

date of the report volume, and it is similarly odd that Canadian Current Law should have referred to as beginning in 1957 when in fact the date was 1948.

Again, there are a number of glaring omissions, albeit in a book which does not aspire to be exhaustive. Indication should certainly have been made of the beginning, in 1968, of a third edition of Halsbury's Statutes, the annotated Lawyers' Edition of the United States Supreme Court Reports deserved a mention, however brief, in the chapter on American materials, and in the section on Canadian legislation it is hard to find justification for omitting reference to the Ordinances of the Yukon and Northwest Territories.

It is hoped that these will not be regarded as isolated, carping criticisms. In any legal text, accuracy and thoroughness are vital prerequisites, and it is ironic that a publication on a subject in which these are perhaps *the* cardinal virtues should be so marred.

Nevertheless, this manual remains a praiseworthy attempt to present an important but necessarily uninspiring subject simply and directly, and one looks forward to a revised edition upon which greater reliance may be placed by both supervisor and student.

WILLIAM D. STONE\*

### THE LAWYERS

By Martin Mayer; (Harper and Row, New York), 1966; 586 pp.

### THE TROUBLE WITH LAWYERS

By Murray Teigh Bloom; (Simon and Schuster, Richmond Hill, pocket edition), 1970; 362 pp.

The legal profession has often been called the "learned" profession—especially by its members and those who sell books, etc. to them. If such designations are meant to reflect the most pronounced characteristic of the group, a much more accurate, if less flattering, patronym would be the "sensitive" profession.

As a collectivity, lawyers have a demi-maniacle need to be loved that makes a Hollywood starlet seem secure in comparison. The mere hint that somewhere someone might not hold the profession in the same esteem the profession holds itself — that's to say a feeling of awe and reverence usually found among worshippers of a deity — is enough to launch a thousand meetings of self-flagellation devoted to why-we-aren't-loved-and-what-to-do-about-it.

---

\* Formerly of the Faculty of Law, University of Manitoba, currently of the Department of Law, University of Hong Kong.

This is strange behaviour for any occupational group and otherwise unknown among guilds where members have no shortage of work and a monopoly that they themselves have the power to enforce to guarantee the continuance of this felicitous state of affairs.

To a group with the propensity of lawyers, *The Lawyers* comes as the description of a new and dreadful disease comes to a hypochondriac. *The Trouble with Lawyers* comes as the disease itself comes.

*The Lawyers* is the attempt of a non-lawyer to explain the legal profession to the layman. The attempt comes off rather well, although it must be kept in mind that it is the American legal profession, and not the Canadian or British that is being explained.

*The Trouble with Lawyers* can only be described as the work of someone who hates the profession with vehemence. Says the publisher, "this vital book dramatically confronts a major threat to the (American) nation's welfare." This is an accurate summation of the view the author has of lawyers as a class.

Martin Mayer, author of *The Lawyers* is an exponent of the newest literary form, the book-length feature. This structure originated in Britain in the early '60's.

For decades now, British newspapers have had strong feature pages where teams of reporters went into the "news behind the news" in depth. These feature pages evolved into the book-length feature, which is often called the instant history. The early instant histories were devoted to the story behind the Six-Day-War, the story behind the election of . . . , and so forth. They were written by the same teams that produce the feature pages in Britain's premier newspapers.

Mayer has taken this technique and applied it to explain the American legal profession. *The Lawyers* thus is a newspaper story, with editorial comments added, that happens to be 575 pages long.

The author begins the book by describing the type of person likely to be a lawyer, and where and in what modes of practice lawyers are to be found. From this point he describes how lawyers are produced, how the law is created, and the various branches and specialties in the profession. He then describes the legal library and how it is used, the function of the courts and how the personality of the judge effects this function and concludes with a very personal description of the Supreme Court and its impact on American society.

To the layman, *The Lawyers* is an interesting and valuable book. Not unexpectedly, it has been very well received. The legal profession has always had a fascination for the general public — especially those

who have had little to do with lawyers. To these people the profession has had the same aura of mystery and the occult about it that medicine and the black arts have. Mayer removes the mystery and makes the practice of law a very human business to the lay reader. In doing so he gives out a great many facts about the profession, but perhaps even more important he captures the feeling of the law and the practice of it that the best lawyers have and imparts this to his readers.

When Mayer thinks criticism is due, he has no hesitation at being critical. However, this notwithstanding, the lay reader of his book is going to know much better when he requires the service of a lawyer and be much less afraid to hire these services.

To the lawyer, this book should not be less valuable than it is to the layman.

First of all, the book gives a unique panorama of the entire profession, as it is seen by a perceptive and fair reporter. One of the greatest dangers that the practitioner faces is the tendency to get emerged in his own work and lose sight of his profession as a whole. This is known as the not-seeing-the-forest-for-the-trees syndrome. It results in the hysterical and cursory appraisals of the image of the profession that all too often result in reaction to the latest criticism. *The Lawyers* probably will not provide much new information for the practicing lawyers, but it will help him step back and put the information he has — both what is in the book and what is not — back in perspective so he can properly consider his vocation. There is a need to be able to do this if lawyers wish to go beyond being artisans to be artists as well. To many lawyers this broad outlook has been impossible to achieve on their own because they are too busy doing the practical — which is the polite way of saying grinding out the work like sausage to make the bucks — to be the philosopher. Mayer makes it possible to gain at least a superficial perspective at the cost of one night's reading.

The second thing that Mayer reveals is that the public is not really as anti-lawyer as the oft-heard horror stories would suggest. It is certainly true that not everyone loves lawyers or trusts them. It is also true that people who have had dealings with lawyers are more apt to have a lower opinion of the profession than those who have not. However, the author points out that much of the criticism is, in fact, really directed against the law itself rather than the profession which only receives the fire as a surrogate for the law, and not in its own right as is demonstrated by the fact that while people who have had dealings with lawyers are more apt to have a poor view of the profession, they tend to have a good view of the lawyer who acted for them.

