
Book Review: Guth on Denning - Landmarks in the Law, by Lord Denning

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BOOK REVIEW

GUTH ON DENNING

Landmarks in the Law. By Lord Denning. London: Butterworths, 1984.

Reviewed by DeLloyd J. Guth*

Admirers of Lord Denning, who also admire the English common law, ought to find double satisfaction in this most recent retirement gift to his reading public. (What other twentieth-century judge even has a “public”?)

As usual, to admire Denning’s prose you must tune the ear to his choppy, simplifying sentences. You have to focus the eye for picturesque details that, in contexts other than case law, would often be meretricious gossip. You must be mentally agile to pop back and forth with him over the past five centuries, in what can only be styled “reminiscent history”: he really makes you believe that he has lived alongside all the cases and characters, personally experiencing and remembering each. His trick is to pull everything into present relevance and into a supporting role for whatever the modern law states on a given point. So his analytical purpose will always be conservative, even when he makes equity overrule law. All this is consistent with his long career as lawyer and judge. Having celebrated retirement from the Mastership of the Rolls with *The Closing Chapter* (1983), he now reminisces further by giving us the ideological footnotes behind and beneath his many judgments.

In his newest book, Lord Denning fixes “the course of the law” by dozens of landmark cases and characters that “are like stones” for the surveyor and “lighthouses” for the sailor.¹ These include stony characters from Thomas Wolsey to John Profumo and Arthur Scargill and over a hundred beacon-like cases, from *Caudrey’s* (1591) to *Nix v. Williams* (1984). The literate lawyer will recognize most of the landmarks but still be in Denning’s debt for innumerable embellishments. The rest of us will agree with Denning that these are “discon-

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¹ Denning, *Landmarks in the Law* (1984) at 6.

nected stories on disconnected themes", best left for reading "in the train or before you go to sleep".

Lord Denning's selection seems governed entirely by whether or not he had ever addressed the points at issue. The whole exercise, therefore, is an explicit ego trip and implicitly self-exculpatory. So, who cares? Lord Denning has always had more ideas about law than case judgments in which to express them. If he here showers us, both hot and cold, from the reservoir of ideas, we need not be shocked by repeated dousings of *obiter dicta* ("I quite agree" or "I have no doubt" or "Just as I sought to do when I was Master of the Rolls").

The book's twelve parts set out topics that Lord Denning thinks most characteristic of the common law's development: High Treason, Torture and Bribery, the Chancellor's Foot, Martyrdom, Freedom of Assembly, Matrimonial Affairs, Freedom of the Individual, International Terrorism, General Warrants, Freedom of the Press, Persecution and Murder. He ends with My Most Important Case, followed by five reflective Epilogues from his home in Whitchurch. Each part contains — nay, bursts with idiosyncratic litigants, lawyers, judges and constables. Denning mainly lets the original record tell the tale, by pasting bits and pieces of contemporary evidence onto his narrative. The footnoting is sparse, limited almost entirely to nominate case reports and with a distinct aversion for statutes. The research, therefore, is quite thorough but the scholarship slight. Each part includes diverse captions and sub-captions designed to entertain and lure on the reader. For example, Part Six is Matrimonial Affairs, including *Queen Caroline's case*. It concludes with a fifth caption labelled, "Case Dismissed", underneath which are four sub-captions: "(i) The close vote, (ii) The public applaud her, (iii) But no coronation for her, and (iv) But she was guilty". All that chopping of topics covers just two pages of text.²

In like fashion, Denning minces topics but not words for a total of 374 pages. If you want to read him on Sir Walter Raleigh, "Lord Haw-Haw", Francis Bacon, Taff Vale, William Penn, *Liversidge v. Anderson*, Colonel Gaddafi, Junius, *Smith's case*, plus dozens of judges and their judgments, then this book is for you. The range and detailed richness will reward and amuse any reader. It is neither a work of legal history, for lack of intellectual coherence, nor of jurisprudence, for lack of explicated reasoning. Instead, it is a lively story-book for lawyers and laity. Where it lacks humility, it compensates with unpretentiousness. Denning-watchers will recognize all of this and the legal scholars

² *Ibid* at 183-84.

among them will continue to keep their distance. But his "public" can revel yet again in this century's one and only swash-buckler of the common law.

