

Tales from the Public Sector

*Diary of a Bureaucrat**

My first job after law school graduation was at a large, prosperous law firm. Its clients hailed from equally affluent insurance agencies, banks, real estate offices, and big corporations, which expected at \$100 per hour the best—or at least nicest-looking—legal talent they could buy. Accordingly, not only did the law firm recruit its young associates from the finest schools, but it spent thousands of dollars on furnishing their offices and other physical surroundings once they were safely named on the continually growing letterhead.

Every lawyer received a large, windowed office with paneled walls, thickly carpeted floors, solid walnut furniture, and dictaphone equipment. Attractive young secretaries sat outside those offices, answering telephones, typing, pouring coffee, and smiling effortlessly. Soft music wafted over artfully-concealed stereo speakers. A receptionist half-hidden by freshly cut flowers greeted lawyers and clients when they arrived at the office, and wished all a gentle good night as they left in the late evenings. A squadron of technicians supervised the office computers. Five full-time workers staffed the library, three men ran the Xerox machines, and one woman was on the payroll just as a planner of department luncheons.

In short, the office purred in efficiency, enabling the attorneys to toil for long hours uninterrupted by internal disturbance. Occasionally, firm-financed diversions camouflaged the hours of labor: a black-tie dinner dance in the spring, a picnic in the summer, Friday night beer blasts in the winter. Despite this comfortable, almost insulated existence, an irksome itch to practice public interest law preyed on me after a few months of being an associate.

“I’m going to be a civil rights lawyer for the government,” I was able to announce triumphantly to my colleagues after a brief job search that spring. “I’ll be enforcing the laws that forbid discrimination on the basis of race, sex, or handicap.”

*The office in question is the Department of Labor as it was 18 months ago. The account in this article is true; only the job titles have been changed to protect the guilty.

“So you’ll be riding a white horse while the rest of us do evil, eh?” sneered a partner in the corporate department. “You wait and see how you feel in another year.”

It took two years. Two years in a way station of federal mismanagement, inefficiency, and bureaucratic ineptitude, two years in what is surely the worst-managed office in this country made me realize that there is indeed an ugly monster consuming—and utterly wasting—the taxpayers’ money—year in and year out, president after president, Republican after Democrat.

The first phenomenon I observed as a civil servant was that many government offices are physically modern-day sweatshops. The division for which I worked had only five windowed offices, which were given to attorneys who had spent at least ten years with the agency. A lucky few also received offices with back doors, which meant that they could escape at noon every Friday, unobserved by the rest of the staff.

The rest of us worked in filthy offices, the size of broom closets. In order to find out whether it was rainy or sunny outside at the end of a day, I would often have to call the Weather Bureau from my office. There were simply no common windows for the staff to enjoy—a feature that was considered a waste of space which could be better used as a reward to supervisors and management.

The offices also lacked hot water, air-conditioning on hot days, and heat in the winter. This deprivation of physical comfort caused attorneys to spend a disproportionately large amount of time musing about other offices: “Did you hear that X is leaving to go with a firm and is getting an office with windows?” “I went to see my doctor today and even his secretary has an office with windows and nice wallpaper.” “Hey, why don’t we all go to New York sometime and eat at Windows on the World.”¹

Besides windows and an adequate air ventilation system, the other scarce commodity was light bulbs. Each attorney’s office had four fluorescent fixtures, but government regulations—supposedly complying with federal energy policy—only permitted two to be lit at a time. If one flickered out, which it seemed to do at least twice a month, the office would be plunged into total darkness. Since the average waiting time to get a bulb changed was thirty days, lawyers hoarded light bulbs as if they were diamonds and stealthily climbed their own ladders, brought from home, to

1. Windows on the World, a restaurant atop the World Trade Center in New York City, has spectacular views of the city.

fix their own lights. This was probably contrary to an obscure regulation promulgated by the Occupational Safety and Health Administration (OSHA), but so was going blind.

