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### The American Lawyer: A Summary of the Survey of the Legal Profession (Book Review)

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of the sharpness or dullness of its blade will be enabled to obtain both economic satisfaction and spiritual enjoyment in its use. To that student—in the law school, in the law office and in the law court—I commend and recommend *Prashker on New York Practice*.

When I first began to record my thoughts, I assumed that I would proceed as does the experienced book reviewer: I would point out that the third edition has about 120 pages more than the second; that important recent changes in the law have received proper mention—such, for example, as Section 50-e of the General Municipal Law (procedural steps preliminary to the commencement of an action), Rule 121a of the Rules of Civil Practice (examination before trial), and Section 285 of the Civil Practice Act (interpleader); that the outline of contents is topical and helpful; that the index and the table of cases are complete and invaluable; and that there have been other improvements. I thought too that I might express some disagreement—in the usual style of the reviewer. I thought I might suggest, for example, that, in a book as compact as this, to devote separate chapters to each type and element of a pleading—Complaint, Answer, Reply, Verification, Service and Amended and Supplemental Pleadings, is an unnecessary utilization of valuable space. Or, also for example, I might point out that to place such a topic as *Res Judicata* under the heading of Complaint, rather than under or near the heading of Judgment, is not appropriate. But, in the vein in which these comments are finally written, to subject this splendid book to minute criticism would, I think, be an act of supererogation. Other defects of emphasis or arrangement I think there are. Quite naturally, the author or even another reviewer may disagree. Since I have informed the author of my views, I hope that when (in consequence of the expected demand) the fourth edition is published, Professor Prashker will do me the honor to adopt my suggestions although I have not here made them public.

MATTHEW M. LEVY.\*



THE AMERICAN LAWYER: A SUMMARY OF THE SURVEY OF THE LEGAL PROFESSION. By Albert P. Blaustein and Charles O. Porter, with Charles T. Duncan. Chicago: The University of Chicago Press, 1954. Pp. XIII, 360. \$5.50.

The Survey of the Legal Profession sponsored by the American Bar Association (commencing in 1944) and the Carnegie Corporation is now substantially complete. The Survey has involved the work of over 300 research workers and has culminated in several thousand printed pages of reports. Twelve volumes and 158 special articles and reports have appeared. They reflect the education, ideals, and professional and public services of the American lawyer. The special articles and reports have appeared from time to time in law reviews and legal periodicals. But in many instances, copies of the articles and reports are not presently available.

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\* Justice of the Supreme Court of the State of New York.

The present volume is a very helpful summary of the printed material which originated with the Survey. Reginald Heber Smith, the Director of the Survey, has written a foreword. He indicates that when the authors of this volume did their writing, two major survey reports were not available to them. "Bar Association Organization and Activities," by Glenn R. Winters, was published in book form in May, 1954. "Law Schools in the United States" is to be published in book form in 1955. After the appearance of the latter volume in 1955 and after the expiration of a reasonable time for criticism and correction, the Director of the Survey will write a final report in the form of ". . . a synthesis of all the Survey reports and material, together with an integrated plan for improving our administration of justice, for making the legal profession a stronger force for the public good and a more splendid instrumentality to serve our national welfare."<sup>1</sup> After the submission of the final report, a layman will make the concluding appraisal of the legal profession. For this task the Survey Council in 1951 selected Mr. George Waverley Briggs, of Dallas, Texas. Since that time, Mr. Briggs has received all the Survey reports, and has had access to all Survey files, and in due course will render the final verdict upon the objectives and achievements of the American lawyer.

The principal authors of this volume, Albert P. Blaustein and Charles O. Porter, have been associated with the Survey almost from its inception, and are thoroughly equipped to analyze and present in summarized form the Survey material.

The book contains nine chapters titled:

- I. The Legal Profession: Status in Society
- II. Professional Services By Lawyers
- III. Availability of Legal Services
- IV. Public Service By Lawyers
- V. Judicial Services
- VI. Legal Education
- VII. Admission to the Bar
- VIII. Ethics of the Law
- IX. Organization of the Legal Profession

In prior numbers of the ST. JOHN'S LAW REVIEW, I had the opportunity of reviewing Dean Harno's "Legal Education in the United States,"<sup>2</sup> written for the Survey, and the collection of special articles written for the Survey appearing under the title "Bar Examinations and Requirements for Admission to the Bar."<sup>3</sup> In consequence I shall abstain from further reference to the treatment of those subjects in this volume.

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<sup>1</sup> P. X.

<sup>2</sup> See Prashker, *A Critique of Legal Education in the United States*, 28 ST. JOHN'S L. REV. 30 (1953).

<sup>3</sup> See Prashker, Book Review, 27 ST. JOHN'S L. REV. 204 (1952).

