

BOOK REVIEW

Title: *The Jurisprudence of Lord Denning: A Study in Legal History, Volumes I-III*

Vol I Fiat Justitia: Lord Denning and the Common Law

Vol II The Last of England

Vol III Freedom under the Law: Lord Denning as Master of the Rolls, 1962–1982

Author: Charles Stephens

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DENNING DEFINED IN HIS HISTORIC JUDICIAL PLACE

An appreciation by Elizabeth Robson Taylor MA of Richmond Green Chambers and Phillip Taylor MBE, Head of Chambers, Reviews Editor, “The Barrister”, and Mediator

As one of the most influential judges of the 20th century, this three-volume work is a fine tribute to the memory of Lord Denning. He has been described as “possibly the most interesting judge of 20th century” and this three-volume work, compiled by Dr Charles Stephens, restates his judicial place as only an historian and lawyer can adequately do:

“I always felt reassured by Lord Denning’s presence in our national life. At the back of my mind, I felt that we were all safe as long as he was Master of the Rolls.”

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Stephens adds that the origins of this project lie with those memories.

Stephens is primarily an historian and writes of Denning from an historian's, rather than necessarily a lawyer's, point of view. This is no bad thing when you consider the avowedly circular argument that the decisions of judges have shaped history, and conversely tides and trends in history which shape, or least wield, considerable influence in shaping the decisions of judges depending on the orthodoxy of the age.

Viewing Denning from an historian's eye view offers academic and general readers alike a useful perspective on the influence judicial decisions are likely to have on the body politic, which in turn influences everyday life – the 'quotidian world' as Stephens puts it.

Examples abound of how his background, education, and family life informed and influenced Denning's attitudes and judgments, some of which remain controversial and topical to this day: single mums ... the family ... domestic violence ... identity and nationality ... and, notably, corruption in the City of London, so how topical can you be when reviewing Denning decisions? Certainly, those who follow the machinations of City folk (good, bad, or ugly) will be positively inspired by one of Lord Denning's memorable utterances on hearing an appeal in the celebrated case of a Mr Moir v a Dr Wallerstein in the mid-1970s in which Lord Denning opined:

"Some say we should be neutral in the face of public scandal. I say not so... The principal duty of a judge is to suppress force and fraud... (and) to denounce wrongdoing.... His words uphold the opinion of the good and shake the confidence of the wicked."

A succinct and robust summation of the duty and ethos of a judge, if we ever heard one, which judges the world over would do well to emulate.

Provided Stephens keeps Denning in the limelight of his 650 pages of narrative, the book exerts a continuing fascination and charm in the three volumes. However, Stephens does write like an historian which explains why we became slightly confused when perusing, for example, the second volume in which the first two chapters on English Identity - 80 pages, with at least 23 of them replete with footnotes and bibliographical references (no shortage of *ibids* there) - make no mention of Denning at all -- (hmmm -- at least we do not think he is mentioned). Only when we arrived at Chapter Three did we see Tom Denning once again taking centre stage, appropriately enough, in this trilogy on "the jurisprudence of Lord Denning."

We assume that the justification for this oddity lies in the author's explanation that this formidable work proceeds from the fruits of his detailed historical

research, and that argument works to a point when viewing Denning's legal philosophy during his life and times. The cases are cited at the end of each volume rather than the beginning which may be confusing to lawyers. However, the bibliography is an excellent indexing of what we would describe as the special orthodoxy of Denning's time. This was a time we lived through where his decisions, hated by some contemporaries and many academics, still stand the modern test of time for practitioners.

The volumes illustrate "justice" and "fairness" in the "matter of fact way" Denning delivered many of his judgments ... with that splendid west country burr and regularly with the twinkle in his eye which anyone who met him would always remember.

In our view this work tilts in the direction of social history and commentary (and does so most interestingly) rather than specifically to jurisprudence/ legal history *per se*. But we as lawyers would say that, wouldn't we, and perhaps infuriatingly disputatious ourselves! Yet, what is indisputable about this book is the author's fondness and overwhelming respect for Lord Denning and his legal and intellectual legacy.

The world a safer place with Lord Denning - we can only wholeheartedly agree - the work defines Tom Denning in his historic judicial place as we return to a form of new Supreme Court orthodoxy for 21st century ... at least, for the time being until we encounter Denning's successor, and it will be a long wait!

