breakdown of Oscar Wilde by the skillful cross-examination of Sir Edward Carson; Michael de Montaigne's argument that a system of laws should be based primarily and solely on conscience, and H. L. Mencken's criticism of Anglo-Saxon criminal law, are but a few of the incidents which make these renowned figures of contemporary interest.

If this publication suffers from a single deficiency, it may be one that is inherent in every anthology and is caused by the editor's efforts to satisfy the intellect in both the lay and professional reader. To accomplish this he has included a number of varied selections to interest the personal reading habits of as many people as possible, and in so doing has sacrified the depth and continuity of thought demanded by the specialized and serious reader.

Voices in the Court is highly recommended as light reading for those who like their encounters with "literary greats" in small portions and for the more serious reader because it awakens his senses to the enjoyable possibilities of a deeper and more concentrated study of these literary milestones.

*Stanley D. Rosenberg**

Pay the Two Dollars. By Alexander Rose. New York: Simon and Schuster, Inc., 1957. Pp. 225. $3.50.
The Family Legal Adviser. By Theodore R. Kupferman. New York: Greystone Press, 1957. Pp. 366. $4.95.

A conscientious lawyer should be just as concerned over what goes in his client's brain as is a mother over what goes in her child's mouth. When children's diets are lacking in some element they usually make it up in nefarious ways. One diet-conscious mother was concerned over the fact that her offspring was consuming rather prodigious quantities of sand, and asked her doctor if this was due to a lack of anything. "Only supervision, madam," he advised. "Only supervision."

Every year publishers produce books about the law for laymen. To the extent that this intellectual sand is consumed by present and potential clients the lawyer is losing his professional control over the clients as well as the practice of law. This review is concerned with the contents of two such books and the conclusions to be drawn from them.

Alexander Rose's expert understanding . . . comes from the more than twenty years he spent as Official Court Reporter in courts ranging from New York Magistrates to the United States District Court. . . . Among his

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inventions are . . . the Ev-A-Strate Picture Hanger [and] The World's Greatest Toothpick ("shaped like a very small golf club"). . . . He [also] plays the accordion. . . .[1]

Although this publisher's statement of Alexander Rose's qualifications is itself a delightful review, the book really deserves fuller comment.

The seven chapters are entitled, "How It Starts," "When You Are The Defendant," "When You Are The Plaintiff," "The People In The Courtroom," "When You Testify," "The Fine Print," and "How It Ends." Each contains a number of sub-headings. "When You Are The Plaintiff," for example, discusses in this order the burden of proof, damages as an element of a cause of action, the costs of trial, newspapers' inaccurate reporting, the significant varying "details" in "identical" cases, liability for undelivered telegrams, more on cases' individuality, examples of rambling testimony, the reasons for cross examination, valuation of injuries, and death actions—all in the first twenty pages of this fifty-two page chapter. Apparently this confused the editors and linotype operators as much as this reviewer, for the table of contents lists the sub-headings of chapter four under chapter six, chapter five under chapter four, and chapter six under chapter five.

The humor is occasionally strained. "Partnership insurance" is defined as "Nothing to do with wives. There is no insurance against wives. But the insurance people are not asleep; the actuaries are kicking it around and may come up with something."[2] To prove his absence of marital prejudice, "fidelity bonds" are defined as: "Nothing to do with husbands. This is for employees who handle money."[3] But it gets a little repetitious when at page fifty we are told that, "Seventy-eight thousand is a lot of money even in counterfeit bills," and then at page 191 that $66,297.23 is also, "a lot of money even in counterfeit bills."

But the book has desirable features, too. The sub-title, "How to Stay Out of Court," suggests the lawyer's obligation to encourage settlement and preventative counseling. The what-to-do-after-an-automobile-accident advice is sound, even if commonplace.[4] And the suggestion in the first chapter, "How it Starts," that legal thorns grow on every vine is good reading for lawyer-shy laymen. The chapter on insurance, leases, and other contracts (chapter six, "The Fine Print"), if out of place in this otherwise trial-oriented book, presents a valid read-before-you-sign message. And any potential witness would appreciate the examples of testimony and advice about courtroom behavior (e.g., chapter five, "When You Testify").

[1] ROSE, PAY THE TWO DOLLARS 225 (1957).
[2] *Id.* at 199.
[3] *Id.* at 200.
[4] *Id.* at 9.

