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Book Reviews

LISTEN TO LEADERS IN LAW. Edited by Albert Love and James Saxon Childers. New York: Holt, Rinehart and Winston, Inc., 1963. Pp. xii, 332. \$4.75.

This book is one of a series in which the editors, following an idea repeatedly advanced by college students contemplating careers, that they would like to talk to the "big men" in a field, have undertaken to have leaders in various fields tell of their experiences, answer questions, and give advice and guidance to those contemplating a career in business or a profession.

The tone for this particular volume on law is set by Mr. Justice Frankfurter's introductory chapter. In a chatty style, he mentions some of his experiences as a student and teacher at Harvard, points out the versatility of legal training and discusses the qualities a lawyer needs. Following this introduction, Dean Griswold writes about prelegal and legal education, law schools and opportunities for the law trained person, and includes a helpful bibliography of books about law. Then, Dillon Anderson has a piece about what a law firm expects of a beginning lawyer, with a priceless story about a lawyer who did not like people (he became a drama critic). One lawyer (John V. Hunter III, from a "medium-sized Southern town"), writes about beginning law practice, and there are chapters on practice in a large city (by Whitney North Seymour) and in a small community (by Judge Peter Woodbury), with the former pointing to the wide variety of professional challenges in the city and the latter concluding that the choice depends on whether one enjoys mainly dealing with people as individuals or with legal issues. There is considerable agreement on what are the differences in the practice in the varied settings.

There are also a number of chapters dealing with the lawyer in trial work, as a specialist and in public legal office. Edward Bennett Williams gives some helpful advice on trying cases and comments on the importance of criminal procedure and the desirability of extending to criminal causes the discovery methods now available in civil proceedings, a point which Mr. Justice Brennan made in greater detail in his 1963 Tyrrell Williams Lecture.¹ Edward Silver comments on the lawyer as district attorney, noting his power. The lawyer in Corporate, International and Labor Law is the subject of discussions by, respectively, Paul Carrington, Judge Philip C. Jessup, and Mr. Justice Goldberg, the latter two making the point that one must first be a lawyer before he can be a specialist. A chapter on the lawyer in government (by John K. Carlock) is followed by two interesting, largely autobiographical, sketches by Florence M. Kelley, a successful woman lawyer and judge, and by Harrison Tweed. Justice Walter V. Schaefer writes on the lawyer as judge, the importance of his job in this country and the attraction the position holds

1. Brennan, *The Criminal Prosecution: Sporting Event or Quest for Truth*, 1963 Wash. U. L. Q. 279.

for lawyers. The book concludes with a letter from a lawyer (Herman Phleger) to his son on his entering practice.

The editors of this book have succeeded in their aim to let leaders in law "talk" to the readers. There are differing viewpoints, of course, and some overlapping, as one might expect in a book of this sort, but there is general unanimity on the ideals of the profession. And clearly one can say that the authors are all dedicated lawyers, with a sense of pride in the profession and a belief in its value to society. The book gives a good cross-sectional view of the legal profession at work. It should be particularly helpful to students who are trying to determine whether they want to enter upon the study of law and to those who are ready to commence the practice.

HIRAM H. LESAR*

THE LANGUAGE OF THE LAW. By David Mellinkoff. Boston: Little, Brown & Company, 1963. Pp. xiv, 526. \$12.50.

The ambitious aim of this interesting book is to tell "what the language of the law is, how it got that way, and how it works out in the practice."¹

Naturally the point of departure is a definition of the subject and title of the book. What is the language of the law? A ten page "expanded" definition apprises the reader that the language of the law is ". . . a convenient label for a speech pattern with a separate identity,"² ". . . the customary language used by lawyers in those common law jurisdictions where English is the official language,"³ although ". . . the language of the law is not officially English."⁴ While noting that the language of the law is condemned for its frequent use of "weasel words,"⁵ Mr. Mellinkoff unfortunately fails to dispose of the weasel in his selected topic: language of the law. The ten page definition offers no criterion for delineating "the law" from non-law. Abstractions are often expedient, indeed ". . . every department of intellectual activity including law would be slowed down almost to a standstill if we did not employ shorthand expressions to denote great masses of related facts."⁶ However, the uncritical use of an abstract term, such as "law," generates profound confusion and unnecessary problems, often by reifying or objectifying concepts or confusing levels of abstraction.⁷ The only definition of "the law"

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1. MELLINKOFF, *Preface* to THE LANGUAGE OF THE LAW viii (1963) [hereinafter cited as L.L.]

