

## The state of the Union under a failed Constitution

July 15, 1997

*The abandonment of ethics by the American legal profession through the adoption of the ‘Lawyer’s Amoral Ethical Role’. The resulting material decline in the Nation’s moral standards. (Part 3 of 4)<sup>1</sup>*

Federalist 104 described the abandonment of ethics by the legal profession and their attempts to morally justify the unjustifiable. Federalist 105 provided the rebuttal to the alleged moral justification. We now need to turn our attention to the consequences of the adoption of the so-called ‘Lawyer’s Amoral Ethical Role’<sup>2</sup> on our Society. These consequences are the material undermining of both the Rule of Law and of the moral standards of the Nation.

### **The Rule of Law and a just Society.**

#### ***The four pillars of a just society.***

Decent societies strive to be just and righteous. There are four pillars that constitute the supports for the foundation of a righteous society. These are: Government, the Church, the School and the Family.<sup>3</sup> Of these Government in general and the Judiciary branch in particular are expected to lead by example in righteousness, fairness and justice.

The ‘Church’ does so by invoking its moral authority and the power of the word of the Lord to encourage, or sometimes frighten people, into staying on the straight and narrow. The School does so by teaching moral codes and honor systems in class. The Family does so by teaching the same at home.

The path of virtue and righteousness is a straight and narrow uphill road that is full of rocks and pitfalls. The road to hell is a downhill slippery slope, wide, comfortable and paved with good intentions. It runs parallel and ever beckoning to the path of virtue. The nature of man makes it easy to shift from virtue to sin, from the hard uphill road to the easy downhill slide. At the present time it is obvious that the legal profession has not chosen to travel the hard road.

#### ***The principle of the Rule of Law***

The Bible tells us that God gave Moses the Ten Commandments as the Rule of Law to be obeyed by the people of Israel, not as laws to be subjected to self serving ‘interpretation’. From that day until the days of the advent of the American legal profession’s new concept of the ‘lawyer’s amoral ethical role’, the law has been regarded as ***the law***, made to be obeyed. Laws are not suggestions, advisory opinions, or guides to facilitate calculations of the cost effectiveness of non compliance. Obedience and respect by all of laws as written is the meaning of the Rule of Law.

To be sure man's laws are not perfect. They represent the opinion of the enactors not *knowledge*. Laws can never provide the kind of certainty that science provides. In a democracy it is hoped that laws reflect justice and the majority views of the people. However not all laws are good. Sometimes good men promote civil disobedience to protest bad laws. Sometimes they succeed in changing bad laws.<sup>4</sup> However the general principle for democratic civilized societies is that the Rule of Law is the cornerstone of their system of justice and their civilizations.

***There is no room in civilized societies for members of the Judiciary to consistently counsel clients to question compliance with laws from a personal advantage and cost analysis point of view. That practice has always been known to prevail with gangsters, criminals, moral imbeciles, and other moral and social misfits, but never with members of the legal profession of any civilized society before this one.***

**The consequences of the 'Lawyer's Amoral Ethical Role' on the Rule of Law and moral conduct.**

The first and most dramatic consequence of the so called 'Lawyer's amoral Ethical Role' is the ***material undermining of the Rule of Law and of ethical conduct in Society***. That result came about, whether intentionally or not, by the material undermining of the ability of all four pillars of the Rule of Law to promote ethical behavior.<sup>5</sup> Let us examine how this was done.

***(1) The Judiciary.*** The Judiciary is the heart and soul of the problem. It is primarily responsible for the decline of morals and the Rule of Law, in large part as a result of the evolution of the 'Lawyer's Amoral Ethical Role'. For the following reasons:

- It has become the main proponent for facilitating and/or counseling disobedience to the Rule of Law as a direct result of the evolution of the so called Lawyer's Amoral Ethical Role. *And as a further consequence:*
- It has failed to act against the unconstitutional control by lawyers of all government.
- It has acquiesced in the creating of so called Unified State Bars which are bodies elected by nobody making laws that affect everybody.
- It has permitted lawyers to control their own discipline and rules in direct contradiction of the general principle that none shall be judge in their own cause.
- It has been responsible for the dramatic and continuing decline in the provision of legal services to the people without acting to effectively resolve that problem.
- It has profited dramatically from its activities out of all proportion to the services it renders.

