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Book Review: Legal Services for the Community, by Michael Zander

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Legal Services for the Community. By MICHAEL ZANDER. London: Maurice Temple Smith. 1978. Pp. 403. (\$5.75).

The last decade has witnessed a growing public discussion about the English legal profession and the provision of legal services to British society. This public discussion has been stimulated in no small part by the writing and commentary of Professor Michael Zander of the law department of the London School of Economics. Zander has been in the forefront of British research into restrictive practices, unmet legal needs, and particularly the provision of legal services to low-income citizens. His writing, which has appeared in academic journals and *The Guardian* newspaper (he is their legal correspon-

¹ 92 Stat. 1867.

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dent), strengthened the growing demand for a review of the professional monopoly of barristers and solicitors. As a result of the demand the Royal Commission on Legal Services was charged, in February 1976, with investigating all aspects of legal services in England and Wales, and specifically to consider the question of whether the legal profession's monopoly should be retained intact and whether the conventions should be retained that divide the profession. The Royal Commission, which reported in October 1979, stimulated an unprecedented amount of discussion about the legal profession and was welcomed as a once-in-a-generation opportunity to scrutinize legal education, professional training and competence and the earnings of barristers and solicitors.

Zander's *Legal Services for the Community* is an expansion of his written evidence to the Royal Commission on Legal Services and is the culmination of more than a decade's study of the English legal profession by its most eminent commentator. Including much of his earlier research in the field, it brings together in one volume a comprehensive description and analysis of the public and private sectors of the British legal profession as well as of the alternatives to traditional delivery methods in legal services.

One of the significant aspects of *Legal Services for the Community* is Zander's detailed description of the development of law centres. Here the author compares the American model of legal aid developed within the philosophical framework of the war on poverty with the English system of judicare which was established in the period immediately following World War II under the direction of the Law Society. Zander's personal commitment to the introduction of community legal services in Great Britain has provided him with intimate knowledge of the previously unwritten history of the burgeoning law centre movement. The superbly detailed description of the development of law centres in England during the 1970s, in the face of opposition of the Law Society which had been operating a judicare (private solicitor) scheme since the early 1950s, is sufficient reason to read the book, for Zander has added an important chapter to the growing literature on legal aid. His description and analysis of the development of legal services in the public sector makes the book a required companion to Earl Johnson Jr.'s definitive study of neighborhood law offices in the United States, *Justice and Reform*.¹

Zander raises one issue which has thus far been ignored in the on-going Canadian discussion of the merits of judicare vis-à-vis community legal services. He is concerned about the discrepancy between the highly technical and specific financial criteria required

¹ (1974).

to obtain legal aid provided by the judicare schemes as compared to the flexible and often vague eligibility requirements of community law centres. The client who applies for legal aid from the judicare legal aid plan will be carefully screened as to his financial resources and will often be required to contribute to the cost of legal services. Zander asks whether law centres are conferring a benefit on clients who utilize their services on a gratuitous basis which is denied to clients with an equivalent income who attempt, through legal aid, to retain a solicitor in private practice. Examining this issue at great length, Zander is ultimately unprepared to require law centres to impose more stringent economic criteria for their services, out of concern that this requirement could fundamentally change their approach to legal services.

Readers of Zander's earlier writing will be surprised to find that the author no longer advocates a Legal Services Commission to co-ordinate, manage and stimulate civil and criminal legal aid for England and Wales. In *Legal Services for the Community*, Zander agrees with the submission of the Lord Chancellor's Legal Aid Advisory Committee that no sufficient case has been made for divesting the Law Society of its stewardship of civil legal aid. Though agreeing in principle with both the analysis and recommendations of the Osler Commission on Legal Aid in Ontario—that legal aid should be governed by a board of governors and not by the Law Society of Upper Canada—Zander states that in England and Wales the Law Society is merely a manager: all significant decisions being made by government. It is government which ultimately determines the amount of monies available for legal aid and whether the private or the public sector is to be encouraged in the provision of legal services. He cites the withdrawal of legal aid from undefended divorces in England as an example of a situation where the ultimate and crucial decision was made by government (the Lord Chancellor's department) in face of the Law Society's opposition. Although he acknowledges the need for co-ordination of decision-making and overview of legal services in criminal and civil matters in both the public and private sectors by informed professionals and lay persons, Zander backs away from recommending a legal services commission similar to those in Quebec, Manitoba, Saskatchewan and British Columbia. He suggests rather that the expansion of the role of the Lord Chancellor's Legal Aid Advisory Committee is the most effective method of developing a variety of alternatives to the provision of legal services which will, in the end, be paid for by government. Pragmatic as this approach may be, this writer would question Zander's conclusion submitting that the Saskatchewan Legal Services Commission has demonstrated that there is an effective role for a commission composed of representatives of the consumers of legal aid, the profession, and government who together

administer the legal aid budget and set priorities in the delivery of legal services.

Legal Services for the Community is essential reading for the growing number of lawyers and law students in Canada who are concerned with evaluating the role of the legal profession and specifically legal aid in the face of changing professional and economic expectations of the public and government. In particular Zander's description of the non-lawyer's role in providing legal services in solicitors' offices and directly to the public is of considerable interest. He examines the relationship between the legal, para-legal and lay advisors and provides interesting descriptive data about the work of non-lawyers in citizens advice bureaus, trade unions, consumer advice centres and housing advice centres. Zander examines the profession creatively, providing a highly critical yet significant commentary on the English legal profession—a commentary and evaluation which sheds light on the path likely to be walked in Canada.

Zander's journalistic style, carried over from his *Guardian* assignments, actually makes the text enjoyable reading—a rare compliment for a piece of legal academic writing. Although many readers will disagree with Zander's recommendations, they will nevertheless be provoked to reconsider, if not change, their opinions about certain professional issues. Zander has chosen to present his own views in the context of the significant evidence to the Royal Commission on Legal Services and his insightful comments upon the evidence of others is often fascinating. Even the *Law Society Gazette's* reviewer acknowledged that the book was “. . . very readable—and generally speaking—plausible and surprisingly it is not quite as infuriating as one might perhaps have expected”.²

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² (1978), 75 L. Soc. Gaz. 900.

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