

## Book Review

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## Book Review

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**One Man's Freedom.** By Edward Bennett Williams. New York. Atheneum, 1962, Pp. 344, including index. \$5.95.

In his introduction to this very readable, timely and provocative book, Eugene V. Rostow, Dean of Yale Law School, makes the observation that, "The quality of a civilization is largely determined by the fairness of its criminal trials, and of its other proceedings in which men may lose their liberty, their reputation, or their right to pursue callings of their choice."<sup>1</sup> Dean Rostow acknowledges the author of this book to have demonstrated that an honorable lawyer can have an exciting life representing persons accused of crime, in spite of the barriers frequently faced by those genuinely concerned with the healthy and orderly development of our constitutional law of civil and criminal rights. The inclination of the public to identify the lawyer with his client and the corruption with which the criminal practice is sometimes infested are very real obstacles to be encountered along the high road chosen by Mr. Williams in his pursuit of constitutional liberty through law.

Mr. Williams, in the early pages of his book, chronicles the start of his legal career with a highly respected Washington firm, where he soon became disenchanted with the law in its relation to property rights. After several years of "representing the local streetcar company, a galaxy of insurance companies and other corporate interests, usually defending them against damage suits",<sup>2</sup> the author opened a small office of his own in Washington, where his practice turned to problems of the law in its relationship to human rights, resulting in his handling of cases concerned principally with constitutional issues, and questions involving civil liberties on both the civil and criminal sides of the

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<sup>1</sup> Williams, ix.

<sup>2</sup> *Id.*, 4.

court. As a result of this metamorphosis, and the causes in which he has subsequently appeared as advocate, Mr. Williams has developed some tenacious ideas about the protection of the individual. These ideas deal with what he regards as basic principles of individual liberty guaranteed by our Constitution, and he spells out his legal credo in fervent terms: "that ours is a government of rules — laws — not of men. The rules and laws are applicable alike to rich and poor, strong and weak, guilty and innocent."<sup>3</sup> While Mr. Williams' legal philosophy is neither profound nor novel, it is nonetheless refreshing, especially so at a time when the legal profession has become highly specialized, and lawyers are increasingly finding themselves of necessity devoting a vast amount of their time to the commercial or business aspects of the practice, having neither time nor motivation to consider the concept of rule of law.

In the past decade Mr. Williams has been counsel in more *causes celebres* than perhaps any other lawyer on the American scene; although Louis Nizer at the moment appears to be running a close second.<sup>4</sup> In his relatively brief and spectacular career Mr. Williams has represented, among others, the late Senator Joseph McCarthy, Frank Costello, David Beck, Bernard Goldfine, Robert Harrison, the publisher of *Confidential Magazine*, Jimmy Hoffa, Congressman Adam Clayton Powell, Jr., Igor Melekh, a Russian employee of the United Nations indicted for espionage against the United States, and Aldo Icardi, the Army Lieutenant convicted *in absentia* by the Italian courts of murdering his commanding officer behind enemy lines during World War II while on a secret mission for the Office of Strategic Services.

As a major premise, Mr. Williams candidly makes the point that some of the most basic principles of individual liberty and freedom guaranteed by our Constitution have become imperiled, because of collective lethargy and a cavalier attitude of unconcern. He suggests, for instance, that "the majority of Americans would trade away the right to speak in public assembly, the privilege against self-incrimination, the right to a jury trial, the right to be secure from unreasonable police searches, the right to indictment by grand jury, the right to confront an accuser and the right to counsel . . . for a guarantee of total

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<sup>3</sup> *Id.*, 7.

<sup>4</sup> Mr. Nizer's book, *My Life in Court*, was reviewed in 22 Md. L. Rev. 1, 85 (1962). [Ed.]

economic security until death.”<sup>5</sup> He fervently contends that individual liberty is being subordinated to the overriding issues of peace and security. Whether or not you are in entire agreement with his major premise, you will no doubt be persuaded to this view by at least some of his experiences while taking on various branches of the U. S. Government, the causes he has advocated in the court room and his forthright espousal of fundamental American freedoms. In developing his premise, the author has documented his convictions and illustrated his principles in a most effective and persuasive manner. In fact, he has gotten a pretty interesting and thought-provoking load off his chest. In doing so, he has developed a number of interesting themes in his book:

(1) That although the Supreme Court has repeatedly condemned the view that the invocation of the privilege against self-incrimination under the Fifth Amendment to the Constitution is an admission of guilt or a conclusive presumption of perjury, very serious consequences may result to the individual who does so. In suggesting that the right to silence is fundamental and that the individual should invoke the privilege rather than inform on others, or reveal truths when there is no valid basis for compelling him to do so, even at the risk of incurring the wrath of an aroused society, the author states that:

“The freedom of the individual as we have known it since the birth of this nation will be at an end if the time ever comes when the state can confront the suspected person with conviction if he confesses guilt, perjury if he denies it and contempt if he stands silent.”<sup>6</sup>

(2) That many Congressional committees expose for the sake of exposure, in spite of the Supreme Court’s express prohibition against such activity in the *Watkins* case.<sup>7</sup> The author recognizes the right of the American people to be kept informed about the operations of their government, including the establishment of Congressional committees, but contends that such committees have gone far beyond their legitimate powers of investigating the operation of the Government or gathering information to use in drafting or amending legislation. Mr. Williams suggests that both Houses of Congress adopt a code of procedure

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<sup>5</sup> Williams, 9.

<sup>6</sup> *Id.*, 144.

<sup>7</sup> *Watkins v. United States*, 354 U.S. 178 (1957).

which would embody certain proposals suggested by the author, many of which appear to have considerable merit, and could have the highly desirable result of preventing an irresponsible minority of investigators from frustrating the objectives of the responsible majority.

(3) That the Courts have yet to achieve the delicate balancing of the rights of the press and the rights of an accused. Mr. Williams does not advocate the system in effect in England, where editors, who permit the publication of news items which prejudice the right of the defendant to a fair trial by an impartial jury, may be punished for contempt. He points out that although this system does accomplish one objective, the right of the accused to a fair trial, it runs headlong into the First Amendment's guarantee of a free press. The author's suggested solution to what has long constituted a legal dilemma in this country, is a meticulous adherence to Canon 20 of the Code of Professional Ethics, which is concerned with *ex parte* statements by attorneys to the press as to pending or anticipated litigation. This is, of course, a laudable suggestion, but it does not protect the accused against a vocal and publicity-seeking law enforcement officer or prosecutor.

Mr. Williams has given us tasty icing for his multi-layer legal cake. In other chapters of this best seller, the author expounds in a lucid and cogent style his views on capital punishment, censorship, civil rights, punishing the sick, the dangers inherent in unlimited police detention, wire tapping and the use of electronic devices to violate the guarantee of the Fourth Amendment to the Constitution, and present day problems incident to a "public trial" guaranteed by the Sixth Amendment to the Constitution.

Mr. Williams has authored an extremely interesting book, one that should hold special appeal to the Bar generally. It is also a real contribution to those who have more than just a passing concern for the rights of the individual, and those precepts of the Constitution concerned with such rights.

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