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## BOOKS RECEIVED

AMERICAN LAW OF MEDICAL MALPRACTICE, VOL. 1. By *Steven E. Pegalis* and *H.F. Wachsman*. Rochester, New York: The Lawyers Co-operative Publishing Co.; San Francisco: Bancroft-Whitney Co., 1980. Pp. ix, 515. \$47.50. The authors of this work provide practicing attorneys and members of the judiciary with a realistic understanding of and practical guide to the medical malpractice case. The authors express a personal bias toward the tort-jury system, as opposed to arbitration or no-fault systems, as the appropriate due process mechanism whereby health-care providers can be held accountable to provide quality, negligence-free assistance, while at the same time fairly compensating the unfortunate victim of malpractice. After a general overview of the current state of medical malpractice in the United States, Volume 1 of the treatise explores in detail the substantive liability of physicians and hospitals and medical malpractice as related to emergency medicine. In addition, the authors provide an in-depth review of obstetrics and obstetrical malpractice, including the substance and procedure of the obstetrical malpractice trial. Future volumes will review malpractice defenses, specialty areas, and practice-trial considerations applicable to malpractice cases. Mr. Pegalis is an Associate in Law of the American College of Legal Medicine. Mr. Wachsman, who holds professional degrees in both medicine and law, is a Fellow of the same institution.

CONFESSION AND AVOIDANCE. By *Leon Jaworski* with *Mickey Herskowitz*. New York: Anchor Press/Doubleday, 1979. Pp. 325. \$10.95. Leon Jaworski has written an engaging account of his long legal career. His memoir spans more than fifty years, beginning with his early years of practice in Waco, Texas. Jaworski's account of his terms of service as special prosecutor during the Watergate investigation and as special counsel to the House of Representatives investigation of the Korean lobbying scandal include excerpts from committee hearings and oral argument before the Supreme Court, as well as profiles of the judicial and political figures involved. In conclusion, Jaworski writes, "There is no disposition here to make a hero

of anyone who has broken the law. . . . The enduring question of Watergate is whether we, as a people, will learn from it. Some have.”

- THE CONSTITUTIONAL RIGHTS OF WOMEN.** By *Leslie Friedman Goldstein*. New York: Longman, 1979. Pp. xiii, 414. \$10.95. This textbook provides a constitutional perspective on women's rights and offers a focused analysis for both teachers and students in the field. The historical origins of abstract constitutional provisions governing sex-related controversies are traced to the present. The state-of-the-law is then applied in considering live controversies such as the proposed Equal Rights Amendment, abortion, and birth control. The Supreme Court is critically examined as both an initiator of and respondent to social change. The author has provided provocative case questions and incisive, in-depth commentary following each case.
- DOMESTIC INTELLIGENCE: MONITORING DISSENT IN AMERICA.** By *Richard E. Morgan*. Austin, Texas: University of Texas Press, 1980. Pp. 194. \$6.95. This book presents a brief but comprehensive review of the development of domestic intelligence gathering in America. The inquiry was prompted by the discovery in the 1970's of abuses by the Federal Bureau of Investigation and other government agencies, in particular the bureaucratic intrusion into the antiwar movement and complicity in the Watergate scandal. While the author criticizes the activities of several agencies, including the IRS, he places primary responsibility for the abuse of domestic intelligence procedures on J. Edgar Hoover, the long-time director of the FBI. Morgan asserts that Hoover's fear of a communist threat following World War II prompted the expansion in the monitoring of political dissent and led to improper covert surveillance and infiltration of political movements. The book examines the judicial response to illegal executive-branch activities and closes with a call for continuing reform, most notably a proposal for a new FBI legislative charter.
- EDUCATING HANDICAPPED CHILDREN.** By *Reed Martin*. Champaign, Illinois: Research Press Company, 1979. Pp. ix, 181. \$8.95. Reed Martin is an attorney who has had extensive involvement in the field of education for the handicapped. His book briefly examines the sociological issues facing both lawmakers and the handicapped. The author follows this background information with a detailed explanation of the various sources of law which regulate services to the handicapped. A

major portion of the book is devoted to educational issues. Martin concludes with the hope that changes in the law will increase public awareness of discrimination against the handicapped and thereby change the behavior and expectations of society. This he feels will eventually help to end the segregation of handicapped children in today's school system and facilitate the full and free assimilation of the handicapped into today's society.