2. *Id.* at 3.

3. *Ibid.*

4. *Id.* at 10.

5. CHASE, THE TYRANNY OF WORDS 324 (1938), cited in L.L. at 21.

6. Chafee, *The Disorderly Conduct of Words*, 41 COLUM. L. REV. 381, 391 (1941).

7. This of course is one of the dangers inherent in the subject-predicate form abjured by, among others, Korzybski, Russell and Chase. See KORZYBSKI, SCIENCE AND SANITY (1933); RUSSELL, OUR KNOWLEDGE OF THE EXTERNAL WORLD 42 (2d ed. 1929); CHASE, THE TYRANNY OF WORDS (1938); Probert, *Law, Logic and Communication*, 9 W. RES. L. REV. 129 (1958).

offered to the reader appears to reflect such an uncritical use: "The law is a profession of words."⁸ Clearly "the law" is administered by professionals who employ words, and just as clearly it is not a profession of words. This is not the first instance of inappropriate application of the subject-predicate form to the law, nor will it be the last.⁹ Although the "law" may have no precise meaning,¹⁰ the salient elements of the "law" can be identified by most educated persons.¹¹ Therefore Mr. Mellinkoff might plausibly respond that most readers will understand what he means, and, after all, he has stated that "the language of the law" is merely a convenient label.

Is it unreasonable to expect a book on language and law to deal with the problems of meaning involved in the title terms themselves? This is not to suggest that a definitive treatment of the concepts of law or language is required, but at the least a recognition of the jurisprudential, semantic and epistemological issues necessarily presented by the subject matter. Is language ". . . a depository of the accumulated body of experience to which all the former ages have contributed their part and which is the inheritance of all that is yet to come?"¹² Is the language of the law a ". . . witness and external deposit of our moral life?"¹³ Should the word pattern of legal propositions fit the pattern of the facts to which the propositions apply?¹⁴ Is law, as a language of social agreement, subject to the same

8. L.L. at vii.

9. "We have been told by Plato that law is a form of social control, an instrument of the good life, the way to the discovery of reality, the true reality of the social structure; by Aristotle that it is a rule of conduct, a contract, an ideal of reason, a rule of decision, a form of order; by Cicero that it is the agreement of reason and nature, the distinction between the just and the unjust, a command or prohibition; by Aquinas that it is an ordinance of reason for the common good, made by him who has care of the community, and promulgated; by Bacon that certainty is the prime necessity of law; by Hobbes that law is the command of the sovereign; by Spinoza that it is a plan of life; by Leibniz that it is a norm established by the commonwealth; by Hume that it is a body of precepts; by Kant that it is a harmonizing of wills by means of universal rules in the interests of freedom; by Fichte that it is a relation between human beings; by Hegel that it is an unfolding or realizing of the idea of right." CAIRNS, *LEGAL PHILOSOPHY FROM PLATO TO HEGEL* 556 (1949).

10. "We speak of ourselves as practicing law, as teaching it, as deciding it; and not one of us can say what law means." CARDOZO, *SELECTED WRITINGS* 7, 43 (Hall ed. 1947).

11. Hart lists five salient features:

- (1) Rules forbidding or enjoining certain types of behaviour under penalty.
- (2) Rules requiring people to compensate those whom they injure in certain ways.
- (3) Rules specifying what must be done to make wills, contracts, or other arrangements which confer rights and create obligations.
- (4) Courts to determine what the rules are and when they have been broken.
- (5) A legislature to make new rules and abolish old ones. H.L.A. HART, *THE CONCEPT OF LAW* 3 (1961).

12. Anshen, *Foreword to LANGUAGE: AN ENQUIRY INTO ITS MEANING AND FUNCTION* xvi (Anshen ed. 1957).

13. Holmes, *The Path of the Law*, 10 HARV. L. REV. 457, 459 (1897).

14. For the thesis that all propositions should thus fit see LANGER, *PHILOSOPHY IN A NEW KEY* (1942). For a critical analysis of Langer's thesis see NAGEL, *LOGIC WITHOUT METAPHYSICS* 354 (1956).

type of analysis as analytic and synthetic propositions?¹⁵ To what extent should the "law in books," [the "language of the law"?] reflect "law-in-action" or actual behavior as contradistinguished from the ideals of the community?

