

The Great Hartford Circus Fire: Creative Settlement of Mass Disasters

by

Henry S. Cohn



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Synopsis

On July 6, 1944, The Big Top suddenly caught fire at a Ringling Bros. and Barnum & Bailey circus performance in Hartford, Connecticut. The inferno killed 169 people, mostly women and children, and injured more than 550 others. Faced with hundreds of liability suits, the Greatest Show on Earth was headed for bankruptcy and liquidation, and tort claimants were likely to receive nothing. This dismal scenario was averted only when a small group of public-spirited Hartford attorneys fashioned a creative, successful solution to one of the nation's earliest mass torts. This nearly forgotten episode offers some valuable lessons for us today, when litigation involving asbestos, the Dalkon Shield and other mass torts is yielding a dubious brand of justice for all. In this book Henry S. Cohn and David Bollier tell the story of this catastrophic circus fire and its remarkable legal aftermath. They describe how, with little guidance from existing case law and many quarrels and uncertainties, three enterprising lawyers secured a court-supervised receivership that kept the circus in business, enabling it to generate profits that could pay off the claims brought against it. A novel arbitration plan then resolved the claims and avoided the expense, delays and uncertainties of conventional litigation. The authors argue that this innovative solution - the first modern example of alternative dispute resolution of a mass tort - could, with adaptations, be successfully applied to other mass torts today. Creative settlement techniques could improve our court system while dispensing an equivalent or superior form of justice.

Sort review

"Philip Howard has been on a lonely crusade for common sense, good government, and other quixotic ideas. He's done it again with *The Rule of Nobody*, an utterly compelling and persuasive book that, if followed, could change the way America works—or doesn't work."— Fareed Zakaria, author of *The Post-American World*"It's so damn hard to fix things when people can't—or won't—make new choices. This powerful book shows how Washington is sinking in legal quicksand, literally beyond the power of those supposedly 'in charge.' Perhaps the only solution, as Howard argues, is to prune out these obsolete laws and chop away on the bureaucracy so that citizens of common sense can roll up their sleeves and get to work again as America has always done. Today, leadership is practically illegal."— Alan K. Simpson, U.S. senator, Wyo. (retired)"Philip K Howard has always struck me as an eminently reasonable, articulate advocate for common sense solutions. No wonder no one listens to him."— Jon Stewart, *The Daily Show*"Philip Howard offers a startlingly fresh slant on what is holding America back. No one is free to make choices, including, especially, government officials. Regulatory law has become a nearly impenetrable web of detailed prohibitions and specifications. Everyone is hamstrung. Dense regulation discourages individuals, communities, and companies from taking new initiatives. It also prevents government officials from making the case-by-case judgment needed

for effective regulatory oversight. This is an important reason why it is so expensive to start a business, why healthcare costs have gone through the roof, and why innovation has slowed to a crawl."— Professor Edmund S. Phelps, 2006 Nobel Prize in Economics and director, Center on Capitalism and Society "You'll laugh and wince and cry at the ridiculous situation America has gotten itself into. Howard shows us how we manufactured the rope we are now hanging ourselves with. Then he shows us how to untie the noose and put America back on the path to trust, competence, and greatness."— Jonathan Haidt, author of *The Righteous Mind* "This book is so deep, appealing, and rousing that it has the potential to actually move politics out of its current stasis."— Christopher DeMuth, Distinguished Fellow, The Hudson Institute "Amid the liberal-conservative ideological clash that paralyzes our government, it's always refreshing to encounter the views of Philip K. Howard, whose ideology is common sense spiked with a sense of urgency... [This] book drives home some large truths."— Stuart Taylor Jr., *The Wall Street Journal* "Compelling."— Nick Gillespie, *The Wall Street Journal* "Howard's proposed fix is witty, and intriguing: a follow-up to the Bill of Rights called the Bill of Responsibilities. These would be five new Constitutional amendments aimed at making government work better."— Kyle Smith, *New York Post* "Philip K. Howard's important new book... helps to explain why government at all levels not only is on autopilot but on a flight path that can only end in disaster... The Rule of Nobody 'envisions a shift in values—away from automatic government and toward a structure that allows humans to make choices needed to adapt to local need and global challenges.' Well, here's hoping."— Nick Gillespie, *The Daily Beast* "A convincing, provocative argument... Howard's clear, levelheaded descriptions of how things are done elsewhere... proves his point: We really need to figure out a better way to operate, lest the country grind to a halt."— Jesse Singal, *Boston Globe* "Rather than asking what's right to do, Howard contends, government asks what the rulebook says to do. As a result, waste occurs, debt rises, schools fail, health-care costs soar, the economy falters—and even problems that seem simple and easy to solve become bureaucratic nightmares."— Alan Wallace, *Pittsburgh Tribune-Review* About the Author Philip K. Howard is the founder of Common Good, a nonprofit that advocates for simplifying government. His book, *The Rule of Nobody*, was a finalist for the Manhattan Institute's Hayek Book Prize. He lives in New York.

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Think Like a Commoner: A Short Introduction to the Life of the Commons

What people say about this book

Severin Olson, "GOOD LEGAL PERSPECTIVE. It should be noted from the outset that this book is not primarily on the Hartford fire itself, although it is covered in the first chapter. It is on the legal and financial fallout from the disaster. The authors explain that an out of court agreement was reached whereby the circus would be kept running while its owners paid out claims. The receiver for the case refused payment until all claims had been handled. Litigation arose only when it came time to pay the receiver, and he asked for \$175,000. Had the circus declared bankruptcy as expected at first, claimants would have gotten next to nothing. The authors see this as a model settlement for mass disaster claims. When I first picked this book up, I expected it to be a legal bore and almost returned it. But it was actually quite good. It presented a perspective on the Hartford fire and on disasters in general one rarely gets from most books. It is especially recommended for trial lawyers and litigants. Still, those interested in more standard accounts are urged to look at other books on the fire. The authors are right to applaud the Hartford settlement and encourage alternative dispute resolution, but two questions are raised. First of all, as they admit, the fact that everyone was reasonable and efficient in 1944 during the war does not mean they will act that way today. Secondly, I fear that lawyers may use the threat of expensive litigation to coerce innocent defendants into paying up during mediation, sending us all back to square one."

The book by Henry S. Cohn has a rating of 5 out of 4.0. 1 people have provided feedback.

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