

**THE LAWYER'S MYTH: REVIVING IDEALS IN THE LEGAL PROFESSION,  
WALTER BENNETT (CHICAGO: UNIVERSITY OF CHICAGO PRESS, 2001)**

Bennett's book is a contribution to a now well established and steadily expanding<sup>1</sup> library of lamentation over what is taken to be the sorry, fallen state of the law. This canon,<sup>2</sup> part jeremiad and part prescription, insists that the legal community in all of its branches — practicing, academic and judicial — has somehow or another forsaken the path, point and passion of the law; that this apostasy has endangered<sup>3</sup> the Western legal tradition; and that lawyers must by divers means redeem themselves, individually as practitioners and corporately as a profession. Three books are foundational to this lachrymose corpus. Anthony Kronman's *The Lost Lawyer*<sup>4</sup> is perhaps the cornerstone, for it was he who first<sup>5</sup> declared the legal community to be in a state of moral and political crisis, and it was he who first articulated the ruling trope of redemption: namely, that the good for lawyers resides in their reconnecting, spiritually and practically, with the forsaken traditions of their past.<sup>6</sup> In *A Nation Under Lawyers*,<sup>7</sup> Mary Ann Glendon cut a wider swath. She argues that not only the practicing branch, but the academic and judicial branches as well, are sick and the moral and political malaise that infects each of them is wreaking havoc on public and private life. Her conclusion though is at one with Kronman: lawyers, she urges, must reclaim the goodness of their traditions. Finally, in *The Betrayed Profession*,<sup>8</sup> Sol M. Linowitz adds the voice of a senior member of the practicing branch to the voices of academic lawyers Kronman and Glendon. And, though his analysis may appear more prosaic than theirs — the malaise from which lawyers, and through them their clients and society, suffer is a consequence of nothing more complicated than the degradation, by lawyers themselves, of their very public and very principled office into an unprincipled private business — Linowitz joins them in prescription:

<sup>1</sup> The latest addition to the canon is Thane Rosenbaum's *The Myth of Moral Justice: Why Our Legal System Fails to Do What's Right* (New York: Harper Collins, 2004).

<sup>2</sup> The canon is not quite exclusively American since certain academic lawyers in Britain have recently concerned themselves with the state of the academic branch along lines similar in posture, tone and intent. See e.g. Anthony Bradney, *Conversations, Choices, and Chances: The Liberal Law School in the Twenty-First Century* (Oxford: Hart Publishing, 2003) and Fiona Cownie, *Legal Academics: Culture and Identities* (Oxford: Hart Publishing, 2004). For my review of Bradney, see (2004) 38 L. Teacher 133. With a sole possible exception, no Canadian lawyer has contributed, certainly not at monograph length, to this important canon. The exception — which, if it qualifies, would join company with Bradney and Cownie — is The Consultative Group on Research and Education in Law, *Law and Learning: Report to the Social Sciences and Humanities Research Council of Canada* (Ottawa: Minister of Supply and Services Canada, 1983) (Harry W. Arthurs, Chair).

<sup>3</sup> Some indeed would have it that the infidelity of lawyers has seen the passing of our legal patrimony. The high water mark of this apocalyptic view is surely Harold Berman's. See Harold Berman, "Religious Foundations of Law in the West: An Historical Perspective" (1983) 1 J.L. & Religion 3.

<sup>4</sup> Anthony T. Kronman, *The Lost Lawyer: Failing Ideals of the Legal Profession* (Cambridge: Harvard University Press, 1993).

<sup>5</sup> First, it must be added that, in the contemporary, since period lawyers have, of course, condemned and sought to redeem their community episodically throughout their history. Karl Llewellyn's was the last great jeremiad prior to Kronman's. See Karl Llewellyn, *The Common Law Tradition: Deciding Appeals* (Boston: Little, Brown & Co., 1960).

<sup>6</sup> For a rather scathing criticism of the Panglossian credentials of this trope historically, see Neil Duxbury, "History as Hyperbole" (1995) 15 Oxford J. Legal Stud. 477.

<sup>7</sup> Mary Ann Glendon, *A Nation Under Lawyers: How the Crisis in the Legal Profession is Transforming American Society* (New York: Farrar, Straug and Giroux, 1994).

