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Michal R. Belknap. *The Vinson Court: Justices, Rulings and Legacy.* Santa Barbara: ABC-CLIO, 2004. x + 290 pp. $65.00 (cloth), ISBN 978-1-57607-201-1.

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The Supreme Court under Chief Justice Vinson

This book is a solid reference work about the U.S. Supreme Court during the seven years that Fred M. Vinson served as Chief Justice. It is one of the ABC-CLIO Supreme Court Handbooks that review the major decisions of the Supreme Court under each of the fourteen chief justices. The aim of the series is to provide material that will be of interest to both audiences in the academic and legal communities as well as the lay audience. The overall structure and content of the book follows a format established by ABC-CLIO for this series.

Chapter 1 describes the Vinson Court and its historical context. A major theme in this chapter and throughout the book is that the Vinson Court was a transitional court. It was sandwiched between the Court under Chief Justice Harlan Fiske Stone, made up of Roosevelt appointees, who were "economic liberals and justices dedicated to protecting constitutional liberties as well" (p. 3) and the Court under Chief Justice Earl Warren, known for its aggressive expansion of individual liberties and civil rights. The historical background for the Vinson Court was the aftermath of World War II, Harry Truman's succession to the presidency following the death of Franklin D. Roosevelt, the reconversion of the U.S. wartime economy, the development of the Cold War and the "communist scare" that wracked the country. The issues that the Court had to address during Vinson's tenure stemmed from these historical forces and events. The chapter examines how Roosevelt and Truman shaped the Court by their choice of nominees. While Roosevelt wanted justices who would support the economic liberalism of his New Deal policies, Truman was more interested in justices with prior political experience who shared his political values and who would not legislate from the bench.

Altogether eleven justices served on the Court during the Vinson era, and chapter 2 provides both an overview of the Court under Vinson and a biographical profile of each of these men. Besides Chief Justice Vinson they included Roosevelt appointees Hugo L. Black, Stanley F. Reed, Felix Frankfurter, William O. Douglas, Frank Murphy, Robert H. Jackson, and Wiley B. Rutledge; and Truman appointees Harold H. Burton, Thomas C. Clark and Sherman Minton. The biographical sketches help the reader understand the judicial philosophies of each justice, their major opinions in key decisions, and the role that each played on the Court. Of particular interest is the biographical sketch of Vinson, which explains how Truman chose him with the hope that he would help to unify a Court that was torn by both philosophical and personality differences. Vinson's failure to unify the Court is attributed to the intellectual prowess of the Roosevelt appointees who had a low regard for the Chief Justice's judicial acumen and his lack of leadership, as evidenced by the declining number of unanimous opinions during his tenure.

The real meat of the book is chapter 3, which dissects the major rulings of the Vinson Court, which lasted from 1946 to 1953. The author sets the stage for the review of cases by stating that "the Vinson Court rendered only a few memorable decisions" (p. 89). In part, this was due to Vinson's brief tenure on the bench. His death in 1953 may have deprived him of the opportunity to bring the school desegregation cases to their successful conclusion in *Brown v. Board of Education.* Instead his court is best remembered, fairly or unfairly, for its rulings that limited individual rights during the Cold War era. The author argues that the Vinson Court decided only one case of any lasting significance, and that was the decision of *Youngstown Sheet and Tube v. Sawyer* (1952). In this fa-

mous case the Court ruled that Truman lacked any authority to seize the steel mills during the Korean War to prevent a labor strike that would be crippling to the war effort. The author describes that opinion "as the most important one ever rendered on the subject of the separation of powers between the president and Congress" (p. 89). In this six-to-three ruling, every justice in the majority wrote a separate opinion, and these views are included in the discussion of the case. Although Vinson issued a strong dissent in this case, oddly his views are not reported.

Chapter 3 covers the major opinions related to Cold War issues including the case of Ethel and Julius Rosenberg, whose convictions for spying led to their execution; and federal and state loyalty programs that prohibited government employment of citizens who belonged to subversive organizations, and subversive free speech. Typical of the latter is Vinson's opinion in the case of *Dennis v. United States* (1951), stemming from the prosecution of eleven members of the Communist Party for violating the Smith Act. Described as Vinson's "best-known" opinion, the Dennis case is offered as an illustration of how Vinson would bend over backwards to support the national government on issues relating to national security. Belknap has written extensively on free speech in the Cold War era and his critical assessment of the Dennis opinion is shared by almost all court scholars.

The Vinson Court is criticized here as elsewhere for reversing gains in guaranteeing rights of the accused under the Stone Court. While the Court did on occasion impose some restrictions on searches and seizures, it also deferred to law enforcement in many instances. Illustrative are cases like *Trupiano v. United States* (1948) in which the Court upheld a warrantless arrest by federal law enforcement officials, and *United States v. Rabinowitz* (1950), upholding a warrantless search by federal law enforcement.

Considerable attention is also given in chapter 3 to the conflicts on the court about the issue of "incorporation," dealing with the question of which of the Bill of Rights are applicable to the states through the due process clause of the Fourteenth Amendment. The Court was bitterly divided over the question of whether the procedural guarantees of the Bill of Rights, especially protections against self-incrimination, protection against unreasonable searches and seizures, and right to counsel, applied to criminal proceedings in the states or only restricted such proceedings at the federal level. The case of *Wolf v. Colorado* (1949) illustrates the Vinson Court's conflict over the applicability of the Fourth Amendment protection of unreasonable searches and seizures to the states. On the one hand the Court held this protection did apply to the states; on the other hand it refused to require state courts to follow the exclusionary rule and throw out the evidence. The Court would only require the states to do so if the means of obtaining the evidence, in Frankfurter's words, "shocked the conscience" (p. 144).

