

Preface

THERE IS, it is true, a dusty quality about the law. One thinks of dusty law books and even of dusty lawyers. And lawyers often make use of the tactical dust storm, designed to obfuscate. But there is also a modicum of genuine drama in the story of the legal profession. The law, after all, deals with the clash of powerful interests; it is thought to have great impact on social policy and on the course of the economy; it stages battles of courtroom advocates that are spiced with eloquence, humor, surprise, cunning and, occasionally, intelligence; it features struggles for control of vast wealth; and it poses timeless issues of liberty, life, and death. We are having none of that. If this book succeeds at nothing else, it manages admirably to resist the urge to exploit the drama of the American legal profession. Sociological research on lawyers has not often been so resolute, so unbending.

Many of the social scientists who have studied the bar have, in fact, yielded to the natural fascination of the extreme case. The extreme is likely to be conspicuous and it often includes a disproportionate share of the profession's inherent drama, which promises to sustain the interest of the scholar who labors on the research and, perhaps (though this is less likely), of the other scholars who are obliged to read it. Even leaving aside such titillating journalistic accounts as *The Superlawyers*, therefore, studies of the legal profession have tended to concentrate on the poles of the profession's prestige hierarchy—on the Wall Street lawyers,¹ at the top, or on criminal lawyers,² personal injury lawyers,³ or solo practition-

1. Erwin O. Smigel, *The Wall Street Lawyer: Professional Organization Man?*, 2d ed. (Bloomington: Indiana University Press, 1969).

2. Arthur L. Wood, *Criminal Lawyer* (New Haven: College and University Press, 1967).

3. H. Laurence Ross, *Settled Out of Court: The Social Process of Insurance Claims Adjustments* (Chicago: Aldine Publishing, 1970); Douglas E. Rosenthal, *Lawyer and Client: Who's in Charge?* (New York: Russell Sage Foundation, 1974).

ers,⁴ at the bottom. The profession's center has not inspired a rich literature, and little information is available on the bar's overall social structure. Jack Ladinsky's study of Detroit lawyers covered all types and specialties, and it contributed substantially to our understanding, but the amount and kinds of data available to Ladinsky were quite limited.⁵ Dietrich Rueschemeyer's commentary on lawyers in Germany and in the United States has a broader, comparative viewpoint and includes useful theoretical propositions, but it presents no original data on American lawyers.⁶ This study attempts to supply original data by systematically describing and analyzing the social structure of the legal profession in a major city.

The methods to be used in addressing this task were by no means obvious, and we therefore considered a number of possible research designs. Some were more creative than others. You may well find that the approaches that were adopted are rather fanciful, but consider others that occurred to us. We discussed, for example, the feasibility of classifying the types of law practice by a Hardwood Index. Thus, we might have dispatched our research team about the city with tape measures, to be used to record the amounts of walnut, mahogany, oak, teak and rosewood consumed in decorating each law firm's suite. The square centimeters of hardwood per lawyer could then have been correlated with the ascribed standing of the firm to determine whether a high score on the Hardwood Index was associated with having arrived or with trying too hard. There would, of course, have been difficulty in specifying the direction of the causal arrow—that is, does success cause hardwood or does hardwood cause success? We would also have wanted to carry the analysis to another level of depth and complexity by attempting to determine whether there was an association between particular woods and particular fields of specialization of practice. The probate specialists, for example, might have been found to prefer brown

4. Jerome E. Carlin, *Lawyers on Their Own: A Study of Individual Practitioners in Chicago* (New Brunswick: Rutgers University Press, 1962).

5. Jack Ladinsky, "Careers of Lawyers, Law Practice, and Legal Institutions," *American Sociological Review* 28(1963): 47-54; Jack Ladinsky, "The Impact of Social Backgrounds of Lawyers on Law Practice and the Law," *Journal of Legal Education* 16(1963): 127-44; Jack Ladinsky "The Social Profile of a Metropolitan Bar: A Statistical Survey in Detroit," *Michigan State Bar Journal* 43(1964): 12-24.

6. Dietrich Rueschemeyer, *Lawyers and Their Society: A Comparative Study of the Legal Profession in Germany and the United States* (Cambridge: Harvard University Press, 1973).

oak, while blond oak might have been associated with personal injury defense work, walnut with corporate tax practice, teak with securities work, and rosewood with bankruptcy.

Less extreme variants of this general mode of analysis were also considered. It would have been a simple matter, for example, to have had our interviewers record their respondents' modes of attire. We feared, however, that the categories might turn out to look something like this: 1) three piece, chalk-striped gray flannel; 2) three piece, plain gray flannel; 3) three piece, pin-striped gray worsted; 4) three piece, plain gray sharkskin . . . and so on, until one might reach x) two piece, navy blue mohair with waist suppression. We were not sure that we wanted to know this.

