

1960

## BOOK REVIEWS

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### Recommended Citation

Book Reviews, 12 S.C.L.R. 486. (1960).

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## BOOK REVIEWS

**DELAY IN THE COURT.** By Hans Zeisel, Harry Kalven, Jr., and Bernard Buchholz. Boston: Little, Brown and Company. 1959. Pp. 313. \$7.00.

This book contains a very informative and, at times, fascinating study of the problem of court delay, undertaken by a team of social scientists working under a Ford Foundation grant. Although judges and lawyers from other areas were consulted, the authors directed their primary attention to delay in the Supreme Court of New York County (the Supreme Court being the trial court of general jurisdiction and not an appellate court).

Part I of the book is devoted to defining the problem of court congestion. In New York, a case is assigned to one of four possible calendars; (1) personal injury jury; (2) personal injury non-jury; (3) general jury; and (4) general non-jury. Calendars two, three, and four receive trial preference over calendar one and are, generally speaking, up-to-date. The congestion occurs on the personal injury jury calendar, where the average delay before trial is 39 months. There are numerous reasons for the delay, and for each reason a solution has been proposed, the effectiveness of which the authors examine.

Three basic solutions are possible: (1) the time necessary to dispose of cases can be shortened; (2) the number of cases to be disposed of can be reduced by increasing the settlement ratio; or (3) the amount of available judge time can be increased.

Part II deals with reducing the trial time. In personal injury cases, a jury trial averages 17.4 hours and a non-jury trial averages 8.9 hours. If litigants could be induced to waive a jury, some congestion would ultimately be reduced. However, plaintiff's attorneys prefer a jury trial because the verdicts are substantially higher and because juries frequently fail to appreciate the niceties of contributory negligence. On the other hand, the speed with which a bench trial can be obtained attracts some cases, especially the smaller ones. Suggestions for speeding up the jury trial seem impractical, except the suggestion that judges exercise firmer control over their courtrooms to halt long arguments, personal exchanges between counsel, and repetitious questioning. The

frequently suggested solution of eliminating jury trials altogether in personal injury cases is briefly examined, but of course this involves deeper policy considerations than simple amelioration of court congestion.

Part III discusses reduction of the number of cases tried by increasing the settlement ratio. Presently, some 71% of suits commenced are settled before trial. Several possible ways of increasing this ratio are considered. One is the use of impartial medical experts appointed by the court. Statistics show that this favors settlement, but the effective use of impartial experts varies widely with different judges. Another suggestion is a substantive law change to allow interest on the amount of damages from the day of the accident until payment of settlement or judgment. The authors conclude (unfortunately without giving reasons) that this would have little effect on the number of settlements. Pre-trial conferences can have substantial value in increasing settlements if used by interested judges. This is another device, however, that depends for its effectiveness on the judge and, to a lesser extent, on the cooperation of counsel. More extensive use of the "certificate of readiness" before filing suit, *i.e.*, a certificate that settlement negotiations have been conducted and have failed, is also discussed. This was found to have increased considerably the number of cases settled before suit, but to have no effect on speeding disposition of pending cases.

Part IV discusses the solution of increasing "judge time" either by adding judges or by more efficient use of available judge time. Here is perhaps the most practical solution. The authors found that all of the New York court congestion could be eliminated in 11.7 "judge years." (A "judge year" is one judge working one year.) Thus by the addition of a few more judges, the delay could be substantially reduced and perhaps eliminated. Another help would be an increase in the 4.1 hour trial day of the judges. The addition of only one hour would help substantially.

Other interested and related topics are discussed, such as increasing the trial bar, decreasing claim consciousness, and the possibility of a controlled experiment to determine the efficiency of different modes of trial. This review cannot discuss any of these matters in detail, but they are controversial and interesting. The book covers so thoroughly the entire field of court congestion that only a brief summary of its important findings has been attempted.

