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## Book Reviews

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# BOOK REVIEWS

ANATOMY OF A MURDER. By Robert Traver. New York: St. Martin's Press (Book-of-the-Month Club Selection), 1958. Pp. 437.

Homicide it was, without question. But, could a jury be persuaded it was not murder. According to Laura Manion, Barney Quill, the deceased, had brutally raped and beaten her. Her husband, the killer, found her, helped her to return home and cleanse herself, then an hour later in the presence of many witnesses shot Quill five times. Paul Biegler, recently elected ex-District Attorney, after ten years in office, needs a successful criminal defense to launch his intended career as defense attorney in Michigan's Upper Peninsula. He is convinced the "unwritten law" argument would be unsuccessful, that only a legal defense could obtain acquittal. Furthermore, Biegler's first reaction to the cool, egotistical husband is one of dislike, and he does not know whether he can believe the attractive Laura. Should he take the Manion case? Thus the author launches his "story of a murder, of a murder trial, and of some of the people who engaged or became enmeshed in the proceedings." (Prologue).

This novel of a killing and its consequences has great dramatic qualities and is outstanding in its description of the lawyer's role in defending one accused of crime. The author, who has written several other books under the name of Robert Traver, qualifies as a legal expert through many years of practice in the Upper Peninsula; he has also recently become a Justice on the Supreme Court of Michigan.

With Biegler as narrator, the reader participates in the first interviews with Frederic and Laura Manion. Biegler's decision to undertake the defense results partly from personal motives but also, it is clear, partly from his love for the law, and its objectives. Despite this love, the attorney is tough and cynical. One of the early, excellent bits of dialogue between Biegler and Manion is the attorney's "lecture"—Biegler describes "the lecture" as "an ancient device that lawyers use to coach their clients so that the client won't quite know he has been coached and his lawyer can still preserve the face-saving illusion that he hasn't done any coaching." (P.35).

Other pretrial activities are clearly depicted. Interviews with witnesses, ably conducted, bring understanding to attorney and reader of the actions and motivations of the three most directly involved in the tragic events; and also of several witnesses who for personal reasons seem to withhold or mistate what they saw. The only possible legal defense is insanity, it appears. A competent psychiatrist is found, who concludes that Manion was under an irresistible impulse. Biegler, and

his associate counsel, a whiskey-soaked older lawyer, discover that in Michigan an insanity defense may be based on irresistible impulse. They plot their trial strategy, consider what the testimony of prosecution witnesses will be, prepare their trial briefs and requested instructions while at the same time concealing from the prosecution their intent to rely on irresistible impulse.

The second half of the novel is almost entirely the trial itself, and Biegler's reaction between sessions in the courtroom. Clifton Fadiman, in the December 1957 Book-of-the-Month Club News, describes this part thus:

There are many famous trial scenes in fiction; but there are few that, within your reviewer's memory, rival this one for tension, legal chicanery, brilliant cross-examination, high and low comedy, and ability to draw the reader almost bodily into the courtroom. Biegler's final speech is only exceeded in interest by the judge's summing up.

The prosecution is not conducted by the young inexperienced District Attorney, but by a veteran from the staff of the state's Attorney General. The battle, the in-fighting, between the two trial experts is well drawn. Each has his successful and his poor moments; each needles the other and tempers are lost. Throughout, Biegler explains the traps he is laying for adverse witnesses and opposing counsel. Occasionally he is caught in one of the prosecutor's, which he acknowledges, and must do what he can to extricate himself. He meets a rebuttal witness whose story, if believed by the jury, would be devastating, and can only attempt to discredit the witness in the eyes of the jury.

One of the strong points of the book is that most of the characters are well-drawn and seem human. We meet a judge who controls his courtroom, but who is understanding, fair, and learned. The police do their job, but are not portrayed as conviction-happy; indeed, one key bit of evidence to support the insanity defense is volunteered to Biegler by the sheriff outside the courtroom, and the sheriff offers to testify for the defense. The killer and his victim have good and bad features; the reader is able to gain insight into their motivation, and he may be left with a reasonable doubt as to Manion's sanity at the fatal moment.

Another, and a substantial virtue, is the impression this novel gives of technical accuracy. It has the feel of the "real stuff" of a trial. Procedure is described clearly; its purposes explained. Examination and cross-examination could come from the record of an actual case. The book can be recommended to the novice at the bar as a study in trial technique—and those of much experience should enjoy it. The non-lawyer reader will find an exciting story, well told, from which he can get good understanding of the lawyer's perspective, ethics, and function.

Because this is a story of homicide and a murder trial, some comparison with the novels of Erle Stanley Gardner might be in order. Some of the similarities and contrasts may already be apparent from the preceding paragraphs. There are differences in at least three significant respects. One is the attitude of the police and the prosecutor. A second is that much of the success of the defense is due to investigation, legal research, and activities both of Biegler and his associate—one result of which is that the two become partners. And the third is that Biegler's client could not pay any fee before the trial began, agreed to execute promissory notes to cover the fee, and slipped out of town without doing so while his lawyers celebrated the victory.

