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BOOK REVIEWS

REAL ESTATE LAW (9th Ed. 1988), by Robert Kratovil and Raymond J. Werner. Prentice Hall, 639 pp.

REVIEWED BY CELESTE HAMMOND*

The most recent edition of Professor Kratovil's and Mr. Werner's *Real Estate Law* continues in the fine tradition real estate practitioners and students have come to expect from this treatise since the late 1940's.[1] Much of the material is "introductory" to a given topic and thus appropriate for instruction of "mere" law students as either the required text or supplementary reading. However, Professor Kratovil and Mr. Werner cover many areas in sufficient depth and with concise clarity to warrant even experienced practitioners checking the wisdom in this book before consulting other sources.

For example, in section 4.05 (a) to (k) they present coverage of the various ways to create an easement; this is pretty basic material but their straightforward and comprehensive approach is useful as an introduction for some or as a reminder to others.[2] There, they discuss topics such as the effect of a mortgage on an easement, and the effect of an easement on a mortgage - topics that one would not find even in more lengthy works.

Since I hope and expect this review will find its way into the hands of some long-time Kratovil fans, as well as some new ones, I will highlight some of the changes and additions since the 8th edition's publication in 1983.

Chapter 3, "Fixtures," sensibly follows the introductory re-

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1. The first edition was published in the late 1940s and I can remember as a young child my mother using the 1950 edition to help her prepare for the Illinois real estate broker's exam.

2. For a focus on the creation of easement by declaration, see Kratovil, *The Declaration of Restrictions, Easements, Liens and Covenants: An Overview of an Important Document*, 22 J. MARSHALL L. REV. 69 (1988).

marks of Chapter 2 regarding "Land and Its Elements." Chapter 6 identifies the various interests and titles in land, including the available division of interests in land and the basic common law estates, and examines the modes of acquiring ownership including the elements of adverse possession.[3] A new, separate chapter on cooperatives[4] is thorough and current in noting, for example, that now FNMA is buying cooperative mortgages to sell in the secondary mortgage market.[5]

Chapter 10, "Real Estate Broker," reflects Professor Kratovil's understanding of the real estate sales industry - an aspect of real estate transactions with which many lawyers, who only get involved after the listing agreement has been entered into and after the broker's standard form of real estate sales contract has been executed by the client, are deficient.[6] Here, and in Chapter 13 when discussing the new developments in the area of fraud and misrepresentation in transactions by seller or broker and their respective liability, the authors emphasize the fiduciary nature of the agency relationship and the significance of contract terms and case law. For example, Chapter 10 provides an insightful discussion of when a broker is entitled to a commission,[7] and the duties of the broker as a possible double agent.[8]

Like earlier editions, the ninth edition orients itself toward the practical. Chapter 11, "Contracts for the Sale of Land," gives a sample provision to meet the withholding requirement of FIRPTA.[9] In Chapter 12 the authors give land installment contracts separate treatment from other real estate contracts. This approach appropriately recognizes the former as primarily financing devices, not transfer documents.[10]

However, the most useful part of this "how to" section of the treatise (roughly chapters 10, 11, 14, 15 and 16) is probably in Chapter 14, "Closing Real Estate Transactions: Loan Closings: Escrows." Here, the authors provide detailed, easy-to-understand guidelines for inexperienced attorneys on what to expect and what to do at a

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3. R. KRATOVIL & R. WERNER, REAL ESTATE LAW ch. 2 (8th ed. 1983).

4. R. KRATOVIL & R. WERNER, REAL ESTATE LAW ch.39 (9th ed. 1988).

5. This responds to the suggestion of Professor Judith B. Ittie in her review of R. KRATOVIL, MODERN REAL ESTATE DOCUMENTATION, Ittie, Book Review, 42 TENN. L. REV. 827, 830 (1975).

6. For more evidence of Professor Kratovil's breadth of understanding see R. KRATOVIL & R. KRATOVIL, BUYING, OWNING & SELLING A HOME IN THE 1980S (1981).

7. R. KRATOVIL & R. WERNER, *supra* note 4, §§ 10.12-10.15.

8. *Id.* at § 10.18.

9. *Id.* at § 11.06.

