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The Tyranny of the Experts: How the Professionals and Specialists are Closing the Open Society (1970)

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The Tyranny of the Experts
How Professionals Are Closing the Open Society

JETHRO K. LIEBERMAN

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Experts Take Over

War is much too serious a matter to be entrusted to the military.
— GEORGES CLEMENCEAU

The C-5A program, once regarded as a brilliant achievement in defense management, is now in disrepute. . . . Not the least important of the lessons learned is that contracts with incentive clauses are too important to be left to lawyers.
— Armed Forces Journal (May 10, 1969)

In the original American populistic dream, the omnicompetence of the common man was fundamental and indispensable. It was believed that he could, without much special preparation, pursue the professions and run the government. Today he knows that he cannot even make his breakfast without using devices, more or less mysterious to him, which expertise has put at his disposal; and when he sits down to breakfast and looks at his morning newspaper, he reads about a whole range of vital and intricate issues and acknowledges, if he is candid with himself, that he has not acquired competence to judge most of them.
— RICHARD HOFSTADTER, Anti-intellectualism in American Life
Professional photographers in Georgia were once required by law to react properly to Wassermann tests before they were permitted to roam the streets with cameras.\(^1\) In times worried by far more awesome issues, this seems laughable. Yet that kind of control is no laughing matter when it is applied to man's most critical problems. For regulations that say what qualifications an expert must possess before he will be permitted to exercise his skills stand directly in the way of those who must solve pressing social problems.

Suppose, to avoid trouble, the experts (with an economic and social stake in things the way they are) write these regulations themselves? For years private bar associations successfully deterred judges from permitting television and still cameras in courtrooms, not because the practice was illegal but because it was "unethical."\(^2\) Members of the North Carolina Dental Board, a state agency charged with selection and discipline of the profession, are elected by a statewide referendum — of dentists.

People might be seriously injured, the professionals argue, if the public were left to the mercies of unscrupulous practitioners. To perform brain surgery obviously requires training. An unknowing litigant may be financially gouged by a lawyer with a penchant for high fees. Incompetent, unethical, and unprofessional conduct must therefore be kept to a minimum. It follows that some form of regulation is necessary. Since professionalism springs from the exercise of specialist skills, judgments relating to competence or proper professional conduct may be exercised only by the professionals themselves. So runs the argument.

Although the professions have been effective in improving the

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\(^2\) Canon 35 of the Code of Judicial Ethics, the provision in question, is not law and became partially moot in favor of the bar in 1965, when the Supreme Court ruled in Estes v. Texas, 381 U.S. 532, that it is unconstitutional to permit cameras in felony courtrooms.
general tone of professional conduct, the fact that experts often sit in judgment of themselves — conferring, suspending, and revoking licenses — raises the question to what degree they have considered the public interest in their management of the professions. A nation which honors a system of checks and balances should surely be wary of the growth of powerful, self-regulating bodies. The medieval guild system would not be consciously tolerated in the United States today; yet to a degree greater than most people realize, America is returning to that presumably long-dead institution, as scores of occupations rush to achieve professional status.

Professionals are dividing the world into spheres of influence and erecting large signs saying “experts at work here, do not proceed further.” The public respects the signs and consequently misses the fact that what goes on behind them does not always bear much relation to the professed goals and activities of those who put them up. Professionals frequently say one thing and do another and assert that the layman’s inability to find consistency between talk and action is caused by his inherent lack of insight into the professional mysteries. But the gap exists, and it has important political, economic, and social consequences: the public is losing the power to shape its destiny.

It is more than sociologically interesting to note that the development of the professional class and the problem it poses have gone virtually unrecognized. To be sure, there have been a few serious discussions — too serious for wide dissemination. Furthermore, a subgroup of sociology has laid claim to academic discussion of “work” and “professionalization,” and the curious ethic that

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pervades the entire academic community has forced the subject into a sterile rut by virtually prohibiting any but sociologists from treating it.

Occasional exposés of a given profession, such as Jessica Mitford's *The American Way of Death*, cause outbursts of public indignation at the sharp and shady practices revealed. Miss Mitford's book even sparked investigation by the Senate Antitrust and Monopoly Subcommittee. But no one has been disposed to see anything but aberrant behavior in a particular profession. *Time Magazine* charged in a cover article that "medicine is the only big business in which the ultimate consumer has no control over what he buys" at the same time that a popular book, Murray Teigh Bloom's *The Trouble with Lawyers*, imputed an equal power to the legal profession. Both failed to articulate the theory of the professional class; they have failed to see that inherent tendencies in all professions constitute a pervasive social problem.

