

The Resource Page: Focus on Judicial Independence



BOOKS OF NOTE

JUDICIAL INDEPENDENCE AT THE CROSSROADS: AN INTERDISCIPLINARY APPROACH (Stephen B. Burbank & Barry Friedman, eds.). Sage Publications, 2002 (\$46.95). 283 pp.

In 2001, 30 prominent scholars with a background in judicial independence issues spent two days at the University of Pennsylvania Law School, discussing and debating them in a forum sponsored by the American Judicature Society and the Brennan Center for Justice at New York University. Afterwards, papers by 13 of the participants were revised and collected for this book, which offers an excellent overview—and an in-depth discussion of—judicial independence. Professor Roy Schotland has included excerpts from several of the papers in this book in the materials he has compiled for this issue of *Court Review* (see pp. 41-46).

JUDICIAL INDEPENDENCE IN THE AGE OF DEMOCRACY: CRITICAL PERSPECTIVES FROM AROUND THE WORLD (Peter H. Russell & David M. O'Brien, eds.). Univ. Press of Virginia, 2001 (\$22.50). 312 pp.

This book also originated in a conference, this time a 1996 forum held at Hebrew University in Jerusalem by the International Political Science Association's Research Committee on Comparative Judicial Politics. Additional papers were prepared for a later, 1998 meeting of the group at Northeastern University in Boston. Fifteen papers from both conferences, revised after the discussions, are included in this book. One paper, by Peter Russell, attempts to lay out a general theory of judicial independence; others look at the topic in the United States, Japan, Russia, Germany, England, and several other countries.

UNCERTAIN JUSTICE: POLITICS AND AMERICA'S COURTS (Thomas O. Sargentich, Paul D. Carrington, Barbara E. Reed, Charles Gardner Geyh & Erwin Chemerinsky,

reporters). Century Foundation Press, 2000. 238 pp. Available at http://www.constitutionproject.org/ci/reports/uncertain_justice.pdf (last visited October 10, 2004).

Citizens for Independent Courts, a project formed in June 1998 by the Constitution Project, set up four task forces to make recommendations that would better the judiciary. The four task forces were on federal judicial selection, state judicial selection, the distinction between intimidation and legitimate criticism of judges, and the role of the legislature in setting the power and jurisdiction of the courts. Each task force was led by an able and distinguished reporter. Each set forth detailed factual materials about their topic, along with recommendations. Although the book is out of print, it can be obtained through used book sellers (like www.abebooks.com and www.amazon.com) and is also available in full text on the web.



WEBSITES

Justice at Stake Campaign

www.justiceatstake.org

The Justice at Stake Campaign is a national, nonpartisan campaign to keep courts fair and impartial. The group has done impressive national opinion surveys of both judges and the public on judicial independence issues, as well as several state surveys, all available for review at the website. On the front page of the website, you can find a link to a good September 27, 2004 article from *Business Week*; current materials are routinely updated in the "Focus" section on the website's home page. The Justice at Stake Campaign is supported by a number of groups, including the American Bar Association, the American Trial Lawyers Association, the National Center for State Courts, the Constitution Project, the League of Women Voters, and the Brennan Center for Justice at New York University School of Law.

National Ad Hoc Advisory Committee on Judicial Campaign Conduct

www.judicialcampaignconduct.org/

Established by the National Center for State Courts, this site includes a 50-page handbook on setting up an effective judicial campaign conduct committee. Such committees, composed of lawyers and lay members, educate judges and candidates about ethical campaign conduct, encourage appropriate campaign conduct, and publicly criticize inappropriate conduct when it cannot otherwise be resolved. In addition to that handbook, the website includes a discussion of relevant court decisions, information about existing judicial campaign conduct committees, and links to other websites of interest.

Lawyers Committee for Civil Rights Under Law

www.lawyerscommittee.org

This website includes a large section on judicial independence, found under the "Public Policy" tab on the home page. A 49-page policy paper on the importance of judicial independence to the civil rights community, as well as links to articles and websites on judicial independence, can be found there.

ABA Standing Committee on Judicial Independence

www.abanet.org/judind/home.html

The American Bar Association's Standing Committee on Judicial Independence includes an online "Resource Kit" with a variety of materials that could be used in crafting a civic club or school presentation.

American Judicature Society Center for Judicial Independence

www.ajs.org/cji/default.asp

The American Judicature Society's website includes a section on judicial independence issues, including several articles that could, like those found at the ABA's website, be fashioned into a civic club or school presentation.