10. This approach is consistent with the statutory and case law trend to equate land installment contracts with mortgages, at least after default. G. NELSON & D. WHITMAN, REAL ESTATE FINANCE LAW §§ 3.26-3.28 (2nd ed. 1985). In fact, the authors might organize this topic with the other finance chapters in future editions.

closing.[11] This is a major improvement over the earlier edition that focused only on the closing from the perspective of the lender.[12] Moreover, Section 140.3(e) on the income tax reporting requirement under the Tax Reform Act of 1986 exemplifies the references to new rules apparent throughout the text.[13] The writing style throughout the treatise also instills the same understanding, confidence and sense of relief that those of us who are fortunate to have Professor Kratovil as our personal friend, colleague and mentor, experience whenever we consult with him.

The authors succeed in providing a concise, yet comprehensive national treatise on the subject in contrast to their competitors who are producing regional and even statewide treatises.[14] This reflects the oft repeated view of Professor Kratovil that real estate law is becoming more national and uniform (if not federal). Throughout, references to cases and, especially, law review articles point to expansive materials despite the absence of footnotes.[15] Amazingly, but not surprisingly to those who are aware of Professor Kratovil's concern about broad social policy issues that may have an impact respecting the use of real property,[16] this relatively brief work devotes a chapter to land use restrictions over group homes for the retarded and disabled.[17] Moreover, Chapters 29 and 30 practically predict the recent amendment to the Fair Housing Act[18] that protects children from discrimination in housing. I, for one, await the authors' insights on these problems, as well as the effect of growing environmental rules on the real estate industry in the next edition, if not in some earlier article.

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11. R. KRATOVIL & R. WERNER, *supra* note 4, at § 14.07.

12. In the 9th edition, the loan closing is covered in section 14.10 *et seq. Id.* at § 14.10.

13. I.R.C. § 6945(e); I.R.C. § 3047(B)(3)(c).

14. *See e.g.*, Hellmuth, *Real Estate Law*, in 18 MISSOURI PRACTICE (1985); Park, *Real Estate Law with Forms*, in 28 & 28A MASSACHUSETTS PRACTICE (2nd ed. 1981).

15. *See, e.g.*, R. KRATOVIL & R. WERNER, *supra* note 4 at § 4.13(d) (introduces new terminology - "acquisition of development rights," "open space easement," by reference to three recent law review articles).

16. Professor Kratovil actively participates in innumerable bar association, community, and service organizations.

17. R. KRATOVIL & R. WERNER, *supra* note 4, at ch. 31.

18. P.L. No. 100-430, 102 Stat. 1619 (1988) (to be codified at 42 U.S.C. § 3601 *et seq.*).

THE COURAGE OF THEIR CONVICTIONS, by Peter Irons. The Free Press, New York, 1988. 420 p., hardcover, $22.95.

REVIEWED BY ELMER GERTZ*

This book is different from any other book that I know dealing with great constitutional issues. It is different because its author, Dr. Peter Irons, is different. A necessary preface to an analysis of the book is an account of its author. Back in 1965 he was convicted of violating the draft law. This was the culmination of an activist and itinerant career in which he had opposed racism and war and fought for civil rights. He had the courage to lecture an unwilling court, as well as the judge before whom he had been tried, on his version of constitutional law. He accomplished this before he had ever been to law school.

After serving his three year sentence, he received a Ph.D. in political science and in 1978 graduated from Harvard Law School. The renowned constitutional scholar, Laurence Tribe, was one of his mentors at Harvard. Irons then succeeded in having his conviction reversed, although he had already served his sentence. He became deeply absorbed in the study of Supreme Court cases. He thought the reports of these cases lacked human dimensions, as they were concerned too much with abstract legal principles and insufficiently involved with the vibrant human personalities. Through the present book, as he has through earlier ones, the author seeks to correct this lack of balance.

Especially concerned with the convictions of three Japanese-Americans during World War II, by diligent research, Irons found clear evidence that the government lawyers had lied to the Supreme Court in each case.[1] He helped the three Japanese-Americans to get their convictions reversed after a lapse of about forty years, surely a monumental achievement. He wrote a fascinating and influential book about the incarceration of Japanese-Americans in our own variety of concentration camps and continued from there to fight successfully for the partial compensation of such internees and a national apology. He also wrote a book about New Deal lawyers.[2] As

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1. P. IRONS, JUSTICE AT WAR (1983); *also* JUSTICE DELAYED - THE RECORD OF THE JAPANESE INTERNMENT CASES (P. Irons ed. 1987).

2. P. IRONS, NEW DEAL LAWYERS (1982).

professor of political science at the University of California at San Diego, he also had been the Raoul Wallenberg Distinguished Visiting Professor of Human Rights at Rutgers University.

