

## BOOK REVIEWS

LAWYERS, LAW SCHOOLS AND THE PUBLIC SERVICE. By Esther Lucile Brown. Russell Sage Foundation, New York, 1948. Pp. 258. \$3.00.

In this extraordinarily valuable report the Director of Studies in the Professions at the Russell Sage Foundation gives a clear picture of the relation between what lawyers do in the United States government and how law schools prepare them to do it. Official agencies provide one of the major careers open to talent, and especially to the talent molded or warped by the standard law schools. Miss Brown begins by reviewing the facts about lawyers in government and ends by evaluating the facts and fancies of legal instruction.

After a census of the numbers involved, the author makes a path-breaking report on the part played by lawyers in the policy process of all federal agencies where they are found. The record shows the many points at which the lawyer takes a hand in the making of decisions.

I suppose the most remarkable thing about the part of the book devoted to the theories and practices of legal education is the degree of unanimity among the schools. There are, to be sure, differences in the wording used by deans and professors. And yet, whether you look East, West, North or South, the same ferment is stirring. One by-product of the book is the breaking down of whatever stereotype has hitherto prevailed about the "great Eastern law schools" as monopolists of prophetic inspiration, ingenious experiment, or hard work in modernizing legal instruction.

In what does the agreement consist? The first item (and I draw this from the material assembled by Miss Brown) has to do with the distinctive skill of the lawyer, the mastery of appellate court opinions. The consensus is that this is not enough to equip the fledgling lawyer to seize the opportunities or to measure up to the needs of our world. The second item is that factual knowledge of the social process is essential. Or, to phrase this in a more sophisticated way, the traditional skills need supplementation by skill in data gathering and analysis. The third point is less easy to express because it comes out at the pores of much current self-criticism. There is some sense that something needs to be done to keep the lawyer feeling and behaving as a professional man conscious of community values, and equipped to aid all individuals and organizations in the task of correlating policies with values.

Diversities of view crop out when you look at the means by which the schools propose to accomplish the new goals. All sorts of bold new projects have been born, some of which have lived beyond the first year. But the mortality of initiative has been formidably great, and the gap between aim and performance is enormous. After recounting what she saw, heard and suspects, Miss Brown put her general prescription in these words:

"For any considerable expansion of the intellectual horizon of legal education, at least three things are prerequisite: larger financial resources, teaching staffs, and research and clinical facilities; an over-all Plan for each school; and a more affirmative attitude toward the task of law and government." (p. 246).

It is to be hoped that the Russell Sage Foundation will make provision for Miss Brown to re-survey the field of law and the public service from time to time in the next few years. Scholars and practitioners need the

mirror of fact held up to their faces, and Miss Brown is a candid, discriminating and sympathetic reporter. It is to be hoped, however, that in future surveys "public service" will be more clearly distinguished from "government service." Miss Brown is entirely justified in playing up the much neglected place of government in the careers open to law graduates. She knows, of course, that serving the aims of our society is not the same as being a government official, and that the task of the new legal education is not to substitute the training of Washington smarties for Wall Street slickies. The point can be more obvious when proportionate space is given to the policy impacts of the private practitioner in relation to his clients and to the organized activities of the bar and other associations. Miss Brown is fully cognizant of the point that the policies of a democratic *society* are made wherever significant choices are made, whether the chooser is conventionally called a legislator, a public official, a business owner, a business manager, a union official, or something else. Every choice needs the discipline of voluntary submission to the goal values of a society that aspires toward freedom. Many choices must be subject to compulsory review. The role of the lawyer, insofar as he lives up to the standards of a profession, is to aid in harmonizing all choices, voluntary and involuntary, with democratic values.

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A DECLARATION OF LEGAL FAITH. By Wiley Rutledge. University of Kansas Press, 1947. Pp. 82. \$2.00.

A declaration of faith—legal or otherwise—ought to be exempt from a too probing logical analysis. Certainly Justice Rutledge's legal faith as here declared is not characterized by narrow adherence to a particular school. While at one point he says that ideas of justice "change with time and circumstance," he asserts elsewhere his belief in "abstract justice" "as the source from which conceptions of concrete and legally relevant justice arise." Plato and Darwin are thus brought into friendly association, and presently Bergson is added to the company by acceptance of the conception of law as "a purposeful striving in evolutionary processes."

Underlying all this is usually a substratum of optimism. There are times, however, when Justice Rutledge appears to take a rather dim view of the future. Having declared: ". . . law, freedom, and justice—this trinity is the object of my faith," he straightway adds a fourth tenet: ". . . the law is universal, if not in the sense that chaos cannot override it, then in the necessity for it now or soon to have universal application, unless justice under law is to perish from the earth"; and earlier he had voiced the opinion that "science and invention had made it no longer possible for a nation and its people attached to either view"—*i. e.*, totalitarianism or the tradition of individual freedom—"to hold assurance of continued life in contiguity with nations and peoples devoted to the contrary principle." But in the end cheerfulness breaks through again, and the Justice, taking courage from the achievement of the founders of our system in abolishing the Confederation and launching a nation in its stead, propounds a fifth article of faith, though somewhat faintly. The federal principle, he suggests, may make it possible to achieve "the same end" "on a broader scale, inclusive of the World."

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