The Resource Page



BOOKS ON BROWN v. BOARD OF EDUCATION

RICHARD KLUGER, *SIMPLE JUSTICE*. Vintage Press, rev. ed. 2004 (\$24.00). 836 pp.

PAUL E. WILSON, *A TIME TO LOSE: REPRESENTING KANSAS IN BROWN V. BOARD OF EDUCATION*. Univ. Press of Kansas, 1995 (\$24.95). 245 pp.

ROBERT J. COTTRILL, RAYMOND T. DIAMOND & LELAND B. WARE, *BROWN V. BOARD OF EDUCATION: CASTE, CULTURE, AND THE CONSTITUTION*. Univ. Press of Kansas, 2003 (\$15.95). 275 pp.

JAMES T. PATTERSON, *BROWN V. BOARD OF EDUCATION: A CIVIL RIGHTS MILESTONE AND ITS TROUBLED LEGACY*. Oxford Univ. Press, 2001 (\$16.95). 268 pp.

2004 marked the 50th anniversary of the United States Supreme Court decision in *Brown v. Board of Education*, 347 U.S. 483 (1954). In the last issue, we noted a website containing materials that judges who might wish to make a school or civic club presentation about the case could use. In this one, we briefly review four books about the case, its background, and its aftermath.

Size alone qualifies Richard Kluger's *Simple Justice* as the leader of the pack, but the book has more than size going for it—his coverage is sweeping, moving, and elegant.

This book was originally issued in 1976 and has never gone out of print. Patterson issued a revised edition this year, making some revisions and adding a new chapter full of the perspectives that come from revisiting a topic like this many years after one's first, full examination of it.

Two of the other books are similar in nature. Cottroll, Diamond, and Ware are professors, collectively, of law, history, sociology, African studies, and public policy. They bring the thorough skills of a

group of scholars to the task. Important details are noted, including the intricacies of the prior case law in the lower courts over a period of decades that set the stage for *Brown*. They included the term "caste" in the title of the book, and they present detail after detail of the way exclusion had become a central feature of race relations in America. History professor James Patterson provides a highly readable book as well. For those looking for something more manageable than Kluger's 836-page book, either of these would provide both the story and its context.

Our final selection is the memoir of the late Paul Wilson, the young Kansas assistant attorney general who got the job of preparing a brief and an argument in the Supreme Court only 10 days before oral argument. Wilson had never before argued an appellate case—anywhere. Kansas had been ordered by the Supreme Court to file a brief; its attorney general had previously declined involvement and, upon receipt of the order, passed it off to Wilson.

Kluger is generally complimentary of Wilson ("Wilson turned out a concise, direct, and clearly competent brief."), but began his mention of him this way: "By Eastern standards, Paul Wilson was a hayseed." Hayseed or not, Wilson had a knack for storytelling and he puts those skills to good use in this book. His writing style is easy to take. Two excerpts will suffice.

At the outset, he notes that he writes largely from memory, having not kept any diary at the time: "The memories of old men are sometimes tinged with romance. They remember things not as they were, but as they might have been or ought to have been. Here, I appear as a witness, testifying as to things that happened a long time ago. I am mindful of the witness's obligation to tell the truth, the whole truth and nothing but the truth. But I am also an old man."

He concludes the book this way: "Fifty years later our across-the-street neighbors are black. . . . Elsewhere in the community, blacks and whites enjoy equal access to public places and equal

opportunity in the marketplace. These things within my personal experience, augmented by knowledge of black achievements elsewhere, persuade me that Americans are nearing the goal of equality before the law. The more elusive but important goal is the time and place where people stand equal before one another."

Wilson's book, along with the others listed here, may help to move us along that path.



ON THE WEB

The Center for Court Solutions
<http://solutions/ncsconline.org>

The Center for Court Solutions is a new, cooperative venture seeking to develop and implement innovative solutions in key areas of concern for courts. The Center is a joint initiative of the State Justice Institute, the National Center for State Courts, and the Center for Effective Public Policy.

The Center provides assistance in five areas: (1) *diversity*, including cultural and language issues, (2) *emergency management and security*, (3) *family and juvenile justice*, including the development of innovative practices, better decision making, and holistic, integrated family justice, (4) *pro se/pro bono service response*, and (5) *sentencing alternatives*.

For more information, contact Pam Casey at the National Center for State Courts (757-259-1508 or e-mail: pcasey@ncsc.dni.us) or Peggy Burke at the Center for Effective Public Policy (301-589-9383 or e-mail: pburke@cepp.com).



FOCUS ON JUDICIAL INDEPENDENCE

The Resource Page focuses on resources relating to judicial independence on page 63.