

BOOK REVIEW

W. WESLEY PUE AND DAVID SUGARMAN, *LAWYERS & VAMPIRES CULTURAL HISTORIES OF LEGAL PROFESSIONS* (OXFORD: HART PUBLISHING, 2003) 399 PAGES ISBN: 1-84113-312-4

JUSTICE GILLES RENAUD*

As is noted in the preface, this “book seeks to develop understandings of the historical and social functions of legal professions on a comparative basis and through interpretative lenses sensitive to the urges of ‘cultural history’”. The editors go on to note the “essence of a comparative ‘cultural history’ of legal professions is the pursuit of an understanding transcending the spatial, temporal or disciplinary boxes that conventionally constrain scholarship.”

As it the first book to my knowledge that directly addresses the cultural history of the legal profession and to set out a wider history of lawyers by means of a comparative and cultural approach to the history of the legal profession, it is well worth our attention and I am hopeful that the lines that follow will be successful in communicating the signal contribution this book makes to the sociology of the law as a general theme and to the sub-theme of the cultural history of lawyers. As might be expected for such an enterprise, the editors have allied themselves with not only lawyers and scholars of legal history but also with historians and scholars of literature, gender and visual studies. In this vein, allow me to point to other recent works in related fields that serve to make plain the importance not only of a multi-disciplinary approach, a self-evident proposition, but also of enlisting the expertise of scholars from fields other than the social sciences. For example, Dr. Keith J. Hayward’s sublime text, *City Limits Crime, Consumer Culture and the Urban Experience*,¹ refers to art historians among many other disciplines not typically associated with criminology.² Consider as well the fascinating study of a wartime atrocity that links the study of military law with the study of the sociology of communities and of psychology in “atrocious producing situations”, not to speak of philosophy and ethics that is offered in *Victims: A True Story of the Civil War*, by P.S. Paludan.³ Lastly, reference is made to the path-breaking and evocative work of Professor Richard Daly, *Our Box Was Full An Ethnography for the Delga-*

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¹ KEITH J HAYWARD, *CITY LIMITS CRIME, CONSUMER CULTURE AND THE URBAN EXPERIENCE* (2004).

² Reference may be had to a book review: Gilles Renaud, 47 *CANADIAN J. CRIM & CRIM JUSTICE* 613.

³ P. S. PALUDAN, *VICTIMS A TRUE STORY OF THE CIVIL WAR* (2004).

muukw,⁴ in which anthropology seeks to inform and correct the errors of fact and of approach inherent in legal fact-finding.⁵

In this regard, it will be useful to set out a general overview of the contents of *Lawyers and Vampires* prior to drawing particular attention to certain outstanding elements of this well-written and superbly edited volume. The first part of the book is concerned with the training that lawyers receive and the resulting portrait of an elitist and poorly educated lot serves to underscore how the superficial knowledge of shibboleths as opposed to a core understanding of human nature and needs came to dominate our profession's early history.

The second part addresses the relationship between lawyers and the emerging liberal states in Continental Europe. Of especial interest are the many insights that are gained from contrasting the professionalism of the European Bar as a whole that emerges from the essays selected with the oft-times brutal and unjust elements of frontier justice as exemplified in North America during the same period. A helpful volume to consult to further one's appreciation of the European "gold standard" as opposed to our domestic "tin plate" one is *People and Place Historical Influences on Legal Culture*, edited by J. Swainger and C. Blackhouse with particular reference to "Macleod at Law: A Judicial Biography of James Farquharson Macleod, 1874-94".⁶

The theme of "Work and Representations" is featured in the third part of the book. We are provided with a tour de force review of the financial dynamics that animated the profession as exemplified in France in the late nineteenth and early twentieth-century period and of the work of the French judiciary against the backdrop of labour activity. However, the main feature of this part and of the book itself is the magisterial essay penned by Professor Anne McGillivray, "He Would Have Made a Wonderful Solicitor": Law, Modernity and Professionalism in Bram Stoker's *Dracula*."

Limitations of space prohibit discussion of the many salient elements of this essay such as the ethical problems associated with representing a client who may be dangerous.⁷ All that may be reviewed in an admittedly superficial fashion is the

⁴ RICHARD DALY, *OUR BOX WAS FULL: AN ETHNOGRAPHY FOR THE DELGAMUUKW PLAINTIFFS* (2005).