Much more could be said about this extraordinary scholar and human being, who is, incidentally, a relative of the distinguished English actor, Jeremy Irons. Reading the present book makes one look forward to more contributions by the author. He is not only learned, but persuasive as well. He knows that a pre-requisite of a good book is its readability. A good book must hold the attention of readers, even unsophisticated ones.

I must confess a bias in reviewing this book. Like its author, I have long been committed to human dignity and civil rights, a concern that began before Dr. Irons' book; indeed, before he was born. In addition, one of the cases in this book deals in depth with my own landmark decision in the celebrated case of *Gertz v. Robert Welch, Inc.*,[3] in which I prevailed against the infamous John Birch Society when it published a series of outrageous libels about me. Dr. Irons was led to my case by Laurence Tribe, his professor and friend at Harvard.

This book is about sixteen Americans who fought their way to the Supreme Court. The men and women whose cases the book explores include Lillian Gobitis, a Jehovah's Witness who refused to salute the flag[4]; Gordon Hirabuyashi, a Japanese-American who defied the military curfew and exclusion orders that forced Japanese-Americans into wartime internment camps[5]; J.S. Shelley, a black man who faced eviction with his family, because they violated a racially restrictive covenant when they moved into a white neighborhood in St. Louis[6]; Lloyd Barenblatt, a college teacher and former Communist who relied upon his first amendment rights to block the congressional inquiries of the McCarthy era[7]; Daisy Bates, a member of the Arkansas NAACP who resisted efforts to obtain NAACP membership lists during the fight for school integration in Little Rock[8]; Robert Mack Bell, a black man arrested during a "sit-in" protesting lunch-counter segregation[9]; Daniel Seeger, a young man who challenged the draft law that compelled conscientious objectors to swear belief in a Supreme Being[10]; Barbara and Vern Elfbrandt, junior high school teachers who refused to sign "loyalty" oaths that

3. 418 U.S. 323 (1974).
4. P. IRONS, THE COURAGE OF THEIR CONVICTIONS 13-16 (1988).
5. *Id.* at 37-62.
6. *Id.* at 63-79.
7. *Id.* at 81-104.
8. *Id.* at 105-27.
9. *Id.* at 129-52.
10. *Id.* at 153-78.

violated their Quaker principles[11]; Susan Epperson, a high school biology teacher who challenged the Arkansas law that barred the teaching of human evolution[12]; Mary Beth Tinker, a 13-year-old suspended from school for wearing a black arm band to protest American bombing in Vietnam[13]; Dr. Jane Hodgson, a pre-*Roe v. Wade* victim of a Minnesota law against abortion[14]; Demetrio Rodriguez, a man who challenged the property-tax finance system in Texas that kept poor children in poor schools[15]; Jo Carol La Fleur, a junior high school teacher who challenged a maternity leave rule that forced pregnant teachers out of their classrooms[16]; myself, who fought a lengthy battle over false charges that I headed a "red" crusade against the police[17]; Ishmael Jaffree, a person who took school officials to court over the classroom prayers recited against his protests[18]; and finally, Michael Hardwick, a homosexual who challenged the Georgia law against sodomy after his arrest for having sex with a consenting male friend in his own bedroom.[19]

These individual cases surely cover a wide gamut of the matters that come before the highest Court. They are, by no means, all of the cases worthy of inclusion in such a book. However, they give the flavor of the high-level litigation involving provisions of the Bill of Rights of the United States Constitution.

The author divides his coverage of each case into two parts. In the first part he gives a largely objective account of the case as it traversed the courts, its origin, the principles involved, the rulings of the courts, and its consequences. In the second part, he publishes a taped interview with the chief protagonist. These interviews are intensely personal, sometimes idiosyncratic. They reveal highly dedicated individuals who fought for what they believed, regardless of consequences. For example, the account by J.D. Shelley is unique.[20] The interview is transcribed in the very accents of the unlettered man from Mississippi. Dr. Irons makes no effort to pretty-up his words or to eliminate signs of near illiteracy.

It should be noted that as in the *Gobitis* case, not all of the protagonists won their cases. A subsequent victory followed many defeats. Although in the *Hardwick* case the Court struck a harsh blow against sexual privacy, one cannot believe that the court has

11. *Id.* at 179-203.
12. *Id.* at 205-30.
13. *Id.* at 231-52.
14. *Id.* at 253-79.
15. *Id.* at 281-303.
16. *Id.* at 305-29.
17. *Id.* at 331-54.
18. *Id.* at 355-78.
19. *Id.* at 379-403.
20. *Id.* at 73-79.

uttered the last word on the subject.