Professional experts are increasingly able to take hold of our daily existence because they are involved so much with the mundane workaday world that they are largely taken for granted. Professionals are unexciting; fictional heroes to the contrary notwithstanding, their work is dreary and rooted in drudgery; intellectual preparation is the basis for excellence and though such work may sometimes have the ring of drama (the omnicompetent doctor calmly readying the operation room; the nerveless lawyer researching at midnight to defend his innocent client), intellectual preparation means years of routine coping with narrow issues which the public is not expected to understand. Professionals do not normally work before audiences; they shield their jobs from public gaze. Even less often are professionals hauled before Congressional committees to justify their work routines; indeed, their very jobs presume they will be left alone to pursue the work about which we know little but without which we could not long survive.

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The point has been made most tellingly by the eminent sociologist Everett C. Hughes, who recalls that "the very same engineer kept the waterworks to Paris going before, during, and after the French Revolution."\(^6\)

A widespread assumption that professionals are just technical specialists doing a job contributes to the invisibility of the take-over. A benchmark of this assumption was President John F. Kennedy's Yale Commencement Address in 1962: "You are a part of the world [he said to the graduates], and you must participate ... in the solution of the problems that pour upon us, requiring the most sophisticated and technical judgment.... The central domestic problems of our time ... relate not to basic clashes of philosophy or ideology, but to ways and means of reaching common goals — to research for sophisticated solutions to complex and obstinate issues.... What is at stake in our economic decisions today is not some grand warfare of rival ideologies which will sweep the country with passion but the practical management of a modern economy."\(^7\) The President did not say it, but the implication was clear: give experts governmental authority over their separate spheres of knowledge. Private associations of specialists, like lawyers, doctors, and funeral directors, wield vast power already.

The professional person says his only function is to perform a service. In the underlying theory of the professional class, however, service is incidental to the principal function of the profession. Maintenance of the legal system as construed by lawyers is the principal function of the lawyer, as the public health is upheld in turn by doctors who define it, and as architects do the same for the national esthetic. What degrades the profession degrades the legal system, the public health, the national esthetic. What is not good for lawyers is bad for law. In short, lawyers are the legal system, and doctors the public health. Professionals might deny this, but they take actions based on it, and the contradiction is serious.

Contradiction and paradox are consistent partners in American history. There are those who rail against federal bureaucracy only to require an equally or more galling state officialdom. Many who despise government "inefficiency" ignore the bungling of the business concerns they esteem. To some, "states' rights" means the power of the state to be brutal and capricious; they who say otherwise by speaking out for "local rule" recoil in horror at the suggestion that the city have more power to govern itself than the state legislature. Likewise, the champions of "oppressed minorities" often have contempt for any but their own voices; yet those who piously prefer majority rule to the pretentious demands of "minority groups" concoct procedures in Congress and state houses which are quite useful in thwarting votes of the majority.

Contradictions arise because beliefs which were once rooted in circumstance tend to become mere rationalizations when conditions change. Perhaps none is stronger than the belief in the supremacy of the American consumer. "The Consumer is King"; his decisions, so runs the economic litany, not only shape but decisively determine the state of the economy and (hence) his life. This myth has been debunked for some time now, even though a substantial number of people continue to believe it, and a significant number who know better cherish it nonetheless.

In fact, the producer is far more important than the consumer, at least in this regard: the producer decides what the public will consume. There is no longer, if there ever was, a market mechanism through which the consumer can order the production of different commodities. Paradoxically at a time when public appreciation of consumer problems would seem to be growing, the average citizen is becoming producer-oriented; he sees himself primarily as a producer of things and services. If he stops to consider his plight as a consumer, it is only to note with some exasperation that other industries seem lax and incompetent. It does not occur to him that a more underlying cause is at work; that his
occupation probably strikes others as also being less than conscientious in maintaining values which a consumer in an all-too-rare reflective moment might demand; that there is any tension between his own work time hours as a producer and his off-duty hours as a consumer of products, professional services, and leisure.

The professional, too, is a producer, and he sees gains to be made at consumer expense. Far from respecting the received tradition of "free enterprise," most professionals repudiate it and wish nothing more than to alter it beyond recognition. But, they humbly explain, they seek this variance only because theirs is that rare occupation which for reasons peculiar to itself must necessarily stand outside the marvelous Western economic tradition. The expression of their disbelief in the economics they praise outside the office is to be found in the literally tens of thousands of state and local laws, regulations, and ordinances which license the practice of the professions, fix prices, and define what services and products may be offered for sale and in what manner.

The professional tradition began with doctors and lawyers, and in medicine and law has found its highest successes. But the movement merely began there; it is no exaggeration to say that it has extended itself to more than three hundred occupations since professionalism first took on consciousness after the Civil War.

