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The Art and Craft of Judging: The Decisions of Judge Learned Hand edited by Herschel Shanks

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Kentucky Court of Appeals

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Book Reviews


This book is a selection of forty-three representative cases decided by Judge Learned Hand during his more than fifty years of continuous service as a federal judge. During his tenure as a federal district judge in the busy southern district of New York, and as a judge of the United States Court of Appeals for the Second Circuit, Learned Hand rendered approximately 3000 opinions. The formidable task of the editor, Herschel Shanks, a member of a prominent Washington, D. C. law firm, in selecting forty-three representative opinions necessitated the devotion of four years to the reading and study of Learned Hand's opinions.

The book begins with an excellent introduction written by the editor, containing an interesting, though condensed, biography of Learned Hand, and a consideration and evaluation of Judge Hand's judicial philosophy. The opinions are arranged in chapters, and the editor describes and explains the significance of each case in language primarily directed to laymen.

Hand's experience as a trial judge shows clearly in his opinions. They evidence his respect for the trial process and his keen insight into what actually occurs there. His opinions emphasize the inability of a written record to thoroughly portray some of the critical nuances which occur at the trial level and which may be or should be determinative on appeal. This problem is given lucid treatment in several of Hand's opinions and they are excellent guide lines for appellate judges.

Learned Hand's opinions cover areas of legal interpretation ranging from libel, obscenity, criminal law and freedom of religion, to anti-trust law, the limits of political speech, contempt of court and negligence. His unique method of constitutional interpretation and his thorough, reasoned approach to statutory interpretation are well illustrated in the editor's introduction and in some of the collected cases.

The typography is not as effective as it might have been. The editorial comments before and after the collected opinions are clear and readable, but the opinions themselves are in small, single space
A single reading of a Learned Hand opinion is often merely an appetizer. Second and third readings are often preferable, as intellectual satisfaction increases with each reading. Because of this, a more effective presentation would have been made if greater spacing and larger type had been used.

It is rather strange that outside judicial opinions, Learned Hand did very little writing. Our knowledge of his great intellect, his respect for the discipline of the system, and, above all, his intellectual honesty, tempered with the humility of the great, is derived almost exclusively from his comparatively short, thoroughly reasoned judicial opinions.

Whether the author is successful in his attempt to portray Learned Hand as an outstanding example of judicial greatness to laymen is debatable; but, certainly the editor succeeds in producing a book of both value and entertainment.

As a trial judge, I derived great pleasure and satisfaction from this interesting exposition of the work of one of the most competent judges who has graced the bench in the last half century. I recommend this book to law students, practicing attorneys and judges. If they are willing to proceed slowly, and to reread on frequent occasions, interested laymen may also benefit from reading this book.

Judge Scott Reed
Kentucky Court of Appeals


In the decade or so between the partial demobilization at the end of the Korean conflict and the military build-up in Vietnam, little attention was paid to the requirement of compulsory military service, which we call the draft. Draft calls were relatively small, sometimes going as low as 5000 men per month, although occasionally increasing at times such as the Berlin crisis. The armed forces had raised their standards of physical and mental fitness and were taking fewer men from the most disadvantaged elements of the population. With the enactment of the Reserve Forces Act of 1955, it became possible to limit active duty service to six months by enlistment in the Ready Reserve or National Guard, and large numbers of young men took advantage of this opportunity. For the ever-increasing number of young men going on to college, military service was something that could be