


## REVIEWS AND NOTICES

 Publishers desiring reviews or notices of Books or Periodicals must send copies of same to the Editor, Cecil A. Wright, Osgoode Hall Law School, Toronto 2, Ontario.

*Money in the Law.* By ARTHUR NUSSBAUM. Chicago: The Foundation Press, Inc. 1939. Pp. xxxvii, 534. (\$7.50)

Probably nothing is so familiar and at the same time so little understood by the public, including therein the legal profession, as "money". In legal matters we are accustomed to think of money as the common denominator which we can use to reduce all legal obligations to terms of economic value. The disturbed state of the financial world during the last twenty-five years, together with the fact that courts of necessity are today faced with the problem of giving judgment on questions involving international sales as well as financing of corporate structures beyond the boundaries of any one jurisdiction, have raised grave and far reaching legal problems concerning fundamental notions of "money".

Perhaps most familiar, due to their frequent appearance in the law reports of recent years, are the many gold clause cases beginning with *Feist v. Société Intercommunale Belge d'Electricité*, [1934] A.C. 161. Questions of this nature require more than a knowledge of law, and it should be a matter of satisfaction to the English speaking profession that Professor Nussbaum, formerly of the University of Berlin, has been enabled to produce this masterly treatise while a visiting professor of law at Columbia University. The author tells us that the present volume is the result of more than fifteen years work and one can readily believe this since the range and scope of Professor Nussbaum's researches appear miraculous to the ordinary legal scholar of the English speaking world who is, by nature or inclination, inclined to be insular.

Professor Nussbaum has purported to write a book for lawyers in which he examines the basic conceptions of money and monetary systems, giving references and illustrations not only from United States and the British Commonwealth, but from numerous European and South American countries whose legislation and case law he handles with facility and authority. Perhaps of most value to a practising lawyer is his exhaustive discussion of the various types of gold clauses which have been used in different countries and the interpretations which have been placed on these clauses by the countries. All the English decisions, and indeed most of the Canadian, find a place here along with decisions of European and South American countries. It is amazing to find an author who is capable of treating such diverse legal decisions and such difficult economic questions with the clarity which Professor Nussbaum manifests. Of particular importance at the present time is chapter 7 on foreign currency debts in which problems of determining the "money of the contract" is exhaustively dealt with, the English and other authorities fully discussed, and illustrations of types of clauses of various kinds criticised or explained from both the legal and financial points of view. The last chapter in his book deals with the problem of debts under exchange control. As this is a subject with which

Canada is now particularly concerned, and as we are at the present time struggling to work out the implications of our war legislation in this respect, Professor Nussbaum's book takes on an added significance.

Professor Nussbaum's book is not merely scholarly but is an extremely important contribution to the literature of the law. With the courage and ability to enter fields which have deterred writers up to the present, the author has produced a book which cannot fail to assist those whose concern it is to advise on problems in which money and financing are concerned. Problems of discharging obligations in money, in a world where money is subject to so many restrictions and governmental limitations, are today more acute than ever before and the international experience which Professor Nussbaum has collected and presented in this volume cannot fail to assist either the solicitor who is concerned with the drafting of obligations or the counsel retained to advise on those which have been, in many cases, inexpertly drawn.

C. A. W.

\* \* \*

*Lawyers and the Promotion of Justice.* By ESTHER LUCILE BROWN.  
New York: Russell Sage Foundation. 1938. Pp. 302.

The present volume is similar to previous surveys which have been made regarding the medical profession, professional engineering, etc., by the Russell Sage Foundation. The author has attempted to obtain information regarding the problems of legal education, proportion of lawyers to population, income of lawyers, criticisms of the profession's lack of interest in the administration of justice, and steps which the profession has taken to meet the objections of the public to the weaknesses which have become apparent in the profession's dealing with pressing social problems.

