

FOURTH REICH RISING

FROM PAGE 9

Europe should start clearing more land and training more workers pronto. Certainly, our lawyers will have the money to buy their top-of-the-line. Our rank and file may have fewer options, however, since there will be infinitely fewer jobs available.

So as wage earners, does the extortion from commerce still seem distant? Is it sufficiently removed from our domestic lives, thus beyond the realm of our practical concerns? Or on the other hand, do we see class-action, for instance, as a well-spring waiting to be tapped; money we might well retain, given that our financial "exposure" is in no way analogous to that of a large corporation — and thus the likelihood of someone snatching it away from us as being minimal?

Well, think about this bit of relativity:

There are today many individuals who are worth what entire high-profit businesses were worth twenty years ago. A step down the ladder, there are tens of thousands of high-tech and other professionals who have as much saved equity as did most small companies of thirty years ago. And if it's difficult to identify with those classes of people, then be aware that there are now boodles of little old ladies and little old widows worth not much less. Our country is populous with ordinary work force retirees who are drawing from the monetary equivalent of what used to be defined as "fortunes." And amazingly, in today's world most of them need every cent of those cushions — although in *lawyereze*, I could call these cushions "targets." Certainly, those New England lawyers I spoke of thought of that elderly lady's cushion that way.

So it is all relative, you see. As an ordinary citizen your personal worth could still look quite delicious to some lawyer who didn't snatch a big piece of the corporate pie as he thought he was due — and who will then think in terms of *public* pies to raid. If those who are characterized by their "deep pockets" have all left America, who's pockets do you think the lawyers will then focus upon? Additional to that, if you have been one of their own "plaintiff-regulars" your accumulated awards could make you an even more delectable target. *Catch 22!*

Despite this, our endangered public still sustains its salutes and adulation. Media like the professor endorsed is hard to beat, especially when the movies are compounded by a juggernaut of lawyer television that presents the fraternity's best face: principled crusaders that mask the hordes of corrupt predators. As I watch these installments I feel like the average Third Reich schlump, viewing Leni Reifenstahl's propaganda films of Hitler youth and marching *Wermacht* — of the paintings of *das Führer* as surrounded by and instructing little children. The heroic, benevolent, patriotic image-building of America's lawyers is today equally as relentless. They have as big an image quest as the Nazis and, I might add, a comparable investment at stake; especially as it regards their hoarding of the decision-making in their country — and doing it right under the public's nose.

In being consoled that our legal system protects us from the police or the military ever taking control of our nation, we are oddly never cautioned about the prospect of the lawyers taking control. PR keeps their image benevolent.

And additional to the fortunes that lawyers promise their litigation pawns, there is something else that makes it facile for them to sell us their hooey. It is oddly analogous to (and born of) our fear of them. It is humanity's rather indiscriminate, millennia-old worship of the kick-ass icon and it transcends even to print. In a recent national magazine feature, a newsworthy attorney is proudly introduced as "a symbol of layering in America." And from that point on the reporter launches into biographical depiction's that sound as though emanating from a worshipful starstruck teen. Among them are such phrases as "(a) species of superstar lawyer" who, according to another source, has "got the hot hand." This "hot hand" is employed in work "where the knives are long" as "his thumbs sometimes (are) making a pair of goalposts." And in these situations, a colleague describes the attorney's improvisations as "pure jazz."

In conclusion, the near-blind idolatry of the writer results in an overview of the man's material wealth (naturally) and includes his "gorgeous Georgian home" which sits atop a wine cellar containing "those 8,000 bottles." These are additional to his fine "ocean-going yacht" (and a) "Northern California ranch" (where he indulges in) "high-stakes poker games" (that round-out his) "chateau-to-chateau bike trips in Burgundy and Bordeaux."

But the Trump/Turner iconography is misapplied here. Though such ethics and imagery inspire positive endeavors in America, we should form more cautionary distinctions between our wealthy warriors and our wealthy lawyers — and confirm who it is that enhances our lives and who truly threatens our lives. Our sundry media toughs, for instance, strike within their theaters of operation. They don't depart the video, the wrestling ring or the XFL and assault our homes except to fuel our pretend-participation and sell franchised totems. They flex their aggressions for pageantry and not in a devotee's retirement fund.

On the other hand, excepting their trade histrionics, lawyers don't mess around with just the *theater* of life. Lawyers can and do depart the TV, the movie screen or a novel to legally and at will step into your existence in order to (in justifiably *allegorical terms*) maim and kill you. And they get paid to do it. It's part of their lore. It's what their lives are about and it's for *real*. And all they need is a plaintiff-in-tow who, recruited or self-motivated, simply points across the street to you and says, "It's *his* (or *her*) fault" — which in today's America is as easy as saying "I hate his (or her) tie" because it doesn't cost anything to say it. Lawyers then shuffle some paper, get it stamped or signed, and suddenly — beyond your comprehension — you are mandated to spend money defending yourself.

