

of scholars who have previously examined these issues and arrived at different conclusions undermines and significantly calls into question his thesis.

For those who want to claim that Roosevelt was antibusiness, this book is a godsend. Those who want to understand the complicated relationship between Roosevelt and the business community should look elsewhere.

Louis Ferleger is professor of economics at the University of Massachusetts, Boston. He is the author of numerous articles and several books on the contemporary economy and agriculture, including editing Agriculture and National Development: Views on the Nineteenth Century (1990). At present, he is completing a study on tax aversion and economic well-being in the United States.

• • •

Baker & Botts in the Development of Modern Houston. By Kenneth Lipartito and Joseph Pratt • Austin: University of Texas Press, 1991. vii + 253 pp. Illustrations, notes, bibliography, and index. \$24.95. ISBN 0-292-70782-7.

Reviewed by Thomas Palay

Baker & Botts in the Development of Modern Houston by Kenneth Lipartito and Joseph Pratt is a thorough and well-researched account of the rise of one of America's great law firms. The authors chronicle the growth of the firm from a two-person, pre-Civil War partnership to a four hundred-lawyer, multi-office megafirm. Lipartito and Pratt essentially argue that the growth of Baker & Botts closely parallels the growth of Houston. Though not a particularly imaginative thesis, it appears well supported by their research. (Their data actually appear to demonstrate the links between the growth of the firm and the growth of the clients and industries that produced modern Houston, but this is a minor quibble.)

As a narrative history of the growth of a major law firm, the book succeeds and will earn a place among the best of the genre. Though their work lacks the atmosphere of Robert Swaine's classic chronicle of his partner, Paul Cravath, and the rise of their firm, Cravath Swaine and Moore (*The Cravath Firm and its Predecessors*, 2 vols., 1946 and 1948), Lipartito and Pratt are more detached and better able to evaluate the success of the firm they are studying. Most law firm histories have the tone and content of having been written by the firm's publicists. Even Swaine's book, though better than most, gives one the erroneous sense that Paul Cravath singlehandedly invented the modern American law firm. Lipartito and Pratt clearly avoid the publicist syndrome and present a generally balanced assessment of Baker & Botts.

But, though the book presents a clear chronicle of the growth of Baker & Botts, it lacks analytical bite. In places it fails either adequately to

address some of the questions that it raises or to raise the questions at all. For instance, certainly the firm's early growth parallels that of the Southern Pacific Railroad (SP). In their discussion of this parallel, Lipartito and Pratt touch on a question that recently won Ronald Coase the Nobel Prize in economics: why do firms exist at all? At the outset, much of the railroad's legal work was done by a network of lawyers geographically disbursed throughout Texas (pp. 25-27). One of Baker & Botts's principal responsibilities was to coordinate this work. The authors only hint at the problems with this arrangement and nowhere really discuss why it could not have continued indefinitely. The authors suggest why the Southern Pacific's growth engendered more lawyering; they do not address why all that lawyering necessarily had to be housed in one firm. A more thorough analysis of the inadequacies of the early SP network arrangement would have been of invaluable assistance to those interested in the rise of large law firms as well as to those struggling to understand the reasons for performing certain business transactions within a firm instead of across external markets.

Even more disappointing, at least from the perspective of one interested in law firms, is the authors' failure to address the interesting historical question of why Baker & Botts, and many of the other large corporate law firms, were not simply swallowed by their clients. Why, at a time of considerable business consolidation, did the large railroad clients (and later, the gas and oil companies) not attempt to internalize the bulk of their legal work? Why not, in other words, bring all, or at least most, of the legal work in-house? If there were gains to be had from integrating most of the Southern Pacific's legal work inside a single legal entity, why did those gains stop at Baker & Botts's door? Why was the SP unable or unwilling to handle its own legal affairs? No one has yet adequately addressed the question of why large-scale legal work was organized (until very recently) outside the large corporations. Lipartito and Pratt, with their unprecedented access to the archives of Baker & Botts, missed an excellent opportunity to address this precise question.

Finally, Lipartito and Pratt would have made an invaluable contribution had they devoted more discussion to a historical comparison of what lawyers do. We are told throughout the book that Baker & Botts attorneys have provided excellent advice and counsel to their clients for over 150 years. But we get little sense of the nitty-gritty of what that work entailed (except in the area of lobbying), how it was accomplished, and how it has changed. For those of us who want to understand better what lawyers do and what they add to the value of final goods, a more systematic comparison of the changing nature of legal work and how it is produced would have been greatly appreciated.

I do not want to leave the impression that Lipartito and Pratt have written an uninteresting book. It is clearly a book worth reading, especially for those interested in the general business history of the Southwest and in the role that Baker & Botts played in the region's development. But the book could have been analytically stronger, and the authors have

missed an opportunity to write the classic study of a law firm. One hopes that they will continue to mine the wealth of data to which they have had access.

Thomas M. Palay is professor of law at the University of Wisconsin, Madison. He has a Ph.D. in public policy analysis and a J.D. from the University of Pennsylvania. He is the author, with Marc Galanter, of Tournament of Lawyers: The Transformation of the Big Law Firm (1991) and of several recent articles on the large law firm.

• • •

Public Service Liberalism: Telecommunications and Transitions in Public Policy. *By Alan Stone* • Princeton, N.J.: Princeton University Press, 1991. xi + 296 pp. Notes and index. \$35.00. ISBN 0-691-02841-9.

Reviewed by Kenneth Lipartito

The movie version of this book might be entitled "The Lost Treasures of American Liberalism." Slashing his way through jungles of judicial decisions, thickets of administrative laws, and a dense undergrowth of regulatory policies, the lone scholar seeks to recover the true covenant of liberal ideology. Battling the forces of historical obfuscation, he holds off a savage tribe of rabid free-marketeers while rescuing a great tradition from the crumbling temple of modern liberal thought.

The hero of this plot, Alan Stone, a political scientist at the University of Houston, begins his study by demolishing contemporary conservative myths of a totally free market that never was. Following in the footsteps of Robert Wiebe, Ellis Hawley, and Louis Galambos, Stone traces the history of liberalism through the New Deal. He maintains, however, that modern, or interest group liberalism, which became dominant after 1929, is bankrupt. Its failure has obscured the older, superior tradition of public service liberalism.

Evolving out of nineteenth-century legal reasoning, public service liberalism offered "a rebuttable presumption" in favor of the free market and private property. These institutions could be suppressed when necessary, but only with good reason and within strictly defined limits. The best examples of this philosophy in action can be found in the history of the public utilities before the Second World War—in railroads, electric utilities, and, most of all, telecommunications.

Much of the book is a history of public policy in telecommunications between 1876 and 1934. In the years before the Federal Communications Commission—a "modern liberal" institution—the author claims that government intervention fostered a highly successful telecommunications industry in the United States. It was efficient, technologically progres-