⁵ 63 *THE ADVOCATE* 4 (2005) (forthcoming).

⁶ *PEOPLE AND PLACE: HISTORICAL INFLUENCES ON LEGAL CULTURE* (J. Swainger & C. Blackhouse eds., 2003). Please note that the General Editor of the Law and Society Series is Dr. W.W. Pue. Refer to my review (in French) in 46 *CANADIAN J. CRIM. & CRIM. JUSTICE* 391 (2004). As for the American scene, note in particular JAMES C. KLOTTER, *KENTUCKY JUSTICE, SOUTHERN HONOUR, AND AMERICAN MANHOOD: UNDERSTANDING THE LIFE AND DEATH OF RICHARD REID* (2003). Refer to my review, in 46 *CANADIAN J. CRIM. & CRIM. JUSTICE* 527 (2004).

⁷ In this respect, I note a recent story by journalist Christin Schmitz, *OTTAWA CITIZEN*, 21 March 2005 including certain comments attributed to Justice Ian Binnie of the Supreme Court of Canada.

In a post-9/11 world where the state itself could be destroyed by an act of terror, Canadians may have to revisit whether they still buy the legal maxim that "it is better for 10 guilty men to walk free than for one innocent man to be punished," says Supreme Court Justice Ian Binnie. "That proposition is tested when you get to matters of security and counter-terrorism," Judge Binnie told a symposium on counterterrorism and law at the University of Ottawa last week. He pointed to the recent prosecution of a suspected

contribution to criminology found in Professor McGillivray's essay. Her chapter touches upon a host of issues that have informed (and deformed) our understanding of the criminal mind from physiognomy⁸ to the behaviourists' theories of degeneracy without overlooking genetic theories of diminished responsibility or the complex issues of law versus justice and the corollary issue of a lawyer's duty to a client as opposed to the duty owed to the community. In addition, we are made to understand how modernity may well be the undoing of the legal profession in that if we allow ourselves to be seduced by our enterprises, if our technical training is insufficient to permit us to draw bright lines between what is proper and what is not, then the community may come to fear lawyers with some justification.

Finally, the concluding and fourth part provides much needed guidance on the question of lawyers in the colonial world. The essays set out make plain that any suggestion of a homogeneity uniting the legal class is without foundation but that certain groups of lawyers may be described as forming a cohesive group when their religious affiliation or political beliefs are scrutinized.

Having had to consider a somewhat negative aspect of our profession's past and having alluded to a potentially negative future, I turn next to a more positive element to our understanding of the sociology of the legal profession, the faith of lawyers. I commend Harold Dick's informative and insightful essay, "Cultural Chasm: 'Mennonite' Lawyers in Western Canada 1900-1939". The issues that such individuals confronted, both within and without their communities as detailed expertly by the author, ought to make us pause to consider the undue sacrifices that our secular world may demand of us on occasion. In addition, I wish to highlight the various ironies of the law that are exposed throughout this essay touching upon the lack of freedom to educate one's children in accordance with our beliefs and to live in separate communities free of the dominant community if such be our wish.⁹ One may also glean from these pages some fundamental understanding of the reasons why so many restorative justice initiatives have sprung from this community.¹⁰

Lawyers & Vampires Cultural Histories of Legal Professions offers a wealth of invaluable insights into the future of our profession that we can only ignore at our peril. As we say in French, it is "un livre incontournable!"

terrorist in Britain during which one of the English court of appeal judges asked whether "it is better that this country should be destroyed, together with the ideals it stands for, than that a single terrorist should be detained without due process?"

⁸ Refer to the recent contributions of cultural criminology in this respect as found in Professor Wayne Morrison, *Lombroso and the Birth of Criminology Positivism: Scientific Mastery or Cultural Artifice?* in *CULTURAL CRIMINOLOGY UNLEASHED* 67-80 (Jeff Ferrell, ed., 2004).

⁹ Of course, I do not wish to suggest that no conflicts may arise within the community itself as demonstrated ably by ALVIN J. ESAU, *THE COURTS AND THE COLONIES: THE LITIGATION OF HUTTERITE CHURCH DISPUTES* (2004).

¹⁰ Refer to the close analysis of this phenomenon found in ANNALISE ACORN, *COMPULSORY COMPASSION: A CRITIQUE OF RESTORATIVE JUSTICE* 1-26 (2004).