



1966

# Lawyers and Judges by Joel Grossman

S. Sidney Ulmer  
*University of Kentucky*

Follow this and additional works at: <https://uknowledge.uky.edu/klj>

**Right click to open a feedback form in a new tab to let us know how this document benefits you.**

## Recommended Citation

Ulmer, S. Sidney (1966) "Lawyers and Judges by Joel Grossman," *Kentucky Law Journal*: Vol. 54 : Iss. 4 , Article 18.  
Available at: <https://uknowledge.uky.edu/klj/vol54/iss4/18>

This Book Review is brought to you for free and open access by the Law Journals at UKnowledge. It has been accepted for inclusion in Kentucky Law Journal by an authorized editor of UKnowledge. For more information, please contact [UKnowledge@lsv.uky.edu](mailto:UKnowledge@lsv.uky.edu).

The book does not limit itself to a detailed exposition of the Swedish procedural code of 1942 and related laws. It contains a great deal of information about the administration of justice in Sweden and about judicial statistics. It has a special chapter on international co-operation in litigation. The appendix contains many sample forms and documents in English of proceedings in lower courts and judgments. This last part offers the reader a real insight into a Swedish civil case file. A long table of statutes, decrees and treaties, a table of cases, as well as an index carefully prepared by M.G. Pimsleur contribute to more effective use of this great book. An extensive bibliography of references in Swedish and English lacks no item of importance. The only non-positive remark which this reviewer has concerns several sections within the book which disclose, by the language used, that they were not originally written in English. Giving full credit to the notorious difficulty involved in translating foreign legal materials, one cannot disregard the sizable number of legal terms and expressions in the book which may sound strange to lawyers schooled in the language of the common law.

In the preface to the book Professor Hans Smit, editor of the Project on International Procedure, has enumerated some of the objectives of a study of foreign civil procedure. This book gives special attention to the second of these: "they are designed to permit critical evaluation of domestic procedure in the light of foreign procedural institutions." The United States profited enormously by a wise use of foreign assets in the field of medicine, technique, fine arts. In contrast, foreign influence in the field of law has been negligible. It is to be hoped that the publication of books like Ginsburg-Bruzelius' *Civil Procedure in Sweden* may in due time lead to a reception by some legislatures of new procedural devices of proven usefulness to streamline and to expedite some stages of our own procedure.

*Jurij Fedynskij\**

#### LAWYERS AND JUDGES

By Joel Grossman (1965).

In *Lawyers and Judges*, political scientist Joel Grossman reports the results of his research on the influence of the organized bar in the selection of federal judges. While one chapter is devoted to an overview of the selection process, most of the book focuses on the Ameri-

---

\* Assistant Law Librarian and Research Scholar in Law, Indiana University.

can Bar Association's Committee on Federal Judiciary (CFJ). Thus chapters are included on "The Development of the ABA's Role in Judicial Selection" (historical and chronological treatment); "The Committee on Federal Judiciary" (selection, background of committee members, procedures and roles); "The Committee and the Attorney General" (expectations on both sides, conflict and cooperation); and "The Committee and the Senate" (politics from two perspectives).

Sidestepping the question of "better judges," the success of the CFJ is evaluated in terms of its own stated goals. In that framework the CFJ is rated successful in (1) blocking "unqualified" judges, (2) reducing the age of nominees for federal judicial office, (3) getting better educated judges, (4) decreasing the number of "political" judges who get nominated, and (5) increasing the percentage of lawyers from private practice who become judges. The CFJ has not, however, gotten appreciably more judges with prior judicial experience.

As long as Grossman is describing what the CFJ has accomplished in the past, there is little in his analysis with which to quarrel. But, of course, few authors are willing to settle for mere description. Grossman is certainly no exception to such a generalization. It is the author's view that the influential and checking role of the Committee on Federal Judiciary has now been "institutionalized." While its effectiveness was established during the administrations of Presidents Eisenhower and Kennedy, the party or person of the President is not expected in the future to loom as a dominant variable in shaping the role which the Committee will continue to play. This reflects the view that the various interest groups supporting the ABA and the CFJ have sufficient political power to discourage a President from nominating or a Senate from approving nominees who do not satisfy the expectations of the CFJ and its supporters.

The test of such a hypothesis, of course, lies with future Presidents and Senates. For if the influential role of the CFJ is now meaningfully "institutionalized," then personnel changes in the executive and legislative branches should not appreciably affect the Committee's power. This assumes, of course, that the support of interests outside government is maintained. Given the same assumption, changes in the composition of the CFJ and in the person serving as its chairman should not be of major consequence. Obviously, all this remains to be seen. President Eisenhower was friendly to the ABA; President Kennedy was not unfriendly. The chairman of the CFJ during both administrations was Bernard Segal, a highly effective advocate for the goals which the Committee sought. With a less concerned President or

Senate or with a less effective Committee Chairman, a regression of influence is not beyond the realm of imagination.

Undoubtedly, some will view the recent case of Francis X. Morrissey as vindicating the author's optimism. For the CFJ opposed the Morrissey nomination and it was eventually withdrawn. But several factors suggest caution in evaluating this episode as evidence for the Grossman hypotheses. The President, after all, did nominate Morrissey over opposition of the CFJ, a step which John Kennedy was unwilling to take. As for the Senate, the matter did not come to a vote. While this failure undoubtedly reflected the belief that sufficient votes to affirm were not available, we cannot say that the Committee's stand was the "cause." Equally likely is the possibility that the Republican party under the leadership of Everett Dirksen knew a "good issue" when it saw one, an issue on which it could take a stand and win and by so doing embarrass Lyndon Johnson. Given the infrequency of such issues in recent months, it should not be surprising to see the Republicans leap to such an opportunity. Thus we must wait to see whether the role which the CFJ has carved for itself in recent years is a temporary phenomenon dependent on time, place and circumstance or "a way of doing things" destined to endure.

*S. Sidney Ulmer\**

---

\* Professor and Chariman of the Political Science Department, University of Kentucky.