

Lost Lawyers: Civil Justice De-Form and Reform

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A Nation Under Lawyers:

How the Crisis in the Legal Profession is
Transforming American Society

Mary Ann Glendon
(1994)

Lost Lawyers

Failing Ideals of the Legal Profession

Anthony Kronman
(1993)

Three Systems In One ...

1. Legal
2. Market
3. Rent-Seeking ... Raiding

... And System Incompatibility
(as each undermines the restraints of each)

Lost Lawyers, Failed Ideals, etc.

- Self Restraint
 - Ideal of the Profession
 - Ideal of the Lawyer-Statesman
 - Ideal of the Peacemaker
- Institutional Restraint
 - Advertising/Solicitation
 - Champerty/Maintenance

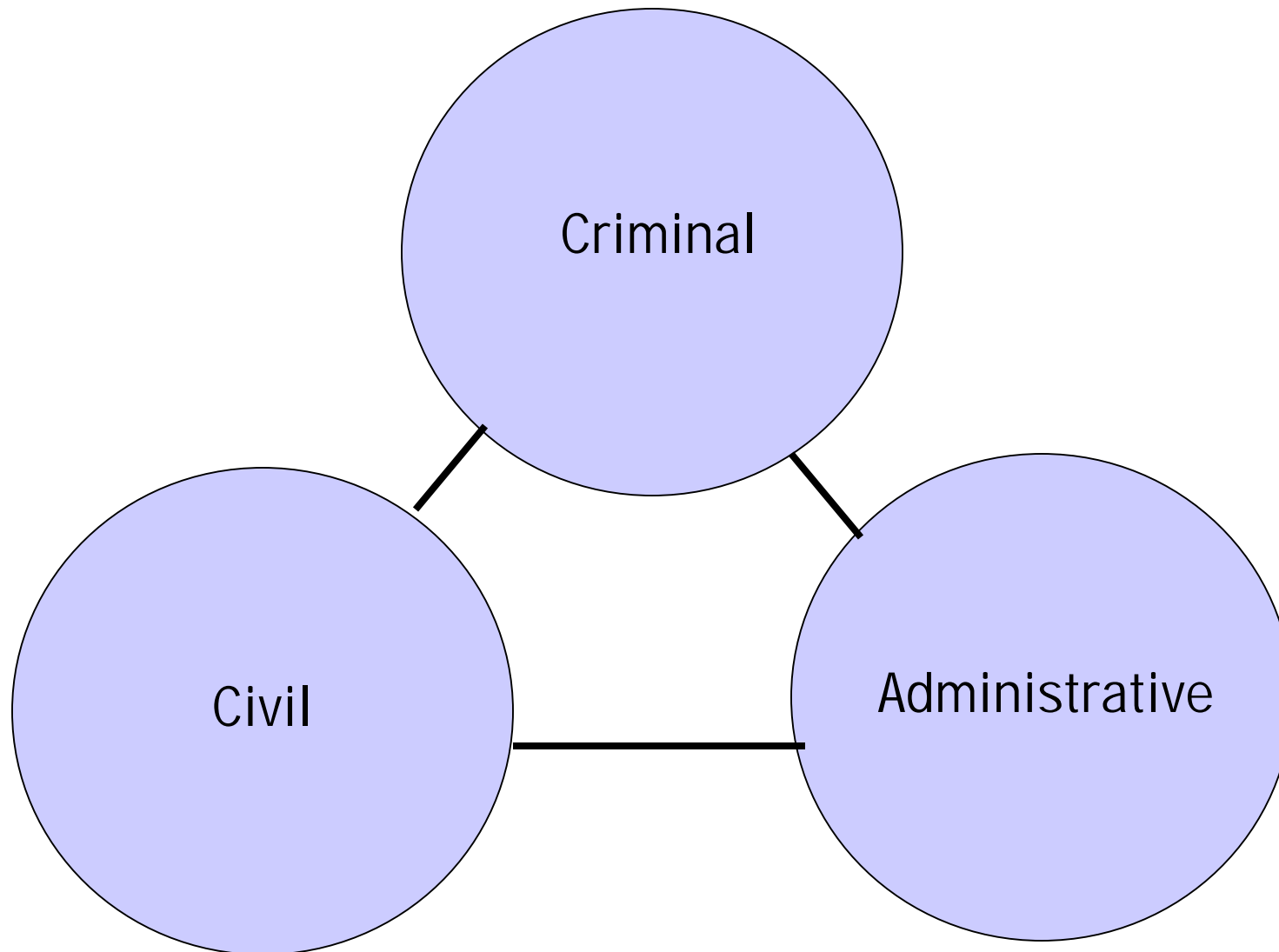
The New Entrepreneurial Lawyer

- “ Business Like Any Other”
- ...without *market* restraints