**ESTATE PLANNING FOR FARMERS AND RANCHERS.** By *Donald H. Kelley* and *David A. Ludtke*. Colorado Springs: Shepard's/McGraw-Hill, 1980. Pp. lvii, 880. \$65.00. This book is written for the practitioner who has a general understanding of basic estate planning principles and is involved in the specialized problems of planning the estates of active farmers and ranchers. The authors present their material with a pragmatic appreciation for the concerns and objectives of the modern farmer or rancher who seeks to formulate an effective estate plan. They analyze in detail several estate planning tools available to the farmer or rancher who desires an estate plan satisfying the objectives of family continuity, efficient operating succession, equitable treatment among on- and off-farm children, and the preservation of management control. At the same time, the goal of keeping estate taxes at a minimum is stressed. The authors acknowledge that in light of the burden imposed by federal income and estate taxation, the traditional organization and operation of the farming and ranching unit must give way to a life-time relinquishment of operating control. Finally, the authors discuss various commercial devices available to effectuate both the personal objectives of the farmer/rancher and the transfer of farm/ranch property in consideration of the intricacies of real estate valuation and generational planning.

**THE FIRST AMERICAN CONSTITUTIONS.** By *Willi Paul Adams*. Chapel Hill: The University of North Carolina Press, 1980. Pp. xviii, 351. \$23.50. This is the English-language version of the original German-language text by Adams, a professor of North American History at the John F. Kennedy Institute for North American Studies, Free University of Berlin. The noted historian, Richard B. Morris, writes in his foreword that "perhaps nowhere else will one find so incisive and illuminating an analysis of such innovative concepts as constitutionalism, republicanism, and federalism, of 'mixed government' and other

basic constitutional principles that set the American Revolution apart from those that followed." Morris' comments do not stand alone; the original version, *Republikanische Verfassung und bürgerliche Freiheit: Die Verfassungen und politischen Ideen der amerikanischen Revolution*, won the American Historical Association's bicentennial-year prize as the best non-English-language book on the American Revolution written post-1969. The book examines the period 1774-1787. Major topics discussed include the conflicting ideologies contesting for dominance in the structuring of the new government, the drafting of state constitutions in the context of the federal plan, and the relationship between democracy and republicanism. On the latter subject the author finds the ideologies essentially similar, and concludes with the assertion that the ideological and pragmatic clashes both between and within the competing theories were reconciled in the interest of a "political system permit[ing] the realization of their vision of a great commercial 'empire'."

**HANDLING CRIMINAL APPEALS.** By *Jonathan M. Purver* and *Lawrence E. Taylor*. Rochester, New York: Lawyers Cooperative Publishing Co.; San Francisco: Bancroft-Whitney Co., 1980. Pp. xviii, 457. \$47.50. This book, in treatise form, gives a broad overview of the substantive and procedural aspects involved in bringing a criminal appeal. The authors stress the need for anticipating and recognizing potential appeal issues at trial. Advice is given on how to prepare briefs and oral argument, as well as the steps necessary to preserve a record for appeal. Sample forms and excerpts from appellate briefs are included, in appropriate places, to facilitate preparation. In addition, the authors explore the considerations involved in deciding whether or not to appeal a conviction, and the advantages or disadvantages of raising certain issues. Included is a chapter regarding discretionary review. The book is a comprehensive and well-written practice manual.

**HOW TO WRITE PLAIN ENGLISH: A BOOK FOR LAWYERS AND CONSUMERS.** By *Rudolf Flesch*. New York: Harper & Row, Publishers, 1979. Pp. xiii, 126. \$8.95. The author, a pioneer of the Plain English Movement, is an attorney currently acting as consultant to the Federal Trade Commission in its rewriting of regulations and warnings pursuant to President Carter's Executive Order 12044. That proclamation ordered that all Federal statutes and regulations must be written in plain English and

be understandable to those who must rely upon them. The author starts from the premise that most consumers do not read labels, warnings, statutes, or regulations because they cannot understand their meaning. Accordingly, he proposes a method of writing which reduces the length of words and sentences, and so makes a piece of writing simpler and easier to understand. Once legal writing as a whole becomes readable, the author suggests, the consumer will begin to read and scrutinize these writings more carefully, and so be shielded from abuse. Dr. Flesch attempts to demonstrate the effectiveness of his methods by comparing the readability of numerous regulations and statutes with the same passages after they have been rewritten in plain English. A mathematical formula and a "Readability Chart" are included to enable a writer to measure the readability of any particular passage. The book contains a foreword by Michael Pertschuk, Chairman of the Federal Trade Commission.