The second phenomenon I observed was that our office's staff spent most of its time figuring out how little work could be done in an eight-hour day. Official duty went from nine to five-thirty. Everyone would straggle in at least fifteen minutes late in the morning, however, and immediately head to the cafeteria for coffee. These coffee breaks would last as long as forty-five minutes. The rest of the morning would be spent on the telephone—to friends, spouses, doctors, real estate agents, and plumbers. Lunch would never last less than two hours, at which time the entire office would leave together, abandoning the telephone switchboard and its incoming jam of telephone calls.

Disco Time

An office administrative assistant, who had one of the few working spaces with a back door, installed a refrigerator where a file cabinet was supposed to be. As a result, she was the acknowledged leader of the social set, and hosted an informal club of staffers every afternoon from three to five. Men and women from all walks of the office would gather in her room, turn on a radio, and disco enthusiastically. "Quiet down!" the receptionist would sometimes yell. The noise apparently interfered with her favorite soap operas, which she watched on a table television assembled for her by a chief attorney in the office.

After a few of us regularly complained about the merry-making, suggesting—hat in hand—that it was difficult to analyze cases while the rest of the office danced, the assistant to the under counsel announced that he had a solution. Henceforth, he proclaimed boldly, the administrative assistant would actually be put to work. Not only that, he whispered furtively, but legal work: assisting a newly-hired handicapped lawyer with his research.

The administrative assistant refused indignantly, arguing that assisting the handicapped was not in her job description. After a week of hiding out in her car in the department's parking garage—also not in her job description—and realizing she would not be disciplined, she returned to her office and resumed the frantic parties. The handicapped lawyer would patiently spend an hour or two waiting for her, and, getting no response, would resort to knocking on her office door and screaming her name over the music. "What is it?" someone would finally yell. "Go'way, she's not here."

This routine continued for three months. The administrative assistant received fifteen thousand dollars to dance. The handicapped lawyer received over thirty thousand dollars to sit in his office, completely idle. Again, the assistant to the under counsel took a decisive step. "You're just going to have to help him," he announced authoritatively one day. "I insist."

"One more word from you," the administrative assistant snapped back, "and I'll slap your little faggot ass."

The assistant to the under counsel summoned every ounce of power he had to reply. "Oh boy," he whined in protest, "you're very, very rude."

So ended that incident. The handicapped lawyer sat idly for another six months, until another bold office decision brought him and the administrative assistant together at last. The under counsel, who never emerged from his big windowed office and never bothered to remember the names of his growing staff, issued a proclamation that four of us, including the administrative assistant, would lose our offices in order to create space for two larger offices, which would accommodate two deputy assistants who had not yet been hired and might never be hired, depending on a budget that would not be submitted for at least another year. The plan called for the administrative assistant to share the handicapped attorney's office. The rest of us would have to sit in a library that was scheduled for demolition within a few weeks, since so many lawyers sat in there, there was really no room for books. Furthermore, a toilet flooding in the nearby men's room had soaked most of the major civil rights treatises some months earlier, and the smell of the mildew bothered the executive assistant of a deputy assistant secretary. The books would not be thrown out, only put in storage, and since they would not be thrown out, could not be replaced due to a tight budget. So really, the library was just excess baggage, anyway, explained a representative of general services, who was planning a memo regarding the need for a memo to announce the impending demolition.

The under counsel did not know how long we would have to sit in the besieged library, or where we would go once it was demolished. This was not his area of expertise, he protested; we would have to ask the office planning consultant.

The office planning consultant was a former manager of a supermarket, who had opted for the security of the federal government. He knew nothing about offices, but did know a lot about meat counters, a fact which was duly noted by personnel when

they assigned him a grade rank. He announced that after much study, he had decided that he would erect seven partitioned cubicles in the space where we had formerly stored broken typewriters. These cubicles, composed of the finest cardboard and plywood that government funds could buy, would be our new attorney offices.