There was also the matter of identifying the audience to which the study was to be addressed. The process of decision on this issue was arduous, but in the end the choices that we made were clear. This book has not been written for lawyers. Lawyers will find that they already know all of this or, to the extent that they do not, that our data are clearly wrong. Lawyers, therefore, read this at their own risk. Neither was this written for sociologists. Why should anyone write for sociologists, when sociologists do not write for anyone? And the "educated layman" already has far more reading assignments than he can possibly manage. We could not in good conscience set out to burden him further. Having concluded that it would be either inappropriate, foolhardy, or tiresome to attempt to address any of these potential audiences for the book, we opted for appealing to the one, true audience of all academics—ourselves.

But there remains the question of how we happened to develop such peculiar tastes. Why, with our separate disciplinary training and allegiances, do we not offend each other? In part, of course, we do. But, to a far greater extent, we find that we please one another. This may merely be an example of the genius of the American political instinct—if Heinz expresses enthusiasm for the work of Laumann and Laumann praises the work of Heinz, it feeds both egos and serves their mutual interest in finishing the business. It has been a happy collaboration.

The collaboration could not have avoided strife, however, without the helpful intervention at several points of many friends and colleagues. There are so many persons and institutions to whom we owe debts for assistance with this project that it is perilous even to attempt to list them all, but none could have had a more important

role than Spencer Kimball, then Executive Director of the American Bar Foundation. Professor Kimball was, in many ways, the author of the project that created this book. He initiated the discussions from which the project evolved, he introduced the two principal investigators to each other, he selected them to do the work, he secured most of the funding for the project, and he supervised, encouraged and contributed to the work at every step along the way. We are enormously grateful to him.

We are deeply appreciative of the support of the Board of Directors of the American Bar Foundation, and we are greatly indebted to the American Bar Endowment, which was the principal source of the funding for the project. Funds were also provided by the National Science Foundation, through grant #SOC 77-24699, and we valued both the financial assistance and the expression of confidence in the work. The director of the Law and Social Sciences Program of NSF at the time the grant was made was H. Laurence Ross, and he and his successors in that position, Stephen Wasby and Felice Levine, gave us helpful advice and did much to ease the administrative burdens. We are grateful also for financial, scientific, and editorial support provided by the Russell Sage Foundation. Stanton Wheeler generously gave both substantive and procedural advice that was exceedingly valuable, and he shepherded the grant and resulting manuscript through the Russell Sage Foundation's processes. We are deeply indebted to him. We are also indebted to Marshall Robinson, the president of the Russell Sage Foundation, for his support, encouragement, and thoughtful understanding.

At every stage of our work, we were blessed with the assistance of an unusually talented group of associates and colleagues. The survey, itself, was ably supervised by Terence Halliday. His skill, attention to detail, and keen perception are reflected in the quality of the data set. Halliday was, as was Michael Schaalman, an active participant in the drafting of the survey instruments, and both Halliday and Schaalman made many helpful contributions to that phase of the work. Peter Marsden assisted us in the sampling design and in the earliest stages of the data analysis, and his work was done with a high degree of professionalism.

The principal data analyses on which the book rests were carried out by Charles Cappell. He also supervised the basic organization of the data set, wrote the cleaning specifications, and conducted necessary recoding. His sophistication in statistical methods was of enor-

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mous benefit to the project, and his skillful hand shows clearly at a great many places in the book. During much of this work, Cappell was ably assisted by Scott Marden, to whom we are also indebted.

Margaret Troha was a key member of the research group for two years while much of the most intensive data analysis was in progress and then, again, at the very end of the project in the process of tying up the loose ends. At both times, she performed her vital role with intelligence, creativity, dedication, and meticulous attention to detail. Were it not for her superb work, this book would not exist and whatever might have been published in its stead would have far less merit.

Later in the project, substantial sections of the data analysis were carried out by Robert Nelson and by Mariah Evans, both of whom fully met the high standards of performance set by their predecessors. We were, again, most fortunate to have the benefit of the services of two scholars of such exceptional talent, training, and motivation. In addition, Karol Soltan and Michael Powell, at varying stages of the project, performed more narrow but highly important portions of the analysis with skill and perception. As the project neared completion, Nelson and Powell also provided valuable substantive advice on the interpretation of the findings.

The several interviewers who worked on the survey and the coders who prepared the data for analysis performed their assignments with precision, understanding, and dedication, and we are indebted and grateful to them.

Several of our colleagues at other institutions generously devoted their time to reading all or substantial portions of the manuscript, and we benefited greatly from their many criticisms and suggestions. A colleague who made such a contribution at several stages of the project, to a degree that went far beyond any ordinary conception of professional duty, is Richard Lempert of the University of Michigan. We are especially indebted to him. Others who provided very helpful readings are Eliot Freidson of New York University, Robert Kagan of Berkeley, Melvin Kohn of NIMH, Stewart Macaulay of the University of Wisconsin, Dietrich Rueschemeyer of Brown University, Robert Salisbury of Washington University, Richard Simpson of the University of North Carolina, Rosemary Stevens of the University of Pennsylvania, Ross Stolzenberg of the Rand Corporation, and Stanton Wheeler of the Russell Sage Foundation and Yale University. Two anonymous referees who read the

manuscript for the Russell Sage Foundation also made useful suggestions, and we are indebted to them as well.