<sup>8</sup> Sol M. Linowitz (with Martin Mayer), *The Betrayed Profession: Lawyering at the End of the Twentieth Century* (New York: C. Scribner's Sons, 1994).

a redeemed future for the legal community resides in lawyers pledging themselves once again to the tradition that theirs is a public calling, and in their forsaking the perfidious self-interest and greed that now passes as professional life. Bennett's point in *The Lawyer's Myth*<sup>9</sup> deviates somewhat from these prevailing senses of despair and hope about the legal profession. But the novelty of Bennett's project comes, in my view, at the cost of placing lawyers, and the societies whom they serve, in an even more precarious situation morally and politically.

As do other contributors to this discourse, Bennett — erstwhile trial judge, sometime legal academic and practicing lawyer — proceeds from describing ruin to prescribing redemption. Ruin he finds aplenty, both quotidian and, more importantly, historical. “[T]he legal profession in America,” he reports, “is wounded and suffering.”<sup>10</sup> Lawyers are afflicted with a “moral and emotional malaise,”<sup>11</sup> and they lead “drastically unbalanced” lives.<sup>12</sup> Not only do they feel “trapped and morally impotent”<sup>13</sup> and “alone,”<sup>14</sup> they suffer this “powerlessness and loneliness”<sup>15</sup> because they labour pointlessly under an unrelieved moral and intellectual torpor. Bennett, of course, takes as his burden first to explain and then to remedy this listless, melancholy wasteland in which lawyers find themselves. It will be my concern to assess his success at both endeavours. I should note straightaway, however, that for the purposes of this review I shall ignore the carapace of different voice feminism, pop-Jungian psychology and legend with which Bennett burdens both his analysis and his proposals. I do this not only because I think these matters silly and find them irksome.<sup>16</sup> Rather, I put them aside because, in the final analysis, his project turns and, in my view, fails, on his understanding of the history of the profession.

Whence then this sorry, emotionally and morally disorientated profession? Bennett cautions — quite rightly I think — that we should not confuse symptom for disease: “changes in the economics of practice [by which he means the advent of billables and of the corporatization, integration and growth of firms], Supreme Court rulings on professional advertising, bad press, or poor public understanding of the justice system,” he says, “are not the causes of what really ails the legal profession.”<sup>17</sup> These are “self-inflicted” wounds that

---

<sup>9</sup> Walter Bennett, *The Lawyer's Myth: Reviving Ideals in the Legal Profession* (Chicago: University of Chicago Press, 2001) [*Myth*].

<sup>10</sup> *Ibid.* at 10.

<sup>11</sup> *Ibid.* at 101.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.* at 4.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.* at 5.

<sup>16</sup> The first consists of Carol Gilligan in a (very dated) nutshell (*ibid.* at 8, 20, 56, 105-109) and reaches its full-blown silliness in Chapters 8 (“A Preface to New Ideals: Coming to Terms with the Historical Masculinity of the Profession”) and 9 (“Realizing the Feminine in Lawyers’ Work: Conceiving a New Ideal of Power”). Curiously, given the prominence of the masculine and feminine voices in his discourse, Bennett at one point worries about “the serious danger” which “gender stereotyping poses ... to both genders in any context and in the legal profession in particular” (*ibid.* at 94). Would that this most reasonable, and obvious, worry had instructed him to jettison the entire metaphor since — and this is the meat of the matter — it carries neither explanatory nor corrective power and remains throughout the piece mere artifice.

<sup>17</sup> *Ibid.* at 10.

more signal than constitute the sickness from which the profession suffers.<sup>18</sup> To diagnose that sickness, we must look within: what is it that makes lawyers the unhappy souls they are?<sup>19</sup> Bennett names two culprits: legal education and legal history — each of which carries the disease that afflicts the profession. I'll not dally over the first, which occupies his second chapter,<sup>20</sup> not because I take the view that the legal academy carries no responsibility for the state of professional life (clearly it does and by ways and means more insidious and invidious than those that Bennett identifies), but rather because his analysis is so formulaic and tired.<sup>21</sup> In any event, it is the second — the argument from legal history — that deserves our attention because, in the final analysis, Bennett concocts both his novel diagnosis and vague cure from it.

