

The State of the Union under a failed Constitution.

June 14, 1997

The need for public opinion to support the removal of lawyers from elective office.¹ The issue of unfitness of lawyers for elective office. The corruption of the legal profession as a whole. (Part 3 of 4)² The Empirical Approach.³ (cont'd)

2. The worldwide condemnation of lawyers as corrupt.

The New Testament: A substantial majority of the people of the United States call themselves Christians. To them the New Testament is the Gospel and Jesus Christ is the son of God. The words spoken in the New Testament by Jesus are believed to be the word of God. St. Matthew, St. Mark, St. Luke and St. John were the four Apostles who authored the New Testament and recorded the words of Jesus Christ. Let us see what the St. James version of the New Testament tells us that Jesus said about lawyers, scribes and Pharisees almost 2000 years ago:

But woe unto you scribes (lawyers) and Pharisees,⁴ hypocrites, for ye shut up the kingdom of heaven against men: for ye neither go in yourselves, neither suffer ye them that are entering to go in! For you devour widow's houses, and for a pretence (sic) make long prayer; therefore you shall receive the greater damnation. .. For you compass sea and land to make one proselyte, and when he is made, ye make him twofold more the child of hell than yourselves... --

Matthew 23:13-15

Beware of the scribes... which devour widow's houses, and for a pretence make long prayers: these shall receive the greater damnation... --Mark 12:38-41

Woe unto you, scribes and Pharisees, hypocrites! For you make clean the outside of the cup and of the platter, but within they are filled with extortion and excess. -- Matthew 23:25

In these comments Jesus Christ condemns lawyers as fit for hell, not heaven; as corrupt men who spread their corruption to others; as hypocrites who say one thing and do another; and as robbers.

International condemnation:

The world is full of literary references to lawyers as hypocritical, dishonest and corrupt. Here are a few examples:

The lawyer... has become keen and shrewd... but his soul is small and dangerous. Plato - Theatetus at 172-173.

First, my Lawyer being practiced almost from his cradle in defending falsehoods is quite out of his element when he would be an advocate for

Justice... Jonathan Swift -Gulliver's Travels, Part IV. A Voyage to the Houyhnhms.

Suffer any wrong that can be done you, rather than come here. (Referring to the English High Court of Chancery Bar) - Charles Dickens - Bleak House, Chapter 1, (1853)

The first thing we do, let's kill all the lawyers. William Shakespeare - The Second Part of King Henry the Sixth. Act IV, Scene 2.⁵

I think we may class the lawyer in the natural history of monsters. John Keats
There are derogatory jokes about lawyers in many of the world's languages. Everywhere the legal profession has left a trail of tears.⁶

- Lawyers and painters can soon change white to black. *Danish proverb.*
- Win your lawsuit, lose your money. *Spanish proverb.*
- 'One thing I supplicate, your majesty; that you will give orders, under a great penalty, that no bachelors of law should be allowed to come here (to the New World); for not only are they bad themselves, but they also make and contrive a thousand iniquities.' *Vasco Nunez de Balboa to King Ferdinand V of Spain, 1513.*
- I don't think you can make a lawyer honest by an act of the legislature. You've got to work on his conscience. And his lack of conscience is what makes him a lawyer. *Will Rogers*

3. Evidence by American lawyers showing how lawyers cheat their clients and other wrongdoing.

There is an abundance of evidence in the form of books written by American lawyers about the dishonesty of their brethren. Here are a few examples: *How lawyers screw their clients.* by Donald E. de Kieffer.⁷ Barricade Books Inc. 1995 Mr. Kieffer describes in detail the manner in which lawyers 'overbill' (a euphemism for stealing) their clients. He explains that the pressure to 'overbill' is so unrelenting and the penalties for not doing so are so severe, that moral rot is inevitable.

No Contest. (Corporate lawyers and the perversion of justice in America) by Ralph Nader⁸ and Wesley J. Smith, Random House, 1996, ISBN 0-679-42972-7

The authors describe in detail the 'evil' of corporate lawyers unethically and illegally using the law to advance corporate interests and their own. They call the sinners, the corporate legal establishment. Yet the condemnation of trial lawyers who prey on corporations and individuals under color of law, is very widespread. There is truth to both views. Nader's book is a case of the pot calling the kettle black

. *Lawyers and thieves* by Roy Grutman⁹ and Bill Thomas, Simon & Schuster, 1990, ISBN 0-671-66960-5, traces the growth of American legal greed.

