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Book Review

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BOOK REVIEWS

*Reviewed by Paul Brickner**

JUDGES, by Donald Dale Jackson, New York, Atheneum, 1974.
433 pp. \$10.00.

Judges is an interesting and well-written book which scrutinizes and describes our judges and judicial system. The author, Donald Dale Jackson, is a journalist with considerable experience in reporting legal matters. Jackson's non-legal eye observes many matters which a lawyer would have overlooked as not worthy of comment, but which a layman would consider peculiar and noteworthy.

Judges proceeds from a comprehensive view of West Virginia justices of the peace in the Ohio River Valley through various levels of state and federal judiciary. At times Jackson presents the reader with a vista of a system or a particular court, but generally the work concentrates on individual judges. Judges with great sensitivity to the system, understanding of human nature, and an insight into the weaknesses of our system of justice can be found at any level court. Jackson has found and written about several excellent men at both the trial and appellate levels. His often intimate portraits of judges give the reader a chance to sit down and converse, as it were, with a number of learned and experienced members of the judiciary. The reader benefits from seeing the law in the general perspective that the judge sees it.

For the reader unfamiliar with a big city municipal court, "Snake-pit Justice," although too harsh a chapter heading, presents a good picture of a congested criminal court. The book is replete with insights into human nature. The near universal protestation of the man charged with intoxication or drunken driving, explaining, "but Judge I had only two beers," never three, never one, is captured by *Judges*.

Jackson's lack of legal training gives his book a fresh and open approach, yet this same lack of legal training seems to cause a number of imperfections in his work. Although Jackson seems to be aware of the difference between a felony and a misdemeanor, he refers at one point to forgery and burglary as misdemeanors in a Nevada setting. Both burglary¹ and forgery² are felonies in Nevada,

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¹ NEV. REV. STAT. § 205.060 (1973).

² NEV. REV. STAT. § 205.090 (1973).

since they are punishable by incarceration in the state prison for a term of not less than one year nor more than ten years.³

Another similar imprecision creeps into Jackson's work when he goes beyond stating that the Circuit Court in Connecticut is equivalent to municipal or police court elsewhere and adds that the Circuit Court Judges have jurisdiction "to hear misdemeanors punishable by sentences up to five years. . . ." The Connecticut General Statutes defines felonies and misdemeanors in a common way by making felonies those offenses for which a person may be sentenced to prison for more than one year,⁴ and by making misdemeanors those offenses punishable by imprisonment for not more than one year.⁵ This is simply the old "year and a day" differentiation.

Judges of the Connecticut Circuit Courts do have jurisdiction, including final jurisdiction, to dispose of cases involving one class of felonies, crimes punishable by not more than five years.⁶ This jurisdictional grant is somewhat circumscribed. Since they are punishable by a maximum sentence of more than one year, these crimes are by definition still felonies. When sentencing a person under that limited class of felonies, that is when exercising final jurisdiction over felonies punishable by not more than five years rather than when exercising misdemeanor or "bindover" jurisdiction, the Circuit Court is restricted in imposition of sentence to no greater punishment, "than that which it may lawfully inflict. . . ." However, this is not to say that Circuit Courts have jurisdiction to hear "misdemeanors" punishable by five year sentences.

In addition, Jackson speaks of Portland but leaves the reader to speculate whether he means the city in Oregon or the one in Maine, or even some other Portland. In a similar fashion, he seems to attribute to a California Federal Judge the right to counsel at military courts-martial. Any lawyer familiar with the Uniform Code of Military Justice is aware that the right of a defendant to an attorney had been safeguarded in courts-martial prior to a 1972 Federal court decision. Here Jackson speaks too broadly on a subject, military justice, which is in itself a complex area. The legally trained reader might surmise that the decision of Judge Williams related to summary courts-martial and the *Argersinger* ruling by the Supreme Court of the United States. Want of citations to the published reports of court decisions

³ NEV. REV. STAT. § 193.120 (1973), defines as a felony every crime punishable by death or by incarceration in the state prison, and a misdemeanor as, "every crime which may be punished by a fine of not more than \$500.00, or by imprisonment in a county jail for not more than 6 months. . . ."

⁴ CONN. GEN. STAT. ANN. § 53a-25 (1972).

⁵ CONN. GEN. STAT. ANN. § 53a-26 (1972).

⁶ CONN. GEN. STAT. ANN. § 54-1a (Supp. 1974-75).

in Jackson's "Source Notes" makes them far less helpful than they could be to students of the law. A case citation to the 1972 ruling by Judge Williams would have enabled the attorney reading *Judges* to find out specifically what Jackson had in mind.

These minor imperfections do not significantly detract from a generally fine work. They merely accent the fact that *Judges* is a popularly written book, a journalistic endeavor rather than a work of legal or historical research. The difference between citing the opinions of the courts and citing the "Village Voice" is the difference that places *Judges* outside the realm of serious legal scholarship. Indeed, within the framework of secondary sources Jackson has seen fit twice to mention Lesley Oelsner of the *New York Times*, whose work is shoddy at best, in comparison with the superb razor-sharp legal reporting of Anthony Lewis and Fred P. Graham of the same newspaper. Jackson quotes Lewis once, but according to the "Source Notes," seems to cull the quotation not from independent research or even from reading the exact news story but from another book, *Federal Judges: The Appointing Process*, by Harold W. Chase. Graham, no longer with the *Times*, is mentioned not at all.

The primary value of the book is this opportunity to view judges as human beings and observe their outlook towards their work. The formal decision and opinion in a given case is ordinarily too narrow, too polished and too structured to give the reader a full perspective.

Anyone desiring insight into the judicial system and into the judge as a human being will find this book good reading.

