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Book Reviews

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BOOK REVIEWS

EFFECTIVE LEGAL RESEARCH: A Practical Manual of Law Books and Their Use. By Miles O. Price¹ and Harry Bitner.² New York: Prentice-Hall, Inc., 1953. Pp. xii, 633. Trade edition \$10.00; text edition \$7.50. — This latest work on legal research has two distinguished authors. Mr. Miles O. Price, who began his library career over forty years ago, has had not only many years of experience both as a general librarian and as a law librarian but he also has taught a special course at Columbia University for law librarians. Since 1929 he has been the law librarian of Columbia University. Last summer he was selected to direct the first institute ever conducted for law librarians under the auspices of the American Association of Law Libraries. His achievements have caused him to be generally recognized by other members of his profession as the dean of law librarians. His co-author, Mr. Harry Bitner, has had over ten years of experience as a law librarian; since 1947 he has been Mr. Price's assistant in the Law Library at Columbia University where he now holds the position of associate librarian.

The experience of the two authors with faculty, students, legal research workers, practising attorneys and other law librarians is clearly reflected in their book. They have had unusual opportunity to discover the difficulties met with by users of law books, and in their book they point out these difficulties and show how they may be solved.

About one half of the book consists of a discussion of law books and their use. Of this half, approximately one third is devoted to books dealing with legislation, one eighth to reports, and one third to secondary authorities, while the remainder has a chapter devoted to English and Canadian materials, another to the case method of legal research, and a third which points out how the various techniques of using law books may be coordinated. With one third of the text proper devoted to books dealing with legislation it will be noted that this book emphasizes this source of law. The part of the book following the text proper consists first of a chapter, *Standard Legal Citation Forms*, which is an abridgment of a book by Mr. Price, *A Practical Manual of Standard Legal Citations*.³ Then follow the appendices which include lists of: American law reports and digests, English and Canadian reports, Anglo-American legal periodicals and abbreviations used in legal bibliography, together with a standard form of an appellate brief and an example of a legal memorandum.

Two points which are especially emphasized throughout the book are "supplementation" and "Shepardizing." "Supplementation" is the term

¹ Law Librarian, College of Law, Columbia University.

² Associate Law Librarian, College of Law, Columbia University.

³ Oceana Publications, New York (1950).

given to the means by which legal materials are brought up-to-date. By special permission of Shepard's Citations, Inc., the publishers of the Shepard citators, the term "Shepardize" is applied not only to the use of the conventional Shepard citators but also to the use of other materials which may be employed for the same purpose in following up the history of both statutory and judicial sources of law.

To help the reader the book includes many facsimile pages from the works discussed. Another helpful feature is the frequent inclusion of references for further reading; for example, on page nine, under interstate compacts, we find five recommended references to articles in law reviews for additional information on this subject, and on page sixty-seven, on the subject of amendments to state constitutions, are listed five recommended books.

This is essentially a practical book, a book on how to find the law. The emphasis which the book places on supplementation and Shepardizing and the many suggestions both as to how to use law books and how not to use them make it especially valuable. The teacher of legal bibliography will find it an exceptionally useful text. The practising attorney, the research worker in law and the law librarian will find it a challenging refresher course and will want to keep it on their desks for consultation when help is needed in solving problems in legal bibliography. It is recommended for purchase by every one who uses law books.

*Marie K. Lawrence**

HISTORY OF THE AMERICAN BAR ASSOCIATION AND ITS WORK. By Edson R. Sunderland.¹ New York: The Survey of the Legal Profession, 1953. Pp. vii, 251. No price listed. — What is one entitled to expect of a history of a body such as the American Bar Association? While keeping in mind the idea that a book should be reviewed largely on the basis of what it contains rather than on the basis that some other kind of book should have been written, it is difficult, nevertheless, to suppress the thought that some expectations are disappointed in this book. Especially the first third of the book, some eighty pages in length, seems to be somewhat dry and dreary material. This proportionately large part of the book is devoted to the first twenty-five years of the Association's existence from 1878 to 1902, a period when the Association was more of a gentlemen's private club² than an organization which was either repre-

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² Attendance at the annual meeting during the early years was about 150, text at 36; this was usually held at Saratoga Springs, N. Y. as an incident to summer

sentative of the American legal profession,³ or otherwise a body having public significance.⁴ It seems regrettable that much of the space devoted to this period was not saved to permit more ample treatment of more important later events.