Once Rose gets around to discussing lawyers he readily admits their necessity. "Put it this way: If you can draw your own contract you can take out your own gall stones, which would make you a good all-around man."[5] The publisher is not so restrained. The jacket blurb suggests anyone in trouble "(1) Run, . . . or (2) equip yourself with a competent guidebook-to-the-law. . . ." How about getting a lawyer? This oversight is further exemplified by Rose's suggestion that the layman's solution to the complexities of contract law is to keep all written memoranda and make a daily record of all oral transactions.[6] This is sound advice, but the reason Rose gives is funnier than his intentional humor: to help attorneys with litigation! The possibility that conflict could have been eliminated initially by a skillfully, lawyer-drawn contract escapes Rose at this point.

The last chapter, "How It Ends," which deals with the drawn-out process of litigation concludes, in the book's final sentence, "Well, actually there *is* no end." No lawyer denies that occasionally cases spend too much time in too many courts. But it is misleading to suggest that this is the common pattern, and that no reforms are being attempted.

In short: Pay the Two Dollars—perhaps—but there is little need to pay the three dollars and fifty cents to find out why.

The Family Legal Adviser, on the other hand, is edited by a lawyer. Theodore R. Kupferman was Phi Beta Kappa, editor of the *Columbia Law Review*, and has since spent many active years at the Bar. He is currently president emeritus and chairman of the board of the Federal Bar Association of New York. He has, in any event, more to qualify him as an author of a legal work than the invention of the Ev-A-Strate Picture Hanger and the World's Greatest Toothpick.

Although his goal was an ambitious explanation of "the law" in considerably less than 400 pages, he has largely lived up to the introductory boast that "the law is not presented here in a dry-as-dust legalistic manner, but colorfully and dramatically."[7] The organization is primarily based upon factual rather than legal categories and analysis. For example, Chapter Twenty-four, "Automobiles and Accidents," a factually logical topic, contains discussions of such legally incongruous subjects as transfer of title, bills and notes, contracts, mortgages, and bailment—as well as negligence and defenses. As might be expected, the emphasis is on property and family law, *e.g.*, wills, gifts, real estate, landlord and tenant, domestic relations and adoption. But there are also chapters on criminal law, citizenship, and defamation.

The book is abundantly supplied with the facts and holdings of cases that illustrate the accompanying hornbook principles of law. Although

[5] *Id.* at 111.
[6] *Id.* at 24.
[7] KUPFERMAN, THE FAMILY LEGAL ADVISER 5 (1957).

none are acknowledged by style and citation, any first year law student will recognize many old favorites. For example, *Irons v. Smallpiece*,[8] the case in which a father told his son that he was making him a gift of two colts, is used as an illustration of the requirement of delivery to effectuate gifts.

The primary fault of the book is similar to that of all other books like it. Summaries and simplifications of complex matters, though beguiling, are inherently inaccurate. His discussion of "the law of community property" takes less than half a page.[9] "Arson," discussed at page 332 in two sentences, is defined in Kupferman's appendixed "Dictionary of Legal Terms" in one.[10] However, the Internal Revenue Code does require a more lengthy two-page discussion.[11] Such examples could be multipilied indefinitely, for they are the substance of the book.

Although the publisher's blurb lures with the I-can-get-it-for-you-wholesale come-on that "you can spare yourself high legal fees by consulting this book," Kupferman is more cautious. But somehow even his qualifications that the book only "provides you with an understanding of your situation so that you can discuss it intelligently with your lawyer," and that "it must always be kept in mind that your real family legal adviser is your lawyer,"[12] are no more convincing than "sold only for the prevention of disease." In fact, the do-it-yourself forms for wills,[13] deeds,[14] proxies and powers of attorney[15] give the illusion, at least, of little need for an intelligent discussion with anybody.

And yet, what might otherwise be a simple problem is complicated by a number of considerations. (1) Such books undesirably tend to increase a laymen's confidence in dealing with complicated legal matters. (2) Counterbalancing the desirabiliy of ignorance is an imperative need for the public to have a better understanding of the law. (3) Some financially and legalistically minor problems do not justify legal services. (4) Many business and professional men must act in accordance with some one area of law. (5) Ethical problems are raised when a lawyer advises the public at large.

Loss of fees is no valid objection, ethically or in fact—for a lawyer may prosper by the publication of such books.[16] Of course, "everyone

[8] 2 B. & A. 551, 106 Eng. Rep. 467 (K.B. 1819); reprinted in CASNER & LEACH, CASES AND TEXT ON PROPERTY 108 (1951).
[9] KUPFERMAN, *op. cit. supra* note 7, at 89.
[10] *Id.* at 346.
[11] *Id.* at 236.
[12] *Id.* at 6.
[13] *Id.* at 128.
[14] *Id.* at 199.
[15] *Id.* at 235.
[16] Ye lawyers who live upon litigants' fees,
And who need a good many to live at your ease;

may practice law upon himself just as he may practice medicine."[17] In fact, the conflict producing many lawsuits is the progeny of someone who felt he knew enough law to save initial legal fees (or, lest professional love be blind, the result of incompetent counsel). Many persons have the wisdom to approach legal problems with great hesitancy. This attitude should be encouraged. And least of all should lawyers have any part in tempting laymen to further activity by providing books of simple answers to complicated legal problems.

