



1966

Book Review

Howard L. Oleck

Follow this and additional works at: <https://engagedscholarship.csuohio.edu/clevstrev>

 Part of the [Constitutional Law Commons](#)

How does access to this work benefit you? Let us know!

Recommended Citation

Howard L. Oleck, Book Review, 15 Clev.-Marshall L. Rev. 198 (1966)

This Book Review is brought to you for free and open access by the Law Journals at EngagedScholarship@CSU. It has been accepted for inclusion in Cleveland State Law Review by an authorized editor of EngagedScholarship@CSU. For more information, please contact library.es@csuohio.edu.

with this reviewer's disinterest in applying the scissors and glue-pot to repeat what is readily available in the book itself. But for those interested in "direct citation," your attention is specifically directed to valuable pointers on such pages as 4, 5, 12, 13, 17, 18, 24-30, 33-36, 38, 49, 75, 78, 80, 83-85, 110, 111, 117, 119, 122, 124-127, 130-132, 137, 143—just to cover particularly worthwhile points and tips in the first four longer chapters out of the eleven in the book.

In *Better Settlements Through Leverage*, Phil Hermann has "talked sense to the American people's" legal counsel and insurance companies. Buy his book and reap your share of its rewards.

* * *

*Reviewed by Howard L. Oleck**

EQUAL JUSTICE UNDER LAW: THE SUPREME COURT IN AMERICAN LIFE. Published by the Foundation of the Federal Bar Association, Washington, D. C., 1965. 143 pp. Produced as a public service by the National Geographic Society. \$1.25 paper-bound; \$2.75 cloth bound.

Most Americans believe, whether keenly or vaguely, that their nation is today, as it was in its beginnings, a people dedicated to a great quest. President Johnson echoed the old but ever-new ideal when he spoke of the American dream of building "The Great Society" of free men.

In the American dream there is one chief theme, always, that is unique—the dominant motif of the rule of written law, of the Constitution. People of other nations often have wondered at, or scoffed at, the "legalistic nature" of Americans. Yet this legalism is the very essence of the American culture. In it lies the basic concept from which flows everything else—that men should be ruled by law, not by men.

These things are mere truisms, perhaps, to most Americans. Yet, these are the truisms that kept them staunch at Valley Forge, Antietam and Bastogne. Even the soldiers in Pickett's charge at Gettysburg charged to their deaths for the selfsame idea, no matter how mistaken their interpretation of it. The Con-

* Associate Dean, Cleveland-Marshall Law School of Baldwin-Wallace College.

stitution—the written, basic law—the written compact of free men.

It is no overstatement to say that the story of the Federal Constitution and of the Supreme Court is the summary of the moral history of the United States. When this story is told simply, and without embroidery, it is one that overshadows the Iliad or the Song of Roland in epic grandeur. When, to the bare recital are added color pictures and illustrations of the people, the places and the things described, the story becomes a gorgeous tapestry.

The telling of this epic, and its portrayal as a magnificent tapestry, are the challenging tasks essayed in a little book (almost a pamphlet) of 143 pages, published in the late summer of 1965. It is not even a book of 143 pages, as far as the word-story is concerned, for many pages consist wholly or largely of pictures. Yet, this may well be the reason why it so succeeds in achieving its purposes. It is still true that one good picture is worth a thousand words.

The Foreword to this colorful, magazine-style book says that “the theme is a national adventure. Its episodes are crises and struggles and conflicts. Its setting is a continent and beyond—and a few small rooms.”

Its title is the title of the American dream, in the words of the guiding inscription over the portals of the Supreme Court Building in Washington: *Equal Justice Under Law*; its subtitle: *The Supreme Court in American Life*.

No author's name appears on the cover or title page of the book, though the Contents page lists four editors, two “authors,” fourteen editorial staff members, two photography experts, a printing production director, and an advisory board of dozens of well known names. All but the advisors seemed to be personnel of the National Geographic Society. Yet, the publisher is The Foundation of the Federal Bar Association, the president of which is Earl W. Kintner. One would guess that, as in most such joint effort publications, the real writers and editors will remain anonymous, or nearly so. The two authors' names shown, among the mass of names printed, are Mary Ann Harrell and Stuart E. Jones. The editor-in-chief is Melvin M. Payne.