When we complained about the din, he introduced us to ceiling speakers emitting white noise, a continual drone that was supposed to have the soothing sound of the ocean, but was instead a cross between a sputtering static and a rig operator's drill. When we complained about the lack of privacy—the cubicles had no doors as well as windows—he winked and asked why we had anything to hide. When we complained about the lack of professionalism, he pointed out that we were working for the federal government, after all.

Sexual Harassment and Death Threats

In the meantime, the administrative assistant had nowhere to hide. She sat at a desk a few feet from the handicapped lawyer, who had the audacity to ask her to do some work. In protest, she filed a grievance with OSHA officials. Sharing an office with the attorney, she charged, was injurious to her health. He deliberately did not use his cane, the better to bump into her and injure her arms and neck, she claimed, and added that he often picked his nose and scattered the contents. Once, her allegations continued, he sneezed into the telephone when he was handing it to her to use. She simply could not continue under those conditions.

When she did not get an immediate response to her complaint, she filed another grievance, charging sexual harassment. She alleged that he did not deliberately use a cane, the better to bump into her and cop a feel. The labor relations office did process this grievance, which is still pending and waiting for a final decision. The administrative assistant was given another office in the interim, where she still holds court.

While her claims exaggerated the type of climate that existed, they did indicate to a certain extent the type of hostility that characterized lawyer-support staff relationships. Despite the fact that it was a civil rights office, our division played host to more black-white conflict than the University of Mississippi had in 1963. The majority of lawyers were white. The majority of secretaries were black. Somewhere in the past, this fact had generated mutual and unabated suspicion, dislike, and a total lack of cooperation. On

one particular afternoon, a secretary threatened to kill her supervisor. The supervisor then methodically wrote a memo to the under counsel, asking if there were any funds in the office budget for security. He said no, not unless there was a *real* emergency, a death threat being a common office occurrence. The incident was forgotten. No one suggested firing the secretary. In the government, that is not an easy process. There are so many hearings and investigations, that no one wants to get involved. Therefore, bad employees generally can stay rooted in their jobs forever.

In the meantime, the new office cubicles for attorneys, hailed as the wave of the future, were erected in six days. On the seventh day, the drawers collapsed and the desk chairs fell apart. No one ever fixed them. Instead, attorneys grew accustomed to storing their files on the floor and not leaning back in their seats. A year and a half after their construction, an excess of staff forced a re-evaluation of the office situation. The under counsel issued a new proclamation, announcing that the larger offices built on the heap that had formerly lodged us vagrant four, and now empty for eighteen months, would be torn down in order to accommodate four smaller offices identical to those demolished so many cubicles ago.

Hypochondria and Schizophrenia

What substantive work was being accomplished in the midst of this architectural innovation? In one memorable week, I received two handicap cases deemed priority work. In the first, a woman who took sick leave 200 out of 365 days in 1978 and was then fired, charged her employer with discriminating against her handicap of chronic absenteeism. In the second, a factory worker, disgruntled with his boss, lured him into a car and began to beat him. After the employer escaped, he fired his assailant, who then filed a complaint with my office. Anyone who would hurt his own boss, the assailant charged, must be a paranoid schizophrenic. Therefore, firing a paranoid schizophrenic was violative of the act that forbids discrimination against the handicapped.

This case, which should never have reached our office, came with a note attached from another office, suggesting that its novel legal issues might make it a priority case for enforcement proceedings. I therefore spent one day writing a case analysis explaining to the attorney in the other office why the case was absurd and unworthy of our limited time. Three people ranked above me on the hierarchical ladder had to read my analysis. The first person made additional comments. The second person made comments about the first person's comments. The third person, who let the analy-

sis sit on his desk for two weeks, ordered all the comments to be expunged and the analysis left the way I had originally written it. He then signed his own name to my finished work product.