There is a special reason that prompted Dr. Irons to write this book. He felt, as most of us do, that no matter how important a Supreme Court decision, we do not really know the litigant — his features, his manner, his personality, the essential facts about his life. The Court generally disposes of these essentials in a sentence or two. Very rarely, as in my libel case, does the Court deal at length with "the man behind the mask." The author wanted to fill this gap with his study of sixteen cases in which men and women are involved in litigation that test them and others to the utmost. When the litigation are permitted, as here, to speak for themselves, we really come to know them.

In addition to the accounts of individual cases, Dr. Irons devotes some pages to the general background material and summaries of the situations. "The cases in this book reflect the impact of the Second Constitutional Revolution in American society,"[21] Dr. Irons says, "They also mirror some of the deepest and most enduring divisions among Americans — those of religion and race, protest and privacy."[22] Each of these cases, he says, has cost a minimum of $100,000 from the trial stage to the Supreme Court, a burden that few litigants can bear.[23] The cases have necessarily involved interested organizations, such as the ACLU and the NAACP.[24] The *Shelley* case, for example, inspired briefs from *amicus* groups such as the Grand Lodge of the Elks, the Protestant Council of New York City, the American Federation of Labor, the American Jewish Committee, the American Association for the United Nations, as well as a half-dozen others. *Shelley* also illustrated the fortuitous nature of this kind of litigation. I was involved as the attorney for the NAACP in Illinois in similar litigation. It was hoped that my case, which had advantageous elements, would be the first to reach the Supreme Court, but circumstances caused the *Shelley* case to get there first. It would have been interesting to observe the Supreme Court's reactions to the testimony of one of my witnesses. Asked by my opponent to which race she belonged, she replied, "the human race." Asked her color, she responded, "natural." There are similar moments in each of the cases Dr. Irons selected and analyzed. Each is fascinating both as a whole and in detail.

There is no guarantee, of course, that any case will reach the Supreme Court, because of the virtual arbitrary power the Court has to choose which cases it will consider. The cases in the book re-

21. *Id.* at 7.
22. *Id.*
23. *Id.* at 8.
24. *Id.* at 9.

present a tiny fraction of the more than 8,000 cases the Court decided since 1940.

Towards the end of his book, Dr. Irons includes a very significant paragraph worth quoting:

> In my opinion, four common factors unite this very disparate group. First, almost all come from working-class families. Their fathers include farmers, garment workers, loggers, firemen, printers. Even the three "professionals" among the fathers — a small college professor, a deposed minister, and a small-town doctor — were hardly affluent. Second, they all developed a strong set of ethical values. Some drew these values from religious training, others from their own life experiences. Third, they all learned to become assertive, to be outspoken, to question authority. Finally, and perhaps most important, every one of them was raised to consider racial discrimination both wrong and sinful. They were all raised to be tolerant. It is hard to exaggerate the significance of this last factor; even those who grew up in the white South knew that racism was wrong.[25]

He then asks: "Can we paint a collective portrait from these common traits?"[26] He answers:

> I hesitate to draw generalizations from such a small group. But in talking with these sixteen remarkable people I learned two things: first, that they are all 'ordinary' Americans; second, that they have extraordinary strength of conviction and character. Dr. Willard Gaylin, a psychoanalyst who interviewed imprisoned draft resisters in the Vietnam era, concluded that they shared two characteristics: 'a high degree of ego strength' which produced a strong sense of self; and an equally strong 'super ego' which placed conscience above conformity. What Dr. Gaylin wrote about the war objectors who chose prison (I was one of his subjects) also fits those who began these constitutional cases: 'In sociological terms they were service-oriented individuals who believed that a man must be judged by his actions, not his statements, and that ideals and behavior were not separable phenomena.' Broadening this insight to include women, its aptness to the people in this book is striking. They all had inner strength and outward concerns.[27]

I blush when I see myself analyzed in this fashion, and I do not choose to state how acceptable I find the analysis.

The array of cases not covered in the book is notable. Dr. Irons might have dealt with Gideon's historical triumph[28] in the battle to require the government to furnish counsel for defendants in criminal cases, a reversal of the 20-year-old ruling of the Supreme Court holding to the contrary.[29] In this case Justice Black, a dissenter in the earlier decision, had the privilege of overseeing the basic change.

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25. *Id.* at 410.
26. *Id.*
27. *Id.* at 410-11.
28. *See* Gideon v. Wainwright, 372 U.S. 335 (1963).
29. Betts v. Brady, 416 U.S. 455 (1942).

