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Dunham and Kurland: Mr. Justice

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MR. JUSTICE. Edited by *Allison Dunham* and *Philip B. Kurland*. Chicago: University of Chicago Press. 1956. Pp. xix, 271. \$3.75.

Perhaps because nine has been for most of the last 120 years the number sacred to the Supreme Court, this book by nine authors (lecturers first at the University of Chicago) comprises nine biographical appreciations of individual members of the Supreme Court, four of them chief justices. End to end and without overlap the terms of three—Marshall, Taney, and Bradley—almost cover the nineteenth century, while the other six are so nearly contemporary that all were on the Supreme bench during some part of the fourth and fifth decades of the current century—Holmes, Hughes, Brandeis, Sutherland, Stone, and Rutledge. In a few pages (in some instances expanded a little beyond an hour's lecture) their interpreters have made each a live character in the building of the law of the republic.

But nine works of art by nine artists do not make one reviewable book. They compose a gallery, each portrait revealing the artist's individual discovery in his subject. As one might expect, a heterodox view of Marshall by Crosskey shows him a sadly defeated constitutional statesman, presiding in "a period of constitutional decay." Fairman's Bradley, perhaps today the least known justice of the galaxy, is more conventionally biographical than the others. Quite as interested as Crosskey in revealing their subjects' philosophies of politics and life are Biddle (on Holmes), Paschal (on Sutherland), and Stevens (on Rutledge). Pusey concerns himself above all with Hughes, the judicial administrator, a role almost untouched by Crosskey, Swisher (Taney), and Dunham (Stone), the discoursers on other chief justices, whose handling of constitutional questions is the principal theme of essays about them. All the biographers except Swisher and Paschal, and perhaps Fairman, write with warm admiration of the men they describe.

For most of these justices full scale biographies—in some cases several of them, including some by these very authors—are now on our library shelves—a great change, as the editors say, from twenty years ago when Frankfurter noted and lamented their scarcity. These lectures are therefore contributions more to literature than to learning. They are sketches, miniature or impressionistic, according to the writers' several points of view, of these rather well-known judicial craftsmen.

Since one can hardly discuss these portraits en masse or each individually, I mention only one which, perhaps in part because of personal memories, I particularly liked—that of Brandeis. Paul A. Freund, the historian designate of the Supreme Court, gives promise here as well as in other

admirable addresses¹ he made in this Brandeis centennial year, of noteworthy books to come. From a year's association with Brandeis when on the Supreme Court and longer perusal of his legal papers, which are now in Freund's hands, Freund gives us a vivid view of this great man, this fearlessly fact-finding, wisely fact-weighing, rigorously fact-respecting prophet warrior, whose goal was the full development of men as socially responsible individuals, a prophet whose judicial vows channeled his energy but did not abate his zeal. No man could be a better personification of justice itself than Brandeis in his later years. To no other man could the title of this book apply so perfectly. It is fitting that of the sixty-odd Americans who have reached the Olympic bench in the last century, it is Brandeis alone whose name is immortalized in a university—with whose establishment he had no connection—a growing university, which, though still without a law school, does him increasing honor both in its reverence of him and in its rigorous educational standards.

If the Saturday conference of the Supreme Court, which was the customary conclusion of its week's work in his decades of justiceship, extended late into the afternoon, the orderly, courteous, and punctual Justice Brandeis was wont to rise and say, "Mr. Chief Justice, your jurisdiction over me ends at 4:30 and that of Mrs. Brandeis begins." Our 4:30 has struck; I commend the reader to the jurisdiction of the nine authors of *Mr. Justice*.

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¹ "Mr. Justice Brandeis: A Centennial Memoir," 70 HARV. L. REV. 769 (1957); "The Liberalism of Justice Brandeis," address before the American Historical Association, Dec. 28, 1956.