To the query as to why a longer book was not written so as to permit such amplification, one might surmise that the book was written to fit within a budget — small budget, small book. The fact that the copyright is in the name of Reginald Heber Smith, Director of the Survey of the Legal Profession, may not be irrelevant to such a surmise. At any rate, whether confined by budgetary limitations or not, the plan of the book appears to have called for very limited objectives, namely (1) to analyse organizational and operating arrangements used by the Association, and (2) to enumerate its activities in a spare and economical manner.

These analyses and enumerations are supported by numerous citations to the annual volumes of the American Bar Association Reports. Especially in regard to the reporting of activities (many of which were involved in controversy), this largely "dead-pan" chronicle — with rarely an interpretation, approval, criticism, or evaluation — becomes something like — and not much more than — a textual index to such Reports, rather than anything like a history of a significant, living, and often dramatically struggling organism. However, the discussion of organizational and operational arrangements is accompanied by somewhat more adequate comment.

This is not to say that a book of such limited objectives should not have been written, but only that we wish the author could have given us more. The life of the Association has been long, and the more than seventy volumes of annual Reports contain a vast amount of information. Thus the numerous citations thereto, together with the relatively meager text, serve a very useful purpose in making many of the more important parts of that information readily accessible. Furthermore the book has, in spite of the absence at many points of much-to-be-desired comment, other values to which reference will be made shortly.

One of the more important and interesting matters dealt with is the analysis of organizational and operational arrangements. The author considers that, as respects these matters, the Association has had three

vacations at the popular resort, by relatively prosperous members of the profession, mostly from the north and east, who had a taste for enjoying the "waters" at Saratoga and the financial means of satisfying it. See also text at 41.

³ Membership was on an individual basis as it was not until 1936 that the Association could be said to represent more than individual members. Text at 42-6.

⁴ See, for example, text at 17-18 to the effect that at least during the first eight years the Association had "upheld the honor of the profession" and "encouraged cordial intercourse among the members," but that it had done little about other and more important objectives such as the advancement of the science of jurisprudence and the promotion of the administration of justice.

distinct periods. The first, already referred to, is called the "Saratoga" period. It was followed, in the thirty-three years 1903-1936, by what is called the "Expansion" period. Characteristic of this period was: the holding of meetings in various parts of the country in order to contact and interest more lawyers, a large increase in membership, greater leadership of the profession as a whole, efforts at coordination and cooperation with state and other local bar associations, and a striving for greater efficiency.⁵ During this period, and especially after 1923, proposals were made for a type of organization differing both from the small-group type as during the "Saratoga" period, and the large-group type of the "Expansion" period with its attending defects of being too cumbersome, complex, and disjointed for effective action.⁶ These proposals were for a working group of representatives of federated professional organizations such as emerged in the third period, called by the author the period of "Federation," beginning in 1936.

Meanwhile, and almost from the beginning, the Association found that it could not act effectively as a single body assisted only by standing and special committees. The general organization was too unwieldy for one thing and the two or three day convention period for study and deliberation was too short for another. As a result numerous organizations, largely autonomous in character, although closely identified as a rule with the Association, split off from the parent body so as to provide their own opportunities for more intensive work on particular matters of interest to members of such subsidiary groups. The first offshoot, illustrating the use of the system of sections which later was utilized in many situations, occurred as early as 1893 in the case of the Section of Legal Education.⁷ To mention a few others: the National Conference of Commissioners on Uniform State Laws; the Association of American Law Schools; and also the National Conference of Bar Examiners.

