BOOK REVIEWS

LAW FOR SOCIAL WORKERS: A CANADIAN GUIDE, by E.J. Vayda and M.T.S. Satterfield, Carswell, Toronto, 1984, pp. xxi, and 292.

This well-written text is designed to be a legal primer for practicing social workers and students training to become social workers. Writing such a work is perhaps easier said than done, and this book should be viewed as an example of a successful attempt to overcome many of the problems which are presented when writing about law for the lay public.

One can envisage at least three major difficulties in such an endeavour. The first concerns the selection of subject matter. Choosing the topics for treatment is not a particularly straightforward exercise because, from a legal perspective, "social work" is an indefined, elastic term. It does not conjure up a convenient pigeon-hole of law; to mix metaphors, the social worker, as a legal entity, is caught in a seamless web of the Canadian legal system. On the question of coverage, the authors observe that:[1]

> Knowledge of law is essential for social work practice . . . Phillips has specified four areas about which social workers must be informed. His view is that they need a knowledge of legal aid plans and procedures for fixing eligibility, and the names of specific lawyers who are perceived as sympathetic and interested. They need up to date knowledge of welfare entitlements in order to be able to question or challenge a board's decision. They need to understand their roles in court, where they may become involved as a witness, as plaintiff, as impartial reporter or in loco parentis. Finally, they need to be knowledgeable about the mandate and practice of their agency in regard to rules that are set internally and rules that are statutory and whether and through what procedures rules can be challenged.

Happily, this book approaches the interface between law and social work from a much broader context than that contemplated by this reference to Phillips. Thus, the introductory chapters in Part I describe the Canadian legal system at large, discussing such basic topics as "sources of law", the "trial process" (including evidentiary principles), as well as the Charter of Rights and Freedoms.[2] In the subsequent Parts specific topics are summarized, such as family law, criminal law, and a broad range of other social welfare legal areas, including workers' compensation, mental health, landlord and tenant law, and legal aid.[3]

It is interesting, and almost commendable, that the authors have apparently taken a distinctly client (or patient) oriented approach to the selection of subject matter. As a consequence, the discussion centres largely on those laws which are likely to affect directly the objects of social work, without undue concern for providing a guide to the social worker as to his or her own potential legal liability which might arise in the context of fulfilling social work functions. Such topics are not ignored,[4] but they receive subordinate attention. Perhaps greater stress

1. Vayda & Satterfield, *Law for Social Workers: A Canadian Guide* (1984), at 4, referring to Phillips, "Social Work and the Delivery of Legal Services" (1979), 42 *Mod. L. Rev.* 29, at 34-36.
2. Pt. I, Constitution Act, 1982, ss. 1 - 34.
3. For the sake of completeness, the Part titles, which are descriptive of the contents thereof are: Part I, "Fundamentals"; Part II, "Issues in Family Law"; Part III, "Children and the Law"; Part IV, "Criminal Law"; Part V, "Tribunals and Powers of Review"; Part VI, "Legal Assistance on a Limited Income"; and Part VII, "Legal Issues for Professional Social Workers".
4. *See supra* note 1, at 269 - 273 (Chapter 26: "Legal Accountability of Social Workers").

could have been placed on the potential criminal liability of a social worker who unwittingly counsels a client to commit a crime, say perhaps in a child custody dispute, or the potential liability for criminal negligence of the social worker who incompetently performs his responsibility. The law relating to contempt of court could also be developed fully.

Secondly, in producing such a book one must meet the challenge of presenting legal concepts in a manner intelligible to non-legally trained persons, while at the same time avoiding simplistic descriptions of abstruse legal principles. This is the strongest positive attribute which the work possesses. It is written in plain language, and in addition to the lucid textural presentation, there are, as a rule, sufficient references and footnotes to provide the reader with easy access to additional information on most major topics. The chapters conclude with a bibliography, and the book appears to be well indexed.

