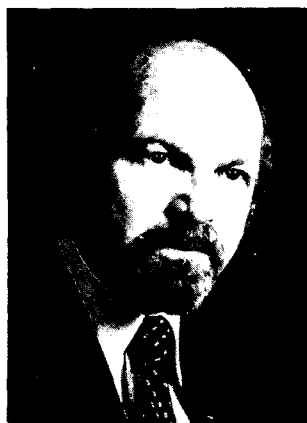


editorial



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Lawyers Are Human Too

by Reuven Bar-Levav, MD

Big Government, by its very nature, relates to the citizenry as to a natural enemy, and it customarily devises ways and means to keep the governed from becoming too rebellious. The new circumstances of the Reagan administration are so refreshing not merely because the President is attempting to decrease the size of government and its budget, but that these attempts are grounded in a conviction that Big Government itself is undesirable, especially in a democracy. The People are supreme, and they decide who should govern them. Bureaucracies exist only to help the ones elected to carry out the many complex tasks of government, to serve those who appointed them. They should by right only execute policy, never make it, but they regularly do, and the case of the FTC against organized medicine is but one example.

Motivated by a hunger for power, bureaucrats commonly undermine democratic principles in the guise of helping those who allegedly are too weak to help themselves. The population at large and Medicine in particular have been treated for too long as potential delinquents who are kept honest only by wise, ever-watching and pure super-agencies of Big Government.

Physicians in private practice are being affected as individuals, but the rules and regulations are issued for the profession as a group. When, in self defense, physicians consulted with each other and attempted to organize in defense of their interests against such powerful forces capable of easily overwhelming any individual, bureaucrats at the FTC simply issued unilateral edicts that defined such acts as illegal interferences with fair trade practices. Laws that were enacted two generations ago against powerful monopolies that manipulated the market-place were then applied against physicians. The principle that in Union there is power would

be discriminately denied to ethical physicians, but not to gangster-dominated unions.

Physicians who understandably were intimidated by such actions of the FTC sought the counsel of lawyers to help and guide them. Legal counsel is now generally sought even before an educational effort such as publishing comments critical of the FTC is undertaken, lest the bureaucrats find another excuse to whip us with. The expert opinions of lawyers are usually accepted in such matters as if they necessarily always represent objective truth. We tend to forget that ambiguity and interpretation are universal elements of any legal opinion.

In reality, lawyers are human too, imperfect and erring, and their opinions on any one subject often differ from each other, depending on their individual personalities. Some are much more easily intimidated than others, and this is reflected in their personal lives as it is in their professional judgments. Seemingly objective neutral opinions are often grossly tinted by irrational fears, conscious or unconscious, of those rendering them. A hypertrophied brain may sometimes be an overcompensation for an absence of "guts." It will serve us well, personally and professionally, to keep this in mind when we seek the advice of lawyers. Only frightened children tend to accept every statement as the essence of revealed truth.

In the new climate of the Reagan administration the FTC is in retreat, and we ought to carefully re-examine our past positions. With proper counsel we may perhaps be able to assume the legal offensive when our freedom to practice ethically and fairly is limited by self-appointed "guardians" of the public good.

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