Bennett's story begins with the place of stories — what he terms myths — in the legal community generally and in the lives of lawyers especially. Professional myths, “[m]yths about the lawyer's life and what it means to be a professional,”<sup>22</sup> are morally capacitating. At the wholesale level, “[t]hey inform us about the society of lawyers itself — ... the practices, traditions, beliefs, expectations, and mores of the profession. They give us a purpose for lawyers' work that is community based and spiritually transcendent.”<sup>23</sup> At the retail level of individual lives in law, they tell us “about who we [are], how we should behave, and why”:<sup>24</sup> which is to say, “they teach us how to live a life in the law and ... how to live a life in the law that is a complete life, grounded in something greater than the profession itself.”<sup>25</sup> In his third and fifth chapters,<sup>26</sup> Bennett explores the narrative patrimony of the American legal community and uncovers what he takes to be the myths, five positive

<sup>18</sup> *Ibid.*

<sup>19</sup> There too, in Bennett's view, resides our redemption: “[w]e carry within us the secret to professional redemption” (*ibid.* at 123).

<sup>20</sup> His second chapter carries the title “The Dark Landscape of the Profession: The Legal Academy and the Loss of Ideals” (*ibid.* at 13-27).

<sup>21</sup> Bennett's criticism of legal education reduces to this: that legal education disfigures its charges both morally (because it visits on them “an abiding cynicism” *ibid.* at 18) and intellectually (because it “narrow[s] [their] intellectual focus” *ibid.* at 18); that this disfigurement “damage[s] [their] capacity for moral growth” (*ibid.* at 27); and that this “incapacitation for moral growth ... is the primary reason many lawyers are ailing in their personal and professional lives” (*ibid.* at 27). According to Bennett, the legal academy works this remarkable feat of intellectual and moral destruction through “the murder of moral purpose” (*ibid.* at 13), the production of “moral alienation” (*ibid.* at 18) and the displacement of “the moral character of individual students” (*ibid.* at 23) with morally empty stories about professional life and purpose (*ibid.* at 24-26). Now, Bennett does not so much make as simply assert this case and this because he proceeds, not by argument, but through personal confession and observation. In any event, the outcome is tired because all of this has been said before, indeed long before, and it is formulaic because it seems simply to can those earlier renditions, all American, of the evils of professional legal education. See e.g. Richard Wasserstrom, “Lawyers as Professionals: Some Moral Issues” (1975) 5 *Hum. Rts. J.* 1; James B. Taylor, “Law School Stress and The ‘Deformation Professionelle’” (1976) 27 *J. Legal Education* 251; Duncan Kennedy, “Legal Education and the Reproduction of Hierarchy” (1982) 32 *J. Legal Education* 591; James R. Elkins, “Reflections on the Religion Called Legal Education” (1987) 37 *J. Legal Education* 522; Roger C. Cramton, “Beyond The Ordinary Religion” (1987) 37 *J. Legal Education* 509; and Roger C. Cramton, “The Trouble with Lawyers (and Law Schools)” (1985) 35 *J. Legal Education* 359.

<sup>22</sup> *Ibid.* at 52.

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.* at 29.

<sup>25</sup> *Ibid.* at 52.

<sup>26</sup> Entitled respectively “The Profession and the Loss of Professional Mythology” (*ibid.* at 28-50) and “The Negative Archetype in Professional Mythology” (*ibid.* at 60-72).

and one negative, that have in the past informed the professional identity and practices of lawyers.<sup>27</sup> For reasons that will hopefully become apparent in the brief conclusion to this review, the substance of these myths need not concern us. What is important is the question which Bennett raises with respect to them, since it is his answer to that question which provides him his diagnosis and remedy. After having declared each of the positive myths to be in decline,<sup>28</sup> he puts his question thus: "How did the disintegration of professional myths and professional community come about? Why did it happen?"<sup>29</sup>

Bennett's answer is not Kronman's or Glendon's or Linowitz's: the present is not, as they believed, simply a consequence of lawyers having become disconnected from their past.<sup>30</sup> The present situation, he thinks, is more complex than that. Lawyers are indeed disconnected from the old myths, but this is a consequence of "the loss of metaphorical power in the old stories."<sup>31</sup> In this fashion, Bennett reframes the inquiry — whence this loss of power? — and it is his answer to this refined question that makes his subsequent endeavour both novel and troubling. Lawyers no longer stand in thrall of the past, he claims, because they know that of the past is itself diseased. Thus does legal history become part and parcel, because productive, of the sickness from which the profession suffers.