EDWARD R. HAYES\*

GROUPS AND THE CONSTITUTION. By Robert A. Horn. Stanford, California: Stanford University Press, 1956. Pp. 180. \$3.00.

Dr. Robert A. Horn, Assistant Professor of Political Science at Stanford University, has written a most scholarly and exhaustive analysis of his subject. There is no mistaking that the author of this volume has been very thorough in his research, and the materials from his research have been unusually well organized and presented. Dr. Horn presents the subject and the arguments on both sides of all of the questions involved in this treatise and we find very little partisanship in his presentation.

The first chapter in the book, which deals with the growth of the freedom of association as a modern liberty, is of unusual interest and clarity. In the last pages of this first chapter he outlines his conception of the principles of the law of association, which are the theses of the remainder of his text. He presents several propositions. (1) There is a constitutional right to associate which must be protected from unlawful government infringement. (2) Government may promote the association of individuals and may grant certain privileges and powers through this association when the public interest will profit. (3) Government may, when the public interest requires, forbid interference with the right to associate and may even require it. (4) An association must not without adequate reason infringe upon the rights of others, and it is the duty of government to define persons

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who are entitled to legal protection whether they are members or non-members. (5) Government may prevent the right of association when it is a threat to society or our organized political institutions.

The development of this outline becomes very interesting and informative both to a lawyer and a layman, and it should be emphasized that this book is not merely a legal presentation. It should be interesting and understandable by the layman as well.

Dr. Horn in a very straightforward and courageous manner tackles the problems of religious freedom as related to groups, the separation of Church and State, which he designates as an American Experiment, the intricate problems of labor legislation, the power and intrigue of political parties, and subversive associations.

This work is original both in the concept and in the handling of the subject matter. It is a rather rude awakening to many of us who have failed to realize completely the substantial impact of organizations upon our form of government and the ordinary problems of life with which we are confronted daily. Most of us do not stop to realize that in the formation of our constitution and our Bill of Rights the uppermost thought within the minds of the Fathers was to protect the individual from an arrogant and menacing majority; they had no idea that at this time in our history the greatest determinative forces in our government would not be the majority, but organized, and for the most part, selfish, minorities; nor did they realize that certain minorities would be powerful enough to obtain powers and privileges from our legislative bodies because of the powerful political pressure which they are able to exert upon them.

These latter comments are not the comments of Mr. Horn, but of the reviewer.

However, Dr. Horn's treatment of his subject matter is factual and truthful, and his analysis of the decisions of our courts is of the best reporting, and his analysis is unprejudiced and correct. It is definitely pointed out that the trend of modern legislation and judicial decision is to enhance the power and the importance of associations under an inherent right to associate, as probably first defined by Chief Justice Hughes in the *Jones & Laughlin Steel Company* case.<sup>1</sup> However, as viewed from this corner, we would have appreciated a further and more detailed exploration into the idea as to whether or not an individual has the inherent right "not to be associated" and whether or not the individual rights of a citizen are infringed when he is forced to associate against his will.

Mr. Horn seems to stress the function of associations in giving individuals a feeling of the pursuit of happiness and contentment by the development of "a sense of belonging" to an association to which

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1. *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937).

they can devote their loyalties. It is also aptly pointed out that this sense of loyalty can lead the individual to an unsocial attitude towards his fellow citizens, and even disloyalty to his country. Anyone who reads this book cannot help from weighing the advantages of associations against a warning of Rousseau (quoted at p. 6) which points out that associations may become factional and partial at the expense of the great association of the State, and as a result "there are no longer as many votes as there are men, but only as many as there are associations," and the further warning by Rousseau that "there should be no partial society within the State, and that each citizen should think only his own thoughts."

The questions discussed are all complex questions, and as has been pointed out by the author, the field is somewhat of a new field in political science. The actual problem presented is whether or not an individual who is a member of an association has any greater rights as a member of an association than he has as an individual. Dr. Horn seems to feel that under present legislation and decisions of the Supreme Court the rights of an association and the members of an association may exceed the rights of the individual, and feels that this is a liberal advance made possible by decisions of the Supreme Court of the United States necessitated through the neglect of legislative bodies. The immediate query is whether or not our courts and our legislative bodies have gone astray from our fundamental concepts of individual liberty.

The style of this book is very scholarly, perhaps too scholarly for the ordinary layman, but we have no hesitancy in recommending it to all lawyers, legislators, and students of political science and theory.

Dr. Horn is to be congratulated upon his research, his originality, and the able and organized method in which he has presented the subject matter and problems, many of which problems are yet to be solved.

BENNETT B. PATTERSON\*

SPEAKING OF POLITICS. By Franklin C. Salisbury. New York: Vantage Press, 1956. Pp. viii, 294. \$3.75.

This book attempts to give rough but useful meanings to the political vocabulary which describes four principal societies of today—democracy, fascism, socialism, and communism. The author uses a wide range of source materials as a basis upon which to build his opinions of the proper definitions of the vocabulary of politics, at

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