guide it, have the proper concept of pragmatism, the "claim" may be made to stretch around any statute or rule. This carry over of a political philosophy into the realm of judicial administration is refreshing and may give one an up-to-date feeling, but the reader is warned that there are other concepts of realism which may keep him more closely anchored to earth.

The authors have dealt with venue and jurisdiction problems with understanding and skill. The enlargement of the possible scope of a single litigation through liberal Rules on joinder of claims, parties, counterclaims, third party practice, intervention and interpleader creates intricate problems in a court whose jurisdiction depends upon amounts involved and residence of the parties. The authors show an intimate knowledge of the relation of ancillary jurisdiction to these problems, and have probed its various possibilities. Their suggestions are well worth considering even if they appear somewhat elastic at times.

It is the prerogative of authors of a treatise to emphasize their own views. Professor Moore and Mr. Friedman have done this throughout with consummate skill. It in no way detracts from the value of their work that others may not agree with some of their conclusions. The reviewer has no hesitation in commending this as one of the outstanding legal tools published in recent years.

O. L. McCaskill*

The Spirit of the Legal Profession. By Robert N. Wilkin. New Haven: Yale University Press, 1938. Pp. viii, 178. $2.50.

Professor Wilkin's little volume, *The Spirit of the Legal Profession*, is the story of the origin and achievements of the legal profession from ancient Greece and Rome, through the struggles against English monarchical despotism, through the American Colonial period, to the present time. While in times past there may have been doubts as to whether civilization rested so completely upon the efforts of our profession, it is pleasing to read the records as disclosed by this scholarly gentleman. After reading it, of one thing, we are certain—the past is secure. We may as a body have been too modest to assert it, but it is an established fact, covered by both general and special findings. In proof thereof let it be recorded that we curbed the crown, subdued the lords, supplanted the clergy in judicial matters, and by example and teachings pointed the way for other great professions such as the medical, the professorial, and the engineers. Moreover, it is untrue that the motives of union labor ever prompted us. We have ever been, and still are, an uplift group. This is the teaching of this volume.

The book deals with four subjects, first with the Romans where the pioneers grasped an unusual opportunity and saved for our inheritance the richest part of that ancient civilization. Also, it appears that the lawyers of that day would have been specialists in brief writing now, for he tells us that their arguments ranged "from philosophy to agriculture and from poetry to finance."

The second part deals with the growth of the spirit of the profession in England. The record, here, too, is satisfactory—in fact, excellent. They fought an uphill, but a winning fight. They may not have had much to do with the historic struggle at Runnymede but Magna Carta would have been but a "scrap of paper" if lawyers of the character and courage of Lord Coke and Chancellor Moore, *et al.* had not seen to its enforcement.

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The profession took much punishment in the Tudor-Stuart period but the account of the controversy between Lord Coke and King James leaves us with breasts swelling with conscious pride. No profession which numbered such leaders as these need ever hang its head. We have a just right to be proud, even to boast a little.

Of course, there were some who could not resist temptation in these times. The lust for profit and power proved too much for them and they bowed that wealth and social preferment might follow fawning. But on the whole, "We can justly point with pride" to the record of the legal profession made in England from the days of Henry VIII to George III.

The third period deals with the Spirit in America. It was the legal profession that composed the Congress that adopted the Declaration of Independence; a lawyer wrote it. The same calling drafted and recommended the adoption of the Constitution and its abler members wielded the pens and raised the voices that secured its adoption. And the author infers that it is the same profession which has since saved it on every occasion when it seemed to have a sinking spell.

The author expresses the opinion that the embodiment of "the timely fruition of man's legal evolution" is to be found in the federal judiciary and that under the Constitution and the federal courts "we are in bondage to the law in order that we may be free."