Running from the law by Deborah L. Arron,¹⁰ Ten Speed Press, 1989, ISBN 0-89815-413-8, describes the reaction of those in the profession who can least stand its absence of ethics. They tend to leave the profession, even though that often means a substantial reduction in income. Arron quotes Schaef and Fasel in the *Addictive Organization* as saying that a closed system which uses denial as its major defense mechanism will 'lose its best people'.

The Soul of the Law by Benjamin Sells¹¹, Element Books Inc. 1994, ISBN 1-85230-796-X, writes of the severe distress caused by the pressure on lawyers of the prevalent ethos in the profession. In areas of dissatisfaction and stress, lawyers generally rank higher than all other professions. A full third of lawyers suffer from either clinical depression or substance abuse or both, highest in a survey of 105 professions. 28% of male lawyers and 41% of female lawyers said they were dissatisfied with their work. That is double the 1984 figures and shows that things are getting steadily worse.

Many other books have been written recently criticizing prevalent practices of American lawyers. Here are the titles to a few: *The American Moralists: On Law, Ethics and Government* (1992), George Anastaplo, *A Nation under Lawyers*, (1994) by Mary Ann Glendon, *The Death of Common Sense* by Philip K. Howard, *The Lost Lawyer*, (1993), by Anthony Kronman, *The Betrayed Profession*, (1994), by Sol M. Linowitz.

4. Acknowledgment by the leadership of the legal profession of its corruption.

There have always been men of integrity in the legal profession among whom the most likely critics of the profession will be found. Of late the increased awareness by the world and the profession that something is drastically wrong has led to a particular theory. That theory seems to find its clearest expression in the work of Harrison J. Sheppard, a lawyer practicing in San Francisco. He is a Fellow of the American Bar Foundation, and a member of the State Bar of California. His views are the closest the profession has come to publicly acknowledging its problems.¹² Mr. Sheppard presents his perception of the problem and potential solutions. His view of the existence of the problem is understated but accurate. Unfortunately his perception of the cause and therefore the solutions is not.¹³ Of the problem Mr. Sheppard says the following:

*My experience as a lawyer,... have led me to conclude that our typical professional practices do not serve our clients or the general public nearly as well as they should, **that commonly expressed criticisms of lawyers have a sound basis in fact**; and that the every day pressures of the practice of law have led many lawyers to forget the significance of their oath to support the*

Constitution and the law of the United States and this State, with potentially serious consequences for our democratic society. (Emphasis added)

5. Anecdotal evidence of the widespread corruption of the legal profession.

- A 1993 survey of the State Bar of California showed that Americans rate members of the American profession *last in honesty and integrity* among all the honored professions.
- A 1993 survey by the American Bar Association indicated that the more contact people have with lawyers the less they trust them. In other words *those who know them don't trust them and those who trust them don't know them*.
- The Watergate scandal that disgraced the Nixon administration involved criminal wrongdoing by many people at the top levels of government. It is reported that 21 out of the 23 men convicted of criminal behavior were lawyers! Among them were John Mitchell, Attorney General of the United States, John Dean, counsel to the President, Ehrlichman, Colson, and many others. Nixon's vice-president, Spiro Agnew, was also convicted of criminal behavior on a separate matter.
- Dan Rostenkowski, a lawyer and former Speaker of the House, is in prison at this writing for criminal behavior while in office. Mr. Jim Wright, a lawyer and formerly Speaker of the House, had to resign in disgrace to avoid criminal prosecution.
- The President of the United States, Mr. Bill Clinton, a lawyer and a former university professor of constitutional law, is being sued by one Paula Jones, for sexual misconduct while Governor of the State of Arkansas. He is also facing potential criminal charges on unresolved Whitewater allegations, as well as potential illegal campaign funds solicitations.
- There are citizen's organizations arising all over the United States attempting to cope with the perceived corruption of lawyers in many different fields.¹⁴
- This writer submitted a study to the Florida Supreme Court in 1989, which provided conclusive statistical evidence that Florida Bar dismissal of citizens' complaints could not have resulted by chance, but had to have resulted from wrongdoing.¹⁵
- Operations Courtbroom in Miami, and Greylord in Chicago are two examples of corruption reaching into the very courtrooms of the Nation.¹⁶
- Random acts of violence against lawyers, in apparent retaliation for their perceived corruption, is growing in this land.