The third critical hurdle is the avoidance of creating what may be called the 'barnyard lawyer syndrome'. In other words, the analysis should seek to inform the reader about basic principles and policies of law, while at the same time sensitizing him or her to the numerous complications and complexities which exist in virtually every juridicial area. A social worker who, armed with this general primer, attempts to solve an ostensibly simple legal problem, or provide advice to a client, may make a serious error. One senses that the authors recognize this inherent danger; there are sufficient caveats and qualifications to put the reader on alert.[5] One important caveat deserves a stronger emphasis than that which it is presently accorded: many of the areas of law broached in this text are dynamic and frequently under the scrutiny of law reformers. Therefore, the volatility of even the most basic principles adumbrated should be made mainfestly clear. Even now, the book is slightly out of date on some minor points.[6]

Although the above three considerations relate distinctly to this specialized type of work, there are at least two other considerations endemic to any Canadian legal textbook. One of the dubious pleasures of living in a federal state is that on some matters there will be a great diversity of legislation among the provinces. This is certainly true of much social welfare legislation, a large bulk of which falls within provincial constitutional competence. *Law for Social Workers* is written by an Ontario based lawyer and an associate professor of social work at York University in Toronto. Quite naturally, the law of Ontario is placed at the focus. Generally, but not universally,[7] the authors make note that the

5. *See e.g. supra* note 1, at 87 (under the heading "Judicial Discretion").

6. The decision in *Re R and McKibbon* (1981), 34 O.R. (2d) 185, 61 C.C.C. (2d) 126, *aff'd.* 35 O.R. (2d) 124, 64 C.C.C. (2d) 441 (C.A.), which the authors report as being under appeal to the Supreme Court of Canada (*supra* note 1, at 14), has now been heard and affirmed: *Re McKibbon and The Queen* (1984), 10 C.C.C. (3d) 193 (S.C.C.). *See also Porter* v. *Porter* (1984), 40 O.R. (2d) 417 (H.C.), which provides further support for the proposition at *supra* note 1, at 52, note 16.

7. For example, it is stated that: "Civil actions are commenced by the issuance of a Writ of Summons . . ." *supra* note 1, at 37. The Writ of Summons, while still used in Ontario, has been abolished in Alberta.

principles may differ in other Canadian jurisdictions. This is complemented in an important and effective way: a Table of Concordance provides guidance as to the relevant provisions in other provinces.[8] Only the statutory titles are listed not specific sections, but to have endeavoured to cross-reference comprehensively all sections would have been a monumental task.

Finally, a law text should be accurate (if this statement is not axiomatic, then nothing is). Given that the authors have sought to explain a wide variety of Canadian law in a very short exposition, there can be little question that they have done a competent job of accurately stating the law. Yet, some minor quibbles can be noted: the suggestion that in the criminal law a mistake of fact must be both honest and reasonable is not accurate;[9] stating that the provincial governments may "opt out" of the legal rights provision of the Charter implicitly (and incorrectly) ignores the fact that the federal government may also do so;[10] the ability of a jury to make recommendations as to parole relates only to a conviction for second degree murder, not murder generally, as the book states;[11] and the discussion of the criminal law defence of duress is so cursory as to be potentially misleading.[12]

Putting aside these minor criticisms, *Law for Social Workers* can provide a useful introduction to Canadian law and procedure. The rationale for such a study, that is, to demystify the sometimes strange workings of the law, is a compelling one. It is unfortunate that other public legal educational publications of this calibre are not yet as prevalent in Canada as one would hope.

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8. *Supra* note 1, at 277-84.
9. *Id.* at 202. *Cf. Pappajohn* v. *The Queen*, [1980] 2 S.C.R. 120. In fairness, the example considered (at 202) can be sympathetically viewed as suggesting that the reasonableness of the mistake only relates to the question of whether or not the trier of fact will disbelieve the suggestion that an honest mistake exists.
10. *Supra* note 1, at 21. Compare s.33 of the Charter which provides that "*Parliament or the legislature of a province* may expressly declare in an *Act of Parliament or of the legislature*, as the case may be that the Act or a provision thereof shall operate notwithstanding a provision contained in section 2 of sections 7 to 15 of this Charter." [Emphasis added].
11. *Supra* note 1, at 45. *Cf.* Criminal Code, R.S.C. 1970, c.C-34, s.670 *as amended by* S.C. 1974-75-76, c. 105, s.21.
12. *Supra* note 1, at 203. Note also that the list of excluded offences is out of date: see Criminal Code, R.S.C. 1970, c.C-34, s. 17, *as amended by* S.C. 1980-81-82, c.125, s.4.