

Holiday Book Recommendations

*John Q. Barrett**

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In the season of holiday gift giving and perhaps extra reading time, six new books to consider very seriously are:

BENJAMIN ROTH, THE GREAT DEPRESSION: A DIARY (PublicAffairs, edited by James Ledbetter & Daniel B. Roth). These are diary entries that a Youngstown, OH (not too far from or different than lawyer Robert Jackson's Jamestown and Buffalo, NY) lawyer kept from 1931-1941 as he watched the Great Depression unfold and worked to understand the economics of the catastrophe. The book is harrowing, smart, historical and contemporary.

REFUGEES & RESCUE: THE DIARIES & PAPERS OF JAMES G. McDONALD, 1935-1945 (Indiana University Press, edited by Richard Breitman, Barbara McDonald Stewart & Severin Hochberg), recreates the context in which McDonald worked as the League of Nations High Commissioner for Refugees and then from 1938 until nearly the end of World War II as chairman of President Franklin Roosevelt's advisory committee on refugees. This volume, the second in a series, challenges negative assumptions and criticisms about FDR's views on the rescue of European Jews before and during the Nazi Holocaust.

BRIAN Z. TAMANAHA, BEYOND THE FORMALIST-REALIST DIVIDE: THE ROLE OF POLITICS IN JUDGING (Princeton University Press), exposes the falsity of the historical tale (on which many of us were raised) that a late 19th century/early 20th century era in which judges deduced and applied "the law" mechanically was discredited and succeeded by judges

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who exercised power to achieve desired policy outcomes. This book reveals and thereby seeks to recover for our time the balanced realism that has characterized American judging for the past 150 years.

BARRY FRIEDMAN, THE WILL OF THE PEOPLE: HOW PUBLIC OPINION HAS INFLUENCED THE SUPREME COURT AND SHAPED THE MEANING OF THE CONSTITUTION (Farrar, Straus & Giroux), shows that the Supreme Court of the United States historically has been subject to supervision and control by the American people, and that its decisions in high profile cases have not strayed far from mainstream public opinion.

JOAN BISKUPIC, AMERICAN ORIGINAL: THE LIFE AND CONSTITUTION OF SUPREME COURT JUSTICE ANTONIN SCALIA (Sara Crichton Books/Farrar, Straus & Giroux) is a full and lively biography of the Justice (who occupies the Supreme Court's "Jackson seat" and is a great Jackson admirer), written with his cooperation.

HERMAN J. OBERMAYER, REHNQUIST: A PERSONAL PORTRAIT OF THE DISTINGUISHED CHIEF JUSTICE OF THE UNITED STATES (Threshold Editions/Simon & Shuster). This combined biographical study and personal memoir, written by a close friend of the late Chief Justice William H. Rehnquist (who of course was a law clerk to Justice Jackson during 1952-1953 and Justice Scalia's immediate predecessor in the Court's "Jackson seat), is fascinating. The book adds much to our contextual understanding of Chief Justice Rehnquist as the Court's leader for almost twenty years, including, importantly, his life context as he and it decided *Bush v. Gore* in December 2000. The book's greater significance is its detailed, revealingly human portrait of Rehnquist by one of his closest tennis, lunch, dinner and movie partners. (A modern movie farce that made them happy? *Dodgeball*.) I am confident that Chief Justice Rehnquist would have disapproved in his lifetime of this breach of his privacy, but I suspect, including from having interviewed him about Justice Jackson, that Obermayer's

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friend “Bill” Rehnquist, a historian, lawyer, citizen and regular guy, would agree now that this is a book to read.