What should have been a routine matter dismissed in a day became a source of intensive study for one month, involving the time of four full-time attorneys. Another case given top priority in our office served as an even more classic example of waste and mismanagement. In 1970, a female professor in the Midwest was fired from her university on allegedly sexist grounds. She filed a sex discrimination complaint with the Department of Health, Education and Welfare (HEW), which eventually awarded her a large settlement. She agreed to the settlement but still filed an appeal for additional damages with my office, claiming that HEW coerced her into accepting the money. In typical government fashion, her appeal became lost in a pile of paperwork for six or seven years. Only a federal court order prompted my office to investigate her case. I reviewed her files extensively and recommended that we not award her any more money, based on the facts in the case as well as on her educated willingness to accept the settlement.

Again, three people reviewed my analysis. The chief attorney in our federal agency held a top-level meeting to discuss my recommendation. Two other government offices were invited to make comments about the case. The files were passed up and down from bureaucrat to bureaucrat like a zipper on a much-used coat. The argument favoring the reopening of the case held that the plaintiff had suffered unemployment and economic hardship for ten years and should not have to wait any longer for additional relief. The government's shuffling and reshuffling, however, had added almost another two years to the waiting period of the plaintiff. And after two years, the department decided to adopt my decision to drop her case, after all. Unfortunately, the needless amount of time spent on making decisions in these cases—many of them frivolous to begin with—is a common occurrence in an agency that has too many Indian chiefs, whose work consists of reviewing everybody else's work.

The only matters that the office attended to quickly were congressional inquiries, usually in the form of letters asking about the progress of a particular constituent's case. A staff attorney would handle the response, which was usually rewritten five or six times by a long line of supervisors and administrators. Suddenly a case that had sat on someone's desk for six months would be dusted off and assigned to a team for lawyers to review; instantly a complaint

would be drafted for immediate enforcement. The more important the legislator, the speedier the action on the constituent's case.

Oversight hearings on Capitol Hill also prompted the division to take stock of its work product and churn out more cases. One memorable summer my division realized, in preparation for an oversight hearing, that fifty or so regional cases were just floating around the office without any study or resolution. The department counsel demanded that the under counsel assign lawyers to make decisions on those cases within forty hours. The under counsel developed pneumonia. Only the assistant to the under counsel remained to carry out orders. The department counsel said that the assistant to the under counsel could not be trusted. That was why he had been made an assistant in the first place. Therefore, the department counsel made the decision to fly the attorney of another office and part of his staff to our office to supervise the processing of those fifty cases. Their supervision consisted of reading the files, writing memos like "this is a good case for enforcement" or "this is a bad case for enforcement" and sending them all to other offices for final filing. Then the entire visiting entourage flew back to their office—thousands of miles away.

Waste versus Heresy

When the assistant to the under counsel sat down later to compile the number and names of the cases that had been processed by the visiting group, he realized that no one had bothered to keep any sort of list. No one knew what fifty or so cases had left the office or where they had gone. The group flew back to our office. While we abandoned the rest of our work, our division spent the next few days trying to reconstruct what had happened exactly a week earlier. Then the group flew home again.

This kind of sheer waste of money was a standard practice that increased, never abated. In 1978, our under counsel announced that he had noticed that our office, ostensibly organized to promote civil rights, lacked an attorney of minority origin. With great fanfare he introduced us to a new recruit, who indeed looked very much like a minority candidate. On the very first case assigned to him, however, he committed the serious mistake of signing his own name to a letter. This act of heresy prompted a memo from his supervisor, reminding her staff not to sign any letters with their own names, even if they wrote the letter. Next, the enthusiastic recruit made a telephone call to a United States Attorney on his own initiative, suggesting that they meet to discuss a case. His

supervisor fired off a new memo, reminding her staff in angry language that they could not make telephone calls without prior clearance.

The new attorney dared to question her policy. She responded by placing a warning letter in his personnel file. Next she stopped assigning him work, as a punishment for having done work in the first place. She loudly declared that he could not be trusted with either pen or telephone. That suited the attorney fine, since he was behind on two *Newsweeks* and three *People* magazines. All this, and \$25,000 per year. When he finished reading his magazines in his cubicle, and still received no assignments from his supervisor, he took stock of his situation and took another job to fill the hours. He checked into our office at 8:45 A.M., left at 8:55 A.M., and returned promptly at 6:00 P.M. Many staff people began to praise him for the long hours he was suddenly spending at the office, commenting on his working past official time every single evening.