The basic feature of the 1936 reorganization was the establishment of the real working organ of the main organization, the House of Delegates, to be comprised of representatives or delegates from almost all the major organized units within the profession; the Association being largely conceived of as a federation of such units. While membership in the Association continued on an individual basis, the House of Delegates, rather than the individual members comprising the Assembly, was the effective policy determining and operating body. A Board of Governors was created and empowered to act between sessions of the House. According-

⁵ Reasons for inefficiency, as set forth in the text at 86-87 were among others: small membership and consequent inability to speak for the Bar as a whole, attending lack of public influence, one-man committee work which carried little weight, insufficient time at the Conventions to get considered Association views, and lack of effective ways of carrying out what the Association did approve.

⁶ Text at 85.

⁷ *Id.* at 28.

ly, the Association became representative of much more of the bar and was not restricted to acting during the short annual meetings.⁸

Subordinate operating units continued, however, much as before. The system of committees, both standing and special, and of separate sections, were maintained — and in numbers too numerous even to mention in a review of this kind. The various matters considered and worked upon in the committees and sections have been and continue to be formidably numerous.⁹

A final chapter by another author deals with the work and aims of a Committee on Scope and Correlation of Association activities. This committee was established in 1947 to plan long-range objectives and to study means of reducing overlapping in the long list of committee and section jurisdictions and, in effect, to bring about more continuity and order in selecting and advancing objectives. So extensive, numerous, and ramified had the activities of the Association become that probably no body could be imagined more needed than this committee.

As to activities, as distinguished from organization, the book even without direct comment thereon, serves the very useful purpose of justifying the view that the Association's endeavors are selfless rather than selfish, begun and carried on in a high spirit of altruism that is designed to serve the public interest rather than the merely professional interests of organized bar groups, or the private interests of individual lawyers. Furthermore the book discloses most impressively the truly vast, and indeed amazing, amount of work done by the Association (or in its name at any rate) and by its affiliated and offshoot organizations, to bring about improvements (or so they are usually contended to be) in the law. The reader may well draw the conclusion that there has been, and is, no greater force for disinterested improvement of the law and its administration in this country than that exercised by the Association and its affiliated and cooperating bodies. Notwithstanding certain doubts set forth below, the providing of data supporting such a conclusion — even though the author refrains from offering any substantial amount of direct editorializing on such matters — is a service of first rate importance, both to the profession and to the public as well.

Perhaps the author was sagely prudent in keeping his opinions largely to himself. For amazed admiration at the vast number and wide range of projects undertaken is followed by a sobering second thought that here is altruism running riot; that, as in the case of the story of the cowboy who mounted his horse and rode off in all directions at once, there is something wrong. It seems manifest that the number of activities is so great that only a fraction of the work can be done well.

⁸ *Id.* at 174-9.

⁹ *Id.* at 181 *et seq.*

Scepticism being worn in this way begins to grow rapidly and numerous questions form almost of themselves; but the author, in view of the limited scope of his work, is relieved of all responsibility in regard to their answers. One wonders, among many other things, about the following: How many projects endorsed by the Association were in fact the result of "one-man" activity rather than the result of matured judgment exercised after careful and able work by the bar as a whole? How many individual hobbies, biases, or whimsies, and how many individual or small-group viewpoints on political and economic matters have been "sold" to the Association? Especially in the matter of adjustment of the law to changing social and economic conditions, what has been the Association's record in regard to keeping up with the times? Is the Association a benign influence in technical matters of legal practice and procedure, but a stronghold of conservatism and perhaps of reaction in other areas involving the formulation of public policy and its implementation by substantive law? ¹⁰

Furthermore, where do lawyers, as such, gain the universal competence requisite for sound recommending of legal provisions on almost any matter, however controversial, whether economic, social, political, constitutional, international, *etc.*? Many such matters are so complex that the very angels should fear to enter; what then of bar associations which rush in? Is a majority vote in a section or in the House of Delegates a satisfactory substitute for research centers and the painstaking work that should be done in them? This book gives us no comfort when we face such questions. On them, and many like them, the author is mute. In short, the book affords nothing in the nature of a general evaluating of the work of the Association.

