THE MODERN FAMILY SOLICITOR: GUIDELINES FOR PRACTICE TODAY AND TOMORROW. By C.D. WICKENDEN, LL.B.(Lond.), Solicitor. [London: Stevens & Sons. 1975. x + 237 pp. Price: £3.25 (bound), £2.15 (paperback)].

In this book the author, a practising solicitor of wide experience, "offers an account of the current professional situation in England and of the work of the practitioner and his office team." In a broad, practical survey Mr. Wickenden deals with the characteristic problems likely to face a young solicitor on his entry into private practice and, in doing so, covers a variety of subjects often orally discussed, but seldom reduced to writing, and deals with a subject of interest to anyone contemplating entry into legal practice. Indeed, much of the book will be helpful to the young Singapore lawyer.

After a survey of the role of private practice — a term covering service to "the individual citizen and his private domestic and business problems rather than the larger commercial or company client," and which he sees, significantly, as "the last great independent social service" — the author offers advice on the choice of the right firm or principal for the trainee lawyer. In this context he offers a useful comment upon which some of us have acted, to our benefit:

> It is felt that if practicable the intending trainee would be well advised to try to acquire some experience of a solicitor's office *before* actually entering into articles — say for a few weeks during the school holidays of his last year, or in the university vacations. Here the profession might be invited to offer much more help than it does.

For any law undergraduate, this is practical and instructive advice: a short spell of one or two months in a lawyer's office will offer the best insight into the difficulties and fascinations of day-to-day practice, with its snares, pitfalls and occasional delights, and enable him or her to ascertain whether it is an appropriate and personally acceptable way of life. For a way of life it certainly is: the practice of law occupies

all one's working hours, and its influence permeates all that one does, offering a vast realm of philosophy, an area of study of human interests and conflicts, and their occasional collisions with those of the State.

In a checklist of fourteen points the author deals with the matters a potential member of a firm should consider, e.g., How long has the firm been established? How many partners, assistant solicitors and legal executives are there? What of the firm's library? and so on. Here, the author favours the long-established practice, and suggests a certain suspicion of the one-man band — unless that man is someone of very special ability. His advice will be of value to any competent young lawyer fortunate enough to have a choice of practice.

Having studied the nature of private practice in England, the author suggests that "the optimum size of a normal provincial practice" should be eight qualified lawyers — three dealing with conveyancing, one each with probate, commercial law, company law, matrimonial and general matters, and an eighth dealing with administration and advocacy. The eight partners should be supported by a dozen senior and junior legal executives (a high figure by Singapore standards, one suspects) and thirty administrative and secretarial staff; giving a total of twenty fee-earners out of a staff of fifty.

Whether such a size of practice would be suitable for Singapore only an experienced local practitioner could assess: but on the face of it, the author's argument appears to have validity in the local environment: certain it is that each year the corpus of statute law, subsidiary legislation and case law becomes greater and more complex, and that the practitioner finds the demands of general practice becoming increasing onerous, so that he is driven to a degree of specialisation he may never have contemplated when first setting out in practice.

On this basis an efficiently organised office is a necessity. Here the author offers helpful advice on the matter of amalgamation, recommending the Law Society's booklet *Amalgamations and Your Practice,* and then adding his own comments on such matters as physical assets, financial assets (on the vexed issue of *goodwill* he sensibly comments: "get rid of this as and when you can"), shares of profits, the new firm name, partners' meetings and so on.

Further, the author is sensitive to the problems of making a practice pay, by means of efficient costing and charging. On this subject he gives practical advice on office procedures relating to the receipt of money. The old system of scale fees for conveyancing having been replaced since 1973 (when the Solicitors' Remuneration Order 1972 came into force) by the concept of "such sum as may be fair and reasonable in all the circumstances," having regard in particular to "such issues as the complexity of the matter, the difficulty or novelty of the questions raised, the skill, labour, specialised knowledge and responsibility involved," etc., he takes the reader into the realm of "time-costing": a concept familiar to the American but still novel to the English lawyer, and requiring "the keeping of fairly strict records of time spent on the affairs of every client". Given the current rate of inflation, a commercial approach to the costing of a lawyer's work collides with what the author describes as "a rather more pragmatic, or instinctive, attitude to profit charges, based on what [practitioners] felt the traffic would stand". Old attitudes die hard, in the legal profession.

