

## Book Reviews

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## Book Reviews

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**My Dearest Polly.** By Frances Norton Mason. Richmond, Virginia. Garrett and Massie, 1961. Pp. 386. \$5.00.

This is the story of the married life of our great Chief Justice John Marshall, and his wife, Mary Willis Ambler (Polly). At the time of her death, they had been married for 47 years, and during part of that period we have a series of letters from Marshall to his wife which evidence his love and respect for her. In a letter written one year after Polly's death, Marshall says, "I do not recall ever to have regretted the adoption of her opinion." She was a delicate and retiring person especially in her latter days and in this last letter, he tells of their marriage when she was sixteen and brings to an end the story of their married life.

This period comprised those important formative years of our Republic and shows Marshall at his best amid the distractions of partisan bitterness and Jeffersonian opposition and vindictiveness.

Marshall had but little important preparation in the study of law before beginning its practice. His was a mind which could concentrate on the substance of a dispute and which could phrase his position with clarity. He was tall, awkward, and clumsy and had but a poor voice. Yet with his black eyes, he was handsome, as shown especially in the portrait of him done in Philadelphia at the request of members of the Bar there while he awaited an important surgical operation.

With a successful practice in the new and growing city of Richmond and needing income, he was loath to enter political life. However, in a visit to George Washington at Mt. Vernon Marshall was told in a forceful way that it was his duty to run for Congress. For four days these two resolute men argued the matter and at last bade each other a haughty good night. When Marshall called for his horse next morning, Washington was there to meet him, and when Marshall reached Richmond, he declared for Congress.

We are introduced to Marshall as Chief Justice (appointed by President Adams on January 20, 1801) and

learn of his friendship and admiration for Story. We get glimpses of the great cases and especially of the Burr trial over which Marshall presided at Richmond.

Yet with all the serious work in which he lived and wrought, he was convivial and enjoyed the social life in Washington. In Richmond, too, he had his lawyers' dinners and delighted in entertaining.

The author gives an interesting description of the Richmond Negroes in those days, though Polly often worried about them, especially after their abortive rising in 1800 which was halted with promptness (Chapter XXI). Those were days of bitter factionalism, and in Virginia a toast was drunk to a speedy death to George Washington. It is remarkable that though he was surrounded on all sides by violent Jeffersonians, Marshall always had the respect and even the love of the people of Richmond.

This is a well written and continuous story, though occasionally strange words do crop up. While this review is only the outline of this interesting book, enough has been said, I think, to interest those who should want to know more about some of the great actors on the American scene and the scene itself in those politically classic days.

WALTER H. BUCK\*

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**Twilight Of Honor.** By Al Dewlen. New York. McGraw-Hill, 1961. Pp. 328. \$4.95.

Mr. Dewlen's most recent novel has for its setting a small county in Texas where the defendant is being tried for the alleged murder of one of the county's richest and most well-liked citizens.<sup>1</sup> The plot combines a courtroom

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Editor's Note: It is with profound regret that we must state: "Late of the Baltimore City Bar." Mr. Buck, in addition to his widely recognized legal achievements, was a frequent contributor to as well as supporter of the Law Review. In addition to articles, he has written numerous book reviews. The Review joins the Maryland Bar in mourning his loss to the legal profession he served so long and so well.

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<sup>1</sup> This point seems somewhat overdone by the author. See for example page 195 where in describing the dead man's influence in the community we see: "There was a Jess Hutcherson Wing to the Bonita County Hospital, the Jess Hutcherson Expressway would soon be completed. A Hutcherson Center had been dedicated . . . last year, and a Jess Hutcherson Memorial Scholarship Fund was to become operational this fall."

drama with an incisive look into the personal life of the defense counsel, interspersing each segment with a smattering of sex and local color.

As a courtroom drama the author presents the exciting, but perhaps overly used theme of the underdog court-appointed attorney, without sufficient compensation or adequate facilities, being forced into accepting a case which costs him his association with a prominent law firm. It is this lawyer who in fighting for the life of his client against the forces of the state manifested in the form of the District Attorney, Assistant District Attorney, and Special Prosecutor who are somewhat overzealous in their efforts to obtain a conviction. Elements of such overzealousness include a coerced confession, suppressed evidence, and hints of subornation of perjury. If the plot is somewhat thin, its treatment by the author is well done and provides for exciting reading. Especially interesting to the layman or young lawyer is the display of trial tactics employed by the defense counsel including the selection of the jury as well as the actual trial of the case. The author places the reader in the mind of the defense counsel where the blunders of a well versed, but somewhat inexperienced criminal lawyer are smoothly portrayed.