But the book is valuable none the less. It affords important data from which we can deduce, among others, three quite significant conclusions for ourselves: (1) The Association and affiliated organizations are, in the main, unselfishly devoted to advancing the public interest as they see it; and by any standards they have done and are doing a great amount of good. (2) The methods of the Association, in spite of the 1936 reorganization, still leave many things to be desired. (3) Possibly the best hope in the future for improved methods, as respects well directed and effective action, lies in the proper utilization of the new Committee on Scope and Correlation of Work, to the ends (a) that ordinarily there be undertaken only projects in regard to which lawyers, as such, can speak with some degree of authority; and that when selected they be worked out to the point where the collective bar (as distinguished, for instance, from a zealous committee chairman) supports them; and (b) that such

¹⁰ For some light on this matter, see HURST, *THE GROWTH OF AMERICAN LAW: THE LAW MAKERS* 363-64 (1950).

energies and other resources as are available be devoted to such projects rather than frittered away upon a multitude of minor or extraneous activities.

There remains one more question: Who will write a more complete history of the Association and its work? As probably the greatest law-generating force in the nation, its history, its aims, its methods, its strengths, its weaknesses, its failures, and its successes, should be more fully understood. A fine start has been made in the present book, but much more is needed to assist both the profession and the public in arriving at that understanding.

Charles H. Kinnane*

LEGAL ETHICS. By Henry S. Drinker.¹ New York: Columbia University Press, 1953. Pp. xxii, 448. \$4.00. — A brief and clear description of this book is that it is primarily a reference book for practicing lawyers to aid them in solving problems of good conduct that may arise in connection with office and trial practice.

It is organized on a very simple plan, in two large sections. The first section contains a brief history of the profession and of bar organizations, along with a description of the principles and procedures involved in the discipline of lawyers. The second and larger section covers the various duties and obligations of lawyers: towards the public, towards the courts, towards the client, and towards other lawyers. Appendices contain opinions of the American Bar Association Ethics Committee (hitherto unreported in the bound volume published by the Committee in 1947 and in the *American Bar Association Journal*), reprints of the Canons of Legal and Judicial Ethics, and other similar material. The four-dollar price, low for law-books or for any other books at this time, was surely made possible by the grant from the William Nelson Cromwell Foundation.

This is not a students' textbook, not a book of "cases and materials." Cases are not reported at length in the usual way — reprinting the language of appellate opinions. Instead, under each of the main sections there are a large number of sub-heads *e.g.*, Abuse of Legal Process, Harassment of Opponent, "Quickie" Divorces. And under these captions are handled very briefly and synoptically the factual situations and moral solutions involved. The large number of reported cases and opinions of ethics committees — particularly of the American Bar Association Committee are merely cited in the footnotes. For this reason *i.e.* because the

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handling, particularly of facts, is so telegraphic, the book will be more useful to practitioners and teachers than as a textbook for students in the course in Legal Ethics. Students need a more extensive treatment of the facts; they have to see the transaction as a whole before they can know what the problem is, much less reason towards a solution. But an experienced person can draw on his own experience to fill in the entire transaction from a very summary treatment.

All of the problems raised and solved by Mr. Drinker are current and practical — nothing dated or “old hat.” Questions of solicitation and advertising, and of conflicting interests, take up more space quantitatively than any others in the book, because as the author says, more queries are made to committees about these problems than about any others.² But in addition to these problems it is fairly safe to say that hardly any question has been neglected which might trouble the conscience of a present-day lawyer in his practice.

And the book is not at all a philosophic treatment of moral theory. It is a lawbook; it raises questions on the facts and uses legal reasoning to answer them. The sources are principally appellate decisions, the Canons of Legal Ethics, and the opinions of various Committees on ethics, principally of the American Bar Association. The Canons do not have the force of law, but their existence and content will be taken into account by judges in deciding whether or not certain procedures of lawyers should be held contrary to public policy.