Civil rights decisions are viewed as the most positive rulings from the Vinson era. The most significant of the court's rulings in the area are *Shelley v. Kramer* (1948), which held that it was unconstitutional for state courts to enforce restrictive covenants; *Sweatt v. Painter* (1950), which overturned segregated legal education, and *McLaurin v. Oklahoma* (1950) which invalidated segregated graduate education programs. Writing for the Court in these three decisions, all unanimous, Vinson helped pave the way for the landmark *Brown v. Board of Education* decision of the Warren Court holding that separate-but-equal schools violated the equal protection clause of the Fourteenth Amendment.

The final chapter of the book is about the Vinson Court's legacy and impact. In actuality this chapter is mostly about the accomplishments of the Warren Court in expanding individual liberties and equal rights. The argument put forth is that the Vinson Court has no legacy because virtually all of its positions, save for those on racial discrimination, were repudiated by the Warren Court. Transition courts like the Vinson Court, the author argues, "are not always well-remembered by historians, and their decisions are often forgotten" (p. 161). The author's sympathy with the judicial activism of the Warren Court, a "transformational court," is apparent as he explores the various rulings of the that court pertaining to equal protection, freedom of speech, internal security, and the rights of the accused. The latter cases get a disproportionate share of attention. The "extraordinary political skills" (p. 162) of the Chief Justice explain the accomplishments of the Warren Court, as well as changes in the Court's composition–Vinson's replacement by Warren and Minton's replacement by William Brennan.

In general this book meets the objective of providing information about the Vinson Court that will be of interest to the scholar as well as a general audience. The historic context, the key cases and court members are covered in sufficient detail in a readable style. For those less well versed in court history or court cases, the appendices include a glossary of terms as well as a section

on key people and events. The book does not offer any new insights about the Vinson Court, but as a reference book it would not be expected to do so. It mainly synthesizes information from other works and thus would not be considered a work that "fills a gap" in the existing literature. For readers wanting more in-depth information on specific aspects about the Vinson Court the book includes an annotated bibliography.

The work deserves credit for a well-organized view of the Vinson Court. It also gives Vinson more credit for his rulings outlawing racial discrimination than standard works on Vinson typically have. At times, however, it falls into the trap of painting the Vinson Court with the same interpretive brush as many prominent court scholars. In so doing it overlooks legitimate questions or points raised in more recent works. Illustrative are statements in the book about what Vinson said to Truman prior to his seizure of the steel mills. For example, the author asserts that "Chief Justice Vinson had privately assured Truman that if its legality were challenged, the seizure would be upheld" (p. 24). A similar assertion is that "before issuing his order, Truman had met with is buddy, Chief Justice Vinson, who advised him on legal grounds to go ahead with the seizure" (p. 95). No source is cited for these assertions. A more accurate statement would be that it has been *reported* that Vinson made such assurances to Truman prior to the seizure. While these statements may be true, there is no definitive evidence to confirm what Vinson may or may not have said to Truman. At least two sources have raised questions about the basis on which these assertions rest, and a balanced account should at least reflect that.[1]

In synthesizing the material from multiple sources the author tends to rely more heavily on some sources than others. In some respects this is understandable. For example, Melvin Urofsky, who is cited extensively throughout the books, is one of the most prolific writers about the Vinson Court. In other respects the overuse of one source seems less justified. Chapter 1, which summarizes the historical context of the Vinson Court, draws disproportionately on a single biography of Truman.[2] Perhaps some of the other excellent and more recent Truman biographies might have been consulted.

Another issue of balance pertains to the final chapter regarding the Vinson Court legacy. As noted previously, it focuses primarily on the rulings of the Warren Court that overturned most of the established precedents of the Vinson Court in areas of individual liberties and the rights of criminal defendants. The purported intent of this focus is to show how the Vinson Court's impact and legacy were short-lived. While that is a legitimate reason for giving emphasis to the Warren Court to show its contrast with the Vinson Court, some of the information included seems gratuitous. For example, the author devotes five pages to the Warren Court's reapportionment decisions, requiring state legislatures to follow the "one-person, one-vote" principle in drawing legislative districts. It is questionable whether those decisions warranted five pages in view of the fact that the Vinson Court never ruled on these issues.

One final observation concerns the redundancy in the book. This may be an inevitable result of the structure dictated by ABC-CLIO. There is considerable overlap in chapter 3 covering the key decisions and chapter 4 assessing the Vinson Court's legacy. Some redundancy is unavoidable in discussing cases and explaining legacies, but at times chapter 4 provides details that are adequately covered in the previous chapter.

These criticisms do not seriously undermine the value of the work as a whole. Those who are not familiar with the Vinson Court will find this a valuable read.

Notes

[1]. See Robert Ferrell, *Harry S. Truman: A Life* (Columbia: University of Missouri Press, 1994); and, Jim St. Clair and Linda C. Gugin, *Chief Justice Fred M. Vinson of Kentucky: A Political Biography* (Lexington: University Press of Kentucky, 2002).

[2]. Donald R. McCoy, *The Presidency of Harry S. Truman* (Lawrence: University Press of Kansas, 1984).

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