If he had not decided to move to the West Coast, he probably would have received a merit promotion. As it was, it took three weeks for anyone to realize that he had indeed left our office for good. Everyone just assumed that he was no longer receiving any work again, and had decided to ease his work schedule. An astute colleague, however, noticed one day that his ashtray had been empty for quite a while. Someone else then pointed out that the *Newsweeks* stopped on a certain date.

If there is method in this madness, it is probably misfiled in a forgotten cabinet, signed by five high-level administrators who played no role in its inception. In the meantime, civil rights is being played out against a backdrop of internal racial strife, petty flaunting of status, and gross squandering of government money and legal resources.

I am not generally prone to seeing symbolism in everything, but I had to smile when I found out recently that the cubicles are going to be redecorated soon with furniture coming from the United States Bureau of Prisons.

In my office I used to display a sign that showed a pool of small fish surrounded by menacing sharks. In bold letters the sign read: "Decisions usually involve risk."

An administrator shambled over to my desk one day and peered at the sign. "Decisions? Risk? Here? This is the government." And with that he walked away chuckling, probably to get another cup of coffee.

Mindy Farber

Encounter

Founded in 1953, ENCOUNTER is still Britain's leading journal of politics, current affairs and the arts—"one of the few great beacons of English-language journalism . . . a model of how to present serious writing" in the opinion of the *International Herald Tribune*. Recent articles of a political nature include:

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Book Reviews

Gentlemanly Pursuits

THE PURSUIT OF VIRTUE AND OTHER TORY NOTIONS. *By George F. Will.* (Simon and Schuster, New York, 1982) \$16.50.
THE GENTLEMAN IN TROLLOPE: INDIVIDUALITY AND MORAL CONDUCT. *By Shirley Letwin.* (Harvard University Press, Cambridge, Massachusetts, 1982) \$20.00.

There is a certain affinity between these two books. Shirley Letwin addresses herself to the code of the gentleman in nineteenth-century England, using Trollope's novels as her prime source of study and insight. She is highly respectful of this code of morality and manners. "I myself have come to think that the morality of a gentleman offers a more complete and coherent understanding of the human condition than any other known to me." The gentleman, in distinction from the aristocrat, was thought by many to be peculiar to England, the rise from class to class virtually unknown on the continent. In his attitudes toward religion, morals, politics, women, family, recreation, and education, the English gentleman was a distinct social type in the Victorian world and after.

It is evident from both his newspaper columns and his regular appearances as an analyst on television news shows that George Will thinks highly of the Tory gentleman's code, and manifestly this code is his touchstone in the work of separating the good from the bad, the noble from the vulgar, and the enduring from the meretricious. He is by his own admission Tory, tracing his intellectual lineage back to Burke, Newman, and Disraeli. Shirley Letwin remarks upon these three minds as exemplars of her code. Burke said that everything great in English civilization "depended for ages upon two principles—the spirit of a gentleman and the spirit of religion." Disraeli was emphatic that only gentlemen should rule in government, and Newman's classic on the university might well be described as a prescription for a gentleman's proper education. Without doubt it is the absence of the gentleman from so many of the corridors of power and of affluence in our age that troubles George Will the most, though he wastes little time in lament, for, as Shirley Letwin puts the matter, the gentleman, "however uncongenial he may find his neighbors or his fortune... will always be thoroughly at home in the human world because he can enjoy its absurdities and has no ambition to overleap mortality." Mr. Will does not profess to understand other writers' use of typewriters instead of fountain pens in their crafting of sentences nor the penchant of most Americans for the latest in automobiles instead of 1969 Oldsmobiles, but he maintains his cheer and refrains from outright indignation.

George Will's book is a compilation of just under a hundred and fifty of his columns which have appeared during the last five years in 360