



Adversarial Justice: America's Court System on Trial

Theodore L. Kubicek

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Oh, those lawyers!

The legal profession in fact, the legal system certainly has a poor reputation in the United States. Proposed remedies, however, rarely go as deep as the ethics of the system. America's judicial system should not be a game that anyone can win, regardless of actual guilt or liability. Ted Kubicek, JD, describes the problems and proposes solutions. Above all, he condemns the adversary system of justice which is used to evade the truth and which makes winning the paramount goal.

Dr. Kubicek postulates that the attorney-client privilege of communication makes the truth more difficult, even impossible, to determine. The adversary system goes hand in hand with the privilege of communication since neither can exist without the other.

He advocates moving instead to an inquisitorial system, in which truth is the goal of both parties, not just of the party that would gain thereby. He then shows how the elimination of adversaryism would automatically remedy other problems endemic to the system of justice, too, such as the passiveness of trial judges and juries.

Scrapping the adversary system would abolish trial and pretrial procedures and evidentiary rules that confuse law enforcement and trial participants alike. Criminal verdicts would not then depend upon confusing evidentiary or technical matters having no connection to the guilt or innocence of the accused.

This book is intended to encourage the legal profession, the judiciary, and the organized bar to remedy America's counter-productive judicial procedures. The argument will also interest anyone who has ever had to go to trial.

"Kubicek here attacks the American adversarial system of criminal justice as a system that allows too many of the guilty to escape unpunished and urges the adoption of an inquisitorial system in which all parties are enjoined to seek the truth, thus eliminating what he sees as the contradiction between attorney's duties to serve as a zealous advocate and their duties as officers of the court. Other recommendations include eliminating attorney-client privilege, eliminating exclusionary rules concerning illegally obtained evidence, and putting voir dire and jury selection entirely in the hands of judges."

--Book News

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Earnestine Marcus:

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Dennis James:

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