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THE JUDICIAL HUMORIST. By William L.
Prosser. Boston: Little, Brown, and Company, 1952.

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return from Moscow will prove itself in the future developments of our American-Soviet policies.

The reviewer feels that a statement from one of Mr. Kennan's speeches² emphasizes the thoughts which he has generally expressed in *American Diplomacy*, to wit:

. . . join me in recognizing the profundity of the foreign policy problems with which we are faced today; that you recognize the depth in time and space of the origin of those problems; and that you do not be misled into the easy conclusion that the dangers and challenges and dilemmas of world situation are the product of the mistakes or the ill will of any individuals who bear responsibility at this moment for the conduct of foreign affairs.

Mr. Kennan feels that our relations and our future planning in foreign affairs should be approached on a more determinative basis and that we should face the problems in an open and careful appraisal of the power factors in the world.

It is the opinion of this reviewer that this is the first book on diplomacy which casts away the cloak of secrecy on our interrelations with foreign powers and points to the fact that the general public policy of this country plays an overwhelming part in shaping the foreign policy of our country. Too many times the public has felt that its thoughts and ideas were ignored and that the foreign principles of America were formulated behind closed doors without taking into account public opinion. It is felt that this mistaken belief has been eradicated by Mr. Kennan in this book.

There is, however, one minor criticism to be made of *American Diplomacy*. In editing the various speeches given at the University of Chicago, Mr. Kennan might have included more specific examples of treaties, international case law, or treatises, if not in condensed form, at least by specific citations.

There has been a need for a book of this type and I can sincerely state that if the reader glances through this book but once, he will appreciate its content and form, and place the same on his required reading list.

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THE JUDICIAL HUMORIST. By William L. Prosser. Boston: Little, Brown, and Company, 1952. Pp. 284. \$5.00.

A profession has been described as "a body of men who carry on their work in accordance with rules designed to enforce certain standards both

1. See U. S. News and World Report, Nov. 28, 1952, pp. 106-107.

2. See: Speech, University of Wisconsin, May 5, 1950; Dept. of State Press Release No. 467.

for the better protection of its members and for the better service of the public . . ."¹ Law has been defined as a tightly organized social norm, the reflection of certain absolute principles, or perhaps as what a judge may eat for breakfast.² This makes the law profession a pretty grim business and it certainly goes a long way to explain the paucity of humorous legal literature. Assuming that practically every human endeavor reflects at least occasional humor, this is an unfortunate situation for our profession. With the exception of a few poorly organized and almost infantile efforts³ the field of fun and satire in law is almost wide open.

I am happy to report that *The Judicial Humorist*, edited by William L. Prosser, Dean of the University of California School of Law, is an auspicious entrance into that void. Dean Prosser is, of course, an outstanding law teacher and legal writer. For an example of his excellent legal scholarship, see his most recent article in the field of torts.⁴ He is also an amusing man in the writing rather than the selecting of wit; for a delightful survey of humor in the prosaic work of law teaching please read his *Lighthouse No Good*.⁵ *The Judicial Humorist* is simply a well selected collection of verses, essays, narratives, statements and case reports, organized in a vague fashion, in which Dean Prosser located some element of humor, wit or satire in law. A review of such a collection of differentiated writings is simple for the reviewer can quote in a massive fashion.⁶

The first chapter, *The Lawyers*, generally is devoted to selections which comment in an adverse manner on the bar — these run from the witty to the vitriolic. There is an enjoyable story which tells the reading attorney how to inform a client he is losing a case *and* how to keep the client. Another gem in this chapter is *Daisy Whiffle v. Twitter Bird Seed Company*, which sketches how the unscrupulous attorney with an injured, but pretty, woman client can obtain an excessive personal injury verdict against a corporation (with no legal basis for claim either). The chapter concludes with a sulphuric attack on the bar by an M.D. This will give you an idea:

The Bench and Bar

If you've got a son or daughter
Who ain't living like they orter,
If they'd suck an egg and peddle you the shell;
If the neighbors and the preacher, . . .

1. This definition was found in PHILLIPS AND MCCOY, *CONDUCT OF JUDGES AND LAWYERS* 18 (1952).

2. See STONE, *THE PROVINCE AND FUNCTION OF LAW*, (1950). One could go on and on.

3. E. G. GOLDEN, *LAUGHTER IS LEGAL*. (1950). Others might disagree; taste in humor is very subjective.

4. *Comparative Negligence*, 51 MICH. L. REV. 4 (1953).

5. Comment, 1 J. LEGAL EDUC. 257 (1948). Prosser is no Aristophanes, but then who is?

6. Sometimes, at least when the reviewer is a better writer than the author, this is unwise. We do not have such a problem.

The policeman and the teacher,
 Are convinced that they are headed straight for hell;
 If their instincts are possessive,
 And their ego is excessive,
 If they're short on brains but very long on jaw
 Don't set up nights and worry,
 Make your mind up in a hurry,
 Chuck 'em off to school and make 'em study law.
 (and on and on)

The pieces in the second chapter, which deals with law students and uninitiated lawyers, are as appealing as those in the first chapter. Perhaps the best selection is the poem, *Help Wanted*.⁷

A law firm commanding
 Position of standing
 Requires a general clerk.
 A man who's admitted
 To practice and fitted
 To handle diversified work . . .
 Attachments and trials,
 Specific denials,
 Demurrers, replies and complaints;
 Disbursements, expenses,
 And partial defenses,
 Ejectments, replevins, distrains; . . .
 Above are essentials;
 The best of credentials
 Required—and a handsome physique.
 Make prompt application;
 Will pay compensation
 Of seventeen dollars a week.

