham Lincoln's "do-it-yourself" propensities are preserved in a patent issued to him concerning a device for buoying vessels over shoals. Lillian Russell took time out to invent and patent a dresser trunk; Harry Houdini, a diver's suit; Cornelius Vanderbilt, Jr., a shoe-shine kit (yes, that's right); and Hedy Lamarr, a "secret communications system."

This work contains a wealth of information on marketing inventions, one of the most important and most neglected areas of patent management. Corporations are warned about the pitfalls in dealings with inventors which might lead to charges of invention pirating, and inventors are advised of safeguards that will prevent such charges from becoming a reality. Tax considerations in the conveyancing of patent rights are also discussed, as well as the possible approaches in marketing an invention to the United States Government.

The chapters dealing with monetary rewards received by various inventors paint a picture which is a bit too rosy. The reference to eighty odd cases of independent inventors who realized an aggregate of over ten million dollars on their patents, as well as frequent references to other inventors who hit the jackpot, gives the successful inventor too much the best of it. While caveats that the inventor may not get rich are sprinkled throughout the book, they are overshadowed by more numerous references to successful case histories. Inventors, being an over-optimistic breed by nature, could be better served by a more realistic appraisal of their chances of success.

The weakest section of the book is that dealing with patent law and practice. Though the book is well padded with extracts from the Patent Law, as well as with a list of libraries that receive the Official Gazette of the United States Patent Office, the treatment of the requirements for obtaining a patent is, at best, cursory. The book barely touches on "interference," *i.e.*, a contest in the Patent Office between independent inventors seeking a patent on the same invention. Without this background, the necessity for the inventor to keep complete records goes unappreciated. The matter of patent infringement, one of the most important aspects of patent law, is also given short shrift, being dismissed with the sage advice: "Try to adjust the matter amicably . . . ." A well rounded book on patents should at least warn the prospective patentee of the high cost of litigation and the high mortality rate among patents coming within the scrutiny of the courts.

The dust jacket states that the book contains "numerous anecdotes about the millions of inventions that have passed through the American Patent Office . . ." and "everything the prospective inventor needs to know . . . in order to become a successful patent applicant." The former it does; the latter it does not.

WILLIAM J. KEATING*

RELIGION AND THE LAW OF CHURCH AND STATE AND THE SUPREME COURT, by Philip B. Kurland, Aldine Publishing Co., Chicago, 1962, 127 pages. Price: $3.95.

In the introduction to his book, the author states that "there are few issues so likely to generate heat rather than light as the question of the proper line between the realm of the state and that of the church." The book proves the point.

The author's avowed purpose is to analyze "the meaning and application of the religion clauses of the First Amendment as construed by our highest judicial authority, the Supreme Court of the United States," on the basis of which a judgment can be made as to what the law is likely to be when the court considers future church-state issues arising under the first amendment. If the author has in fact achieved his goal, his analysis and conclusion enable the reader to predict that in the future there will be "no consistency in the judicial decisions of the Court."

The author might have more accurately described his purpose as being to urge upon the Court a rule of judicial construction of the first amendment

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which, if adopted by the Court, would provide a basis on which a judgment could thereafter be made as to what the law is likely to be. The author's formula is simply:

> The freedom and separation clauses should be read as stating a single precept: that government cannot utilize religion as a standard for action or inaction because these clauses, read together as they should be, prohibit classification in terms of religion either to confer a benefit or to impose a burden.

Conceding that Kurland's formula may result in greater consistency of judicial decisions—if properly applied—its adoption will by no means lessen the heat generated in church-state controversies.

After recognizing the important distinction in the church-state controversy between "the constitutional issue—in the narrowest sense of the meaning to be given to the language of the First Amendment by the Supreme Court—and the broader question of the ideal relationship that should exist between the two institutions contesting sovereignty over so much of man's actions, speech and thoughts," the author unfortunately addresses himself to the former issue to the virtual exclusion of the latter. He dwells long enough on the distinction itself to state that if confronted by the question of aid to parochial schools, as a judge he would have to uphold its constitutionality so long as it took a nondiscriminatory form, but as a legislator he would have to vote against such aid because "I am at least equally convinced that the segregation of school children by religion is an unmitigated evil."

The last statement demonstrates that the author has very definite opinions on the subject of where it is proper to draw the line between church and state and that he does not believe the first amendment will necessarily insure that division. It was a disappointment to this reviewer that the author did not carry his discussion on into the broader area because it is in that area that we may expect the more interesting debate for decades to come. A man of the author's outstanding intellectual ability undoubtedly could have shed much light in that dark area. The omission reminds the reviewer of Professor Kurland's favorite criticism of the research papers of his students at the University of Chicago Law School:

> It's good as far as you went but you stopped at the point where I was hoping you would begin.

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