

Review

The Trial Lawyer's Art

Sam Schrager

Philadelphia: Temple University Press, 1999

245 pp.

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In the introduction, Schrager argues, “trials, beneath their fact-finding function, are collective rituals.” Within these rituals, “the lawyer’s part is to perform a story that gives jurors a convincing account of their shared circumstances, their unvoiced dreads, their evocable faith.” Heavily influenced by such scholars as Américo Paredes and Richard Bauman, folklorist Sam Schrager examines the meaning of performance within the context of a trial. Further, the author asks how highly skilled lawyers “go about framing their stories in front of a jury? And how do they summon the authority to get their stories across?”

Schrager, like the lawyers he examines, is a master storyteller. He makes extensive use of trial excerpts, and his ‘ethno-poetic’ presentation of quotes allows the reader to virtually hear the attorneys speak. The excerpts themselves, augmented by the author’s prose, are as entertaining as crime fiction. So entertaining is the book that it could almost be sold as a collection of short stories or poetry—*almost*.

Although often allowing the attorneys’ quotes to speak for themselves, the author does manage to work in analysis. He draws on a variety of theorists, from Socrates to Goffman to Geertz. However, Schrager’s style is notably different than that of most ethnographic writers. Like the lawyers he studied, Schrager endeavors to make his argument—his *story*—easily understood by his audience. Generally, quotes from academic works and complex references are left to the

notes. When a scholar, such as Bakhtin, is quoted and paraphrased within the text, it is done in such a way as to make his argument appear as common sense. The theory is interwoven in such a way that the focus of the work remains the trial lawyers and their craft. Schrager is truly writing about the *art* and craft of trial law, rather than using the subject as a vehicle for a particular theory. The work's accessibility makes it a fabulous vehicle for introducing many theories currently circulated in folklore, performance studies, and anthropology to a wider audience.

Schrager does look critically at the morality of the legal profession, but ultimately refrains from passing judgment. He gives ample space within the text for the lawyers' own reflections on personal moral obligation. They present a wide range of coping strategies for the dilemmas they face—especially those surrounding 'the truth.' Schrager does, however, make a strong case that "*The more evenly matched the lawyers, the better the chances of justice.*" The current system, which usually allows the most able to pay to be the most skillfully represented in court, amplifies the possibilities for miscarriage of justice.

The lashing that Schrager spares the lawyers he gives to scholars, folklorists in particular. Indeed, he seems to hold scholars more responsible for the failings of justice and democracy than members of the legal profession. He writes, "we [folklorists] explore the place of artful expression in human experience. . . . But ironically, the esoteric theory and arcane writing in much cultural studies research . . . render it inaccessible to all but very small audiences. All too often, its potential to contribute to public understanding is diminished or lost." Schrager goes on to argue that this narrowness is part of a failure "to prepare students for lives of morally informed citizenship."

Because of its unique subject and accessibility, this book could be read in introductory folklore and cultural anthropology classes, as well as by more advanced ethnographic scholars/professionals who could learn as much from Schrager's style as from the content. Finally, and perhaps most importantly, I would like to recommend this work to all those who still do not know what folklore is today. Schrager's artful work shows us all what great potential remains in the field.