

Washington University Law Review

Volume 23 | Issue 2

January 1938

Review of “The Influence of the American Bar Association on Public Opinion and Legislation,” By M. Rutherford

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Recommended Citation

Albert J. Harno, *Review of “The Influence of the American Bar Association on Public Opinion and Legislation,” By M. Rutherford*, 23 WASH. U. L. Q. 286 (1938).

Available at: https://openscholarship.wustl.edu/law_lawreview/vol23/iss2/4

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BOOK REVIEWS

THE INFLUENCE OF THE AMERICAN BAR ASSOCIATION ON PUBLIC OPINION AND LEGISLATION. By M. Louise Rutherford. Chicago: Foundation Press, 1937. Pp. 393.

This is an instructive and useful book. It is both an account and an appraisal of the principal activities of the American Bar Association from its organization to the present time. The story is gleaned in the main through searching reading and analysis of the annual proceedings of the Association, the Journal of the Association and the reports of its committees and sections. The topic of the book, "The Influence of the American Bar Association on Public Opinion and Legislation," was selected by the author, M. Louise Rutherford, as a thesis for a doctor's dissertation in political science.

The book involves more than a mere study of the work of the American Bar Association. One of the vital problems of the day is: "Can democratic government adequately function and thus survive, or are dictatorships inevitable?" Democracy is under fire. American democracy is characterized by an absence of "machinery to obtain trained, skilled and trustworthy men in government office" and a "failure to organize services of voluntary groups, especially those expert in government and law." From these premises Mrs. Rutherford proceeds to shape her task; she undertakes to obtain the facts relative to the contribution the American Bar Association has made and is making in the field of government and public administration. Her study is an examination of the work of the American Bar Association as a voluntary agency of American democracy; the question she seeks to answer is: "Can the organized bar be of any assistance in obtaining efficiency in the functioning of democratic government?"

At its beginning the Association was not well organized to gain the effective cooperation of state and local associations, and it did not claim the interest of a large number of lawyers. The lack of functional coordination between the national and state associations restricted the advancement of the Association's programs and of its committees. It was not a representative organization and therefore was not in a position to speak for the American bar. High objectives were stated in its constitution, but not until the summer of 1936, when a new plan of organization was adopted, was it amended to include among these objectives, "to correlate the activities of the Bar organizations of the respective States on a representative basis in the interest of the legal profession and of the public throughout the United States." The new plan represents an attempt to make the Association "more representative and to give the stay-at-home members more participation in the affairs of the Association." Whether the reorganization has achieved substantial improvements is not yet clear. Mrs. Rutherford's appraisal, while favorable, is guarded. She describes it as "an entering wedge in the direction of coordinating the different bar groups by tying in the state and local associations to some extent."

The study notes and appraises the achievements of the Association and objectively records its failures. The Association has furthered the advance-

ment of the standards of legal education. In 1900 it sponsored the Association of American Law Schools but failed to maintain a close relationship with it. For a time it had both a committee and a section on legal education, and suffered them to bring in conflicting reports. This difficulty was finally solved through the organization of the Council on Legal Education. Though the Association has been successful in advancing the standards of admission to the bar, it has made but little headway in purging the profession of the shyster. Some of its best work has been done in initiating reforms in court organization, personnel, court practice and procedure, and in sponsoring the organization of agencies, some of which are now operating almost independently of the Association. Noteworthy among these are the Association of American Law Schools, the Conference of Commissioners on Uniform State Laws, the American Law Institute and the Conference of Bar Examiners. Some excellent services have been performed by committees of the Association in the drafting of legislation. Conspicuous work has been done in this field by the Conference of Commissioners on Uniform State Laws, and by some of the committees interested in particular fields, for example, commerce and bankruptcy.

It is in the field of legislation, Mrs. Rutherford believes, that the American Bar Association can make a distinct contribution to democratic government. It has the talent for this work. "Why should it not furnish leadership," she inquires, "in the matter of constitutional amendments, necessary to make the fundamental law adequate to the needs of the people, commensurate to the solution of problems, and thus impervious to attack?"

The answer to this question is that the American Bar Association should furnish this leadership. Indeed, Mrs. Rutherford herself has placed the Association in a favorable light before the public in showing its achievements in drafting and sponsoring legislation. One could wish, however, that Mrs. Rutherford, beyond dealing with the cold facts of reports, might also have looked behind the scenes and viewed the actors as human beings, and that she might have given us an appraisal of the motivations at work and the forces which impelled committees to do what they did. Whether the membership of the American Bar Association is such that it can give constructive leadership in sponsoring legislation on social and economic questions is not clear. Many would answer without hesitation that it is clear it cannot. However, Mrs. Rutherford has shown that in some fields of legislation the Association has demonstrated a capacity for leadership. Success has come principally in relation to questions dealing with law administration. Even that is no mean achievement. If the American Bar Association will show no other accomplishment than a consistent improvement of the machinery of justice, it will be able to justify itself as an agency which is contributing to the functioning of democratic government.

Mrs. Rutherford's study shows that the organized lawyer potentially has yet greater capacities for public service. Lawyer organizations and programs sponsored by organized lawyers are in a formative stage. Acting through organizations the lawyer tends to be less of the personal advocate and more the champion of public interests. The organized lawyer is sensi-

tive to the need for public approbation and articulate on his responsibilities to the public. Where these tendencies will lead as his organization becomes more mature is not yet fully disclosed. The main value of Mrs. Rutherford's study lies in the fact that it shows there has been a steady development in the American Bar Association of a consciousness that the American lawyer occupies a strategic position in American life with corresponding responsibilities in relation to the advancement of the on-going processes of democracy.

ALBERT J. HARNO.†

LEGAL BIBLIOGRAPHY AND THE USE OF LAW BOOKS. By Arthur S. Beardsley. Chicago: Foundation Press, Inc., 1937. Pp. xv, 514.

The need of a regular course in Legal Bibliography and The Use of Law Books in the law school curriculum has been increasingly recognized. Receiving its impetus from law book publishers and growing into accepted instruction by either the librarian or some other member of the faculty, the study of the printed sources and aids in the use of such sources finds considerable attention in current legal education.

Although Dr. Beardsley has attempted to prepare a treatise "which would be helpful to lawyer, student, and teacher, alike," this volume is primarily useful as a class-room manual. After arguing the "necessity of teaching the use of law books" and outlining "the classes of law books," Professor Beardsley presents in clear and concise language the pertinent information concerning Constitutional, Statutory, Judicial, Quasi-Judicial, and Reference Sources in that order. Twenty-five pages explain the orthodox "approaches" in legal research, and fourteen pages are devoted to brief-making. The last fifth of the volume consists of tables and lists.

The provision of sample or recommended problems with each topic makes the volume essentially a student text. These suggestions are more than adequate as to quantity and thus allow considerable selection. However, old exercises were not revised so that humorous, if not serious, errors appear. See, for example, problem 11, page 19, "Where would you find the text of the proposed twenty-first Amendment to the United States Constitution?"

Because it is best suited for the purpose already noted, it is doubtful whether Dr. Beardsley's deliberate omission of illustrative pages has operated to enhance the value of his product. Until his forecast that instructors in the use of law books will some day have "specially arranged laboratory rooms and equipment" is realized, it would seem that illustrative materials provide a definite convenience to both student and teacher.

The preface leads the reader to believe that the text is "entirely free from the bias which publishers naturally have for their own publications." Although Dr. Beardsley's treatment of administrative materials is by far the best available, it is questionable whether his attention to loose-leaf services and his emphasis on Commercial Clearing House publications can permit the above inference to stand.

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