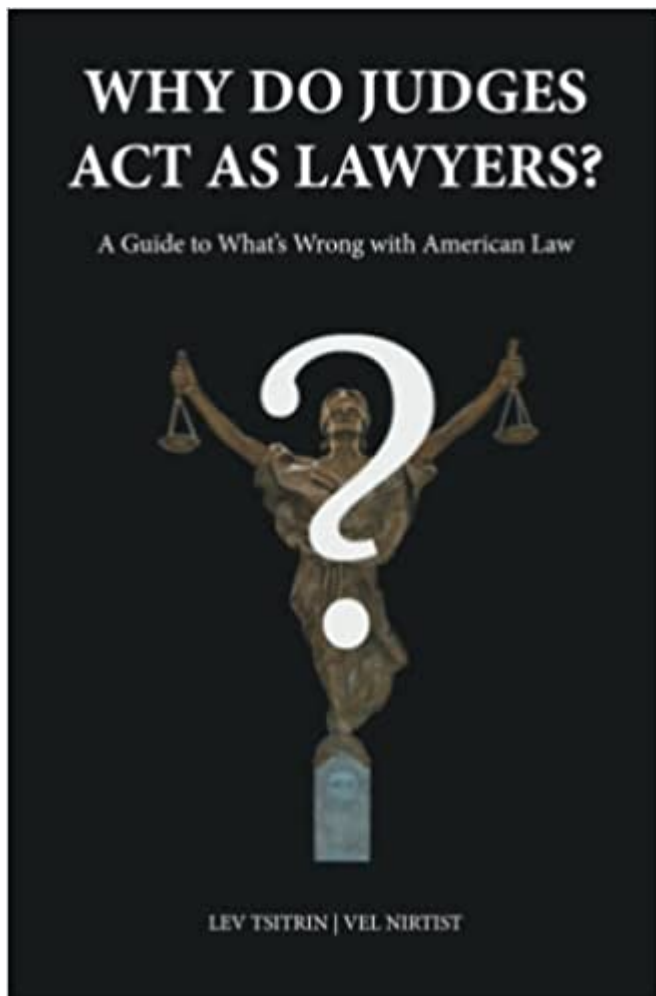


Exposing the backdoors: military, cyber, judicial



by Lev Tsitrin

As is well known, a frontal attack is not always the best way to attain one's goal; going through a backdoor is often an infinitely more efficient (if not the only possible) way of doing it. Some of the most famous military actions in history came through backdoor: Troy fell by the subterfuge of the Trojan horse; the capture by the French of Château Gaillard built by Richard the Lionheart to be impregnable came about by an attack through the outside vent of its latrine – a smelly backdoor, but a backdoor nonetheless.

Love can be a kind of war too, all complete with its own

backdoor stratagems – as salacious stories by the likes of Giovanni Boccaccio (and Niccolo Machiavelli's "The Mandrake") amply illustrate. And as to the modern field of computers – Wikipedia has an entire page, "[Backdoor \(computing\)](#)" dedicated to this "typically covert method of bypassing normal authentication or encryption ... used to gain access to privileged information like passwords, corrupt or delete data on hard drives." We all read horror stories of resulting ransomware attacks.

Clearly, this is subterfuge, disingenuousness and trickery – something one would never expect from so august an institution as US federal courts. No trickery there, just strict following of the rules.

Well, if you think so, I invite you to consider the new book (by yours truly, for the purposes of full disclosure) – "[Why do Judges Act as Lawyers? A Guide to What's Wrong with American Law](#)" that discusses a great many ramparts assiduously built by jurists to ensure the integrity of judicial proceedings – like selection of judges; their obligation to follow due process; the rules of recusal in the case of judge's conflict of interests; prohibition on *ex parte* communication (that blocks a party to the case from conferring with a judge without the other party being present to rebut the opponent); rules of judicial misconduct – and a few more that don't readily come to my mind at the moment.

Also discussed is the backdoor readily leading into that castle of judicial impartiality: judges' ability to replace in their decisions parties' argument with the bogus argument of judges' own concoction that conveniently allows a judge to decide a case whichever way he or she wants, easily bypassing all ramparts built around "due process" – this backdoor having been sanctified by judges' self-given (in *Pierson v Ray*) right to act from the bench "maliciously and corruptly."

What I find fascinating, is that apparently no one sees

anything wrong with the existence of this backdoor. Consider recent *New York Times*' headline, "[An Effort to Resolve Israel's Impasse Stalls on How to Pick Judges.](#)" This is stated matter-of-factly, without so much as a blink of an eye – but isn't the premise of the headline crazily bizarre? Shouldn't one reasonably ask "if all that judges do is follow the law, why would it matter to the outcome who's seated on the bench?"

Well, as we know from the American experience, our legislators always fight to get members of their party who have their ideological views to be confirmed as judges. Clearly, who is a judge matters to the outcome of a case. Clearly, judging does not entail mere "following the law" – i.e. impartial weighing on the scale of justice of the parties' respective argument put into trays of her scale by parties' lawyers – who, after all, are paid to scour law books to find the best possible argument for their client, and to rebut claims of the opponent. If that were all there is to judging, a Republican judge's decision would only differ from a Democratic judge's one as much as a custom-made suit made by a tailor who votes Republican would differ from a suit made for the same client by a tailor who votes Democratic – that is, there would be no difference at all. Supreme Court's split decisions would be unheard-of.

The reality, as we all know, is very different. The identity of a judge matters because cases are routinely decided by judges' own, *sua sponte*, backdoor argument – with no one raising so much as a holler against this clearly bizarre "procedure," or against judges' equally bizarre right to act "maliciously and corruptly" from the bench that enables and protects it.

The book is my attempt at hollering – by showing how monumentally absurd (if not outright Kafkaesque) this arrangement is – for it does violence to procedure, facts, logic, and the very meaning of words. Amazon has an excellent "look inside" feature that allows to read the table of

contents – and I invite you to see the great many aspects from which this outlandish situation is wrong (as well as the equally outlandish fact that the mainstream press refuses to see anything off-color with this backdoor, arbitrary mode of judging).

Bertrand Russell, in his *“Wisdom of the West”* that offers a popular outline of Western philosophy, compared English empiricism that started with John Lock to a pyramid standing on the base, while the Continental philosophy that was based on a set of *a priori* first principles, looked to him like a pyramid standing on its head, “that topples over if you so much as squint at it.”

I don't know whether my book's “squinting” at our backdoor-based, upside-down judicial system will topple it – it all depends on whether it gets any traction. But the “corrupt and malicious” way of judging clearly isn't right – so at least I can say that I do what I can to rectify it by at least pointing to the backdoor which turns judges into politicians by another name, and perverts justice.

Lev Tsitrin is the founder of the Coalition Against Judicial Fraud, cajfr.org – and now an author of [“Why do Judges Act as Lawyers? A Guide to What's Wrong with American Law”](#)