**THE IMPACT OF RECENT MENTAL DISABILITY LITIGATION.** By *Michael L. Perlin* and *Reed Martin*. Champaign, Illinois: Research Press Co., 1980. Pp. 147. \$29.95. The authors examine the developments that have occurred over the past ten years regarding the civil rights of mentally disabled persons. The materials are divided into four sections. The first section deals with the broad question of civil commitment. Some of the issues covered include the criteria for commitment, who bears the burden of proof, what due process rights are mandated, the role of counsel in the commitment proceeding, and how states are to develop their own programs to meet these due process requirements. The next section deals with institutional issues—the status of the right of mentally disabled persons to receive treatment and the issue of the right to refuse treatment. Other rights of patients in institutions examined include the right to visitation, the right to vote, and the right to exercise control over one's own assets, rights that the mentally disabled are winning in an ever-increasing number of court decisions. The third section deals with the after-care problems associated with people who have been released from institutions. Questions examined include whether there is a right to after care for persons who have been released from institutions and the public's reaction to deinstitutionalized patients. The civil, social, and economic rights of the mentally disabled in the community are also examined. Finally, the text discusses

the problem of implementing court decisions securing procedural and substantive rights for the mentally disabled and the various advocacy systems currently being set up to enforce the rights of the mentally disabled.

**THE LAW OF THE LAND.** By *Charles Rembar*. New York: Simon and Schuster, 1980. Pp. 447. \$15.00. From jousts to juries and from trial by ordeal to trial by peers, Charles Rembar explores the history of many of the major components of our present legal system. As he traces the history of such various legal subjects as criminal and civil law, pleadings and procedure, evidence, and the rights of the accused from their humble beginnings to their present complexity, the author parades before his readers a steady stream of colorful characters and cases which both enliven and enrich the reader's appreciation and understanding of these somewhat murky but necessarily essential legal concepts. For the layman, the book reveals some fascinating insights; for the attorney, it may well be a humbling experience. The author's first book, *The End of Obscenity*, was termed "a masterpiece" by at least one reviewer, and received international acclaim. His new work follows capably in that tradition.

**MURDER, AMERICA.** By *Jay Robert Nash*. New York: Simon and Schuster, 1980. Pp. 479. \$16.95. The author has collected a series of murder stories, written in narrative form but providing detailed pictures of the crimes committed. The main passages are arranged chronologically from 1778 to 1977. A second chronology covers, in less detail, a series of murders from 1773 to 1978, including the assassinations of Presidents McKinley and Kennedy, Senator Robert Kennedy, and civil rights leader Martin Luther King. The author's major theory relates murder to geography. Thus, he explains that homicide in New England "has been enacted with traditional adroit secrecy." Whether Nash proves his point is questionable, since the stories are not grouped to allow the reader easy comparison, and Nash fails to test his premise against individual incidents. Perhaps the author's real purpose, then, is one to which he only alludes. All of his stories, says Nash, "are handy explanations and full of their own truths, yet the plain fact is that it is *easier* to murder now than ever before, because these explanations serve as lines of reason for the killer's defense should he be caught and tried." This point, rigorously supported, could be of major value. The author, however, leaves

the thought standing alone, an important conclusion unsupported in the midst of a rainy day's reading about notorious crimes.

**PRISON AND PLANTATION.** By *Michael Stephen Hindus*. Chapel Hill: The University of North Carolina Press, 1980. Pp. xxviii, 285. \$20.00. Hindus' study compares the nineteenth-century criminal justice systems in two states on opposite sides of the Mason-Dixon line. The author selected Massachusetts and South Carolina for this comparison, examining how regional differences in culture, social development, and slavery caused two distinct systems of criminal justice to evolve in the United States. The study begins by contrasting the exercise of authority by government officials in the two states. It then reviews regional patterns of crime, prosecution, and punishment, followed by an examination of specific contrasts and subtle similarities in northern prisons and southern plantations. The study concludes by looking at the efforts each state made toward reform of its criminal justice system and questioning why reform failed in one state and gained a hearing in the other.