Chapter Three, *The Law is an Ass*, is amply characterized by the title. Dean Prosser has included several exceedingly clever selections. For example, any lawyer who would not appreciate Kenneth H. York's *Unjudicial Notes on Judicial Notice* should probably be practicing medicine. Did you know that a Utah court recently stated that "it is a matter of common knowledge that objects with weight will fall if unsupported"? Such faith in the law of gravity is gratifying. Or that a Georgia Court would not notice judicially that "beer and wine are intoxicating"? No split of authority has ever been better illustrated than in the disagreement of the courts of Missouri and Virginia whether to notice that a mule is "an inherently dangerous instrumentality." Surely our confidence in the "American way" of justice is not misplaced for our courts have recognized

7. See RILKE, *HUMOR IN POETRY* (1897). When is poetry funny?

(without proof) that buzz saws are dangerous and water does run down hill. This type of humor is really for the professional. Unfortunately the chapter also contains a judicial opinion entitled *Hansel and Gretel (infants) v. Pumpernickel* which has very little discernible humor—is, in fact, simple. There is also a deceptively simple essay on stage law (in the movies, books, theatre and so on.) You may have noticed that if a man dies without a will his property goes to the villain, that if a man dies and leaves a will his property goes to whoever gets the will first, and that ten minutes notice is all that the law requires to foreclose a mortgage. There is more of this.

Disorder In Court is the fourth chapter. In it Dean Prosser deals with juries, expert witness, trials and so on. The following selection adequately exemplifies the chapter.

The Expert Witness

With erudite profundity,
And subtle cogitabundity,
The medical expert testifies in court;
Explains with ponderosity
And keeps profound verbosity
The intricate nature of the plaintiff's tort . . .

A state of tumerosity
Producing lochrymosity,
Abrasion of the cuticle severe,
All diagnosed externally,
Although he feared, internally,
Sclerotic inflammation might appear . . .

But then the counsel for defense
Devoid of garrulous eloquence,
Asked "Isn't it true that all you testified
Means merely from a punch or two
The Plaintiff's eye was black and blue?"
"Yes, that's correct," the Doctor meekly sighed.

Chapter Five is entitled The Judicial Ermine. It contains very little on the judiciary worth noting. There is a particularly nauseating little poem by Lincoln B. Smith which I would recommend that the reader skip.⁸ The following chapter is on women and the law. It too is singularly unimpressive. The mediocrity of the chapter is only slightly relieved by inclusion of a successful claim by a sailor for injuries received while leaping out of a window in Yugoslavia. Chapter Seven, The Things That Go On, is miscellany in legal humor. The best addition seems to be an opinion on title which starts out "Don't buy the G— d— Land." One might suc-

8. It is something of a super pun.

cessfully teach a course in titles from the listed objections to this land. It would not be possible to teach wills and trusts from the Prosser selections in Chapter Eight (on that area) but the chapter is good. *The Little Lawyer Man* is representative:

It was a little lawyer man
Who softly blushed as he began
Her poor, dead husband's will to scan.

He smiled while thinking of his fee,
Then said to her, so tenderly,
"You have a nice, fat legacy."

And when, next day, he lay in bed
With bandages upon his head,
He wondered what on earth he'd said.

The following chapter is on the government and contains 15 pages specially designed for conservative members of the bar who have little faith in bureaucrats and agencies. *File On Sigrid Olson* details what happened in the O.P.A. when a woman lessee protested to that agency about a rent increase by her landlord, consisting of a suggestion for more immoral relations. You would not believe it, or perhaps you would. Animals and the law are treated in the last chapter. It is not outstanding.

Every reader of *The Judicial Humorist* will find at least one or two favorite selections. I thought that a devastating review, on a constitutional law book, by Thomas Reed Powell was the best part of the *Humorist*. Here is part of the review: "The new book which Mr. Beck has written about the constitution is a very different kind of book. You can read it without thinking. If you have gotten tired trying to read the other kind of books you will be glad of the nice restful book that Mr. Beck has written. It runs along like a story in a very interesting way. Most of the story is about how the Constitution got made. This is really history, but it is written in a very lively way like a novel, with a great many characters, almost all male, and plenty of conversation and very exciting plot. Many of the chapters have names like those in a novel, such as *The Opening of the Battle*, *The Crisis*, *The Dawn*, *Nearing The End*, *The Curtain Falls*, and others . . . They help to make the book a really high class book. There is not much more to say . . . except that it is fun and easy to read and seems pretty true to life." A reviewer could, of course, do the same thing to Dean Prosser by admitting that with *The Judicial Humorist* he has reached intellectual maturity.⁹

9. This would damn, somewhat, Prosser's serious work in the tort area. There is a book on humor—PORTER, *LIFEMANSHIP* (1950)—which tells the book reviewer how to knife the author. Suggested words for friendly attacks are "awareness, interesting, tasteful, observant." A suggestion by Potter on how to combat such reviews—dedicate the book "To Phyllis, in the hope that one day God's glorious gift of sight may be restored to her." Some of *The Judicial Humorist* reaches the professional (humor) standard of wit found in Potter.

Only about two hours are required to read *The Humorist*. No one, even remotely connected with the law, should neglect those two hours.

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