

Washington University Law Review

Volume 8 | Issue 4

January 1923

The Lawyer and the Public

John T. Berger

Washington University School of Law

Follow this and additional works at: https://openscholarship.wustl.edu/law_lawreview



Part of the [Law Commons](#)

Recommended Citation

John T. Berger, *The Lawyer and the Public*, 8 ST. LOUIS L. REV. 254 (1923).

Available at: https://openscholarship.wustl.edu/law_lawreview/vol8/iss4/4

This Note is brought to you for free and open access by the Law School at Washington University Open Scholarship. It has been accepted for inclusion in Washington University Law Review by an authorized administrator of Washington University Open Scholarship. For more information, please contact digital@wumail.wustl.edu.

THE LAWYER AND THE PUBLIC.

Today even as in the past the lawyer and the public are two units that are ever mingling with each other, now in friendly embraces, tomorrow as adverse from each other as the north is from the south. Why this ever changing attitude, and especially today what is wrong with the lawyer that he receives the rebukes of an ever-seemingly antagonistic people, or what is wrong with the public that it is running amuck and continually making these slurring remarks toward the members of the legal profession?

A short time ago a certain young man was invited to lunch with a friend of his whose father had won a considerable reputation as a doctor. After the meal was over and the cigars had been lighted the discussion drifted toward work, and in particular, school work. After some talk as to the medical profession the doctor addressed the guest.

“What line of education are you specializing in, sir?”

“Doctor,” was the reply, “I am pursuing the study of law.”

“Oh! You are a liar.” Being somewhat taken back, and yet this was not the first time that acquaintances of his had forced this embarrassing question before him, he replied:

“No, Doctor, I do not believe that I am one who believes in slighting or playing havoc with the truth.”

“Well, then you cannot intend specializing in corporation law?”

As a matter of fact that was his very intention, and he so stated.

“Young man,” the physician replied, “I admire your ambition and your principles, but you will never succeed as a corporation lawyer, with your strong belief for honesty and integrity.”

At that moment he was called to the telephone, and had

to depart. But there was left in his mind a strong sense of duty, to himself and to all young men who might wish to embark upon the legal profession, the art of becoming a lawyer, and in particular a corporation lawyer,

Is it true that the public in general believes that lawyers as a class are a group of blood sucking individuals and that they enter that profession with the express purpose of bulldozing every client that they may have? If not, then just what is the position that the lawyer and the public opinion of today are placed in?

If it is true that the lawyers are indeed a degraded and unfit class in our social life, why, let me ask the public, is it that our high and important positions are so many times given to the lawyer? Surely the public cannot have the desire to place such men in positions of trust and honor if they are such a malicious group of unprincipled men. Take the presidents of this great nation of ours, most of them have been men recruited from the ranks of the legal profession. Roosevelt, Taft, Wilson, Cleveland and Lincoln were all men branded with the scar of a lawyer. Take our leading men of honor and trust in public and private affairs, who are they—for the most part lawyers. What is wrong? It does indeed seem paradoxical that the public from whom we hear so many oaths of disapproval should see fit to put these very men in charge of running their interests and affairs.

May we analyze the condition and see where the difficulty lies, and just what we have to remedy and how it may be accomplished?

Before we would cast the beam out of our brothers' eye let us turn to the legal profession and see what is wrong there. As long as the bar of the various States allow men to be admitted into the same and to remain there, when they have not the interest of our government and the upholding of the laws at heart, so long as such unprincipled men are allowed to practice law, will cases and incidents arise that will reflect upon the legal profession. It is the writer's firm belief

that such men are in the minority, but if they are allowed to pull down the high standard of the profession, so long will the public find reason to continually harrass, and rightly so.

Lawyers who are unethical in their practice of law, men who take lightly their oath of admittance into the bar, are such individuals that should be haunted and ridden to the ground by the public and the legal profession until they cannot exist and so practice.

So we see that in some cases the public is indeed justified in its opinion.

One must needs find the black sheep in every sphere of life but how do they make their way into our profession? Such men who are endowed with a certain amount of brilliancy, and more who are not, make themselves especially conspicuous by using those rules of law and procedure which tend to defeat justice, or if they are not present, by creating them. They help the unprincipled man or corporation to avoid the law, to escape the obligations placed by the government. They to a large extent are the ones guilty of the large amount of injustice that is caused by delay in cases and the technicalities that have arisen, for the discrepancies which have so numerously crept into our criminal and, in some cases, our civil practice of late.

The above are among the numerous causes for public criticism, and rightly so.

Still another reason for public condemnation of the lawyer is the low standard of the men holding the positions of prosecuting attorneys in the various counties, and of the men sitting as judges on our various State benches. This is due in many cases to the incompetency of the men obtaining such positions and more generally to the political factors which enter in.

