

# A Judge Comes of Age (Book Review)

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cases and authorities are cited, in support of the author's declarations, it is to be expected that the pages reek with learning and authority. It is true that the words and guidance of "able men, and masters of the subject" are not lightly to be scouted.

The propositions considered are so fundamental and are of such far-reaching influence that changes are all too slow. The need for change in present laws does exist, but it is almost wishful thinking to expect too much in this respect until the public has been educated to appreciate the vastness of tax avoidance and all that it means. Accordingly, since this book was written such changes as have taken place have had little effect on the basic objectives of the work.

It is to be hoped that future legislation addressed to these subjects will simplify matters and make the life of the tax practitioner more enjoyable, because he has grown old too early. Might it not be observed that "one can go too far toward delusive simplicity,—as Congress has done in connection with life insurance and the estate tax,—as well as in the direction of confusing multiplicity, which is the present trend"? If a more classic example of confusing multiplicity can be found than our present Excess Profits Tax Law this writer would like to hear about it.

So thoroughly has the author done his job that the writer bids bold to predict that this work will become one of authority. Practitioners everywhere will profit much by a careful study of this interesting and informative volume. If you have a "Five Foot Shelf" in your office, this book is commended to you by the writer.

ANDREW NELSON.\*

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A JUDGE COMES OF AGE. By John C. Knox. New York: Charles Scribner's Sons, 1940, pp. 353.

It is not often that a judge writes a book, especially a book like this. It is kindly and very human, often humorous. It is, moreover, thoroughly honest, frank, forthright and sincere. It is just the kind of book its author would write. It is in part biographical, but is mostly a record of a long, eminently useful and honorable career as a judge of the United States District Court for the Southern District of New York, of which court the author is now, and has been for many years, the distinguished senior judge. For twenty-one years he has served on the federal bench. For five years previous to his appointment to this court by President Wilson, the author served the public as Assistant United States Attorney for the Southern District of New York.

In this book the author traces his professional career from the time he was a young man and Justice of the Peace in a little town in Pennsylvania to and into his life on the federal bench up to the present. He presided at many famous trials, among which are the trials of Harry M. Daugherty, formerly

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the Attorney General in President Harding's Cabinet, and Thomas M. Miller, formerly Alien Property Custodian, both of whom were accused of conspiracy to defraud the Federal Government; also the trials of Joseph W. Harriman and Samuel Insull. During the first World War he conducted the trials of a number of foreign spies. The well-planned conspiracies of these spies, whose activities included sabotage of ships, is described at length, as is also the story of their detection. This portion of the book makes very interesting reading today in the light of the fact that our country is now being overrun by international agents.

The author sympathized with many of the New Deal reforms, but criticized severely President Roosevelt's speech delivered in Madison Square Garden in 1936, in which the President stated that his opponents "had met their match" and that it now remained for them "to meet their master." Judge Knox says of this speech: "Never, I believe, have I been more shocked by the public utterance of an important figure. A cold chill literally ran down my spine. I listened to the rest with a coolness I had never felt toward him, and I went home that evening more perturbed than I had yet been."

When this criticism of the President is remembered, and also the fact that Judge Knox actively opposed the President's proposal to "pack" the Supreme Court of the United States, it is not to be wondered at (although not the slightest reference to this is made in his book) that Judge Knox has not been favored by any promotion to a higher tribunal, to which tribunals Judge Knox's friends believe he would be a genuine accession.

The author strikes a lofty and eloquent note in the description of his reaction to the presence of Government bonds worth many millions of dollars, which had come under the care of the court. He says: "Many times, in the company of some officer of the bank, I have been to that vault and gone over the bonds of which that enormous treasure was made. There were scores of bonds, each \$100,000 in value, to the total, for a time, of \$35,000,000, though the amount is less today. . . .

"We speak so often and so glibly of such sums that we have lost all sense of their real meaning. I am not one who feels that money is merely a thing, as stones are things. Those bonds themselves, impressive though they are, are obviously only paper and ink. Yet they stand for something. Is that something money? Yes, in a way it is. Yet the money for which they stand stands in turn for something else—for the sweat and blood and thought and energy of tens of thousands of people who, spending their very lives at the work they have done in the world, have created something for which they have been *reimbursed* in money. Bonds? Nonsense! I see the lives of men and women distilled, in part, into those bonds. They have labored! They have thought! They have deprived themselves! Now, put aside in the form of money, those labors are expected to play a vital part in their old age, in the education of their children, in the protection of their widows."

The author deals, among many other topics, with the continued encroachment of the Federal Government upon the power of the states, and with its opposition to capital and business. He sounds a warning of the ultimate results of our fiscal policy.

As one reviewer says: "Judge Knox's legal career has been filled to over-

flowing with interesting, amusing, dramatic and thrilling incidents. Here he tells the story of many of the most important American cases in the last few decades, the part he played in them, the vivid personalities they involved, and their meaning to the average American citizen."

America undoubtedly is today passing through a perilous period in its history, and this book is valuable, among other reasons, because it lays bare the dangers which now threaten us. Here is a brave man warning his fellow-citizens of a critical national situation, and doing it without regard to the consequences to himself—a rare virtue in many of our public officials.

Your reviewer joins with the author's host of friends in wishing him God-speed and many more years of abundant life on the federal bench.

DAVID STEWART EDGAR.\*

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CASES ON EQUITY. Third Edition. By Walter Wheeler Cook. St. Paul, Minnesota, West Publishing Co., 1940, pp. xxxviii, 1296.

Considered from the viewpoint of scholarship the third edition fully measures up to the high standards for painstaking and thorough research demonstrated by the author's preceding works—as to craftsmanship, it is impeccable.

In appearance, this book is larger and more attractive than its predecessors, due to the addition of more cases than those eliminated, and the increased length of the footnotes. Found, among other changes, are the insertion of excerpts from the doctrinal writings of the author and rearrangement of the materials on principles governing the exercise of equitable powers. While the new materials and other changes are not substantial alterations, nor departures from the form and substance of the earlier editions, they do stress the author's emphasis on a more realistic "approach" than that of Maitland, Langdell, and Ames.

The tough old case books of the Langdell-Ames period were moulded in the tradition of 19th century jurisprudence, to wit, "one of eternal legal conceptions involved in the very idea of justice and containing potentially an exact rule for every case to be reached by an absolute process of logical deduction."<sup>1</sup> By contrast with older books, this book shows a striking dissimilarity in content, and, to some extent, in form. With the exception of well-known historical cases in the first part of the book, the major portion of the material consists of modern cases<sup>2</sup> and writings. As in his prior editions, the author devotes a large part of the opening chapters to materials intended to show the position of equity in our legal system, its powers, and their exercise. This is

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<sup>1</sup> Cook apparently repudiates the idea that by deductive logic one can follow fundamental conceptions to ultimate conclusions and that "no such procedure can be or ever actually is followed by any human being in solving problems which involve judgment." (1928) 38 *YALE L. J.* 405-407.

<sup>2</sup> More than fifty per cent of the cases were decided since 1900; of these, over thirty per cent since 1930.