According to Bennett, the past is diseased because the lawyers who forged and the lawyers who were guided by the old stories were all complicit in race, gender and class oppression. He puts the matter thus: "The old profession was a society of largely one race, one gender, and one social class. Its prestige, power, and, indeed, its very existence were to a large degree enabled by the social roles dictated by race, gender, and class in the society at large."<sup>32</sup> Nor only that: "[L]awyers were the trained elite.... They served as administrators, interpreters, and caretakers of the system. They were all white and all male, ... confident in the ultimate beneficence of the patriarchal and racist order which they were helping to design, build, and maintain."<sup>33</sup>

---

<sup>27</sup> They are: 1) "The Lawyer-Statesman" (*ibid.* at 29), regarding which he rightly associates Anthony Kronman's *The Lost Lawyer* (*supra* note 4); 2) "The Pillar of the Community" (*ibid.* at 33), which he associates chiefly with Abraham Lincoln; 3) "The Champion of People and Causes" (*ibid.* at 36), which he associates with a long line of luminaries from Daniel Webster to Clarence Darrow to Thurgood Marshall; 4) "The Paragon of Virtue and Rectitude and Conscience of the Community" (*ibid.* at 39), which he associates with a hodgepodge of lawyers, real (e.g., Thomas Dewey) and fictional (e.g., Atticus Finch); 5) "The Lawyer and Gentleman" (*ibid.* at 46), which he associates with John W. Davis; and 6) "The Shyster/Trickster Lawyer" (*ibid.* at 60), which he views as "the shadow mythology" (*ibid.* at 59) of the legal community.

<sup>28</sup> Bennett provides reasons for the decline of each, and his reasons are invariably sociological. For instance, the "pillar of the community is becoming a depleted ideal" because "[l]awyers who are focused upon the number of hours they bill are obviously not as likely to find time to engage in the affairs of their communities and are not as likely as Abe Lincoln to turn away a fee" (*ibid.* at 35); and "[t]he ideal of the lawyer as champion of people and causes has become tarnished" because "[n]ow, when we think of lawyers championing people in court, rather than Thurgood Marshall and Atticus Finch, we are more likely to envision Johnnie Cochrane and F. Lee Bailey" (*ibid.* at 39). It turns out, however, that there are reasons, much deeper than these, for the decline of the old stories, which Bennett comes to in Chapter 6. For these, see *infra* notes 29 and 30 and accompanying text.

<sup>29</sup> *Ibid.* at 74.

<sup>30</sup> *Supra* notes 4, 7, 8 and accompanying text.

<sup>31</sup> *Myth, supra* note 9 at 78.

<sup>32</sup> *Ibid.* at 74.

<sup>33</sup> *Ibid.* at 131.

But, though morally desuetude, this diseased past is not dead. Rather, it insinuates itself into the troubled present just because it has let loose the new profession from the narrative coherence and social cohesion it so needs to survive and to flourish. Again as put by Bennett:

The problem is not that as professionals all of us — including women and previously excluded racial minorities — shouldn't be expected to abstract positive images from the now embarrassing historical contexts in which they gained life and substance. The problem is that the contexts themselves specifically excluded many people we now call fellow-professionals, and on many of those people the metaphorical power of the images that grew from those contexts is lost.... Thinking metaphorically involves an active leap of imagination, which presupposes a desire to make the leap.... Where the context of the narrative or image is personally degrading or genuinely repulsive to us, we are not likely to be able to make this leap or to even want to try. Thus it is with many women and racial minorities in today's legal profession when confronted with the old stories of the glorious past. The history of the legal profession was not glorious for them. They were shamefully excluded from it, and they can put little emotional stock in it now. The metaphorical power is simply not there for them. The stories are just old stories; they are not myths.<sup>34</sup>

He goes on to conclude that the “[s]tories of the great lawyers of the past ... have lost much of their metaphorical power for the profession as a whole and for many of its members.”<sup>35</sup>

Whatever Bennett thinks of the matter — and it is difficult to tell from the text — his point at this critical juncture is starkly normative and not merely sociological. This needs to be so, not only because otherwise his point has little interest or purchase, but also and more importantly because, no less in law than in any other aspect of our culture, we responsibly engage the past by deciding first how we *ought* to relate to it. In my view, any normative rejection of the past, in whole or in part, in the cause of a more enlightened present and future is an impossibility that, where it does occur, always reveals itself as a silly and threatening gesture.<sup>36</sup> That is, even were we to agree with Marx that “history is a nightmare on the brain of the living,”<sup>37</sup> it is not, as Marx himself understood, a dream from which we can simply decide to awake.<sup>38</sup> Rather, we are stuck with our cultural past every bit as much as we are stuck with our personal pasts; and whether good or ill arises from this sticky situation, for our culture no less than our selves, turns on our management and interrogation of the past and not on our condemnation or praise of it.