The legal profession has been in the past altogether too prone to rely on what it considers its long and honourable part in the administration of justice. The very existence of the profession itself is frequently taken as sufficient justification for its continuance by barristers and solicitors. The public has always had a different opinion, however, and at the present time the public is perhaps more vocal than ever before. One of the results undoubtedly is that the legal profession finds itself being stripped of business which formerly belonged to it. If the profession is to continue in its monopoly of things legal it will not do merely to make laudatory speeches on the greatness of the profession. What is required is an examination not so much of its past strength as its present weaknesses, in the hope that such study may give rise to some conscious effort to remedy these defects and to bring about more cordial relations between the public, whose servant the profession is, and the profession itself. To anyone interested in these vital problems Miss Brown's book is an admirable source of information and cannot fail to stimulate further inquiry.

As the author herself admits, legal education is undoubtedly the keystone of the whole problem and a considerable part of the book is devoted to the manner in which legal education is being dealt

with in the United States, the objections which have been raised to some of the present methods of education and the questions which still await solution. The reviewer has, on other occasions, dealt with what he considers to be some of the pressing needs in this country regarding this particular problem and no useful purpose would be served here to repeat arguments which have been advanced previously. A reading of the survey made by Miss Brown will, it is believed, open the eyes of many people who believe that the Canadian system of legal education is superior to what we frequently and derisively refer to as the night schools in the United States. From the standpoint of training a profession which will be prepared not merely to handle the existing legal tools but to take a position in molding the law in a manner to serve the many needs which the public feels the present law ignores, there can, I think, be little doubt that Canadian schools leave much to be desired. Here is where the ground work can best be laid for improving relations between the public and the profession and yet, singularly enough, full advantage has not been taken of this possibility.

Miss Brown discusses what have been considered to be the outstanding weaknesses in the profession, such as its lack of interest in the improvement of the law, its failure to accept social responsibilities and its failure to bring legal services to the great mass of the public who are incapable of paying the high fees demanded of the more important clients that lawyers are anxious to obtain. There is little doubt that no small part of the lack of interest in improving our existing legal system lies in the fact that many of the profession have allied themselves too closely with the interests of their clients and that we have practically eliminated the barrister class whose concern is with broad principles of law rather than the advancement of interests of particular groups. Our situation in this respect is identical with that disclosed in the United States. To offset this inherent weakness in the present system there have developed in the United States several agencies supported by the profession, such as the American Law Institute, the New York Law Revision Committee and the constructive work of the national Bar Associations. A beginning has been made to fulfil the public's expectations that a group granted the special privilege of administering law should take steps for its improvement. The other problems of furnishing legal services to those who are too poor to pay, or to those who, while having money to pay do not realize when they need the services of a lawyer, are in the experimental stage in the United States. A study of some of the suggestions made in this survey should be extremely valuable to the Canadian profession.

We have made a beginning through the Canadian Bar Association to stimulate interest in problems of concern to the profession at large. Let us not forget, however, that the interests of the profession can become and are frequently considered, often without foundation, to be selfish interests. In the reviewer's opinion, one of the pressing problems of the legal profession at the present time is the establishment of better relations with the public. It has been said that if the profession act in its own interest this must necessarily react to the benefit of the public, because the profession has always stood for the maintenance of law as against the attacks of those forces which today are attempting to undermine what lawyers are prone to consider as the basic foundations of organized society. It is well to remember in this connection, however,

that under a democracy it is the wishes of the public which eventually must be served and it is questionable whether the attitude which the profession has maintained—a rather aloof and superior attitude at times—can lead to anything but further friction between the public and the profession itself. If we sincerely believe that the profession has something to offer we must take stock of our commodities and demonstrate their superiority over substitutes. At the same time we must realize that no commodity can be sold unless a demand has been created. It is doubtful whether the legal profession has paid sufficient attention to the law of supply and demand in the past.

If we are to make the work of our bar associations effective, we must have some programme directed towards improvement of relations with the public. The reviewer believes a book such as the survey made by Miss Brown for the Russell Sage Foundation can be usefully and helpfully studied by every member of the profession who still has an interest in advancing not merely his income or that of his individual clients, but the general administration of justice, which includes finding work for all members of the profession and finding remedies for the wants and needs of members of the public to whom law and lawyers appear at present as the supporters of reaction and “vested interests”.

C. A. W.

---