6. The absence of any material rebuttal by the legal profession.

To all of the above accusations and the abundance of evidence that the legal profession is corrupt, the profession offers rebuttals without merit. These are:

- The unsupported assertion that 'the American legal system' is the best in the free world, notwithstanding all the evidence that suggests it is much closer to being the worst.
- The assertion that 'there are rotten apples in every barrel' and the false implication that the legal profession's rotten apples are no more numerous than those in other professional barrels.
- Unsuccessful attempts to discredit critics by ad hominem and other Aristotelean false argument attacks.

What the profession has *never done* is either specifically rebut in writing any of the many volumes of work done by its own people condemning the integrity of the profession, or agree to publicly debate the issues with its principal critics. The evidence suggests that the legal profession cannot do the former and will not do the latter.¹⁷

PUBLIUS II
(Ronald Bibace)

About the author: *This writer is a constitutional scholar who wrote Federalists 86 through 98, 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. See Federalist 96 by this writer.
 2. This paper and Federalists 97, 98 and 100, should be read as four parts of a single unit.
 3. See Federalists 97/98 on the question of rationalism versus empiricism.
 4. Lawyers, scribes and Pharisees are the Biblical words used for the lawyers of those days. *Lawyers: Luke's words for scribes, (Luke 11:45), who gave themselves to meticulous and dedicated study of the law. Many were Pharisees, but membership was not essential to the professional legal qualifications. Scribes were students and expositors of the law, whereas Pharisees were concerned with people's performance of the law.* Oxford Dictionary of the Bible, Oxford University Press, ISBN 0-19-211691-6
 5. These words are spoken by a participant in Jack Cade's revolt in the year 1450, against tyranny in England. Cade is a historical figure who achieved some temporary success in the reduction of tyranny in England. The extreme words: '*Kill all the lawyers*', expresses a common frustration felt by the average Englishman with the corruption of lawyers and the legal system at that time.
 6. Obviously there are some good things that lawyers have done as well as many honest lawyers. However, when the overwhelming public impression is that lawyers are corrupt, the only conclusion that is supported by that evidence, is that the lawyer activities are all too often detrimental to the Nations they inhabit.
 7. Mr. Kieffer is a partner in the Washington D.C., firm of de Kieffer, Dibble and Horgan, and has authored more than 200 articles and written 5 books. He served as general counsel to the Office of the United States Trade Representative in the Reagan Administration.

8. Ralph Nader is a nationally known consumer advocate attorney and Presidential candidate in 1996.
9. Roy Grutman is a well known trial lawyer who has represented Bob Guccione, Jerry Falwell, and Jackie Collins, among other celebrity clients.
10. Deborah Arron graduated from UCLA school of law in 1975 and practiced law as a civil litigator until 1985. She has since 'run from the law' herself, having closed her practice and turned to helping other lawyers to also 'run from the law.'
11. Benjamin Sells is a Chicago psychotherapist, lawyer and syndicated newspaper columnist.
12. Privately there are a great many lawyers who will confirm their experiences with corrupt colleagues.
13. The problem as presented does not identify constitutional violations as the cause. The solutions presented call for the teaching of civility and non adversarial problem resolution to the profession. That will not work. This writer will address these issues in Federalist 101. Mr. Sheppard's analysis is well intentioned but misguided.
14. This writer is aware of no other free world country where such activity exists at all.
15. The Court never responded.
16. These names refer to the uncovering and conviction of criminal wrongdoing by a cabal of judges in both cities. It is probable that such criminal behavior is only the tip of the iceberg.
17. For it is said that it is better to say nothing and be thought corrupt, than to debate the issue and remove all doubt.