But many persons cannot recognize a legal problem when it kicks them in the shins. The reason people continue to die without wills, or write their own, is their failure to appreciate the consequences. Nor do many persons understand what a lawyer does, or the meaning of a "legal opinion." The debate surrounding school integration demonstrates how few persons understand the most fundamental principles of constitutional law. There is a tremendous need for general education of the public as to the traditions, and procedures and the substance of the law. So then, in this regard, the more books about law for the layman the better.

It would be ridiculous to insist that a small grocery store proprietor obtain even a cheap ten or twenty dollar legal opinion on each contract he signs with the wholesaler for a few cartons of canned goods. This would be equivalent to paying a doctor five dollars to put a band aid on a child's scratched finger. So here, to the extent that everyone must at some time serve as his own doctor or lawyer, if Dr. Spock's, *Pocket Book of Baby and Child Care*, or Kupferman's, *Family Legal Adviser* will make him any more proficient he ought to be encouraged to read it.

Many legal textbooks are found in the libraries of bank trust officers, accountants or insurance companies. It is not so dangerous for these persons to have access to legal books as it is for laymen. They are using better quality law books than *The Family Legal Adviser*. Insofar as they approach the forbidden "practice of law" it is within a narrow area in which they have some professional—though admittedly non-legal—competence. Most of the "legal problems" with which they deal are too minor to justify attorney's fees. They work with lawyers, and know of their occasional necessity from experience.

American Bar Association Canon 35 (Texas Canon 32) provides

Grave or gay, wise or witty, whate'er your degree,
Plain stuff or State's Counsel, take counsel of me:
When a festive occasion your spirit unbends,
You should never forget the profession's best friends;
So we'll send round the wine, and a light bumper fill
To the jolly testator who makes his own will.

Lord Neaves, "The Jolly Testator Who Makes His Own Will," (c. 1865), reprinted by Second Nat'l Bank of Boston (1929), reprinted CASNER & LEACH, *op. cit. supra* at 44.

[17] Comment, 36 TEXAS L. REV. 346, 348 n. 10 (1958).

that, "a lawyer's relation to his client should be personal, and the responsibility should be direct to the client." The attorney-client relationship which this provision envisions permeates throughout the Canons. A man who takes golf tips from his lawyer has a fool for a pro—and a pupil. In this area a lawyer may be completely irresponsible. But any time a lawyer gives an individual specific advice about a specific *legal* problem he has assumed an awesome responsibility—that called the "attorney-client relationship." The conscientiousness arising out of this sense of personal responsibility and individual consideration, coupled with a lawyer's practical and professional experience, training and judgment, is the public's guarantee of sound advice. A lawyer-author who gives general advice to every unknown book buyer who will read it, on all topics of the law, generally detracts from the professional stature of the bar by ignoring the fundamental personal relationship between attorney and client that is contemplated by "the practice of law."

What conclusions can possibly be drawn from the assertions that layment need more knowledge of the law, that it may nevertheless be dangerous for them to have it, that business and professional men may be considered separately for some purposes, and that it may be unprofessional for a lawyer to write such a book at all? Of course, all these considerations, discussions and conclusions relate both to an evaluation of the book and the ethics of the author. Each case must be considered in terms of potential audience, subject matter, and apparent purpose of the book. And, of course, the individual ability and intellectual honesty of the author is always relevant.

It is primarily books for laymen that are offensive. The publisher makes some difference in this regard. West Publishing Company sells directly to lawyers, though presumably a non-lawyer could purchase from them. Simon and Schuster, on the other hand, emphasizes the mass public market through book stores, and sells few technical books. Of course, the subject matter also relates to the potential audience, as a highly technical legal treatise will probably only be read by lawyers or other professionally trained men. But among those books aimed at laymen there is a distinction between, for example, those books dealing with the history of the Supreme Court or the need for penal reform, and those setting forth the law of marriage and divorce, or wills. And this leads to the final, and perhaps most significant consideration. That is, simply, what is the author's purpose? Is he trying to write *about* the law, with emphasis upon the need for lawyers, or is he trying to provide a book *of* the law, to serve in lieu of a lawyer's advice? And if the latter, are the areas set forth simple and of little consequence, or complex and of great importance?

Despite the relative comments about the books, perhaps Rose fares

better under these criteria than Kupferman. Whatever other readers' individual judgment may be on this point, the general problem is one of greater importance than is reflected by the near-universal disregard it receives.

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