It is not surprising, considering its production source, that this book has a strong flavor of “national geographic magazine” about it. It is pictorial, above all, and very colorful. The type

is large and white space is plentiful and glossy. This is clearly, and avowedly, a book for non-lawyers.

The Foreword says that "although we believe lawyers will enjoy it, it is not written especially for them, and legal technicalities are not its theme." The language is clear, simple, direct and pithy. But the story is all about law, courts, cases and judges, from the Constitution itself, John Jay and *Chisholm v. Georgia*, to the Warren Court and *Engel v. Vitale*.

Indeed this is the story of the great cases of the Supreme Court as the reflection of the whole society: *Glass v. Sloop Betsy*, *Marbury v. Madison*, *McCulloch v. Maryland*, *Gibbons v. Ogden*, *Cohens v. Virginia*, *Charles River Bridge v. Warren Bridge*, *Dred Scott v. Sandford*, *Ex parte Milligan*, *Hepburn v. Griswold*, *Munn v. Illinois*, *Plessy v. Ferguson*, *Lochner v. New York*, *Northern Securities v. U. S.*, *United States v. "The Spirit of '76,"* *Muller v. Oregon*, *Norris v. Alabama*, *Adkins v. Children's Hospital*, *Moore v. Dempsey*, *National Labor Relations Board v. Jones & Laughlin Steel Corp.*, *United States v. Darby Lumber Co.*, *Korematsu v. U. S.*, *Mooney v. Holohan*, *Cramer v. U. S.*, *Nebbia v. N. Y.*, *Schechter Poultry Corp. v. U. S.*, *Mapp v. Ohio*, *Brown v. Board of Education*, *Hirabayashi v. U. S.*, *Toth v. Quarles*, *Gideon v. Wainwright*, *Baker v. Carr*, and others.

Although the object of this book avowedly is not the edification of lawyers, its appeal to them and to law teachers and law students (especially) is bound to be great. It offers a most attractive digest of the chief constitutional law cases usually found in casebooks. Indeed, the digests are so neat and brief, and so nicely introduced with backgrounds and consequences, that a bright law student might need little more for exam-passing purposes. If I were a constitutional law teacher I would urge all members of my classes to read this book as an introduction to the study in depth of this subject.

Nor is this all. The book contains much more that is invaluable for law students and others. The first ten or so pages ("A Heritage of Law") describe the origins and nature of our constitutional law. Nearly one hundred pages are devoted to the great cases, issues and personalities of our history ("Decisions for Liberty"). Then, in a thirty page story, the physical and procedural operations of the Court itself are described ("Within the Court Today"). A brief but adequate Index, and excellent End Papers pictures of all the Justices who have served on the Supreme Court, are also included.

People in the legal profession, of course, will differ as to the wisdom of the choice of cases discussed. Some will say that the *Dartmouth College* or *Gitlow* cases were treated too summarily, or that *Such & Such* case is not mentioned and absolutely belongs. But most readers will not be disturbed by such doubts. Clearly, practically all of the great cases are sketched and their impact summarized. And this is done in a simple narrative style, even with deft humor occasionally, to produce a most readable and fascinating total effect. Often the illustrations literally depict a complex situation better than pages of text could do.

There will be those who say that this is too slick and too prettyfied, that it is a misleading oversimplification of an enormously complex legal history and philosophy, that it is a Madison Avenue *cum* Hollywood pastiche. But the world today cries for simplification, for simple and attractive statements of essentials.

Madison Avenue copywriting and Hollywood pictorialism, blended with real and direct scholarship, can and do produce things that are fine as well as attractive. It is time to stop apologizing for the American style, as though its "commercial salability" were the mark of Cain. This pamphlet is, indeed, in the American style. And it is very good.

American foundations have been praised and damned in recent years by many people. This product of the Foundation of the Federal Bar Association will long stand as an example of the best service of a foundation in the public interest. The production of this intriguing little book is a public service of the highest quality. This is the kind of thing that puts to shame the "personal propaganda" outpourings of some other "foundation founders."

It is an expensive pamphlet, as anyone who knows something about publishing costs will recognize on sight. The sale price (\$1.25 for a paper bound copy) is nowhere near the actual cost of production.

Every American should read this disarmingly simple, but sincere and illuminating little book. Everyone who helped to produce it is entitled to the satisfaction of a valuable public service well done. As much as any book can do so, it makes one glad to be an American.