One cannot help but compare the results of this study with the court congestion — or comparative lack of it — in South Carolina. In the more populous counties, county courts relieve the circuit courts of a great amount of litigation. In the Richland County Court, a trial can be had in about four to six months. Even the common pleas courts have nothing like the delays in New York. In Richland County, it takes about six months for a case to come to trial. Generally, our courts work about five hours on a trial day, and very few trials take the extraordinary length of time apparently customary in some other states. Few cases take over two days and most take less than that. To say that we have less congestion than others, however, should not lead us to conclude that we can be complacent. Any delay at all subjects courts and lawyers to public criticism because such delay is at least a partial denial of justice. As South Carolina's economy becomes more complex, litigation of every kind will increase, and we as lawyers have an ethical duty to the public to insure against unjustified delays.

This book is stimulating and thought-provoking, although its graphs and statistics are sometimes dull. It should be read by anyone who is concerned and thoughtful about maintaining high standards in the administration of justice.

H. SIMMONS TATE, JR.\*

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LAW FOR THE VETERINARIAN AND LIVESTOCK OWNER. By H. W. Hannah and Donald F. Storm. Danville, Illinois: The Interstate Printers and Publishers, Inc. 1959. Pp. 196. \$6.00.

This book is not presented by the authors as being one for lawyers. As stated in the preface, it "is mainly for two particular kinds of laymen, veterinarians and livestock owners." The authors are careful, however, to set forth that the book is not intended to make "do-it-yourself" lawyers out of laymen, and the advice that competent legal help be secured is reiterated in areas which closely approach legal practice. A survey of the index of the book which lists twenty chapters and 153 topics makes it clear that this is not a technical text

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for attorneys. And, indeed, it is doubtful if such a specialized text would be warranted, for the veterinary profession is undoubtedly the smallest of the professions and, correspondingly, the average attorney is infrequently presented with a problem in this area of law.

Nevertheless, the book has merit. This is true not only for the specialized professions for which it is avowedly intended, but also for attorneys who practice in agricultural and, especially, livestock-producing communities. While the material is thin when appraised from the standpoint of legal principle, it is sufficient to present to the attorney an overall picture of the interrelationships of the law, veterinarians, and livestock owners. The authors of the book have included a table of cases at the end of the book, but the references are so general as to be of little aid to an attorney researching a specific problem. In addition to its value in presenting an overall view of a small and specialized section of the law, the book contains certain materials which might aid an attorney in drafting instruments for the livestock owner. The increasing size of agricultural enterprises, together with the increased educational standards of the farmer, make it more likely that this class of persons will consult attorneys on specialized problems in the future. This book might help to supply the background which would enable an attorney to better handle these problems when he is consulted.

Although the material is divided into twenty chapters, for purpose of discussion it may be separated into four sections. The first four chapters discuss the nature of the law generally. This material is obviously intended for laymen, and is so elementary as to be of little interest or importance to attorneys. Chapters 5-9 discuss the legal relationships of the veterinarian to his profession and to his client, including such subjects as regulation of the profession, contractual relations between clients and the veterinarian, standard of care imposed on veterinarians, and agency problems. This might be of value to attorneys faced with such problems, although the discussion presented is so general as to afford only a survey of the law. The section might, nevertheless, prove a starting point in malpractice or collection suits and in related problems. Chapters 10-15 would, perhaps, be of more interest to attorneys than the other parts of the book. They contain a discussion of laws significant in veterinary medicine and livestock production. Although state laws are only considered

generally, the material is of some importance as a compilation of the theory in this field. The federal regulatory laws are discussed more specifically, with separate emphasis placed upon food and feed laws, medicines, fence laws, and dog laws. The book probably presents a rare source for a general consideration of the law in this area, since the statutes applicable are scattered throughout state and federal codes and decisions. The final four chapters are devoted to particular problems which confront the veterinarian in relation to business and personal interests. Topics include animal hospitals, veterinary partnerships, taxes and insurance, and real estate and wills problems. Two forms which might be of aid are included in this section. A veterinary partnership agreement is set forth. Over the past several years, the veterinary profession has experienced a trend favoring the establishment of partnerships. Attorneys may occasionally be called upon to execute this type of agreement and the form set out contains valuable information as to how the arrangement may be handled. Another chapter contains provisions which may be included in a chattel mortgage covering livestock or livestock-producing equipment and applicable principles of law.

In view of the limited use which an attorney would find for this book, it is probably not warranted as an addition to his library. However, it should be kept in mind as a source of general law in this area. Probably, a compilation of the specialized law in this field is unavailable elsewhere.

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