Smigel: The Wall Street Lawyer

Victor H. Kramer

Member) Ohio and District of Columbia Bars
RECENT BOOKS


This book, written by a professor of sociology and anthropology, is a study of the structure and behavior of large law firms (from 50 to 125 lawyers) in New York and other major cities in this country. On the whole, the large law firm, and particularly the large Wall Street firm, receives a favorable report from Professor Smigel. He finds that they have developed a group of intellectually elite lawyers, who bring great talent to the solution of their clients' problems.

The statistical composite of the typical partner in a Wall Street firm is a white, Christian male who had about an even chance of attending a good preparatory school, graduated from an Ivy League College, and from Harvard, Yale, or Columbia law schools near the top of his class. He was on the board of editors of the student law journal. He has a thirty per cent chance of being in the social register. He dresses conservatively, lives in the fashionable East Side of Manhattan, and has another "place," probably in the country or at the shore. He spent eight and one-half years as an associate (i.e., a professional employee) in his firm before being elected to partnership. His income from his law practice ranges from twenty to two hundred thousand dollars or more, depending upon his age, his firm, the number of years he has been a partner, and the clients he either brought to the firm or which he "inherited" from retired or deceased partners. He works very hard. In the main, his clients are the large corporations.

"It is," writes Professor Smigel, "the thesis of this book that elite lawyers are not expedient conformers when it comes to the use of independent judgment and initiative in terms of their legal practice. . . . Expedient conformity, thought important for success where nonprofessional styles of life are concerned, is frowned upon where the law is concerned."

The author feels that "some reform of the bar is necessary if only to do away with the inequities in the individual citizen's opportunity for obtaining the kind of legal service the corporations and government now command." While Professor Smigel recognizes the fact that Wall Street lawyers are primarily "advisors to big business," whose main function "is to maintain the status quo for their large corporate clients," he believes also that they sometimes serve as the conscience of the business community.

As a sociological study of large law firms, this book makes a

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necessary contribution to a badly neglected area. It should prove of
special interest to the legal profession in general and to those young
lawyers seeking jobs with large firms in particular. The book should
also be read by inquisitive laymen who have wondered just how large
law firms operate.

In this reviewer’s opinion, the glaring error in the book is the
author’s statement of his thesis that the partners in the large law
firms are nonconformists where the law is concerned. If Professor
Smigel means that the lawyers in the large law firms are extremely
able and creative in fashioning persuasive arguments and in struc­turing their clients’ affairs to conform to the law, he is clearly right.
But if the author meant to suggest that the partner in a large law
firm is able to maintain a point of view and outlook on the major
legal issues of the day independent of those of his clients, he is on
highly debatable ground. Consider, for example, the area of anti­
trust law, a field with which the large law firms are occupied much of
the time. Rare is the antitrust lawyer in a large firm who does not
sincerely hold and express views hostile to the Supreme Court’s
decisions in that field. The typical large law firm partner sincerely
believes, as do his clients, that the Supreme Court has gone too far in
condemning mergers and in supporting attacks on bigness per se. The
pattern was similar in regard to the great legal issues raised by the
New Deal’s regulatory legislation in the business domain. The views
of the partners in the large law firms at that time were identical with
those of their clients; namely, that this legislation was both unconsti­
tutional and unwise. These opinions were sincerely held by the
lawyers, quite apart from any interests their clients may have had in
the outcome of the litigation attacking that legislation.

Professor Smigel apparently feels that loss of the independence of
the large law firms on questions of law would be disastrous. However,
it is questionable whether the majority of the large law firms ever
have had any views independent from those of their clients on the
great legal issues. Yet these firms have evidently performed their
legitimate role with distinction and, in so doing, have undoubtedly
made important contributions to the national welfare.

Conformity with the views of the clients on important questions
of legal policy would appear to be almost inevitable when a law
firm’s associations on a daily basis are with a single type of client. It
is, of course, true, as the author points out, that the large firms
ordinarily derive less than ten per cent of their fees from any one
client. Nevertheless, they receive the great bulk of their fees from,
and spend the bulk of their time with, a certain type of client. So, for
that matter, do those smaller firms whose clients are the larger
corporations.

Professor Smigel cites De Toqueville's observation over a hundred years ago that the lawyer in America constitutes the "aristocracy" of this country. But, he says: "Today only a handful of lawyers fit this description, and prominent among these is the Wall Street lawyer." Nevertheless, it is significant that many lawyers play prominent roles in this country outside the law. Thus, the majority of our legislators are lawyers. Lawyers occupy important executive posts in big business as well as in government, as Professor Smigel observes. It would have been interesting if the author had made a special study of those lawyers who have left private practice, particularly those lawyers in the large firms who have accepted various high posts in government that pay relatively small salaries. Perhaps some of them welcomed an opportunity to switch clients, even if only for a short period of time.

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