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Book Reviews

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BOOK REVIEWS

LAWYERS AND THEIR WORK; AN ANALYSIS OF THE LEGAL PROFESSION IN THE UNITED STATES AND ENGLAND. By Quintin Johnstone and Dan Hopson, Jr. Bobbs-Merrill Company, 1967. Pp. x, 604. \$10.

The sudden outpouring of manuscripts dealing with the law, the lawyer and the legal profession is most flattering to the lawyers and a bit baffling. Why this sudden interest in the profession? It would seem that the legal profession has just been discovered. Perhaps this is so because the profession is attractive in its modern dress. Also, perhaps the layman is suddenly intrigued by the aura of mystery about what lawyers do and the scope of their influence. Moreover, its attractiveness may be attributable in part to the belief that there may be "gold in them thar hills."

Lawyers and Their Work by Professors Johnstone and Hopson joins the recent volumes of *Lawyers on Their Own* by Professor Smigel, *The Personality of Lawyers* by Professor Weyrauch, *The Lawyers* by Mayer and *Lawyers and the Courts* by Smith and Stevens, in explaining the life and work of the lawyer. It is aimed at and slanted to the New York City type, indeed, as if that city harbored the representative lawyer of today.

This penetrating volume is appropriate at this very moment when the organized bar is engaged in its greatest soul-searching in history. It is good to receive an objective analysis from observers not intimately connected with this soul-searching even if at points they seem to be abysmally ignorant of the movements now going on within the profession. While severely critical in part, it is an intelligent and sympathetic work which offers many sound suggestions in the way of reform. We lawyers are curious about ourselves and accustomed to criticism because, after all, we are devotees and subjects of the adversary system where only one side prevails at one time.

In reviewing any book, certain delineation of boundaries of knowledge must be observed. Because of my lack of intimate knowledge of the legal profession in England (having observed it only on one brief occasion when the American Bar Association held part of its 1957 Annual Convention in London), and because of my unwillingness to take as gospel what the authors say about the English system, I hesitate to offer any thoughts about our English brethren. Four chapters of the book concern the legal profession in England, for which the authors hold out little hope. However, their study of the English system affords some interesting comparisons with our own, although I see slight hope or reason for American lawyers adopting the

English methods of furnishing legal services to the public. Certainly, there is little virtue in the solicitor-barrister dichotomy. The four chapters afford no more than interesting reading and will have no effect upon our fellow common law practitioners across the sea. It is consoling, however, to learn that the British law offices are just as inefficient as ours. This discussion of the English system consumes chapters ten through fourteen.

Unless one is particularly interested in title insurance companies, the Prudential and Metropolitan Insurance law departments, the Shell Oil Company, mortgage review organizations and the American Institute of Architects, it would be well to skip another 152 pages. True, these chapters have much historical value, are well done and serve a purpose for the author, but they shed little light on the need for drastic reform if the bar is to continue to fulfill its traditional role in the maintenance of an orderly society. Although the growth of corporate law departments is significant and phenomenal, these departments are insignificant and, when compared to the number of lawyers in the nation, their impact upon the problems of the profession is miniscule. It is difficult accurately to gauge the authors' intentions by the inclusion of these chapters in an otherwise provocative and worthwhile volume.

By far one of the most important chapters has to do with specialization and standardization, a subject that the American Bar Association, as the result of a report rendered last August by its Committee on Availability of Legal Services, is seriously considering. Authority has been given to the Board of Governors to implement the Association's 1954 resolution favoring the creation of speciality practices. Perhaps, this is the answer to the authors' assertion that "[L]egal services not only cost more than they should but the quality is often lower than it should be." The subject of specialization is going to be vigorously debated. Let us hope that when it is finished the organized bar will not be fragmented. As the bar frets and fumes over the problem, the authors conclude that laymen are increasingly taking over the fields of real property, estates, counselling in investments, marriage, labor and debt collection. The authors assert that their research in New York indicates that many types of legal services can be performed better by laymen.

The authors demonstrate the true value of the volume in the final chapter in which they propound several hundred questions touching upon every facet of the profession and then bravely offer provocative solutions that should challenge every lawyer and leader of the organized bar. Several of their proposals have already attracted the attention of the bar, and measures are underway to implement them. However, the authors do suggest unique approaches to other prob-

lems, such as the channeling of certain mass volume work to law offices that will handle it on that basis to achieve lower costs. Their proposal to lift legal restraints on lay competition is most interesting and worthy of study, especially by those engaged in combatting unauthorized practice of law. Strangely enough the authors seem to overlook or to disregard the basis for resisting the unauthorized practice of law—the protection of the general public. Their proposal to establish a national center for preparing, administering and grading bar examinations and other proposals dealing with bar admission merit careful consideration. The suggestion for change relating to standards of professional conduct for lawyers and revising the Canons of Ethics has already been undertaken by the American Bar Association. Likewise, their proposal to offer legal services to the poor has already been accomplished by the organized bar in cooperation with the Office of Economic Opportunity.

Even though many of their suggestions are not new, Professors Johnstone and Hopson have rendered a valuable service to the organized bar in emphasizing the need for drastic reform. This well documented work (over eight hundred footnotes) reveals a sincere effort by two competent scholars to needle the organized bar into doing something about a profession that finds itself increasingly involved in the practical affairs of the market place and yet restrained by the most stringent rules of conduct of any profession. The question is brilliantly and succinctly raised: Can the profession continue to serve the public at a cost the public can afford and still retain its long-honored rank as a learned profession? While the authors do not have all the answers, we are most grateful for their penetrating questions. Indeed, the organized bar is in need of drastic reform.

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