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Publication Review

EDUCATING JUDGES: TOWARDS A NEW MODEL OF CONTINUING JUDICIAL LEARNING

Livingston Armytage.

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This book is about the education of judges upon appointment and in their subsequent careers. It covers Australia, Britain, Canada, the United States and New Zealand. The process is discussed within the context of selection (an especially interesting segment), the expansion in recent years of professional continuing education, and the considerable body of theoretical knowledge about the process by which adults learn: although in those parts of the book dealing with the latter the material marshalled is almost exclusively North American.

Considering the general, almost Gilbertian, perception of judges as being akin to dotty uncles, and more seriously as autocratic members of elites, it would seem remarkable that any of them would take the giant emotional step of conceding that they might be in any kind of need of education or training. This is especially the case in Britain where endless surveys demonstrate that judges, like bishops, as a matter of fact, are mostly drawn from the narrow seam of public school and Oxbridge. In passing, judges' value to British life in recent years has been vividly demonstrated by their opposition to endless threats to civil liberties by the Conservative government.

Yet sure enough judicial education is very controversial amongst judges, with proponents arguing that education which somehow ends leads to atrophy, and opponents wielding objections which range from the reasoned to the hilarious. In a short review it is impossible to do justice to all the debates, but, taking Britain as an exemplary case, Armytage quotes a senior judge as saying 'judges have accepted, appreciated and benefitted from training in a way that has confounded the sceptics' (p. 15). This is not to say that all is won, or lost. Lord Devlin, a much respected judge amongst the sane members of society who take an interest in such matters, is quoted as saying that he regarded 'with a degree of indifference verging on contempt, the criticism of judges that demands for them a type of training which render (sic) them more like assessors or expert witnesses than judges of fact and law' (p. 31). The former Lord Chancellor, Lord Hailsham agreed, predictably for someone who said on television in the 1980s that he could see no point in judges knowing what was going on in prisons. Others (for example, McGuiness) see the sinister hand of political correctness in the advocacy of continuing education for the judiciary. Such calls are 'inescapably value-laden and reflect particular sectional interests' (p. 27).

A substantial part of the book is devoted to theories of adult learning. This includes the awkward question of assessing educational needs, which of course affects any educational enterprise. Chapter five entitled 'Adult learning' is a very necessary component of the book since it informs the reader, who may not be an educator, of the wealth and utility of theory. In short, this discussion is an essential part of the case which the writer advances. And yet, as a professional educator of adults, I wonder if the case is much advanced by him taking

seriously, or even quoting, the occasional banality, such as that proclaimed by Houle. Houle, we learn, after a 'seminal study' came up with the revelation that 'professionals' reasons for participation in continuing education ... are generally job related' (p. 78). In respect of adult education incidentally, an exceptional error in a book almost entirely free of them is that FREIRE, the most misspelt name in writing on adult education, is again misspelt. My score was five wrong, including the bibliography and one right.

This book is suffused with optimism based both upon what Armytage has discovered in the course of his research in several countries and, as I understand it, his conviction that the continuing education of judges is intrinsically a good and necessary activity. His attitude seems to me to be balanced: In his discussion of whether or not judicial education should be compulsory, for example, he points out that compulsion does not seem either to work or help. In a section on probably the most difficult area in education, evaluation, he is frank. He finds the evaluation of judicial education to be 'deficient, inappropriate and of limited utility' (p. 184).

The complexity of the matter is also a constant theme. Taking the case of what judges should learn, when actually, so to speak, brought to the water, the author's view is that 'to inform judges of the law is to deviate from the mission to promote judicial artistry and authenticity' (p. 167). Before the Lord Hailsham School of Outrage has collective apoplexy, it would do well to read the sophisticated discussion behind this phrase. The former Chief Justice of Australia, who has written a Foreword to the book, is not so sure. The view of such an eminent authority is that 'it is always assumed that those appointed as judges have a sufficient knowledge of the law and how to find it, and that they will continually update their knowledge. The validity of that assumption is dubious' (p. xii).

This last controversy is typical of the author's sophisticated and mature treatment of a vital area of public education. The success of this valuable book lies in the way it sets out the history and present activity of judicial education within the context of the new and rapidly expanding continuing education of professional groups. It should appeal both to those concerned with legal education, and to those more generally involved with, or interested in, the abiding attempt to educate adults.

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