
Pierre Crabitès

The Foreword to this volume is so refreshingly candid that the captious critic is disarmed. It is there set forth that "this book has been written in the hope that it may have a place among the leisure readings of members of the legal profession." And it is added that in no sense is this "a technical work, being in fact, for the most part, a narrative of the things an American law teacher has seen and heard in the courts abroad."

When these pages are reviewed in the light which the distinguished author thus had in mind, full must be the measure of praise bestowed them. They present, as the "blurb" so deftly puts it, "a fascinating educational story" of the legal systems, courts, judges, lawyers of England, Russia, Italy, Germany, Egypt, Palestine, France, China, Japan and India. They do not seek to follow in the track of Wigmore's A Panorama of the World's Legal Systems. They get away from substantive law. They impinge upon a still more difficult task. They consider the organization and procedure of the various countries mentioned, also the work of their judges and lawyers. But this excursion into the field of adjective law is done so adroitly and the descriptive touch is so delicate that one's interest in the general presentation is too keen to permit interrogation marks to dampen the pleasure thus aroused.

There is, as a matter of fact, no more exacting theme than the study of the adjective law of the many different countries visited by Dean Burdick. His scholarship would unquestionably extend to a complete mastery of "the world's legal systems." But I do not think that the human brain could possibly deal with all the intricacies of the adjective law of so wide a field. It is something so illusive and so chameleon-like in its changes that nobody could hope to follow its ramifications beyond a restricted area. And I am afraid that unless one has an insight into the true inwardness of the adjective law of a country whose bench and bar are being described, a proper perspective of the scenes which are pictured becomes an almost impossible task.

Let me speak more particularly of the 105 pages which here deal with France. They will illustrate my meaning. It is said on page 269 that "legal practitioners are divided into two main classes, as in England, the French divisions being known as avocats (barristers) and avoués (solicitors). Their functions are not identical in all particulars with those of English barristers and solicitors, but, in general, they are very much the same."
I am afraid that the analogy, at all events, between the avoué and the solicitor is more superficial than fundamental. The volume under review touches upon this radical line of cleavage when it brings out on page 278 that

"No limit is placed upon the number of avocats in France. . . . Avoués, however, in accord with an ancient custom, are limited in number, depending upon the locality. . . . One may purchase the business of an avoué and continue with it, provided such a succession is duly qualified, and the transfer of the practice to him is approved by the Ministry of Justice. An avoué's practice is not however inheritable."

The point I have in mind is stressed by what is written on page 275 about the bar of the Court of Cassation. It is there said that

"It [this bar] forms a guild, or corporation, of its own and has a monopoly of all practice before that Court. . . . The law limits the number of 'Advocates of the Court of Cassation' to sixty, vacancies being filled from time to time by new appointments."

What is perhaps not adequately stressed in The Bench and Bar of Other Lands, although it is there, is the fact that avoués, notaries, advocates of the Court of Cassation, as well as the huissiers (or bailiffs) are purely ministerial officers who have a vested right to their functions with the power of nominating, although not of appointing their successors. And getting back to the analogy between avoués and solicitors this means that there is an abysmal difference between them because the former is for all intents and purposes an hereditary functionary and the latter is not.

In other words, a study of the French judicial system will establish indubitably that France is a democracy of a category so different from that of England that a comparison between avoué and solicitor is untenable. But such details, dealing with the adjective law of both countries, could hardly fall within the purview of inquiry of the general student of the law. And yet the point which has just been made is but typical of the difficulties presented by a study of this character. No adverse criticism is however involved in these remarks because the author brings out so clearly in his Foreword that his message is addressed to the general reader and not to the specialist. The general reader will get pleasure, information and relaxation out of this delightful book.

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