Chapter I, *The Legal Profession: Status in Society*, and Chapter IX, *Organization of the Legal Profession*, seemed to me to be the most absorbing chapters of the book and in this review I shall confine my attention to them.

Chapter I starts with the query: Who is the American lawyer? "From all outward appearances, the American lawyer is much like everybody else."<sup>4</sup> He is not dressed better than or differently from most members of his community. He is active in the community and is generally an ardent participant in political affairs. Once he undertakes a case for a client he seems to become wedded to it, be the case ever so unpopular. He is an American version of the British Solicitor and Barrister, rolled into one. But he wears no wig and swears allegiance to his government and its democratically chosen officers.

In answer to the query, how many lawyers are there, some interesting statistics are offered. There are in the United States a little more than 200,000 lawyers. This makes approximately one lawyer to every 740 persons. New York State has the greatest total number (33,206) of lawyers, and, with the exception of the District of Columbia, New York is the place of highest concentration of lawyers. Out of every six attorneys in America, one has his law office in New York State. ". . . [T]here are more lawyers in New York than in the twenty-six smallest states combined. Nearly 12 per cent of the nation's lawyer population is located in New York City alone. . . ."<sup>5</sup> Illinois has the second largest number of lawyers, 15,643. California has 14,577, Ohio has 11,020 and Texas has 9,997. The smallest number of lawyers is in Nevada which has 313. Delaware has 316. Wyoming has 380. Vermont has 383.<sup>6</sup> Generally speaking, the states with the highest percentage of lawyers are those with the greatest population. Industrial states have relatively more lawyers than the farming states.

Some other queries posed and answered in Chapter I are:

- With whom do lawyers work?
- Is the Bar an overcrowded profession?
- How much do lawyers work?
- What does it cost to run a law office?
- What are lawyers' working hours?
- How do lawyers get jobs?

Problems of Retirement, Women as Members of the Bar, The Public Attitude toward the Lawyer, and Public Relations of the Bar, are other topics considered in the chapter. Reference is made to a Survey report which dealt with some aspects of lawyer-retirement. Under the present Social Security Law, self-employed attorneys who comprise the vast majority of the Bar, are not eligible for Social Security benefits. The editorial columns of the *New York Law Journal* daily attest lawyers' reactions to this unequal treatment.

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<sup>4</sup> P. 1.

<sup>5</sup> P. 4.

<sup>6</sup> P. 5.

In this area of legislation, the lawyer seems to have done much for a large majority of the working population, but has done little for himself.

Chapter IX, Organization of the Legal Profession, is the concluding chapter of the book. Much of the chapter is based on Roscoe Pound's "The Lawyer from Antiquity to Modern Times" written for the Survey in 1953. Early developments of local, state and national Bar associations are traced. Reference is made to the comparatively recent organization of junior and student Bar associations and the movement for integration of the Bar.

The authors of this volume are to be congratulated for having brought together in a very readable volume the fruits of much substantial thinking and writing by a great many intellects on the problem of the American lawyer.

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LOUIS PRASHKER.\*



SELECTED TOPICS ON THE LAW OF TORTS. The Thomas M. Cooley Lectures. Fourth Series. By William Lloyd Prosser. Ann Arbor: University of Michigan, 1954. Pp. xi, 627. \$6.00.

Dean Prosser has once again demonstrated that he is that remarkable phenomenon: the scholar of depth who yet writes simply and entertainingly. Not for him the complex and dry-as-dust approach of most. Humor flashes throughout his writings, and his is the knack of making even the most difficult problem easy to understand. One need not be a torts scholar to read Prosser. The first year law student can read and readily comprehend his fine hornbook,<sup>1</sup> and, I dare say, such a student could read and comprehend the Cooley Lectures with not much more difficulty—and this despite the fact that they deal largely with little known, frontier problems of the law of torts.

In view of that indorsement there is probably no doubt where this reviewer stands on the question of the merits of the Cooley Lectures. They are, in my judgment, excellent; possibly better, within their scope, than anything Prosser has yet done in the course of a distinguished career in the field of torts.

The volume is composed of two articles written in earlier years on "Business Visitors and Invitees" and "Res Ipsa Loquitur in California," and the five Cooley Lectures, "Comparative Negligence," "Interstate Publication," "The Principle of Rylands v. Fletcher," "Palsgraf Revisited," and "The Borderland of Tort and Contract."

The entire content is top-notch. The article most appealing to me was "Palsgraf Revisited," an analysis of *Palsgraf v. Long Island Railroad Co.*<sup>2</sup> which is, as Prosser says, "perhaps the most celebrated of all tort cases." He points out that the Appellate Division justices in that case saw nothing in it but "proximate cause" and that it might never have been important at all had

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<sup>1</sup> See PROSSER, TORTS (1941).

<sup>2</sup> 248 N.Y. 339, 162 N.E. 99 (1928).