After quoting Boulton and Lund on professional etiquette in the litigation scene, Mr. Wickenden offers five further principles, which are worth repeating here:

1. The advocate should not wantonly or recklessly attribute to another person the crime with which his client is charged.
2. He should not set up any affirmative case inconsistent with any confession which may have been made to him by the client.
3. He is under no duty to disclose facts known to him regarding his client's character or antecedents nor to correct any information which may be given to the Court by the prosecution if the correction would be to the client's detriment.
4. He should guard against being made the channel for questions which are only intended to insult or annoy the witness or any other person.
5. Questions designed to attack the character of a witness should not be asked unless there are reasonable grounds for believing the imputation to be well-founded.

As a one-time prosecutor I have a certain diffidence on the third principle: but no doubt the matter of the client's detriment will dictate the correct course of action.

In the same chapter the author, in commenting upon the duty of the advocate in those now all-too-common cases in which the client seeks a martyrdom on the ground of moral or political beliefs, includes a topical observation by Lord Justice Lawton,[1] worth repeating here:

> It was wholly irrelevant to any matter which was before the Court. The Court is never concerned with the political views of accused persons. If one can judge from newspaper reports, it would appear that in recent months there have been occasions when young offenders had thought it right to air their political opinions in Court. This Court wishes to state in the clearest possible terms that courts are not sounding-boards for anybody's political views. Anyone attempting to bring political opinions into Court is attempting to introduce wholly irrelevant matter. Counsel asked to air an accused's political views should refuse to do so and if, as in this case, the accused then says 'Well, I will not accept any advice you give me if you do not air my political views,' the duty of counsel, so it seems to us, is to say 'very well, I will withdraw from the case....' The Court goes on to say this, that if accused persons do dispense with the services of counsel so as to enable them to air their political views in Court, it is the duty of the judge to stop them doing so.

Such an emphatic principle, once known, saves one the expense of much uncertainty. In spite of popular pressures, in our society the courts are not weapons of either the state or the individual, nor are they to be manipulated in accordance with the shifting demands of policy or emotion; they are designed as instruments aiming at social justice, at the creation of harmony within the multiplicity of human relationships that exist, usually in tension, often in conflict, around us.

On the subject of "the more neglected aspects of lawyers' training" the author has a useful quotation from the Ormrod Report:[2]

> Two subjects are obviously important to all lawyers — elementary behavioural science, covering such matters as interviewing techniques, the interaction of lawyer and client on each other, normal pychological development of children and their interaction on their parents, the basic

[1] *R.* v. *King and Simpkins* (1973) 57 Cr. App. R. 696, at p. 700.
[2] March, 1971 (*Cmnd. 4595*).

> facts of mental disorder; and business finance, so that the basic principles are understood and balance sheets can be read intelligently. Other matters which might be considered for inclusion are criminology, forensic medicine, aspects of economics and sociology....

The author appears to have an especial interest in the matter of behavioural science, and his chapters on the relationship between solicitor and client are of especial value; indeed, I know of no better short introduction to the "interview techniques" so necessary to effective practice. Showing an astute knowledge of human psychology gathered over many years of practice, Mr. Wickenden lays down fourteen basic rules on the satisfactory development of the solicitor/client relationship, one of these including a reference to that awkward situation in which it may be prudent to have a third party present. A little later, he comments on the need to assess the *apparent* problem as posed by the client: a salutary reminder that the problem as seen by the client may not be — and all too often is not — that recognised by the solicitor or the law. Finally, he emphasises that golden rule, "Confirm it in writing": "all but the simplest instructions received in a professional situation (and perhaps even those too)", he notes, "should be not merely recorded by the practitioner at the time, or immediately afterwards, as a permanent part of the file on that particular matter... but such instructions should also be confirmed back to the client promptly in writing in the clearest terms." These ancient truths bear revival, every new generation.