This brings us to the important question of reform of the law. Mayer directs everyone's attention – lawyer and layman – to this vital and oft-neglected area.

As Canadians, we can ignore many areas that he suggests for reform, such as the court house patronage system that especially exists in American probate courts. We do not have these problems in Canada because of a different system. Indeed, our method of dealing with the area is often recommended as a solution to the American problem.

However, in other areas we do have the same problems. One area is the judiciary. Whether judges are elected or appointed, both countries get the same type of men. Where there are elected judges, you get the winners of the contest, where there are appointed judges you generally get those who have lost some other election or who are otherwise on good terms with the politicians who do the appointing. They generally appear to be good choices when they take their seat and most are. The question is what do you do with those who do not pan out, and with those who deteriorate in office. This is a problem that only the State of California seems to have solved. Obviously, solving it should be of the first priority in other jurisdictions. The California method of dealing with the problem is described and recommended. This is helpful. What is vital is that the mind of the profession and of the public is directed to the problem which has too long been kept out of sight, more by latches than volition. It is only by exposing the problem to public scrutiny and comment that the needed pressure for a solution will be generated.

Public and professional attention is likewise drawn to the problem of law reform in the vast majority of areas that do not become notorious for their inequities and are thus allowed to remain in the status quo for want of a public outcry, the areas that law reform commissions deal with when they are established.

Like any other feature, *The Lawyers* is not perfect. The author's research, while uniformly good on the major points does not always hold up on the details. An error Canadian lawyers will find amusing is a British Columbia judge being described as "bewigged." However, the small errors notwithstanding, Martin Mayer has produced the best all-around book about the legal profession that this writer has read. A book of value to the lawyer perhaps even more than the layman. There is certainly something to be said for the dicta that the best book about a country is written by the perceptive foreign traveller and not the native son.

*The Trouble with Lawyers* by Murray Teigh Bloom is another type

of book altogether. It is an old-fashioned muck-racker. Quite frankly, the writer wonders why the publisher did not go all the way and print it on yellow paper.

The author makes no bones about his intent. The first line of the book states: "My main purpose is to show how the American middle class is victimized by the American legal profession." With his objectivity established, the author sets out on his project with a vengeance that suggests his mother-in-law was a stalwart member of the profession.

The technique of the author is the classic one used to get a group, and get them good. In this method you eschew such obvious devices as coming out and saying the group is composed of people who are dishonest, stupid or both — that approach leads to effective rebuttals by the group if not law suits. Instead, you assemble a collection of stories about the groups' errant members, marshal them together, add a few tsk-tsks, and voila, you have a one-sided portrait that suggests to the unwary reader that the activities of these black sheep are the typical activities of the group.

This method has been used on the airlines with great effect. Unscrupulous writers have collected stories of famous crashes caused by gross negligence, and advanced these with editorial comment on the veniality of the people involved as if the crashes were typical occurrences. Judging from the books the reader would think most flights don't make it. The seasoned traveller rejects such approaches as a rather sick and silly joke, but they are not a joke to the person who has never flown. The stories prey on the fears of these people and keep firm their resolve not to fly.

Anyone who has dealt with lawyers frequently will see Bloom's book for what it is and discard it.

However, if a person has had only infrequent dealings, the book is apt to make him wonder about what he got for his money, and whether he might have been a "victim."

And, if a person has had no dealings with lawyers, and is unsophisticated, there is little doubt that the book will deter him from retaining a lawyer's service in the future. This is unfortunate. This type of person needs the protection a lawyer can supply the most.

What should the reaction of the profession be? To the book nothing at all. Any attempt to rebut the tenor of the book or otherwise deal with it specifically would only give it advertising and spread the problem the book causes, to say nothing of enriching the author.

However, there is much the profession can do to alter the climate that makes such books so successful. One thing is to engage in programs to educate the public about what a lawyer does do. Another thing is to allow the individual member more flexibility including the right to advertise what he does personally, and for that matter what his prices are and how they are determined. A bit of competition would not hurt the profession. This would take away from the secretive and closed-shop aura of the profession that fosters suspicion in the uninformed layman's mind.

Another step would be to admit that from time to time there are dishonest lawyers and always there are less competent ones. No profession is always totally honest and totally competent. We try to weed out the crooks as fast as they appear, and upgrade the inept or put them out of business. That is all anyone expects. We would be far wiser to advertise this fact than to pretend there never is problems of this sort. The public is aware of the errant lawyer's existence. The profession's secrecy and its re-imburement fund convey the aura of a conspiracy when a more straightforward approach would put the problem in its proper context. And after all, what other profession insures the honesty of its members. Re-imburement funds do make it look as if the legal profession expects some of its members to be caught with their hands in the trust fund.

If the profession forgets *The Trouble with Lawyers* and resists the temptation to lash out at it blindly and instead attacks the problems in communication that have created a situation which fosters such books, then even this work will have beneficial results for someone other than the author or publisher.

It is up to lawyers to take concrete steps to educate the public so books such as Bloom's will be recognized for what they are by everyone, and not just some. It is up to lawyers to create a market for books like Mayer's fine work. And if the lawyers fail in this task, who else can be expected to do the job for them?

D'A. K. BANCROFT\*

ENGLISH AND AMERICAN JUDGES AS LAWMAKERS  
By Louis L. Jaffe; (Clarendon Press, Oxford), 1969; 113 pp.,  
Index 2 pp.

Without reservation, I urge all you who have taken the time to read this review to take the additional short amount of time, that is

---

\* Of the Manitoba Bar.