**PRIVATE MANAGEMENT AND PUBLIC POLICY.** *Lewis Benton*, ed. Lexington, Mass.: Lexington Books/D.C. Heath and Co., 1980. Pp. xiv, 239. \$17.95. This is the third volume of the Hofstra University Management Series. The book's purpose is basic: to "discuss the impact of business on government and government on business." The editor has provided a forum for the various and sundry views of academicians, business leaders, government officials, and labor leaders. The general points of view expressed are not surprising. At one end of the spectrum it is argued that the mechanism of the market place provides the appropriate incentives to achieve societal goals efficiently, and thus assuage the claimed backlash against regulatory burdens. At the other end of the spectrum it is contended that private enterprise, through the use of lobbying, has aggrandized the wealth of the few at the expense of the many. Free enterprise, it is argued, has served not as a catalyst for the attainment of economic, social, and political advancement, but instead as a framework for the inhibition of movement from the status quo. According to one labor leader, the advances that have been made to date are a result of efforts by previously unorganized groups to break the hold of private enterprise on the government apparatus. The editor notes a "widespread feeling that our democratic institutions and the

business world are currently engaged in mortal conflict." With that in mind, the eighteen contributors were invited to propose contexts for resolution.

**PROSPERITY ROAD: THE NEW DEAL, TOBACCO, AND NORTH CAROLINA.** By *Anthony J. Bodger*. Chapel Hill: The University of North Carolina Press, 1980. Pp. xviii, 295. \$20.00. In this exhaustive treatment of a narrow, and hitherto neglected niche of the New Deal, the author chronicles the effect of the crop programs of the Agricultural Adjustment Administration on the tobacco farmers of North Carolina. From 1933, through the "paralyzing" Supreme Court decision in *U.S. v. Butler* in 1936, and up to the beginning of World War II, the history of one of the New Deal's most successful programs is reviewed. The author teaches history at Newcastle University, Newcastle upon Tyne, England.

**THE REAL ESTATE AGENT'S AND INVESTOR'S TAX BOOK.** By *Robert Irwin* and *Richard Brickman*. New York: McGraw-Hill, 1981. Pp. x, 249. \$15.95. In simple, everyday language this book answers both common and complex real-estate tax questions and provides investors, brokers, property owners, and potential owners with "step-by-step help to plan and carry through the most tax-beneficial real estate transactions." The focus is on federal tax law. Specifically, the authors explain the tax-advantages available to those selling private residences, delineate the benefits of owning rather than renting one's principal residence, and present an in-depth analysis of depreciation rules. The text also examines installment sales, the uses of tax-free exchanges, and the various traps confronted by those seeking tax advantages.

**U.S. CONSTITUTION.** By *Earlean M. McCarrick*. Detroit: Gale Research Co., 1980. Pp. ix, 390. \$30.00. This book is an annotated bibliography intended for any student of the Constitution. It contains citations to primary and secondary sources, to historical and contemporary writings, to general and specific studies, and to sophisticated as well as popular works. The first five chapters of the book are devoted to the pre-Constitution era, and to general bibliographic and interpretive works. Specifically, this part of the book deals with the Constitutional Congress, the Declaration of Independence, the Articles of Confederation, the Philadelphia Convention, and with basic principles of the American Constitutional system, such as federalism, separation of powers, and judicial review. The re-

maining seven chapters are devoted to the Constitution itself. They deal with each of the Articles in the original Constitution, as well as with the Bill of Rights, the pre-Civil War amendments, the Civil War amendments, and the twentieth-century amendments.

YOU CAN BEAT CITY HALL. By *W. Bernard Richland*. New York: Rawson, Wade Publishers, Inc., 1980. Pp. 194. \$9.95. The author has prepared a comprehensive grouping of materials intended to serve as a guide book for individuals who have actual or potential claims against municipalities. The book is written in laymen's language and provides both a brief overview of municipal government and a review of limits on municipal liability in all 50 states. General topics include notice-of-claim requirements, types of actions that can be instituted against a municipality, and procedures to be followed when petitioning for a property tax reduction, obtaining a city permit, and instituting a zoning variance. The book contains a chapter discussing § 1983 damage actions against municipalities, available since the Supreme Court's 1978 decision in *Monell v. Department of Social Services*. The author, former Corporation Counsel for the city of New York, also offers anecdotes from eighteen years of municipal legal practice.

