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# Trumbull: Materials on The Lawyer's Professional Responsibility

Thomas J. Boodell

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## BOOK REVIEWS

*Materials on The Lawyer's Professional Responsibility.* By WILLIAM M. TRUMBULL. Boston: Little, Brown & Co., 1957. Pp. xiii, 409. \$6.00.

Professor Trumbull's book goes far toward meeting the need for a satisfactory book on legal ethics. It is, to be sure, not a hornbook and it does not state all the answers in "black letter" type. Rather, it is a source book, organized on an intelligent basis, and in such a way as to challenge student and lawyer alike, not only to think about the "how" but also to consider the "why" of ethics in the legal profession.

The nature of the source material can be made clear by two brief references. For instance, it includes Dean Wigmore's paper, "The Spark That Kindled The White Flame of Progress," in which he immortalized Roscoe Pound's address to the American Bar Association at St. Paul in 1906. In it Wigmore pictured the staid A.B.A. membership of the day faced with Pound's unheard-of attack on the administration of justice as then constituted. Wigmore said, "The strong legal minds were sniffing like faithful sheep-dogs who smell the wolf approaching down the wind; the lesser minds were nervously huddling like the sheep of the sheepfold; for a vague instinct told them that there was danger ahead in this speech by a lawyer who was to all seeming merely a law professor and a commissioner of the supreme court but who was talking like a reform-wolf in sheep's clothing." Professor Trumbull's book, by its inclusion of this paper, rekindles some of the white flame of progress advanced by Pound and Wigmore. Another instance, and quite dissimilar—Professor Trumbull's book includes the controversial paper by Curtis, on "The Ethics of Advocacy," in which a Boston trial lawyer considers the question whether it is part of the lawyer's duty to lie for his client. Source materials such as these are certain to stimulate the already hearty appetites of law students and cause them to think on problems they will be dealing with the rest of their lives.

The book includes materials on "the right to practice law," such as the full texts of the *Bercu*<sup>1</sup> and *Agran*<sup>2</sup> cases, relating to the questions of unauthorized practice in the field of taxation and accounting. It also includes the text of the *Goodman*<sup>3</sup> case, a leading case in the field of unauthorized practice, dealing with a layman who engaged in the business of handling and adjusting workmen's compensation claims in Chicago. These cases are useful in indicating to law students and others some of the problems involved in attempting to protect the public by seeing to it that only qualified persons practice law. It is perhaps unfortunate that Mr. Trumbull's book does not include additional reference notes to some of the areas in which this problem is particularly acute, such as insurance men engaged in estate planning, real estate brokers engaged in preparing contracts and mortgages, title companies engaged in preparing mortgages and trust agreements, and recent suggestions that labor

<sup>1</sup> In re *Bercu*, 273 App. Div. 524, 78 N.Y.S. 2d 209 (1948) aff'd 299 N.Y. 728, 87 N.E.2d 451 (1949).

<sup>2</sup> *Agran v. Shapiro*, 127 Cal. App. 807, 273 P. 2d 619 (1954).

<sup>3</sup> *People v. Goodman*, 366 Ill. 346, 8 N.E.2d 941 (1937).

unions will next ask for collective bargaining on employer-subsidized "legal-aid" programs for union members. It is to be hoped in his next edition, Professor Trumbull will explore this further.

It is worth noting that the Unauthorized Practice Committee of the American Bar Association was initially formed as a result of the suggestions made by the Committee on Professional Ethics. The problems of ethics and unauthorized practice are closely related. Recognizing this, the Unauthorized Practice Committee, in 1950, suggested the formation of the Joint Conference on Professional Responsibility by the Association of American Law Schools and the American Bar Association. Needless to say, all of those who have been active in this field concur with Professor Trumbull's happy choice of the title, "The Lawyer's Professional Responsibility." It is believed that this title places the proper emphasis, so that future work in this field will be directed, not toward the notion that "ethics" consists solely in being a good gentleman and not being caught doing bad things, but rather toward the vital, concrete, particular responsibility of the practicing lawyer to his profession and to the public.

THOMAS J. BOODELL\*

\* Member of the Illinois Bar; Chairman, Unauthorized Practice Committee of the American Bar Association.

*Edmund Burke and the Natural Law.* By PETER J. STANLIS. Ann Arbor: University of Michigan Press, 1958. Pp. xiii, 311. \$5.75.

The latter half of the eighteenth century was an era of sharp conflicts in British politics. With the trial of Hastings, English law began to investigate the exploitation of the wealth of India; a few powerful voices were heard in protest at the highhanded methods employed by the English in crushing the aspirations of Ireland; some parliamentary support was given the claim of the American Colonists to share fully in the benefits of British citizenship; the French Revolution forced England's political leaders to take a stand on the theories of popular sovereignty and the right of the people to revolt. Against this background Peter Stanlis describes the consistent and eloquent plea of Edmund Burke for the House of Commons to maintain a conservative and a just policy in the face of political forces pulling the British Commonwealth to the left and to the right. Burke is represented as stepping into every fray armed with the best traditions of the natural law, the law of nations, and the English common law to guide the country's decisions. Though he was not a lawyer, few had Burke's deep knowledge and respect for England's legal traditions, and there were few who were as willing to apply this tradition to the future direction of the state.

Through a thorough analysis of Burke's speeches, essays, and published letters, the author gives a rather complete account of this great parliamentarian's political philosophy. The reader can understand why Burke was so opposed to the reform of Parliament on Utilitarian principles. To the Jacobin cry for greater freedom and popular representation on the basis of the sacred rights of men, Burke responded with an exposé on the true meaning of the natural law in the tradition of Cicero, St. Thomas Aquinas, and Richard Hooker. With such vigor did Burke unmask the revolutionary and voluntaristic notions of natural law, that he has often been misrepresented by historians as being a pure Positivist or Utilitarian.