The rise of the professional spells trouble not only in the economic realm: it threatens the validity of the concept of citizenship. Professionalism strikes at the very core of hitherto accepted notions about the place of the individual in the fabric of a liberal, democratic society. Corporations may control economic life and strongly influence social life, yet they do not, for all their power, determine the general shape of our political institutions. But professionalism does carry this threat; inherent in the meaning of professionalism and the motives of its adherents is the negation of democracy itself, stemming from the incipient belief that the citizen, like the consumer, is incompetent to make important decisions affecting his life.

In the political realm, the professionals are developing an
imperial point of view that corresponds to their producer orientation. Decisions should be made, professionals contend, from the perspective of the professions; men should serve the disembodied will of the discipline - law, medicine, even laundering. This is native imperialism—"native" because it does not extend outward to capture other nations. It looks inward and is at its worst in democracy because it is there that the possibility exists for private control of government. The capture of any part of government by a private group is cause for concern because actions affecting the public are taken without public debate and without the possibility of compromise or change.

The management of public affairs by groups not representative of the public is not an ideal ardently sought by democratic or open-society political theorists or by common men, but it is a reality being achieved by professionals. Professional associations have captured enough of the machinery of government to enforce private policy with public power. By exercising control over the staffing and policy-making of licensing bodies throughout the United States, professional organizations impose their idiosyncracies on almost the entire populace.

Men no longer believe in the power of the individual but in the group, the committee, and the organization. Some of these organizations have combined into super groups, to give us the "military-industrial complex." The society "co-exists" with it and does not erupt into "class war" because there has been a "managerial revolution" which has accommodated itself to the needs of an "affluent society." So, at least, have all these trends and moods been interpreted in a stream of books and articles.

Yet we find ourselves in malaise. We are afflicted with strains and revolutions — of race, creed, and youth. It should not be sur-

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prising. A principal feature of our managerial, affluent, post-industrial, frenetic, and compulsive life is a willingness to delegate most facets of it to others. We are trained, but unschooled; lettered but unlearned, intelligent but undisciplined. We have turned over to others the power to make legal, medical, aesthetic, social, and even religious decisions for us. We have put the experts in charge — or at least abdicated our responsibility to them. For some, only the moral decision seems to remain, and at its starkest it says to them: "Your only choice is 'submit or defy.'" It says this to youths because they have no control over most of the institutions which intimately affect their lives. So they believe they have lost the power of rational action, with avenues of change blocked. But the need for change is undeniable — hence "revolution." People revolt because they sense and see the world being subdivided and appropriated by experts who know no more, and often see less acutely, than they. We must recognize the need to accept responsibility for ourselves; to do this we must first learn that, despite the myth, we do not have (or even seem to want) this responsibility.

We have become so inured to our own feebleness in the face of expert knowledge that it will doubtless seem difficult to believe that, for instance, the meaning of "due process" was popularly and vigorously debated during the middle years of the 1800's — not alone by lawyers, but by rude and common men who had no greater stake in its meaning than we today. 9 But we have lost our nerve: debate on due process is lawyer talk when it ought to be part of our daily existence. Similarly, we may be led to think that in national debates over great issues we can participate only if we have direct personal or professional stake. Thus education bills should be left not even to teachers but to "educators," medical laws to doctors. It has not quite gone so far yet, but this is the heresy which professionals would make orthodox.

When we ponder leaving decisions in the hands of experts we

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should recall the extraordinary fact that the leaders in the fight to establish inoculation as a cure for smallpox in colonial America were Cotton Mather and his brother clergy. Professor Daniel J. Boorstin reminds us that the leading opponents of inoculation in the 1720's were doctors.\(^\text{10}\)

There will be those who will attack what follows because, they will say, the Western world is evolving into a system of interlocking specialist control, and this quiet and relatively orderly evolution is the only way to save the world from anarchy or despotism and to deliver to it a greatly enhanced quality of life. Perhaps. But it seems prudent to doubt it, at least for a moment in time, so that we can examine its reach and its defects, as well as its promises.

Attack, in any case, will be good. The theory of the professional class will take time to penetrate the American psyche. When students only discovered the United States Army, chemical manufacturers, and universities in the late 1960's, we need not be apprehensive they will march on the American Medical Association\(^\text{11}\) much less the Rhode Island barbers' association. Most students do not consider these organizations relevant problems. But then, professional students, no less than others, are not widely acclaimed for the keenness of their perceptions in that regard.

There is one final reason to suppose a study of the professions will be useful. With the ending of the classical market system went the old reliance on profit-maximization as the rule of the individual firm.\(^\text{12}\) That goal has been replaced with others: growth may be primary but solemn pronouncements that social utility is the guiding beacon are as insistent. The professions have long claimed benefit to mankind as their goal and profits limited by ethics as a rule. Theirs should be an instructive example.


\(^{11}\) But see p. 288.