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1973

Book Review

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Recommended Citation

Samuel Sonenfield, *Book Review*, 22 Clev. St. L. Rev. 602 (1973)
available at <https://engagedscholarship.csuohio.edu/clevstlrev/vol22/iss3/14>

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BOOK REVIEWS

*Reviewed by Samuel Sonenfield**

THE SUPER-LAWYERS: The Small and Powerful World of the Great Washington Law Firms, by Joseph C. Goulden. New York, Weybright and Talley, 1972. 408 p. \$8.95.

LIONS IN THE STREET: The Inside Story of the Great Wall Street Law Firms, by Paul Hoffman. New York, Saturday Review Press, 1973. 244 p. \$7.95.

Americans have long had a love affair with "bigness." For many of us there is a secret fascination in pointing out the tallest building, the largest earth-moving shovel and the all-time record budget or number of home runs. Only recently have we begun to listen to the voices which have been questioning whether gigantism is socially, politically or ecologically wise. We shall be hearing much debate about this aspect of our society in the remaining years of the twentieth century. Perhaps the ultimate consensus will be that we have been following a false fire.

One may fairly suppose that the average layman's concept in the United States of the lawyer is still that of the Lincolnesque sole practitioner (which he was not), in a small office, with his secretary and perhaps a young student, pupil or associate who journeys to the court house for his mentor, looks up the law, listens quietly while the master and the client discuss the client's affairs, and who may hope some day to become the senior's junior partner. And perhaps, taken over all, that is still the prevailing pattern in the small town, medium-sized city and even in the metropolis of this country.

Certainly our English counterparts have kept to this tradition. The barrister, if he is a Queen's Counsel, having received permission from the Lord Chancellor to wear a silk gown in court instead of one made of "stuff," is the arch-type of the single practitioner. He may not sue for his fee, deals all but exclusively with the solicitor ("attorney") who is *his* client, may not take a beginner as a pupil, and may not enter into a partnership or firm relationship with other lawyers. The rules with respect to those barristers who have not taken silk, and are therefore "juniors" (even though they have grown gray in the law) are almost as rigid. The professional responsibility is stringently personal, and association of Q.C. or junior barrister with other barristers is strictly on an individual case basis.

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The British solicitor, who is the barrister's client, and refers the lay client's case, when necessary, to the barrister, is almost as rigidly individualistic in his professional capacity. While firms of solicitors do exist, and some achieve fame as such, they are uniformly small in size.

A marked contrast is provided to these traditions and to what is probably still the American concept of "my lawyer" by the large law firm in the American metropolis. Admittedly, the absence in this country of the dichotomous nature of the British system, may have a small part in the growth of the super-firm and the super-lawyer. That subject alone would be worth a separate study, which would undoubtedly require a social scientist, an economist, a law-trained researcher — and probably a journalist.

Joseph C. Goulden, in *The Superlawyers* and Paul Hoffman in *Lions in the Street* are each journalists. The word is NOT used pejoratively. After all, even the Vice-President has decided to say a few kind words about the news media, of which journalists are probably still a part. It is simply to say that the approach is journalistic, the style is journalistic and the conclusions of each may fairly be so termed. The sub-title of *Lions in the Street* is "The Inside Story of the Great Wall Street Law Firms." That of *The Superlawyers* is "The Small and Powerful World of the Great Washington Law Firms." The reader is therefore and thereby adequately prepared, warned and titillated. So be it.

The emphasis is, resulting naturally from the respective settings, somewhat different. Goulden tends to stress the effect of the size of a firm such as Covington and Burling (130 lawyers in 1971) or Wilmer, Cutler and Pickering (85 lawyers) on government, while Hoffman emphasizes the effect of Sherman and Sterling (200 lawyers) on corporate structure, policy and influence. Of course, the Washington firms represent corporations and the New York firms are constantly either opposing or supporting the national as well as state and municipal governments. Hawkins, Delafield and Wood, a "medium-sized" New York firm, has had for almost eighty years an outstanding reputation as counsel in the issuance of municipal bonds, which, short of gratis *pro bono publico* legal services, is about as pro-government as one can be, and its work in this particular field extends far beyond the confines of New York City.

Undoubtedly the big New York and Washington firms have counterparts in our other big cities. Undoubtedly, they too, have influence far beyond their mere size on business, government and society in their respective domains. As Hoffman points out, that most acute and perceptive French observer, Alexis de Tocqueville proclaimed more than a century ago that American lawyers were the American

aristocracy. He was speaking of individuals. But if lawyers are still the aristocracy of this country — which will be doubted and disputed — there is no reason why institutionalism and the organization which necessarily accompanies the super-firm should inevitably make the profession any less worthy of that accolade.

Both authors point out the increasing concern on the part of the large firms for the public issues involved in the work which they do for their powerful clients, and if there is criticism in their appraisals of corporate, governmental and legal power, it is tempered by admission of increasing awareness of these legal behemoths of their responsibility to society as a whole. Both books are reasonably well-documented. Each is an interesting mixture of history, lore, expertise, scandal, humor, ribaldry and information. While one could hardly call them scholarly in the sense that lawyers view scholarship, they are never dull, are reasonably objective and should be enjoyed by all lawyers and many laymen.

*Reviewed by Robin M. Kennedy**

PRISONERS OF PSYCHIATRY: MENTAL PATIENTS, PSYCHIATRISTS, AND THE LAW, by Bruce J. Ennis. New York, Harcourt, Brace, Jovanovich, 1972. 232 p. \$6.95.

Twentieth Century America has witnessed with gratification the rise of the "therapeutic state."¹ The therapeutic state promotes order and well-being through therapy rather than criminal controls. Premised upon the ability of psychiatry to recognize and treat "mental illness" and the doctrine of *parens patriae*,² the laws and institutions of the therapeutic state seek to rehabilitate and protect those not felt to be criminally blameworthy who engage in deviant behavior. The insanity defense to criminal charges, juvenile courts, and civil mental hospitals are the chief examples of this order. Unfortunately, collective gratification in these seemingly liberal and enlightened psychosocial schemes is misplaced.

While it is humane to protect juveniles and persons emotionally distraught from the stigmatization of the criminal label, creeping paternalism has brought rampant overreaching of human dignity, self-determinism, privacy and freedom.

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¹ N. KITTRIE, *THE RIGHT TO BE DIFFERENT* (1971).

² *Parens patriae* is the doctrine of the state's sovereign power to act as guardian or benevolent father over disabled persons. See Ross, *Commitment of the Mentally Ill: Problems of Law and Policy*, 57 MICH. L. REV. 945 (1959).