For his part, Bennett seems both invigorated and perplexed by the rejection of the past he commends. On the one hand, he verily bleeds enthusiasm about the project freedom from history defines. What we must do, he says, what alone will cure the profession, is nothing less

<sup>34</sup> *Ibid.* at 77.

<sup>35</sup> *Ibid.*

<sup>36</sup> Consider, for example, Andrea Dworkin's instruction, at once silly and foreboding, to “a revolutionary sisterhood” on the whole of our culture: “[W]e will have to attack and destroy every institution, law, philosophy, religion, custom, and habit of this patriarchy.” See Andrea Dworkin, *Our Blood: Prophecies and Discourses on Sexual Politics* (New York: Harper & Row, 1976) at 20.

<sup>37</sup> Karl Marx, “The Eighteenth Brumaire of Louis Bonaparte” in *Karl Marx/Frederick Engels: Collected Works*, vol. 11 (Moscow: Progress Publishers, 1979) 99 at 103.

<sup>38</sup> As he makes abundantly clear in the “Preface to the First German Edition” of *Capital*. See Eugene Kamenka, ed., *The Portable Karl Marx* (New York: Penguin, 1983) 432.

than to forge “a new vision of professionalism.”<sup>39</sup> A “new mythology must be built,”<sup>40</sup> “one that is inclusive in terms of both culture and gender”<sup>41</sup> and expresses “new professional ideals.”<sup>42</sup> On the other hand, sensing, I suspect, the difficulty of any such whole cloth remaking of the future, he seeks wiggle-room to preserve part of the legal community’s past. He makes room early along on first articulating his project: “What,” he asks, “do we need to do about our lives, our work, and our culture to allow for the resurrection and renewal of our old, positive mythology and the creation of new, positive myths?”<sup>43</sup> It turns out, however, that thin instruction and not fulsome renewal is the past’s place in Bennett’s new vision. At best, the past contains mere “remnants of the ideal.”<sup>44</sup> And those remnants are meager indeed: “What the myths from this bygone era give us ... which is still useful in teaching us about where we need to go as a profession today, is not [heroes] we can all emulate ... but something more abstract than that which we can use in building a new mythology. That gift is an ideal of balance.”<sup>45</sup> But, of course, none of this will do. Not only, as a logical matter, can he not have it both ways, but even if we were to concede that he could, the result would still be entirely unacceptable on moral grounds. For in that event, lawyers would be placed in the most curious and disabling situation of having their renewed professionalism depend upon what surely must be a mandatory<sup>46</sup> confession that their pasts, presently as individual professionals and corporately as a community, are diseased along the lines Bennett diagnoses.

When, after all of this, he then turns to prescription, the hesitation, ambiguities and conflicts at the heart of his analysis scupper his project. For it turns out that Bennett has very little to say about the new vision his analysis requires: he is long on how we should go about building our new professional ideal<sup>47</sup> and very short indeed on what it is we ought to build. “[W]hat, really,” he asks, “is that ideal?”<sup>48</sup> His answer — after much rehearsal — is twice put. First, we are told what the ideal will look like:

If we (all of us) will listen to our internal feminine advisers and broaden our concept of power and learn to use all our power in different ways, ... [w]e will then be able to save our relationships to each other, which are the basis of community, which is the basis of a profession. And this salvation is likely to occur ... through *mythos*,

<sup>39</sup> *Myth*, *supra* note 9 at ix.

<sup>40</sup> *Ibid* at 78.

<sup>41</sup> *Ibid.* at 113 [emphasis in original].

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.* at 59.

<sup>44</sup> *Ibid.* at 192.

<sup>45</sup> *Ibid.* at 103.

<sup>46</sup> Surprisingly, given his analysis of the past’s forceful impact on the present circumstances and future prospects of the legal community, Bennett hedges even on this: “the myths from this bygone era [may],” he claims, “serve ... [as heroes] for some” (*ibid.*). On pain otherwise of gross contradiction, this observation must be sociological. But, in that event, he elides the normative issue it necessarily raises, namely, whether fealty of this variety to a diseased past can ever be made in good faith.

<sup>47</sup> His methodological recommendations, all of which concern “structural changes necessary in the bar and the legal academy” (*ibid.* at 113), are found in Chapter 13, “The Roles of Law Schools and the Bar in Conceiving a New Profession” (*ibid.* at 169-89) and in two appendices [Appendix A, “A Model Mentoring Program for Young Lawyers” (*ibid.* at 195-202) and Appendix B, “A Model Mentoring Program for Law Students” (*ibid.* at 203-209)]. Space and purpose forbids detailed examination of these here. Suffice to say that, quite independent from any deficiencies in his larger project, his suggestions are reasonable and would indeed make better the lives of lawyer and law student alike.