Dr. Irons may very well have concluded that Anthony Lewis' classic book[30] on *Gideon* did ample justice to the man and his case.

He might have dealt with the *Miranda* case,[31] which established safeguards for protecting the privilege against self-incrimination. The dismal sequel may have deterred him in this instance. He might have chosen various cases, such as *Bakke*,[32] involving affirmative action in education and employment; cases correcting the centuries-old inequities in political districting; cases establishing constitutional guidelines in obscenity; or cases generally protecting the right to birth control and other areas of privacy. There is a dearth of material that would make a fascinating sequel to this volume.

Dr. Irons asks what kinds of issues will face judges, particularly the Supreme Court, as we near the 21st century. He suggests that the issues will likely include "the limits of AIDS testing, surrogate parenthood, the rights of aliens, privacy in the workplace, and the boundaries of the public forum."[33] He expresses the hope that there will be men and women with the courage of their convictions who will carry such cases to the Supreme Court, as did the sixteen he portrays in this volume. "Who will win this battle," he asks,"between the state and the individual, between conformity and conscience?"[34] Unfortunately, the results are not assured. As always, it will take vigilance, vitality and good fortune.

In this pivotal period, when younger and more conservative, if not reactionary, jurists are likely to succeed, one may fear the worst. But one must not despair or surrender. If one does not win the fight immediately, one may win it later, as illustrated by some of the valiant men and women in this volume and the history of the Court.

There is hope in the fact that the litigants celebrated here are not all white, male, and in public office. They are women, as well as men, black, Hispanic and Asian. As Dr. Irons says: "They are gay and straight. They are carpenters, bartenders, doctors, and lawyers. They live in all sections of our country. They profess many religions and none. They are united only by their diversity."[35]

The sixteen cases in the book took an average of four years between the original filing and the final decision of the Supreme Court. My case took more than fourteen years before the Court definitively decided it. Some of the results in these cases were not rewarding. By contrast, mine was superlatively enriching, not simply

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30. A. LEWIS, GIDEON'S TRUMPET (1964).
31. Miranda v. Arizona, 384 U.S. 436 (1966).
32. Regents of the University of California v. Bakke, 438 U.S. 265 (1978).
33. P. IRONS, *supra* note 4, at 412.
34. *Id.*
35. *Id.* at xi.

in monetary terms, but in numerous other by-products, such as journeys around the world, hundreds of law review articles and innumerable cases citing and analyzing it.

As most of the sixteen persons included in this volume can attest, not least of all myself, there are few more exhilarating experiences than getting successfully involved, in litigation that culminates in a landmark decision by the Supreme Court. Only a relatively tiny number of Americans have had that privilege. Many lawyers who have been in practice for scores of years have never gone to the Supreme Court. As a matter of fact, whenever one does go to the Supreme Court, regardless of the nature of the case, it is extraordinary. The road there is arduous and prolonged. Take my case as an example. First of all, the trial in the district court ended in a verdict, which the trial judge[36] set aside. On appeal, the court of appeals, sustained the lower court.[37] After an unsuccessful petition for rehearing followed a petition for certiorari to the Supreme Court.[38] The Court allows few such petitions, enjoying a virtual arbitrary and unlimited right to take or not to take a case. If it decides to take a case, it may do so generally or on limited issues. At all steps of the process, the litigants fully brief and orally argue the case. In what may be the ultimate aspect of the litigation, the Court deliberates privately over the issues and then rules. In my case, as in others, there was a decision[39] many pages long, including the concurring and dissenting opinions of various Justices. No Justice is constrained by the others. Each Justice treats the litigation as though the fate of the nation depends upon what he writes. There is no court more prestigious than our Supreme Court, not even the House of Lords in London. In many respects, the Supreme Court is more powerful than the President or anybody in the Executive Branch. It is more powerful than the Congress. In this nation of laws, the courts are the supreme arbiters. The President nominates the Justices and the Senate advises and consents, but they have no voice thereafter. Each Justice remains on the Court, unassailable by the other branches of government until death, voluntary retirement, or, rarely, until impeachment and removal from office. When one appears before the Supreme Court, one feels as if one were facing the Recording Angel in heaven. Nothing but one's best will do. Nay, one must go beyond one's best.

