

BOOK REVIEW

Jay A. Sigler, Courts and Public Policy: Cases and Essays, Homewood, Illinois, The Dorsey Press, 1970, 481 pp. \$5.00.

The avowed purpose of the work is to correct a deficiency in the traditional materials for constitutional law courses. Professor Sigler states: "the course in constitutional law is not political enough. It does not parallel the material covered in other political science courses, nor does it treat courts other than the Supreme Court of the United States" (preface, v). In order to remedy the situation, the author suggests a focus on "the policy-making role of American courts in those areas which are most obviously political in character" (preface, vi).

By adopting Easton's classic definition of political, the author presents some twelve chapters which are to represent the areas where courts authoritatively allocate values within the community. Included in this array are the following categories: "Judicial Action and Inaction, Elections, Restraining the Executive, Law and Morals, and Social Welfare." Several short essays, which focus on specific problems such as birth control, are added to the end of the case materials for each chapter.

The strongest part of the presentation is the inclusion of such a wide range of materials for a constitutional law course. For example, in the chapter on social welfare, one case, *Shapiro v. Thompson* (1969), p.458, is drawn from the U.S. Supreme Court, one case is selected from a federal district court, and the remaining two cases are state court decisions. Also in this chapter, the essay entitled "Welfare 'Rights' and Eligibility" is especially thoughtful.

My chief complaint with the work is the absence of any explicitly applied conceptual scheme. If we are to correct the traditional courses, then the new focus must include the “science” part of political science, as well as the “political” portion. For example, how is it that antitrust and tax cases do not involve the courts with the authoritative allocation of values? At another point, the author states:

Judicial influence upon the legislature is usually very slight. The output of legal decisions is rarely directed at another branch of government because of the feedback vulnerability of the courts to these powerful and popular political organs [p. 219].

As a statement of fact, this cannot be so, since activity of the courts, at all levels, involves decisions directed at other branches of government. On the other hand, if the statement is to illustrate the usefulness of concepts such as output and feedback, then they must be given some specific content, and some relationships must be outlined. Perhaps it is not possible to apply any coherent scheme to these materials. If this is the case, then pretensions about the definition of “political” should be omitted and the materials presented as those most familiar and personally valuable to the author.

Despite the conceptual failings, the work is a definite contribution to the materials available for constitutional law courses. Student criticisms about the “relevance” of the problems examined in traditional courses are adequately answered, and the cases selected should provide abundant materials for discussion about current issues before the courts.

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CASE

SHAPIRO v. THOMPSON 394 U.S. 618 (1969).