

Schools for Misrule

Legal Academia and an Overlawyered America

by Walter Olson

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Of all the possible explanations for Barack Obama, one of the most intriguing is that, like Bill Clinton before him, he was both a law school graduate and a law school professor.

As such, Walter Olson explains in his new book, [Schools for Misrule: Legal Academia and an Overlawyered America](#), he was subjected to an environment of overwhelming leftism.

Democrats outnumber Republicans 28 to 1 on the Stanford law school faculty, 23 to 1 at Columbia, Mr. Olson reports.

Mr. Olson's book describes the various ways that law schools have shaped public policy. Clinics on the law school campuses get involved in political issues. He writes that Yale's Legislative Advocacy Clinic "attempts to move the state of Connecticut toward 'a more progressive agenda in taxing.'" CUNY law school, meanwhile, is "itself a unit of the same New York City government it regularly sues on welfare issues.

More:

The website of Fordham's Community Economic Development clinic says it works to 'limit gentrification,' that is, the influx of high-income housing and retail activity into poorer areas. Is gentrification in fact unwelcome to poorer residents? Well, that depends: some dread rising rents and the disappearance of favorite stores, while others look forward to a drop in crime rates, better upkeep of housing stock, and the arrival of civic-minded new neighbors.

Law schools, including professors who profited personally from their work on anti-tobacco litigation, helped shape changes in product liability law. They also helped spawn "public law litigation" suits under which, Mr. Olson recounts, courts "in more than half the states took control of school financing systems" and "took over control of child welfare departments in thirty-five states, prisons in more than forty, and jails in all fifty..... The process thrust courts deeply into management, with reform orders often going on for hundreds of pages specifying such details as the required square footage of prison cells, the wattage of light bulbs, the temperature at which food had to be served, and so forth."

Mr. Olson quotes one law professor acknowledging that such litigation is meant to "further a decarceration strategy" by making incarceration "both difficult and expensive." He doesn't mention that the professor, [Margo Schlanger](#), has since joined the Obama administration as Officer for Civil Rights and Civil Liberties in the Department of Homeland Security.

Mr. Olson notes drily that "Frequently, many members of the ostensible beneficiary class neither want nor welcome the changes ushered in by court order. Overcrowding suits often result in inmates' transfer from a cramped and rundown in-town facility to a more modern but remote facility that is harder for friends and family to visit.... In one consent decree, New York City agreed to elaborate new rules restricting its ability to evict disruptive families from its housing projects. But most residents in fact feared the crime spawned by such

households, with the result that leaders of the projects' tenant councils wound up hiring lawyers to intervene in the proceedings against their 'own' side."

More recently, law schools have been on the forefront of international human rights law. The Center for Constitutional Rights, a hard-left group that wanted to put Cheney, Rice, Rumsfeld, and Tenet on trial for war crimes and sued Caterpillar for selling tractors to Israel, "maintains close, extensive ties with the nation's two leading law school human rights projects, the ones at Columbia and NYU," Mr. Olson writes.

Mr. Olson, who is a fellow at the Cato Institute and editor of Overlawyered.com, excels at outlining the problems. He's more reticent about possible solutions. He notes that the Ford Foundation had helped to reshape law school curricula and "from 1966 to 1969 contributed start-up funding for Mexican American Legal Defense and Education Fund, the Environmental Defense Fund, the Sierra Club Legal Defense Fund (which changed its name to EarthJustice) and the Natural Resources Defense Council."

So perhaps large-scale philanthropy could have some effect; the book might have mentioned the Olin Foundation's work in spreading Law and Economics to law school campuses. Any donor or foundation wanting to reshape legal education would find Mr. Olson's book a fine place to begin.

In the meantime, the schools are unlikely to reform on their own so long as they have more applicants than they can handle lined up for the chance to pay (or borrow) hefty tuition payments. Never mind that the students may be motivated less by the education provided than by the attendant chances at high-paying law firm jobs in which the students can labor for clients that include the very corporations their professors demonized.

And for all this, the picture may not be entirely as grim as that painted by Mr. Olson with all his usual lucidity and flashes of humor. Justices Alito and Thomas are both Yale Law graduates, after all, while Justice Scalia, a Harvard Law graduate, taught at Stanford and the University of Chicago.

When a fellow at NYU law school's Center on Law and Security, [Nir Rosen](#), recently ignited a furor with his comments about Lara Logan, NYU accepted his resignation.

In the meantime, if the law professors are too far to the left, the rest of Americans, while living with the public policy consequences, can at least know that while the law professors have their wins in court, they are often less successful in the court of public opinion. Mr. Obama and Mr. Clinton both managed to get elected, but they were quickly hemmed in by Republican congresses elected after they overreached. In the end, in the American system, the politicians who write the laws, and the voters who put them there, have a way of outranking even the law professors.

Disclosures: The publisher sent a review copy of this book. I know and like the author. As usual, if you buy the book at the link above this Web site gets a share of the revenue.

Reviewed by Ira Stoll | March 1, 2011 at 2:39 pm

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