The author has some useful advice to offer on the nature of the legal texts and practice books a practitioner requires. In this context he offers the following as "a nucleus for the library" of most of the smaller firms:

> Halsbury's *Laws of England:* The All England Law Reports; a set of *Statutes; The Encyclopedia of Forms and Precedents;* a set of *Litigation Precedents; The White Book* (Supreme Court Practice); *The Green Book* (County Court Practice); Stone's *Justices' Manual; Legal Aid Handbook* (HMSO); standard works on *Contracts, Torts, Divorce* and *Family Law, Conveyancing Law and Practice, Land Registry Practice, Landlord and Tenant,* the *Rent Acts, Town and Country Planning, Estate Duty and Tax, Costs, Stamp Duties, Probate Practice, Company Law and Practice* and *Consumer Protection.*

The list is extended to cover a full set of tables on stamp duty scales, intestacy, tax deduction and road traffic offences; *pro forma* instruction sheets for standard types of cases; building society *Practice Notes;* a concise volume of the more common precedents, such as Kelly's *Draftsman;* Nelson's *Tables of Procedure* on company matters; *Whitaker's Almanack;* a good English dictionary, a judicial dictionary and a medical dictionary; *Current Law* and specialist journals; *Law Notes* for trainees; and so on. "Precedent books make fascinating reading in their own right," he adds, "and the footnotes contain much practical law." Obviously, the list is not adapted to the needs of the Singapore practitioner: but it offers a useful basis for the building up of those instruments without which the practice of law is impossible: accurate, up-to-date texts.[3]

In admitting twenty-nine new lawyers — nineteen of them women — into practice in Singapore on 28 January 1976 the Chief Justice of

[3] The cost of copies of statutes in Singapore seems to be very high, compared with that levied in Malaysia.

Singapore was reported [4] as saying that there was still room for practitioners despite the increase in their numbers: "There is need for qualified members of the profession to serve the requirements of people who live here or do business in this country. They will always need to have professional advice in some of the things they do." A footnote to the report noted that "at the last count there were 530 practising lawyers in Singapore."

Some 500 or so practising lawyers for a population of 2 million gives a proportion of, say, 1:4000. In England and Wales, the Law Society's Annual Report for 1973-74 showed that the number of practising certificates issued to solicitors there for 1972-73 as 27,379, of whom 23,818 were in private practice: a proportion of, say (the figures are crude indeed, and overlook the Bar) of 1:2500.[5]

Such figures reinforce the comments of the Chief Justice: but it may be that the situation in Singapore is a little more complex than it would appear. One of the features of practice in Singapore seems to be that a handful of eminent firms in effect skim off the cream of practice: monopolising such well-endowed clients as banks, major commercial firms, large corporations, and so on. In a way this is inevitable: a bank requires a firm with some stability and evidence of staying power, for in, say, twenty years' time it may well require reference to past records. In consequence, there is a tendency for the eminent firm to take not only the best business, but also the best young lawyers. For the small practitioner, life cannot be so easy.

One method of solving the problem that has been canvassed is to amend the Legal Profession Act in order to separate the two branches of the profession and so follow the English distinction of barrister and solicitor. Such a distinction (still obtaining in Hong Kong) offers a form of specialist service: and the development of the legal system suggests that we must all become specialists, sooner or later. As a solicitor and one-time barrister I have mixed views on the matter of fusion: but the evidence suggests that the interests of Singapore would be advanced by a fission of the profession, with a group of counsel advising a much larger group of solicitors on the more complex aspects of law, and providing a specialist service of skilled advocacy within the Courts.

At the same time it is worth considering whether the annual output of law graduates (and, by inference, lawyers) should be substantially reduced, from upwards of 140 or so to a figure of perhaps fifty. After all, now that there is a Faculty of Law in Kuala Lumpur, the University of Singapore no longer has to serve the interests of the common law of the region, and can, and probably should, concentrate upon the interests of Singapore.