Many of our co-workers at the American Bar Foundation, the University of Chicago, and Northwestern University suffered and exulted through this with us, read portions of the manuscript, and provided us with intellectual guidance and spiritual support. These include, in addition to those already mentioned, at least the following: Robert Bennett, Charles Bidwell, Thomas Davies, John Flood, Mayer Freed, Anne Heinz, Morris Janowitz, Daniel Polsby, Stephen Presser, James Rahl, Harry Reese, Victor Rosenblum, Edward Shils, Francis Spalding, and Frances Zemans. We gratefully acknowledge our debt to each of them.

Near the beginning of the planning for the project, we assembled a group of scholars who met with us at length to discuss research objectives and methods. That group included Fredric Du Bow, Morris Janowitz, Jack Ladinsky, Kenneth Prewitt, and Peter Rossi. As might be expected from such a distinguished assemblage, the meeting provided many useful ideas and suggestions and we benefited greatly from it. Even earlier, before this project had been conceived, Spencer Kimball convened a group to discuss the possibilities of research dealing with the Chicago Bar Association. In addition to the authors of this book and representatives of the Association, to be mentioned below, those in attendance at that meeting included Barbara Curran and Barlow Christensen of the American Bar Foundation and Walter Blum and Stanley Katz of the University of Chicago. This project, as well as some others, grew out of that meeting and all of those who were present made continuing contributions to the project. We therefore owe a special debt to those who were there at the genesis.

A number of other lawyers and law professors, including many leaders of the organized bar, provided exceedingly valuable information and advice at various stages of the project. We are, of course, indebted to each of them for taking the time and trouble to contribute to the enterprise. These included: James Connelly, Thomas Eovaldi, Milton Gray, David Hilliard, Jordan Hillman, William Hood, Robert Howard, Arnold Kanter, James Kissell, John McBride, Dennis Mayer, Bernard Meltzer, Norval Morris. Nathaniel Nathanson, Gary Palm, Marshall Patner, Alexander Polikoff, John Schmidt, and George Rothschild. We are also exceedingly grateful to the more

than 800 Chicago lawyers who took the time to be interviewed in one or another of our surveys and pretests.

We owe a special debt to Alex Elson, Richard Phelan, and Edgar Vanneman, the three lawyers who chaired a Chicago Bar Association subcommittee that provided the original impetus for this research. They strongly supported the project from the beginning, and they provided advice and assistance that made the job possible. No doubt they did not quite foresee the course that the project would take—as none of us did at the outset—but it would not have happened without their vital role. Other members of the CBA's Committee on the Development of the Law also provided welcome guidance and encouragement in the early stages of the project.

Similarly indispensable to the project was the enthusiastic support of the deans of the authors' schools. Deans James Rahl and David Ruder of Northwestern Law School provided research assistance, released time, and thoughtful understanding of the rigors and needs of research. We are grateful for their wisdom and their fine sense of values.

The editors who worked on the manuscript at various stages and in various versions are also to be commended and gratefully thanked for their understanding, gentleness and compassion, as well as for their high degree of professional skill. Bette Sikes, the Director of Publications at ABF, not only supervised publication of the chapters that first appeared as articles in the *ABF Research Journal*, but also did the initial copy editing on the entire manuscript. As always, she performed her work with precision, taste, and intelligence. Priscilla Lewis, the Director of Publications at the Russell Sage Foundation, was an equal joy. She steered the manuscript through the several steps toward publication with good judgment, good sense, and good humor in spite of much that might have tried a less steady and skilled hand. Marcia Wilk made many valuable editorial contributions to the articles that became chapters 4 and 8, as did the editors of the *Michigan Law Review* to the article that became chapter 3.

Several cohorts of law students at the Northwestern Law School provided perceptive and skillful research assistance over the course of the project. Among the more recent of them were Michael Solimine, Barry Taylor, Daniel Bacastow, Jeffrey Carter, George Watson, Robert Stout, and James McDonough. We are indebted to them and

to their predecessors for much that helped to make this a better book.

Finally, we have been assisted by a succession of highly skilled secretaries who consumed reams of paper and burned up several keyboards. Though many had a hand in processing all of these words over the long life of the project, those who played the most vital roles were Earlene Franklin, Glenda Hargrove, Jan Madsen, Helen Saldana, Brenda Smith, and Conray Weathers. They all did their work ably, accurately, and with unfailing good will, and for that we are most grateful.

There is no point in trying to absolve all of these many persons from their responsibility for this book. It is too late for that. Not that we could get away with shifting full responsibility onto them, but neither can they avoid a measure of accountability. Some are more responsible than others. They know who they are. And they will have to live with it.