Justice Schaefer has remarked that: "It is the lawyer's business to master words; the risk that the law runs is that they may master him."¹⁶

Will the lawyer master his language if he cannot ask the above and related questions? I think not, even though complete answers must await development of "a generalized and systematic theory of language, worked out with attention to details of application."¹⁷ Awareness of the questions is one of the first steps in improving lawyers' language.

While knowledge of how legal terminology has developed is no substitute for an understanding of general semantics, it is nonetheless an invaluable aid to understanding that terminology. Mr. Mellinkoff has succeeded admirably and entertainingly in fulfilling his goal of telling how the language of the law "got that way and how it works out in the practice." Indeed, Parts II and III offer valuable material for collateral reading in legal drafting and writing courses. A student who has carefully read the *Language of the Law* will use language with a greater sensitivity to the risks involved.

Part II of the *Language of the Law* traces in detail the growth of legal terminology in England and subsequently in the United States. The analysis is conveniently divided into the following categories: Chapter V: Before the Normans; Chapter VI: The Norman Conquest; Chapter VII: The Law and Latin; Chapter VIII: Some Characteristics of the Middle English Period; Chapter IX: The Rise and Fall of Law French; Chapter X: Three Centuries of Modern English; Chapter XI: Law Language in America.

"A word," says Whitehead, "has a symbolic association with its own history, its other meanings, and its general status in current literature."¹⁸ The *Language of the Law* illustrates this principle to the point of convincing the reader that the etymology of many legal terms is the key to their meaning. How many times have

15. See Hayakawa, *Semantics, Law and "Priestly-Minded Men,"* 9 W. RES. L. REV. 176, 177 (1958).

16. Schaefer, *Foreword to The Language of the Law—A Symposium,* 9 W. RES. L. REV. 115, 118 (1958).

17. NAGEL, *A Philosophy of Language,* LOGIC WITHOUT METAPHYSICS 347, 348 (1956). "[T]he relations between words and meaning and between words and things are matters that legal speculation must face in its effort to reach a valid understanding of the nature and role of law." Cairns, *Language of Jurisprudence,* LANGUAGE: AN ENQUIRY INTO ITS MEANING AND FUNCTION 232 (Anshen ed. 1957).

18. WHITEHEAD, *SYMBOLISM: ITS MEANING AND EFFECT* 84 (1927). Perhaps Holmes said it better: "A word is not a crystal, transparent and unchanged, it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used." *Towne v. Eisner*, 245 U.S. 418, 425 (1918). And Mellinkoff also says it: "[C]ontinuity of the form of words gives no assurance of continuity of meaning in or out of the law." L.L. at 108. Raymond Williams' analysis of the change in meaning of five terms (industry, democracy, class, art, and culture) provides fascinating documentation for the proposition that the meaning of words is a function of the societal matrix. See WILLIAMS, *CULTURE AND SOCIETY 1780-1950* (1958).

you read on a diploma or some official document the statement: Know all men by these Presents? Did you comprehend fully its import?

In Medieval Latin *presens scriptum* [present writing] was shortened so that *presens* would do the work of both words. This shortened form combined with the universal greetings to yield the still-used clause: Know all men by these Presents.¹⁹

Can *voir dire* have the same meaning for you after reading the following:

In Modern French *voire* means in truth, but without the *e*, as *voir*, the meaning is to see. A conclusion from Modern French could be that *voir dire* means "to see him speak." But the law words *voir dire* . . . carry their Old French meaning to speak the truth, the same meaning as Old French *voir dit*, which ended in English and Modern French as *verdict*.

Part II is profusely sprinkled with similar interesting explanations of the how and why of legal argot: explanations that transmute seemingly irrational terminology into an historically explicable product. Why does the lawyer use two words when one would do? Why acknowledge and confess? Devise and bequeath? Breaking and entering? Mellinkoff reports that this doubling was due to the rich stock of English and French words upon which 15th century English lawyers could draw for legal terms. Bilingual synonyms were joined for emphasis, clarity, lyrical effect, or "sometimes in keeping with the bilingual fashion of the day."²⁰ Exposing the etiology of the doubling disease enervates the arguments for perpetuating dual terms which have not achieved the status of terms of art. If the reason for the existence of a double term, or for that matter any foreign or archaic term, is solely historical accident, why retain it when ordinary English would achieve greater understanding? "[T]he language of the law should not be different without a [valid] reason."²¹ But, if legal terminology is more precise, shorter, more intelligible, or more durable, any one of these attributes may justify the use of what has been called a foreign language, the argot of the law.²² In Part III the "language of the law" is contrasted with ordinary language to determine if it is (1) more precise: Chapter XIII; (2) shorter: Chapter XIV; (3) more intelligible: Chapter XV; or (4) more durable: Chapter XVI.