And, of course, it is happening more and more. It is already becoming more and more personal to each one of us. In the stacks at *Powell's* of Portland, one of the largest bookstores in the world, the small, out-of-print coffeetable tracts alone command that space of a medium-sized boutique. And there, adjacent to a section labeled "lawyer humor," is a section labeled "graveside humor"; both areas sport multiple copies of around 17 remaindered titles each. Musing with a veteran employee, I learned that "lawyer humor", once the more domin-



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ant, better-stocked category, had in recent years diminished to where it now equaled the general number of "graveside" works; this being evident as we stood there comparing.

He agreed the graveside items maintained at least some attraction over the years because, after all, until the man stands at your bedside and says "let's you and me take a trip," death happens to others, not us. And that's how it once was with lawyers and lawsuits. At one time in America one's experience with law and litigation was either a rare occurrence or happened about as frequently in life as one's own death. But not anymore. And it's not funny anymore. Thus the diminishing of this category — and oddly, from a point of literature, it's rather a shame because the vilification of lawyers is ingrained into our literary history. Lawyer-bashing was forged into the English language long before we transported the language to these shores, thus the nearly 200 quotes from Shakespeare that criticize and often just plain denigrate the legal brotherhood.

Furthermore, it's always affirming to savor excerpts from the pen of Mark Twain or H.L. Mencken as they rail against the lawyers of their day. Given their crusty personae, it was actually expected of them. It's just that, if one spends any time with these quip anthologies an unsettling takes over when it is discovered that great amounts of criticism — and in fact vehement denunciations — have over the years come from *inside* the lawyer fraternity, and from on high in the forms of Warren Burger, John Marshall, Oliver Wendell Holmes, Charles Evans Hughes, David J. Brewer, and Sandra Day O'Connor who said, "I have watched with great sadness the decline in esteem held by our society of lawyers. There must be a rediscovery of civility in the profession." Other jurist comments confirm the fact that the freedoms lawyers have allowed themselves are infinitely more perilous to America than the freedoms they allow the people.

So with all this critique from their own luminaries, it would seem that litigation lawyers could adopt more exemplary forms of self-regulation than those of the past thirty years. Certainly if doctors, home builders or air traffic controllers can agree among themselves how to better — and more equitably and morally — serve Americans, then trial lawyers can do the same. Or do lawyers in fact look to our *greed* as their reference

point when they think of plying their trade "better"? Are they — *better than ever* — serving our greed? Is this where the anti-materialists finally get their prophecies fulfilled as we feast on our own economic flesh?

Well, it worked in Germany, harnessing a similar greed and getting the same disastrous results. Doubtless, however, our lawyers would decline using the word "greed." They don't have to. In public dialogue they can easily mask the word with two others that seem far more acceptably relevant: "complex world." "Society is becoming more complex," they say. And thank you and yes, I happen to know this as a fact. But I also recognize it as a mantra of the legal black hand. "We assist the people through these complexities," is an extension of that thought. And yes, some lawyers do just that. Though the larger part of their membership, knighted and endowed by specialized knowledge, not only chooses to embrace the complexities but to in fact *create* them by way of the inventiveness I addressed.

In the span of our country's history, however, this is rather a new practice based on a modish assumption; that our various forms of progress necessarily create complexities which necessarily create more legal dilemmas — necessitating more lawyers, naturally. And while we have new concepts in living that can to an extent bear out this theory, these relationships were not considered *absolute* until recent times. Take our country's progress and epic an period of that progress.