Mr. Wickenden's comments on the best size of a provincial practice in England suggest that here in Singapore the office of legal executive is significant, but unrecognised. Any practising solicitor is

[4] *Straits Times,* 29 January 1976, p. 23.

[5] According to an article by P.A. Leach in the Law Society's *Gazette* for 14 January 1976, "In 1975 for the first time over 2,000 new solicitors were admitted. In 1955, the number was 695. There are now 29,850 solicitors, as against 17,966 then."

well aware of the key importance of his managing clerk. In England the education of legal executives has proceeded apace, and their competence, status and importance has developed accordingly. In Singapore it is time, it seems to me, to consider the introduction of classes and prescribed qualifications for legal executives, either in the Faculty of Law of the University, or better still, in the Polytechnic: coupled with the objective of establishing, say, an Institute of Legal Executives ultimately capable of supervising this side of the profession. I observe, "better still", since I believe that a gentle sense of the competitive makes for better scholarship, brighter ideas and more competent graduates and trainees. The legal executive is a key figure; we know that the barrister's clerk has great power in his own sphere, and the same is true of the solicitor's managing clerk who, under a general supervision, often carries a much heavier burden of responsibility.

Mr. Wickenden occasionally rides a few hobby-horses: but what writer possessed of strong views does not? His work is stimulating, and while his skilful selection of quotations — several of which 1 have adopted here — might suggest that the book is a collection of useful material garnered from a variety of sources, it is considerably more than that. It contains a very personal and stimulating view of the contemporary problems of the private practitioner, enlivened by personal anecdotes, nice observations ("some practitioners plaster their walls with prints of bewigged judges, resembling nothing so much as sea-sick retrievers": no prize offered for identifying any Faculty of Law whose walls are similarly plastered) and a series of checklists containing extremely useful, and often out-of-the-way information likely to be of value to the local practitioner.

"Never", concludes the author, "has the existence of a truly competent, courageous and independent legal profession been more necessary, in the interests of the *whole* community, not merely of certain sectors of it which may be signed out for preferment either because of wealth or because (in the spirit of the times) they are deemed to be 'under-privileged'."[6] To teach these essential qualities of competence, courage and independence is the function of the law school; and we can perhaps measure our degree of success by the number of able, brave and free spirits in practice in Singapore: for, after all, the University has been producing law graduates since 1961.

As the foregoing comments suggest, a reading of the book prompts the thought (perhaps, alas, an impertinent one, coming as it does from an outsider) that it is now time for the legal profession of Singapore to consider the following matters: a few basic alterations in the nature of legal education, in order to take in the subjects mentioned in the Ormrod Report; whether a continuing fusion of the profession best serves the interests of Singapore; the creation of a certificated status of legal executive, to meet the efficiency (and aspirations) of those

[6] "Lawyers have never been popular", commented the *Times,* in an editorial of 26 January 1976, supporting a plea by a member of Parliament for a Royal Commission to carry out "a searching and thorough investigation into the legal profession." In England the profession is under attack, and (as the *Times* observes) "legal education is in an unhappy state of transition, with both branches confused and uncertain about their profession's future manpower requirements and educational and training needs." The Prime Minister there on 12 February 1976 announced the appointment of a Royal Commission on the Legal Profession, with somewhat wide and imprecise terms of reference.

who serve the profession without formal legal qualification; and the matter of practical training for new recruits to the profession on the lines of, say, the final year accorded to law graduates in Hong Kong.

Whether the present system of legal education requires change is a matter already under review. Whatever form that review takes, and whatever be the outcome of pending recommendations, I would hope that the syllabus will include some of the subjects covered in Mr. Wickenden's admirable little book. There is a close link between efficiency and ethics. It may be, perhaps, that Singapore will be the first University to adopt Mr. Wickenden's idea of a Chair of Legal Practice; after all, there is a splendid ring of the utilitarian about the title, likely to appeal (I would suppose) to the City Fathers.

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