What is novel in this section is not the criticisms of legal language, for the same criticisms have been frequently propounded by the quick and the dead.²³

19. L.L. at 92.

20. *Id.* at 121.

21. *Id.* at 285. Holmes was not so concise. "It is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past." Holmes, *The Path of the Law*, 10 HARV. L. REV. 457, 469 (1897).

22. "Only a very few law instructors will tell their students . . . that much of a student's confusion, bewilderment, and frustration arises because he is not being taught law only—he is being taught a foreign language as well." Hager, *Let's Simplify Legal Language*, 32 ROCKY MOUNTAIN L. REV. 74, 77 (1960).

23. See Lavery, *The Language of the Law*, 7 A.B.A.J. 277 (1921), 8 A.B.A.J. 269 (1922); Chafee, *The Disorderly Conduct of Words*, 41 COLUM. L. REV. 381 (1941); Williams, *Language and the Law*, 61 L.Q. REV. 71, 179, 293, 384 (1945),

What *is* novel is the refreshing presentation of the material accompanied by a wealth of cited cases exemplifying the risk the lawyer takes when he does not master his language. Lawyers tend to be conservative in their use of language. Rather than innovate and discard worn out terms such as "malice," "conclusive presumption,"²⁴ "aforesaid,"²⁵ "and/or,"²⁶ "forthwith,"²⁷ "hereafter,"²⁸ "hereby,"²⁹ "herein,"³⁰ etc., the lawyer retains these instruments of confusion for fear that their omission will make his language "too plain and simple to be clear and unambiguous, or so plain and simple as to be devoid of legal meaning, or both."³¹

"That is the fear," cautions Mellinkoff, "that freezes lawyers and their language. It is precise now. We are safe with it now. Leave us alone. Don't change. Here we stay till death or disbarment."³²

How tragically true. Senior law students in legal drafting classes perennially manifest the same symptoms when told to prune the traditional forms.³³ We tell them to do so for conciseness, meaningfulness, precision.³⁴ But the best answer is

62 L.Q. REV. 387 (1946); Curtis, *A Better Theory of Legal Interpretation*, 4 RECORD OF N.Y.C.B.A. 321 (1949); *The Language of Law—A Symposium*, 9 W. RES. L. REV. 115 (1958); Hager, *Let's Simplify Legal Language*, 32 ROCKY MT. L. REV. 74 (1960); Mehler, *Language Mastery and Legal Training*, 6 VILL. L. REV. 201 (1961).

24. Chafee, *The Disorderly Conduct of Words*, 41 COLUM. L. REV. 381, 393 (1941).

25. L.L. at 305.

26. *Id.* at 306.

27. *Id.* at 310.

28. *Id.* at 312.

29. *Id.* at 313.

30. *Id.* at 315.

31. Morton, *Challenge Made to Beardsley's Plan for Plain and Simple Legal Syntax*, 16 J.S.B. CALIF. 103, 105 (1941), cited in L.L. at 295.

32. L.L. at 295.

33. The same admonition applies to all forms of symbolism. Whitehead notes: "[T]he symbolic elements in life have a tendency to run wild, like the vegetation in a tropical forest. The life of humanity can easily be overwhelmed by its symbolic accessories. A continuous process of pruning, and of adaptation to a future ever requiring new forms of expression, is a necessary function in every society." Whitehead, *Op. cit. supra* note 18, at 61.

34. A useful device for rational selection of legal terminology is the checklist of questions set forth in L.L. at 298:

(1) *Is it a term of art?*

(a) Did I ever learn "law" about this expression?

(b) Are its edges sharp or soft?

(c) Is that the only way it can be used?

(d) Is it used in this instance as a term of art?

(e) Are there other words can serve as well?

(f) Will even slight variation change its legal effect?

(2) *Is this the traditional way of saying it?*

(a) Did it ever have a definite meaning?