To develop the personality of the defense counsel, Mr. Dewlen uses a single, but tragic incident in the hero's life, that is, the death of his wife, to serve as a backdrop. This he does with admirable success. It is a clear, sharply focused, but human character that Mr. Dewlen constructs; one whose trepidations provide a major portion of the excitement of the book.

The author both explicitly and implicitly emphasizes the nature of an attorney's task in criminal defense work and stresses the importance of the well known proposition that a criminal defendant is deemed innocent until proven guilty. It is with this proposition in mind that the author explains the basic theme of the book — that it is an integral part of the American system of justice that a defendant, no matter how heinous the crime he be charged with, and no matter how probable his guilt, is entitled to the best counsel he can obtain, or the court can obtain for him. It is therefore the lawyer's duty not to judge his client, but to represent honestly his interests to the best of his ability. If this doesn't result in justice prevailing in all cases, two points are to be noted. First, it is more the fault of the system than the attorney. Second, the present system is still the most equitable yet devised according to our present

day concept of justice, which includes strong built-in protections against conviction of the innocent. Through the defense counsel's former associate we here this illustrative conversation.

"One thing he said that day sticks in my mind; I'll never forget it. He [referring to a respected attorney who acts as an advisor to the defense counsel] was talking about the necessary, knowing defense of the guilty. It can be destructive of the defender, he said, unless he's a man of two philosophies, two souls. The single-minded man, he said, can fall into a nether world, a place [he] spoke of as 'the twilight of honor,' and once there, he's unlikely to emerge."<sup>2</sup>

It is this dual philosophy, which this reviewer assumes refers to the dichotomy between the attorney's personal moral standards and those of the clients he represents, which Mr. Dewlen portends is the necessary concomitance of a moralistic criminal lawyer.

LEWIS A. NOONBERG\*

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**The Practical Aspects Of Divorce Practice, Second Edition.** By Herbert Myerberg, Baltimore. The Daily Record Co., 1961. Pp. xvi, 182, including index. \$6.00.

The reviewer of the original edition of this book stated that "[i]t is a brief but quite comprehensive book, and every lawyer, young and old should read it." While the second edition is not quite as brief, its material is more comprehensive and every lawyer, young and old should read this second edition even if he has previously read the earlier work. The practical approach of the author makes the work both a "how to do it" handbook and a most valuable reference source as to the problems of professional ethics which constantly recur in the field of divorce practice.

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<sup>2</sup> Dewlen, *Twilight of Honor*, p. 191.

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The new edition includes an index and table of cases making it more readily usable as a legal tool than the previous volume. References are given to *nisi prius* cases which cannot be found through customary sources of research.

The author devotes an entire new chapter to the Family Court in Baltimore City. The material in this chapter should aid the lawyer handling cases in the Family Court as well as relieving the personnel of that Court from unnecessary "coaching" of counsel inexperienced with its functions and procedures.

Among the many topics upon which the author has expanded are the legal and ethical aspects of foreign divorces; techniques in negotiation of property settlements and maintenance agreements; procedure for protecting the wife from physical harm, including the "lock-out", and the "break-in", situations; advising the client about "dating" while separated but undivorced from the other spouse; the "marriage counseling" aspect of divorce practice; and a survey of the Examiner-Master system in Baltimore City and various counties.

While some members of the bar might disagree with Mr. Myerberg's personal conclusions in such controversial areas as those of referring the other spouse to an attorney and in counseling the client with respect to a foreign "quickie" divorce, he frankly and objectively discloses and discusses both sides of these and similar questions.

Where the book undertakes the task of treating substantive or procedural problems of the law of divorce, its author speaks with authority and with the knowledge of a scholar of the subject. As an example there might be mentioned the discussion of the often-misunderstood differences between the concepts of venue and jurisdiction appearing at pages 34-36 of this new edition. The author included a similar section in the first edition of his work, concluding that the provisions of Article 16, Section 22 (providing that the bill for divorce be filed in the county where plaintiff or defendant resides) related only to venue and not to jurisdiction. In the recent case of *Fisher v. DeMarr*, 226 Md. 509, 174 A. 2d 345 (1961), the Court of Appeals directly considered the same question and reached the same conclusion as Mr. Myerberg, citing his earlier edition of this work in the course of its opinion.

Unquestionably this book belongs in the libraries not only of those Maryland lawyers who are frequently involved in divorce litigation but also in those of all who

are in the general practice of the law. Inevitably, even if infrequently, the general practitioner will encounter situations when he will be grateful to the author for having written and published this work.

JOHN O. HERRMANN\*

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