In my case, as in a few others, the Supreme Court decision was not really the last word. The case went back to the district court for

36. Gertz v. Robert Welch, Inc., 322 F. Supp. 997 (N.D. Ill. 1970).
37. 471 F.2d 801 (7th Cir. 1972).
38. 410 U.S. 925 (1973) (granting cert.).
39. 418 U.S. 323 (1974).

retrial,[40] and faced all sorts of delays and maneuvers before going before a jury again. After a favorable verdict, the other side appealed to the court of appeals,[41] and then petitioned for rehearing before going on again to the Supreme Court, where the Court denied a petition for certiorari.[42] At all phases, there was extensive briefing and argument, and in a figurative sense prayers and fasting.

It was no wonder, then, that the cases included in this book, as well as other cases, seem so important, so awesome even.

One can read the cases at random and be enthralled by the sometimes heroic characters of those involved and the drama of the situation. I think the most recent case, the last in the volume,[43] is possibly the most characteristic. It is *Michael Hardwick v. Michael Bowers*,[44] the Georgian sodomy case. It is especially important because Hardwick, a gay caught with his male lover in bed, lost the case in the Supreme Court, five to four, after prevailing in an intervening court.[45] He almost won again in the highest Court, but Justice Powell, who originally felt that the Georgia sodomy statute was unconstitutional, changed his mind and joined four other Justices to sustain the statute and over-rule the constitutional arguments against it.[46] This was wholly unexpected, as Justice Powell was looked upon as an advocate of privacy; and, surely, what goes on sexually in bedrooms between consenting adults ought to be considered wholly private. An array of first-rate attorneys, including the renowned Professor Laurence Tribe, argued the case brilliantly in the Court. They were supremely confident on their success until they were shocked by what the Court finally decided.

It took great courage for Hardwick to agree to be a guinea pig in the litigation. Here, in his own words, is what happened to him at one stage of the story:

> I came home one morning after work at 6:30 and there were three guys standing in front of my house . . . they were very straight, middle thirties, civilian clothes. I got out of the car, turned around and they said "Michael" and I said yes, and they proceeded to beat the hell out of me. Tore all the cartilage out of my nose, kicked me in the face, cracked about six of my ribs. I passed out. I don't know how long I was unconscious. When I came to, all I could think of was, God, I don't want my *mom* to see me like this![47]

After Hardwick learned of his defeat in the Court, he was at

40. *See id.* (remanding to district court).
41. 680 F.2d 527 (7th Cir. 1982).
42. 459 U.S. 1226 (1983) (denying cert.).
43. *See* P. IRONS, *supra* note 4, at 379-403.
44. 478 U.S. 186 (1986).
45. *See* 765 F.2d 1123 (11th Cir. 1985).
46. *Hardwick*, 478 U.S. 186.
47. P. IRONS, *supra* note 4, at 395.

first numb and eager to crawl under a rock. He did not want to appear in public and talk to people, least of all on national television. But soon he transformed. It is fascinating to follow his development as he tells it:

> When I started this, I didn't even know there *was* a sodomy law! My lawyers basically laid it out to me, and I met with them about once a week for the first six months. In that process I was educated about procedures and court levels, so that I would be articulate when it came to testifying — which never really happened. Once I started studying the system and realized I was getting actively involved in the system, it kind of sparked an interest, and I did a lot of independent reading on the legal system and past cases. My lawyers were always reeling off these cases and then I would go and research it and read.[48]

After he embarked upon his career of speaking out, he said:

> The more I got this support the more I realized the importance of the position I had been placed in as a spokesman. This is something I started and something I have to follow through. It would be easy to say that I've done my bit and now I'm going on with my personal life. But as long as there is a need for me to speak, as long as I can help work toward changing the negative impression the society has right now about gays, I'll continue to work in that direction.[49]

As one thinks about the case, one becomes certain that the Court will reverse itself sooner or later, although probably later because of the justices whom a president beholden to the fundamentalists will likely name. One recalls that it took only three years for the Court to reverse the flag saluting case and justify spunky, young Lillian Gobitis in her refusal, as a Jehovah's Witness, to pay homage to the flag.[50] True, it took twenty years from *Betts*[51] to *Gideon*[52] to assure the right to counsel for criminal defendants. In the end, we must feel confident that the right of privacy will be fully restored. That is the lesson one learns from this striking book. There will always be courageous Americans who will fight to sustain what they regard as their constitutional rights, and there will be dedicated activists and writers like Peter Irons to chronicle their achievements. We must hope that there will be many who will read and applaud and follow what these remarkable people do.

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48. *Id.* at 402.
49. *Id.* at 403.
50. *See* West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 628 (1943).
51. Betts v. Brady, 326 U.S. 455 (1942).
52. Gideon v. Wainwright, 372 U.S. 335 (1963).