(b) Does it have a definite meaning now?

(c) Does this way make meaning more exact than ordinary English?

(d) Is there any good reason for saying it this way now?

(3) *Does precedent support this usage?*

(a) Is it decision or dictum?

(b) Is the precedent decisive or persuasive in this jurisdiction?

a demonstration that an irrational adherence to the traditional forms often leads the lawyer "headlong into disaster."³⁵ Part III is an excellent demonstration, for in each instance where particular traditional terminology is criticized, cases are set forth in which disaster resulted from unthinking use of the term in question. The law student who has read Part II knows the extent to which a term is the resultant of historical vectors. In Part III he is shown the danger attendant upon use of a word when its reason is gone. After a careful analysis of the *Language of the Law* a lawyer can never be the same, for he will be aware that it is his job—

to know when a reason and a word are done for. It is a steady job, not ended with yesterday's pleading, today's opinion, nor with this book. Cleansed of words without reason, much of the language of the law need not be peculiar at all. And better for it.³⁶

OVID C. LEWIS*

A LAWYER WHEN NEEDED. By Elliot Evans Cheatham. New York: The Columbia University Press, 1963. \$14.50.

If you doubt the potential pervasiveness of the legal profession's impact upon all of men's most significant affairs, you will find in Professor Cheatham's 1963 Carpentier Lectures, here published in book form, abundant evidence affirming the fundamental nature of the legal profession's role in human events. If you fear that that influence is slipping, or feel it is being usurped by non-lawyers, you will find in this book a wholly fair indictment of our profession's failure to rise to the challenges of new times and to employ creditable and even remunerative ways of providing services which the public desperately needs.

Professor Cheatham does not overstate the profession's potential, nor his indictment of its failures. On the contrary, his worst fault is his moderation, especially in describing the opportunities which the profession has missed and is still missing.

It is his thesis that circumstances of social change, enlarging the novelty and complexity of arenas of human conflict and expanding the role of government and of various groups in affecting individual affairs, have intensified men's need for

- (c) How fresh is this precedent?
- (d) Would it be followed today?
- (e) Are there other precedents the other way?
- (f) Does it make sense?
- (4) *Is there some requirement that it be said this way?*
 - (a) What sort of requirement is it—statute, ordinance, rule of court, administrative order, or something Charley the filing clerk insists upon?
 - (b) What are the consequences of departure from rote?
 - (c) Has it ever been interpreted?
 - (d) Has it been tested—recently?
 - (e) Would it be enforced today?

35. L.L. at 295.

36. L.L. at 454.

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the aid of "the initiated, the lawyers." Five situations are considered "in which renewed efforts are essential to meet the need for counsel"—those of the hated, the poor, the middle classes, clients needing specialized services, and the public interest. Though he credits the organized bar with having already done much for two of the five—the hated and the poor—you cannot read this book and your daily newspaper without feeling that his characterizations of the bar's response to the other three—"uncertainty on how to meet" the need, "slow and hesitant"—actually applies to all.

His lecture on "The Hated" deals with the generic problem, of which the need of counsel for individuals who have been discriminated against because of race, or because of their participation in the civil rights movement, is a part. It is a problem whose characteristics are essentially regional (the problems of providing counsel for members of minority races in the North and the West are more properly classified with Professor Cheatham's lecture on "The Poor"), and perhaps for this reason, Professor Cheatham does not give it more than passing attention.

It is a matter of common knowledge that there are no more than three lawyers (all of them Negroes) engaged in private practice in the entire State of Mississippi who are willing to participate in "civil rights" cases. The burden of litigation there, arising alone from the denial of elementary justice in criminal proceedings and of rights of speech and assembly to participants in the civil rights movement, far exceeds the capacity of any three lawyers. Yet for handling such cases these three have been subjected to harassment from which the organized bar has never provided a refuge.

Comparable problems are to be found in other states of the deep South, though more lawyers may be available. A dozen or more southern lawyers have been the victims of acts of official harassment reported in the public press, and perhaps no one knows the extent of unofficial harassment of these and other lawyers who have dared to take a cause which runs counter to the official consensus in these states. At least two, William Higgs of Mississippi and Charles Morgan of Alabama, have felt compelled, and for good reason in each case, to abandon their practices and to move out of the South. The profession nationally has given but inadequate attention to its obligation to these lawyers and has yet to find a means of supplementing the consciences of the few to supply a legal resource for the needs of the many unpopular litigants in this region. (Many organizations, however, are engaged in intensive efforts to recruit lawyers from *outside* the region to fill some of the void.)

