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King: MELVILLE WESTON FULLER, CHIEF JUSTICE OF THE UNITED STATES 1888-1910.

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RECENT BOOKS

This department undertakes to note or review briefly current books on law and materials closely related thereto. Periodicals, court reports, and other publications that appear at frequent intervals are not included. The information given in the notes is derived from inspection of the books, publishers' literature, and the ordinary library sources.

BRIEF REVIEWS

MELVILLE WESTON FULLER, CHIEF JUSTICE OF THE UNITED STATES 1888-1910.
By *Willard L. King*. New York: Macmillan. 1950. Pp. 394. \$5.

It may surprise many of us to learn that Justice Holmes, who had also served under Chief Justices White, Taft and Hughes, regarded Chief Justice Fuller as the best presiding officer he had ever known and that Justice Miller, who carried the line back through Waite and Chase to Taney, said that Fuller was the best presiding judge in his time.

In an interesting and well-written biography, Willard L. King has traced the factors behind this opinion held by two Justices who, by reason of their length of service, were best qualified to make the comparison.

When President Cleveland appointed Fuller Chief Justice, the Supreme Court was more than three years behind in its work and the arrearages were increasing. A year before his appointment, Fuller, as president of the Illinois Bar Association, had rallied the bar to an attack upon this disgraceful situation.

After his appointment had been confirmed Fuller acted promptly to organize support for the bills then pending in Congress for the relief of the Supreme Court. The enactment of the Circuit Court of Appeals Act in 1891 gave immediate relief, but Fuller's effort throughout his term of office to keep the calendar approximately up to date succeeded largely because he had inspired all of the Justices to bend their backs to help him. He was a lovable man and his powers to convert indifference and even hostility into friendship were remarkable. Fuller set out at once to win the respect and affection of each member of his Court. That he succeeded is a tribute to his outstanding modesty and impartiality, his resourcefulness and his genius as a presiding officer. He presided with firmness and dignity, but was gracious, courteous, patient and even deferential with his associates. Holmes said of Fuller's executive ability: "He had the business of the Court at his fingers ends, he was perfectly courageous, prompt, decided. He turned off the matters that daily called for action easily, swiftly, with the least possible friction, with inestimable good humor and with a humor that relieved any tension with a laugh."

One after another he won the loyalty of the Justices who composed the Court when he took office and of those who later took their seats. His relationship with each is of interest and his intimate friendship with Holmes makes one of the most entertaining chapters in the book.

Of more than usual interest to lawyers is the author's competent analysis of the important cases that were decided during Fuller's term of office and the side lights which come from communications between the various members of the Court while the cases were under advisement.

When Fuller first came to the bench Justice Lamar advised him not to "give away" an important case but to write the opinion himself. He did not follow this advice, but assigned the case to Justice Miller. He followed this precedent throughout his entire term, almost invariably assigning to others the cases which had attracted national attention. He also earned the admiration of his colleagues by showing rare discretion in making assignments.

In his battle to keep up with the docket Fuller himself wrote more than his share of opinions and his opinions were held in high esteem. Of them the author says: "The wide range of his scholarship astonished his colleagues. His years of trying all sorts of cases for other lawyers; a lifetime of insatiable reading, both in law and literature; his retentive memory and his earnest zeal for research on the Court; all these were brought to a focus in his opinions. Today, recognition of his scholarship is somewhat obscured by the fact that his colleagues Gray and Holmes surpassed him in pure legal erudition. But he in turn surpassed them in the breadth of his practical experience. And Gray's acclaim of Fuller's opinions on many occasions, as well as Holmes' outspoken admiration, show their estimate of him."

As a hobby during the years of his practice in Chicago Mr. King has collected more than 5000 documents by or about Fuller. He has not, however, permitted his enthusiasm to mislead him into ranking Fuller with Marshall or the other immortals of the Supreme Court. He has shown us a man of many ordinary and a few extraordinary attainments who guided his Court through a difficult twenty-two year period and enhanced the respect in which it was held.

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