- It has allowed its members to exercise tyrannical power over all through the use, among other things, of the power of frivolous lawsuits and the power to abuse procedural rules.
- It has allowed the profession to become an enormous financial and emotional burden to the Nation. The cost of that burden in dollars alone is so high that its removal would suffice to wipe out the National debt, now over five trillions dollars, over a 5 year period.

### **(2) The Church.**

The power and authority of the 'Church' has been materially undermined by the legal profession on the basis of the constitutional principle of 'separation of church and state'. The principle is sound but the envelope has been pushed to extremes. To the point where the ACLU (American Civil Liberties Union) has challenged the right of a judge to display the Ten Commandments in his courtroom.<sup>6</sup>

The founding fathers believed in God and invoked rights that they asserted came to man directly from God. To many in the Nation the separation of Church and State was not intended to go as far as the Judiciary has seen fit to push it. One may agree or disagree with that position. However the fact remains that the authority of the Church and therefore the Church's ability to effectively influence 'moral' behavior has been dramatically reduced as a result.

The Church<sup>7</sup> has increasingly become the target of lawsuits intended to try and attach responsibility to it regardless of fault. That kind of activity undermines the ability of the Church to recruit good people to serve and to do the work for which it exists. The result is that the Church's ability to influence behavior in a positive way has been materially reduced by the actions of the Judiciary.

### **(3) The Schools**

The authority of the schools to run their institutions in the best interests of their students in particular and Society in general has been materially undermined by the legal profession. In an excess of zeal propelled in part by the new 'amoral' role, the legal profession and the Judiciary have succeeded in doing the following:

- Materially undermining the ability of public schools to discipline unruly students, often resulting in classes where it becomes very difficult for any students to learn properly.
- Materially undermining the ability of public schools to control the introduction of weapons on to school premises, resulting in teachers as well as students being injured or sometimes killed, as well as often resulting in a prevailing atmosphere of fear not conducive to learning.

- Materially increasing the costs of running public schools by enforcing alleged constitutional ‘student rights’. As a result the cost of compliance with ‘laws’ prompted by a fear of potential lawsuits resulting from failure to do so, consumes a substantial part of school budgets.<sup>8</sup>
- Materially increasing the dangers to life and limb from ‘juvenile’ criminals by establishing a system that gives so called ‘juveniles’ virtual immunity under the law.
- Materially undermining the ability of public schools to teach and enforce proper language and respect between students and others, by sanctioning in the name of ‘freedom of speech’ the right of individuals arrested to address the worst profanities to the arresting officers.
- Materially undermining the ability of public schools to establish adequate educational standards for their students by suing the schools for failing to meet any standards set.
- Materially undermining the ability of the public Schools to exercise sufficient control over their students to enforce moral codes and properly instruct students to respect the law.

#### **(4) The family**

The family where it is still strong and united continues to be the main promoter of ‘moral’ behavior. But it does not exist in a vacuum. The entire Society, infected with the immoral role that lawyers play every day, assaults it. The authority of the Church which once gave great moral direction and support to the family has been dramatically weakened by the legal profession. The public Schools have been similarly weakened. So the battle continues, but it is being lost not won.

***The Lawyer’s ‘amoral’ ethical role has successfully undermined the Rule of Law and moral conduct in the land. It has done so directly by officially adopting an attitude that encourages disobedience of the law. It has also done so by undermining directly and indirectly the three other main sources of respect for moral principles and the Rule of Law: The Church, The Schools and the Family.***

#### **The result in practice of the Lawyer’s Amoral Ethical Role.**

How does this new role change what goes on every day in the practice of law and how does it affect the Nation? Let us see what happens to the client.

***Effect on the client*** Let us imagine almost one million lawyers trained to view the law as ‘flexible’, changeable, interpretable in however far fetched way in the best interests of the client, and at worst viewed as a guide to the cost of non compliance. If each lawyer transmits this message to a single client a day, over a period of one year the message has been transmitted to over two hundred million people. Many clients will discuss the message with partners, friends,

family and others. So the message is repeated loudly, clearly and often to the whole Nation in a very short time. Let us examine the result on the client's behavior pattern.

