

RECENT PUBLICATIONS

NOT A SUICIDE PACT: THE CONSTITUTION IN A TIME OF NATIONAL EMERGENCY. By Richard A. Posner. New York, N.Y.: Oxford University Press. 2006. Pp. xi, 171. \$18.95. One of today's most urgent legal policy questions concerns the power of government to curtail individual liberties during a national emergency caused by a terrorist attack. With characteristic clarity and confidence, Judge Richard Posner proclaims boldly: "[A] Constitution that will not bend will break" (p. 1). Focusing on constitutional rather than statutory rights and on authorized uses of power that limit those rights, he argues that the protection of individual liberties must shrink during national emergencies, but not so much that citizens sacrifice the freedom central to their identity as Americans. Judge Posner suggests that people detained as terrorism suspects deserve a judicial determination of whether they have the right to due process; that the government can investigate groups based on their religious beliefs when those beliefs are likely to encourage terrorism; and that the mining of personal information is valuable and causes only minimal harm to the types of privacy people value. Judge Posner's guiding principle is one of necessity, in which the government has "a moral and political but not legal justification for acting in contravention of the Constitution" in emergencies (p. 12). Adopting this controversial nonlegal principle, Judge Posner clarifies the policy options surrounding the struggle to preserve American freedom in the war on terror.

LAW AND JUSTICE IN THE COURTS OF CLASSICAL ATHENS. By Adriaan Lanni. New York, N.Y.: Cambridge University Press. 2006. Pp. x, 210. \$65.00. In her latest work, Professor Adriaan Lanni sets out to understand the role of the law courts in Athenian democracy. Challenging previous conclusions characterizing Athenian courts as committed exclusively either to specific justice or to general principles, Professor Lanni contends that the courts had allegiance to both concerns. A single legal system was able to reflect these two seemingly incompatible goals because system was divided into popular courts for ordinary cases and special courts for homicide and maritime cases. The popular courts — the domain of particularized justice — represented Athenian democracy writ small, permitting ordinary jurors to exercise maximum discretion. The special courts, in contrast, were the province of legal formalism. The system was not inconsistent; Professor Lanni assures us that the formalism of the homicide and maritime courts likely "promoted the stability of the predominant, and far less rigid, mode of the popular courts" (p. 175). Professor Lanni's elegant and erudite treatment brings fresh color to this fascinating subject.