<sup>48</sup> *Ibid.* at 124.

through the rediscovery and reactivation of the power of stories, narratives, myths, and dreams as part of our psycho-professional mental-landscape.<sup>49</sup>

Next comes the content. First, its location: the ideal “lies in the relationship of lawyers and lawyers’ work to other people,”<sup>50</sup> to “individual clients”<sup>51</sup> and to “the greater community.”<sup>52</sup> Then the specifics: first, “[w]hether one’s service qualifies as a professional ideal depends ... upon what is in the heart of the server”;<sup>53</sup> and second, what must be in one’s heart is “[o]ur ultimate goal as professionals,”<sup>54</sup> which is “to heal the kingdom.”<sup>55</sup>

After such an arduous and novel journey, this is thin gruel indeed. Yet Bennett’s failure to make good, beyond these platitudes, on the promise and purpose of his project is no mere accident. Just the contrary: his very project — both its focus and its method — made this failure to deliver, in my view, inevitable. I shall deal with both matters in the brief conclusion that follows.

---

That the law is in crisis can, I think, be gainsaid. Lawyers are indeed an unhappy lot, and they are unhappy because their work appears to them to be guided by no pole star worth the devotion of their labour and the consumption of their lives. The question before the legal community, and before contributors (such as Bennett) to the canon of professional redemption, is what needs now to be done. In order to answer that question profitably, community and commentator alike must first settle two matters: what properly is the focus or target of prescription, and what properly is its source?

In regards to focus, either one trains on curing the unhappiness of lawyers or else one trains on curing the cause of their unhappiness. If one thinks lawyer satisfaction is in any sense a free-standing good, then one will have as one’s purpose the promotion of good feeling among lawyers. If, on the other hand, one thinks, as do I, that lawyer unhappiness is important only derivatively and as a symptom of the absence of some truly free-standing good, then lawyer satisfaction will either be of no concern at all or, at best, an always contingent consequence of the curing of the value that counts. The difference between these approaches is fundamental. And to confuse or conflate them is fatal to the project of prescribing professional redemption.

In my view, Bennett makes the mistake of conflating lawyer satisfaction with lawyer redemption. His focus is “a rediscovery and validation of the *whole* self,”<sup>56</sup> and only derivatively, and as a contribution to that end, the definition of the demands of professional office. It is for this reason that his prescriptions are so thin. And it is for this reason too that

---

<sup>49</sup> *Ibid.* at 112.

<sup>50</sup> *Ibid.* at 124.

<sup>51</sup> *Ibid.* at 125.

<sup>52</sup> *Ibid.* at 126.

<sup>53</sup> *Ibid.* at 127.

<sup>54</sup> *Ibid.* at 128.

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.* 120 [emphasis in original].

his text so often reads as more a call to good-feeling than as a demand to discharge responsibility faithfully.

As regards the source of prescription, either one can look to lawyer culture or else one can look to the political morality on which the office of lawyer is founded and of which it is an expression. If one takes the first tack, one is likely to confuse biography with philosophy. That is, one will look, as has Bennett here, to the lives of lawyers past for instruction on proper professional life. If, instead, one takes as one's venue of reflection the political foundations of lawyer office, then prescription will have as its purpose the articulation of a defensible philosophy of lawyering. In that event, biography will be secondary and never more than illustration, positive or negative, of the philosophical predicates, obligations and limitations of lawyer office. And so we come to a second reason for Bennett's summary prescription: because he relied on lawyer culture rather than on the political morality of lawyer office, he found himself in a very real sense without the grammar and vocabulary required for fulsome prescription.

The legal community, and the community to and for whom it is responsible, desperately need a book which will make plain to all the cause and contours of lawyer privilege, purpose and obligation. Unhappily, despite its many virtues and its manifest good intentions, Bennett's is not that book. Even more unhappily, nor is any of the many other titles that presently comprise the legal community's literature of redemption. As does Bennett's, those other texts too fail to define and defend a political philosophy of lawyering and, as has he, offer in its stead a hodgepodge cultural prescription. We await still that book that will ground lawyer practice in the rich soil of liberal political and legal philosophy.

F.C. DeCoste  
Professor  
Faculty of Law  
University of Alberta