Comparisons of persons and of official personalities are odious and so we pass without comment the reference to state and federal judiciary and the asserted advantages, real and imaginary, of one over the other. Suffice it to say that the first three parts of the treatise deal with the profession when its activities were largely public in character and when compensation for legal opinions or services was not the goal of a lawyer's activities. In fact, they devoted only a part of their time to the study of the law and less to services in court, where they appeared to help a deserving friend, or innocent parties without friends or money. Even so, it appears that the lawyer, the friend of the poor, the champion of the right, and the foe of the oppressor, at home or abroad, was not popular in the colonies. In several of them laws were passed which might, to a sensitive person, be called unfriendly. For example, in Rhode Island, legislation was enacted which disqualified lawyers from sitting as legislative officers, "their presence being found to be of ill consequence." In New York the popular slogan in election campaigns was "No lawyer in the Assembly." Nevertheless, the thicker skinned of the profession persevered, realizing that the great majority of the laymen knew not what they wanted nor what was best for them and that hostile legislation such as the above was enacted in ignorance and called for repeal.

The fourth part deals with retrospect and prospect. While admitting that the lawyer of today is not the semi-public servant as of yore and his activities have been largely transferred to advising private parties in private matters, dealing with commerce and the disposition of property, we have nevertheless accomplished much to be proud of. The three accomplishments he mentions are—better law schools, the American Bar Association, the Code of Judicial and Legal Ethics. The purpose of this review is not to agree or disagree with the author whose effort has been to record the accomplishments of the bar. Opposition to his views may well be left to doubting Thomases whose ability to criticize has been demonstrated on many occasions.

No one can question the correctness of Professor Wilkins' views when he calls attention to the distinguishing fact of the professional life of the modern lawyer, namely,

the devotion of full time to legal services and the compensation for such services which are so nearly absent in the beginnings. It was inevitable, it seems to the writer, that devoting full time to the profession necessitated attention to compensation; that compensation, even though inequitable and at times inadequate or excessive, is better than a system dependent on gifts or spoils. Yet, the commercial aspects of the lawyer's activities lead to practices that are indefensible and to a lowering of professional ideals to the level of the commercial enterprises which are served.

In the opinion of the undersigned, the seed of most of the trouble, however, lies not in compensation evils, but in the profession's acceptance of too great loyalty to the client's causes. An accepted rule of conduct, it seems, is to serve your client at all times and places in and out of court, allowing the client to determine the course which will best serve his cupidity, and let your adversary do the same for his client. Thus represented, neither side will get anything that he does not deserve. This philosophy is too complacent to stand the tests of experience. Such a code will permit an attorney to defend the action and conduct of a client which he would unhesitatingly refuse to practice himself or to tolerate among his intimate friends and associates; will cause them to accept employment in actions which are indefensible and to give their utmost in an unjust cause in the hope "that a break in the game" may "Give them the ball" and that, "that God given grace," the Statute of Limitations or laches, may bring to naught the efforts of the aggrieved.

The book is pleasant reading. It evidently comes from the pen of one who loves the legal profession and whose learning enables him to properly stress the favorable roles which the lawyers have played in the great conflicts of history. It is reassuring to us who have been and are being hammered somewhat unfairly by public opinion.

I shall close this review with a quotation wherein the author gives expression to an optimistic sentiment which may well be said to be expressive of the entire book: "The spirit of the legal profession will in time establish institutions under which men and peoples may live and grow with the maximum of freedom, institutions to which the industrial and labor organizations will defer and to the which nations themselves will submit their differences with abiding faith in the reasonableness and good conscience of disinterested men. The professional spirit can supply such men. That principle of social growth which made the slave a freeman, the serf a freeholder, the subject a free citizen, will not now abandon the people of the world to industrial bondage or any form of absolutism."

EVAN A. EVANS*

How To Operate under the Wage and Hour Law.[1] By Alexander Feller and Jacob E. Hurwitz. New York: Alexander Publishing Co., 1938. Pp. vii, 248. $3.50.

This book, priced at $3.50, is one more indication of the publishing fraternity's profound faith in the credulity of the American businessman. That it is a completely superficial effort to be the first to capitalize upon the fears of business is apparent to anyone willing to spend ten minutes thumbing pages. This reviewer, not so fortunate, was forced—by a quixotic regard for fair play—to read the entire book before voicing the conclusion that not even erroneous advice is given on "how to operate under the Wage and Hour Law."

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[1] 52 Stat. 1060–1069 (1938); 29 U.S.C.A. sec. 201–219.