There is very little of Mr. Drinker in the book, apart from his eloquent statement early in the book of the lawyer's cardinal loyalties.³ He does not go into the problem of the larger moral background, the religious, which alone gives point and urgency to the special duties of the professional man. But throughout the book he shows himself to be an upright man attempting to direct other lawyers towards the synthesis of professional with personal integrity which he values so highly himself.

And Mr. Drinker himself, the author of this book is a remarkable person. Over 70 years old, a leader of the Philadelphia Bar for many years, director of companies, long-time chairman of the Ethics Committee of the American Bar Association, he is also a father of a family, an expert musician, author of articles on Bach, Schumann, and Beethoven, a student of literature, and a liberally educated man. Students of one-track mentality, intent only on material success, can learn a good deal about life from studying the career, as well as the writings — of such a man as Henry S. Drinker.

*Charles E. Sheedy, C.S.C.**

² Text at xii.

³ *Id.* at 6-7.

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STATUTORY CONSTRUCTION. By Francis J. McCaffrey.¹ New York: Central Book Company, Inc., 1953. Pp. xiii, 186. \$5.00. — This handy summary of the rules of statutory construction is a welcome publication. A concise presentation has been needed of the rules advocates must present to courts and which judges must employ in writing opinions in cases involving the construction of statutes. This is not to say that Judge McCaffrey, former member of the New York State Legislature and now Municipal Judge of the City of New York, has merely strung together rules and appended to each a stereotyped explanation. On the contrary, this book is permeated with the able and personal touch of one who understands that statutory construction is not a mechanical application of rules. Judge McCaffrey leaves no doubt that he thinks legislative intention will most often be accomplished if the court gives a just and common sense interpretation to statutes.

It seems unnecessary to list the rules, doctrines, canons, and intrinsic and extrinsic aids discussed. All the familiar ones are here. In addition there are separate chapters dealing with mandatory and directory statutes, provisos, exceptions and savings clauses, amendatory acts, retrospective interpretation, and strict and liberal interpretation. For the most part the author has employed cases from New York State courts to exemplify the principles discussed. The fact that the author's daily work has been primarily within the framework of state legislation undoubtedly accounts for his failure to give a more complete consideration to two rather important areas of statutory construction. His section on legislative history fails to emphasize the extreme importance of committee reports in interpreting congressional enactments. Also, although there is mention of the significance of an administrative agency's interpretation of legislation, the doctrine of *Gray v. Powell*² as developed in the federal courts is ignored.

Anyone concerned with statutory construction (and what lawyer is not?) will find this book useful. In addition, anyone intrigued by the judicial process will find this book of interest. Judge McCaffrey emphasizes the large part that common sense and considerations of justice play in the process of statutory construction.

Thomas F. Broden*

¹ Municipal Judge of the City of New York; former member of the New York legislature.

² 314 U.S. 402 (1941).

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CIVIL RIGHTS IN IMMIGRATION. By Milton R. Konvitz. Ithaca, New York: Cornell University Press, 1953. Pp. xii, 216. \$3.50.

*EFFECTIVE LEGAL RESEARCH: A Practical Manual of Law Books and Their Use. By Miles O. Price and Harry Bitner. New York: Prentice-Hall, Inc., 1953. Pp. xii, 633. Trade edition \$10.00; text edition \$7.00.

*HISTORY OF THE AMERICAN BAR ASSOCIATION AND ITS WORK. By Edson R. Sunderland. New York: Survey of the Legal Profession, 1953. Pp. vi, 251. No price listed.

INDIANA LICENSING LAW. By Warner O. Chapman and Oliver P. Field. Bloomington: Department of Government, Indiana University, 1953. Pp. 77. \$1.25.

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*STATUTORY CONSTRUCTION. By Francis J. McCaffrey. New York: Central Book Company, Inc., 1953. Pp. 186. \$5.00.