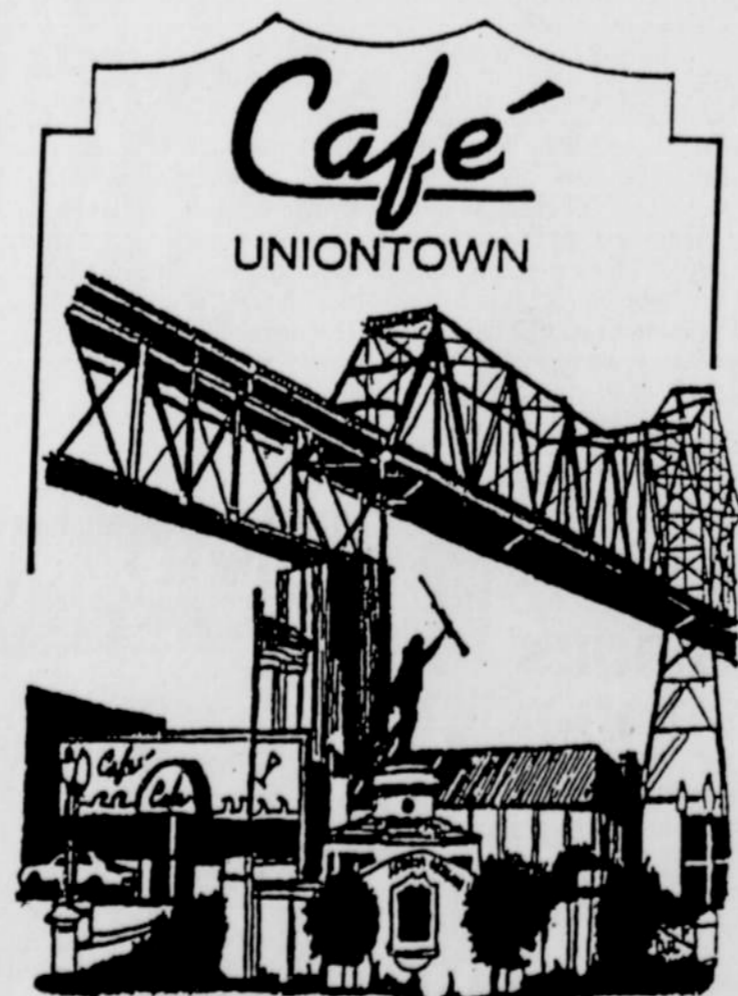
Take the first ten years of the 20th century. In that muscular decade the first motorized flight (100 years ago in 1903) culminated in the first American air show and the first wireless telephone into the first trans-Atlantic service. Electrical and medical inventions transformed survival into real living, motion pictures ascended from an infant commerce to a veritable empire, and Henry Ford shipped the first of his developing line of cars which evolved into the famed Model T. His techniques septupled auto assembly everywhere, inspired the manufacture of more than a hundred other makes in a dozen other states and created thousands of service and supply trades. Overall, the nation's goods and services doubled and in concert with the exploding labor force, trade unionism and women's and ethnic rights movements were formed. Igniting such vast changes, those *first* ten years hurled Americans rather forcefully in the *next* ten years of an escalating social life.

Oddly, however, few of these factors escalated the amount of *legal* life; certainly not as an immediate consequence of all that societal heft and complexity. In the inaugurating decade, 1900 to 1910, the population of lawyers and judges in America grew at the modest rate of about seven-tenths percent. Moreover, in the decade that followed, 1910 to 1920 — when the technology and social change were absorbed, applied and truly expanded — the lawyer/judge population increased not much over the increase of the previous decade, gaining only about one additional tenth of a percent overall. Most of the influential court cases were limited to patent and antitrust suits that were quite naturally born out of the innovation and production, and out of Teddy Roosevelt's rather vigorous sense of right.

So what failed to take place? The autos of Ford, Olds, Duryea, and all the electricity and medicine and movies had vastly accelerated life in the U.S. and yet people were evidently not suing each other in a manner that required vastly more lawyers. Contrarian statisticians could have their day factoring an earlier period of economic depression with the losses of World War 1 and other points. But the likelihood is that given their numbers, trial lawyers had not yet shaped for the public this assumed corollary between progress and litigation. They had not yet seen the economic possibilities. It might also have been that average Americans were not yet passing to lawyers the job of forming such corollaries. They likely considered *themselves* to be somewhat in charge of conceptualizing liability — and surely, in the framework of everyday experience, they defined liability in terms of conscious neglect or misconduct; not so much of circumstance and misfortune.

But aside from obvious illegalities, *liability* in America can no longer be defined by the public. Its extent cannot be measured nor its likelihood anticipated by the public. This embodied in a remark that has by now become part of the common parlance though — or because — it contains a most ominous of undertone: "Nowadays, you can do something without even knowing it." And at the moment of this utterance, those who voice it seem casual to the extreme. Yet surely they should be expressing themselves with the same apprehension they would if saying, "Our missiles are ready for firing" or "AIDS is killing vast portions of the world population and we will be next." Translated to its social conclusion, the phrase acknowledges that lawsuit "liberties" are serving as fuel for the interpretation rackets — and that, with guileless preoccupied citizens in their sights, litigation lawyers are in the fundamental business of entrapment.

It also signals a resignation, implying there is zip we can do about this. It says we are inevitably destined to become a lawsuit-impelled state where having its frequency as rationale, this "blame-ethic" becomes fully installed into our lives — and through the lawyers who implement the ethic, it is mandated to be an ordinary domestic expense as recurring as interest, as familiar as telephone charges, and as fundamental to American life as a carpenter's or a doctor's fee. Thus, in such an environment the *propensity* to sue one's fellow human becomes the *necessity* to sue. One's personal bookkeeping will require it.



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