- Raider/Trader

Market Failures

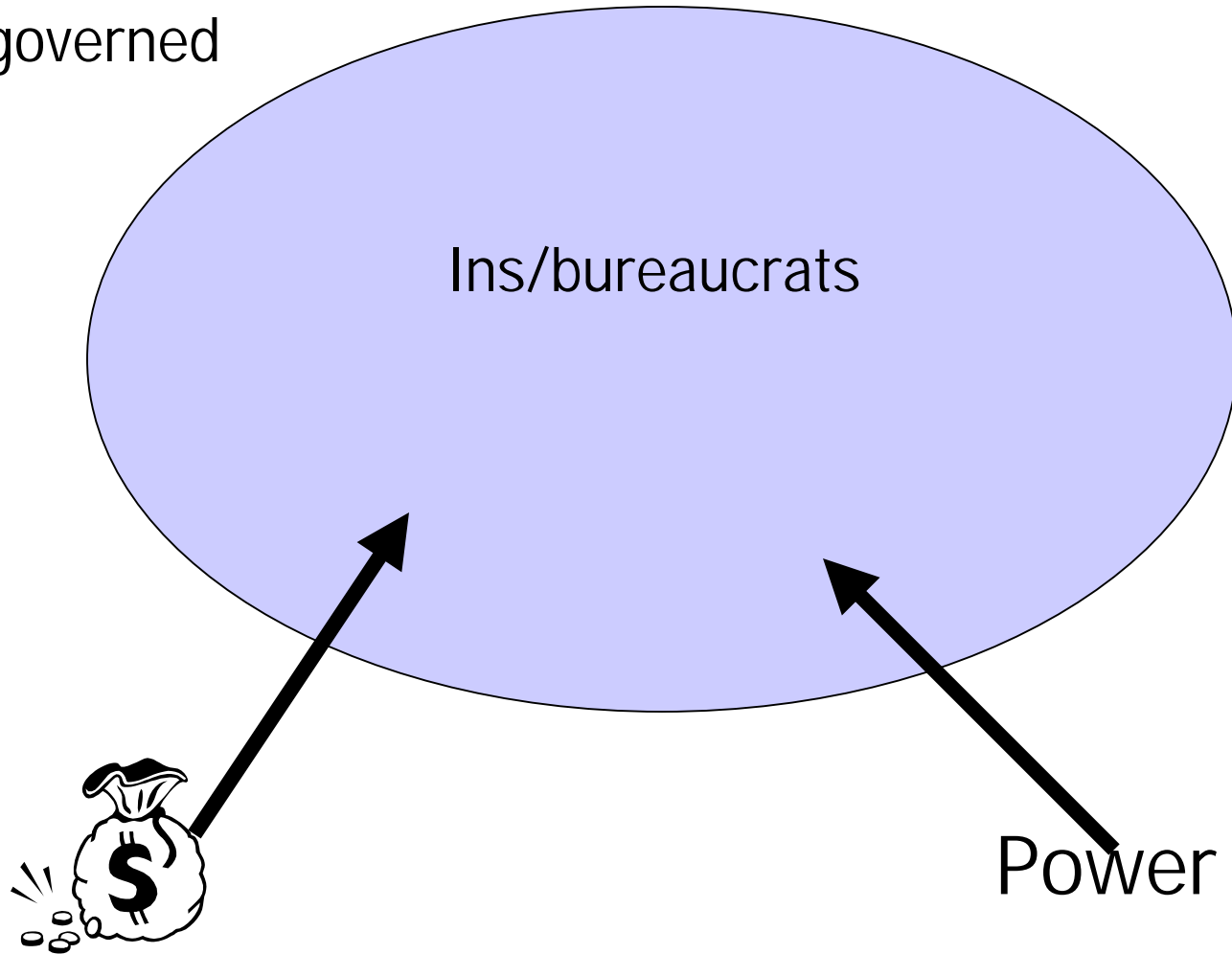
- Paradigm Shift
 - old: lawyer-seeking
 - new: lawyer-driven
- Third-Party Payor
- Seller-Controlled "Demand"

American Legal Systems



Bureaucratic System

Outs/governed



Power

Characteristics of Lawyer-Driven, Raider-Riven, Entrepreneurial CJS

- Rapid Evolution
- Injury-less
- Injury-accumulating
- Frenzy Feeding
- Cases as Inventory
- Migration of cases to h.v.j.
- Haven-producing, Haven-Exploiting
- Political-Protection-Seeking
- Corruption

... Cont.

- Riches Beyond the Dreams of Avarice
- New Entry
- Market Stratification
- Perpetual Shrinkage of Economical-Case Threshold
- Scaling Towards Optimal Size/Integration
- Leveraging of Leverage
- Bankruptcy Welcoming
- Creative Finance
- Clannish, Faction-Riven, Rivalrous,
- Guy-ness