- The client learns that he can never trust the written word, let alone the spoken word.
- The client learns that his own lawyer will help facilitate that which he thought was 'wrong'. Therefore if the 'lawyer goes along' it can't 'really be all that wrong'.
- The client learns that his competition will be listening to similar advice. Therefore if he decides to act 'ethically' he may be accepting a potentially fatal competitive disadvantage.
- The client learns that his own lawyer has adopted this new idea called 'amoral' ethics. He perceives that this idea seems to be bringing his lawyer a lot of money. Perhaps he may decide to go along himself with the same 'amoral' ethics in his own business.
- The client perhaps learns that all government is in the hands of lawyers or at least that lawyers are very well represented in government. He understands that the same 'amoral' lawyer counseling him now may run for and achieve public office. He then realizes that those in public office who are lawyers are probably as 'amorally corrupt' as his own lawyer! Perhaps he decides that they are all therefore crooks and stops bothering to vote at all.
- The client begins to recognize that if it is 'all right' to listen to and follow advice on how to be dishonest and get away with it at the cheapest dollar cost, then the 'best lawyer' is the least honest. His criterion for choosing a lawyer changes from the candidate who is most competent to the lawyer with the highest disregard for ethics and the law.
- The client learns that the best lawyer in this country is the one best able to show him how to violate the law with impunity.

***Effect on the lawyer.*** Lawyers start out as honest as other people. Some make the transition to outright dishonesty very comfortably. They either have very weak moral compasses or suffer from extreme cognitive dissonance. What happens to the others?

- Some cannot live with the moral problem. They 'run from the law' and leave the profession.
- Some can live with the moral problem but not without some level of discomfort. That discomfort often manifests itself in depression,

alcoholism and drug abuse.

*What other effects occur?*

- One cannot spend all day facilitating evil and return home to the role of a 'moral person'. That is because the 'habit' of facilitating evil blurs moral distinctions everywhere. Thus lawyers will not long remain 'moral' men, even if it were possible to separate the actor's 'moral' personal life from his 'amoral/immoral professional' life.
- The 'amoral' approach also blurs the distinction between advising and participating in illegal activities. Thus many lawyers become de facto accomplices of their client's evil intentions. This would seem particularly true in the field of drugs. Newspapers have reported stories of drug lawyers 'standing by' for enormous 'retainer fees' to provide immediate assistance on occasions when drugs are being illegally shipped into the USA. The fees are deemed 'earned' even if the criminal act succeeds without attracting the attention of the authorities. To most people that sounds like a partnership between the lawyer and the drug lords.

### **Conclusion**

The French say *that which is not moving forward is moving backwards*. No Nation stands still in its attempts to seek justice and righteousness for all. It moves forward or slides backward. The slippery slope to hell creates increased momentum for evil with the passage of time. Hitler's path to genocide began with the Nuremberg laws in 1933. It took 8 to 10 years for his momentum to reach its genocidal zenith. The legal profession's so-called 'amoral ethical role' is often a 'facilitation of evil' by the profession's own admission. It is immoral and an affront to civilized societies. It has undermined the ability of all four pillars of our 'just society' to do their job. Its evil momentum is increasing and it will destroy the Nation if it is not stopped.

PUBLIUS II  
(Ronald Bibace)

***About the author:** This writer is a constitutional scholar who wrote Federalists 86 through 99, in defense of the Constitution. He is like Madison, a non lawyer and like Hamilton an immigrant and naturalized American.*

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1. This Paper and Federalists 104, 105, and 107, should be read as a single unit.
  2. The *Lawyer's Amoral Ethical Role* is merely the most visible and dramatically egregious result of the tyrannical control by lawyers of all government. This official 'Role' exacerbated an existing bad situation by supplying 'moral justification' for the facilitation of evil to those left with some moral standards.

3. The word: 'Church' is used here generically as a term for any organized religion.
4. Those who practice civil disobedience are usually prepared to face the civil and criminal penalties that the then current law provides.
5. This occurred as an evolution over time, not as a dramatic change. That is why, like the frog which quickly jumps out of hot water into which it is dropped, but allows itself to be boiled to death if the water temperature is increased very slowly. The American people are being destroyed by the gradually perceptible ethical decline of the legal profession from a level similar to that of their international colleagues to the present level of 'amoral/immoral' leaders of the world.
6. A legal challenge to such a display was reported recently. The matter has not yet been resolved.
7. Like everyone else in society.
8. Access to private schools is controlled by contract not by the 'entitlement' right of all to public schools. As a result it is known that private schools that do not have to comply with the same set of rules that public schools do, provide far better educational results at a lower cost.