In this void the zeal and diligence of lawyers who are assigned to defend persons charged with crime is affected. The United States Court of Appeals for the Fifth Circuit, in a habeas corpus case involving systematic exclusion of Negroes from trial juries, took official cognizance of one aspect of this effect when it said:

. . . Such courageous and unselfish lawyers as find it essential for their clients' protection to fight against the systematic exclusion of Negroes from juries sometimes do so at the risk of personal sacrifice which may extend to loss of practice and social ostracism.

As Judges of this Circuit comprising six states of the deep South, we think it is our duty to take judicial notice that lawyers residing in many southern jurisdictions rarely, almost to the point of never, raise the issue of systematic exclusion of Negroes from juries.¹

One may respect Professor Cheatham's disinclination to harp upon a problem with such regional characteristics, and yet disagree with his failure to include it. The omissions of the bar in this instance are a part of a pattern of lawlessness, in the face of social changes of revolutionary import, that may well be expected to recur in other regions, or even throughout the entire nation, under the stress of any future issue of comparable intensity. Since the book does deal with the larger responsibilities of the profession, its role in the functioning of institutions designed to achieve *Freedom Through Law*² seems to be significantly relevant.

Especially in his lectures on the middle classes, the need for specialized services and the need for representation of the public interest, Professor Cheatham exhibits breadth in his conception of the legal profession's potential. In "The Middle Classes" he describes the conflicts which arise between reasonable efforts to fulfill unmet needs and the application of accepted professional standards (prohibiting the intervention of lay intermediaries, the solicitation of work for lawyers, and the representation of individual members of a group by a lawyer retained by the group as an entity). He does not shrink from facing the evils these standards are designed to control, but exhibits ingenuity and imaginativeness in proposing that their application be limited to the situation in which these evils inhere and not to inhibiting opportunities for enlarging the capacity of the profession to serve the public.

In "The Public Interest" he relates the uniqueness of the extraordinary American "facility for casting social, economic, philosophical and political questions in the forms of action at law and suits in equity,"³ and describes some twentieth century innovations adopted to insure representation of a public interest in the resolution of some of these litigated social questions. Thus the participation of counsel for two municipalities, and of the state's attorney general (all as parties) and, on appeal, of the Solicitor General of the United States (as *amicus curiae*) in the legislative reapportionment case of *Baker v. Carr*⁴ reflected the representation of different group or public interests in a privately initiated law suit.

But he outlines unresolved problems of public representation in the settlement of questions commonly dealt with as private, which do have an impact upon the public interests (or on those of groups within the public), in which such interests are not now represented. For instance, the public interest is usually unrepresented, or under-represented, in the negotiation as well as the litigation of issues of labor-management relations, most vulnerably when industry-wide bar-

1. United States *ex rel.* *Goldsby v. Harpole*, 263 F.2d 71, 82 (5th Cir. 1959).

2. The title of Professor Robert Hale's book, quoted in this context in Professor Cheatham's last lecture.

3. Cox, *The Nature of Supreme Court Litigation*, 45 J. AM. JUD. Soc. 93, 94 (1961), quoted by Professor Cheatham on page 106.

4. 179 F. Supp. 824 (M.D. Tenn. 1959), *rev'd*, 369 U.S. 186 (1962).

gaining occurs. Professor Cheatham, in addition, interestingly employs the example of the public interest in the welfare of children who are the subject of a custody stipulation between their litigating parents. In far more ways than we usually acknowledge, non-public bodies and private individuals (corporations, labor unions, colleges and universities, and parents) "make law" binding themselves but affecting others who are not represented in the process.

Professor Cheatham points out that his lectures concern what economics would have treated as the problems of distribution, as distinct from the problems of production. He proposes that the legal profession give to matters affecting the availability of its services attention comparable to that which it has accorded with such good effect to the quality of those services. The gap he describes between the public's need for the work of lawyers and its availability is large indeed. (With respect to one particular dereliction of the legal profession, I have suggested it is in fact much larger than Professor Cheatham's temperate treatment emphasizes.) His call for lawyer-like creativeness and ingenuity to close the gap deserves careful heed.

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