A certain bill for the registering of nurses was introduced at the last session of the Missouri State Legislature. A very good bill, too. The doctors in a certain city pledged themselves to work for its adoption and obtained the support of a judge to assist. This judge in his assistance approached a

certain senator and asked him for his aid. The senator replied that if the judge would cut a certain individual's sentence in half that he would work for the bill. The sentence was cut. That is but a single example of the way favors are exchanged.

We see that in many instances the lawyer has violated that trust which has been placed in him to the detriment of the legal profession.

First, the crook, the unethical lawyer who either through his own volition or because he has weakened to the will of his spurious client, follows the path of the worthless and works in conjunction with all that is contrary to that high mark for which the legal profession should stand.

Second, the lawyer has violated his trust to the public in his practice as to crime: (a) because of the archaic condition of criminal procedure. (b) Because of the inferior prosecuting officials. For it is the lawyer who is responsible for the criminal machinery.

Last, the attorney has received a great deal of criticism because of the weakness of our State judiciary due to political factors entering in.

A great deal of trust has been placed in the hands of the legal profession but in the above cases the lawyer has not measured up to that trust, and consequently the whole class has suffered.

How may the above ills be remedied?

Perhaps the tantamount reason can be laid to the fact that many so-called lawyers are not adequately trained in the fundamental requirements of a true attorney. This is due to the low requirements of admission to the bar and aided by the numerous candidates turned out from low standard law schools throughout the country. These law schools do not require a substantial background on which to build, consequently the result is that a man who in many respects can be classed in the category of the ignorant, may have a smattering knowledge of law. The consequences are obvious. Such conditions are made possible because of the low stand-

ards of our bar. In the State of Missouri, one needs but a grammar school education, and enough technical knowledge to pass the questions set forth in Owen's Law Quizzer and he may pass the bar and hang up his shingle to be known and classed as an attorney at law. It is not the purpose of the writer to say that it is impossible for such an individual to be a credit to his profession—Abraham Lincoln was such, but if he were living today he would be a strong advocate of a higher standard.

As to what that standard should be, it seems that none at the present time could be any better than the plan adopted by the American Bar Association. The purport of that plan and resolution is that every candidate for the bar shall have completed two years of university work and three years of law in a recognized law school. This would enable all to qualify and reach that standard of educational and scholastic standing which many of our present day lawyers are lacking, and it would give all a thorough course in the various branches of legal study with which one should be familiar.

With such a requirement for admittance to the bar and a more exercised right to debar lawyers who consistently use unethical methods the legal profession might rapidly advance from many of the discouraging features of the present day.

The lawyer has since time unknown been the butt of numerous jokes. Shakespeare used him to give vent to his humor and Charles Dickens made light of him. Today as of yore the lawyers are made the nucleus of every pressing joke.

May we now turn from the lawyer to the public, for the one is ever the reverbration of the other or at least it should be.

The public's mind at times is somewhat adverse to the lawyer, and oftentimes because of a mistaken belief. Take a criminal case, if you please, many an individual does not understand how it is possible for a lawyer to take the part of a man accused or convicted of a crime. They do not realize that the lawyer is not standing up for the deed committed, but is

merely the agent of his client before a court of justice for the purpose of carrying out the provision which was placed in our national constitution by our forefathers, namely, that no man shall be deprived of life, liberty or justice until he has had a trial by jury. It is for the jury to determine whether or not the man or woman is guilty of a crime. The average layman does not stop to consider the logic of the above state of facts. Take, for example, the following case:

The plaintiff is injured by the defendant's truck—he proclaims his innocence towards the accident and asserts the defendant's absolute guilt. Now the defendant, on the other hand, says he was driving at a moderate, permissible and lawful rate of speed when the plaintiff jumped off an ice wagon directly in front of him, and he could not possibly avoid the collision. Each client believes that he is in the right and in the guilt of the opposite party. Any attorney would be justified in taking either side of such a case.

Oftentimes then the layman is loose in his condemnation of the lawyer. He is laboring under a misapprehension when he thinks it impossible for an honest lawyer to represent either side of the case.

As has been said, the lawyer is often made fun of and ridiculed, and nearly as often is the ridiculer but giving vent to his humor.

It is foolish for one to say that as a whole the people are not in favor of the lawyer or are prejudiced against him. A small minority of our population is made up of practicing attorneys, some 110,000, and yet on every hand the lawyer of today is the man representing the people in the responsible positions which they have to offer. And be it said of the well-thinking man he has a great deal of respect for the honest and upright lawyer and an abundance of faith and confidence in our federal and national judiciary.

If we would have the public as a body honor and continue respecting our profession we must maintain that high position

of right and integrity that our forefathers had when they founded this great nation of ours. The way to maintain this standard is for a closer association among the members of the profession, a binding solidarity for right and justice, and if all who are adherents to the same would so pledge themselves, such a wave of approval would sweep the country as has not been heard in many a decade.

JOHN T. BERGER, '23.