A Concentrated Effort

E. L. Fowler

Follow this and additional works at: https://uknowledge.uky.edu/klj
Right click to open a feedback form in a new tab to let us know how this document benefits you.

Recommended Citation
Available at: https://uknowledge.uky.edu/klj/vol5/iss3/7

This Essay is brought to you for free and open access by the Law Journals at UKnowledge. It has been accepted for inclusion in Kentucky Law Journal by an authorized editor of UKnowledge. For more information, please contact UKnowledge@lsv.uky.edu.
A CONCENTRATED EFFORT.

America is a heterogeneous nation. All races are represented on its shores. To the stranger America means "all men are born free and equal." But the American who knows America knows that class distinction is little less evident in America than in England. In recent months there has been much talk of un-Americanism, and rightly so, but it should not have been confined to an abuse of the so-called "hyphenates." There are those in our midst who are far more un-American than the hyphenates. What could be more un-American than Wall St. and those composing it? How far behind Wall St. in un-Americanism are those people who are indifferent to all progress of the people and nation? The one may be classed as active un-Americanism, the other as passive un-Americanism. But, happy to say, these classes are yet in the minority. True Americanism still holds forth in America. The masses, the laymen if you please, are the Americans of today. The statesman realizes this and when a great question arises has but to feel the pulse of this great living body to discover its answer.

Consequently it is only natural that one should go to the masses for the ground work of a discussion of any American subject. When someone comes forth with the statement that the legal profession is losing its dignity, or with some similar charge in regard to that profession, we feel for the pulse of that great living body called true America, in order to get its view of the question. And what do we find? We find that there is an universal opinion among the masses that the statement is true. The laymen will tell you that the profession is losing its dignity. He will tell you that the profession is commercialized. He will tell you that it is rotten to the core with graft, political and otherwise. He will point to the great characters of the bar a generation ago and attempt to prove to you the inferiority of the present day bar. He will voice the masses' suspicion of the bar and hint that it is gradually dying from the cankerous disease of dishonesty.

But the sad part of it all is that these opinions are not confined to the masses. You find the same thing in the minds of the business men. Even in the student body of our great colleges you find it. Perhaps it is improperly called an "opinion;" perhaps it would better be called
a "suspicion." At any rate it is there. And no one will deny that it should not be. If the legal profession is to execute its duty to humanity, it must not be looked upon with suspicion by the laymen nor by the business man. It must be above and beyond reproach. It must be upon such a high plane in both dignity and honor that the frivolous college man will find no place in the law school, neither for his person nor for his jokes, at the expense of the profession.

There are a number of causes for the existing views of the people. Prominent among them are the shysters, or so-called ambulance chasers. There are the money-seekers and still others who are downright dishonest. None of these classes guard the dignity of the profession. The object of service to one's people is a nullity to them. It is entirely a matter of indifference to them whether or not the lawyer is the leader of his community. The legal profession is placed by these people upon the same basis as the profession of horse trading. It is a matter of money grabbing with them and all else is forgotten in the mad scramble. In years past the field offered good picking, which accounts for the great number of "grazers" at the present day.

These in turn have been made possible by the low requirements for admission to the bar. It should not be said that the system is fundamentally wrong. It is better said that our country has outgrown it. In the olden days, the people were not educated like they are today. The requirements for admission had to be low or there could have been no lawyers. Even then the leaders of the profession came from the east, where education was more advanced. Lincoln recognized this, and after hearing one of these eastern men in a trial declared he was going home to study—so that he would be ready when the eastern men invaded his territory. But how many of our lawyers followed his example? How many recognized the progress of the people and their consequent greater demands of the legal profession? Lincoln was the exception. As a general rule the lawyers paid no heed to the progress of their country, and because the requirements for admission did not make it necessary, allowed themselves to drift on in the same old rut.

This is well evidenced by the rules of admission yet to be found on the statute books of various states. The Indiana Constitution provides: "Every person of good moral character, being a voter, shall
be entitled to admission to practice law in all courts of justice.” It might well be noticed that Indiana requires exactly the same qualifications before a man is allowed to conduct a saloon. In Kentucky the law theoretically requires an examination in eleven subjects of the law, before one may be admitted to the practice, but practically the requirements of Kentucky are little better than in Indiana. The same is true of almost all the southern states. The eastern and western states have made some advancement in this line, but have much left to do yet. They have been quicker to recognize that the reason for the low requirements of admission is past and that therefore the low requirements themselves should pass. In doing so they have only recognized the universal rule that “when the reason for a rule ceases the rule itself should cease.”

It is well to note in passing that the law schools of the country are not without blame. Undoubtedly the law schools are doing a great service to the country and to the legal profession. Perhaps the good accomplished by them so overshadowed the evil that one should not criticize. But the fact remains that they are not fulfilling their purpose. The average law school is young, and like young lawyers is usually sorely pressed for funds. This need has unconsciously led the law schools into adopting the slogan “many graduates,” the idea being that these graduates will exercise a great influence for the betterment and aid of the law school, both in and out of the legislature and in the form of endowments. Consequently, the requirements for admission to the law school are low. Even where the requirements are higher one is considered good for graduation once he is in. This is a great mistake. Allow the requirements for admission to remain low if you must—but put the student through such thorough training and severe tests that you are sure he will prove himself a credit to the profession. It is a disgrace to our law schools that a shirk is allowed to slide through and graduate. Too many times the professors are moved to pity and pass students who deserve to fail, and by so doing they take away the honor of graduation for the worthy student, literally kill the inducement to thorough work, and turn loose in the profession a bunch of men who have acquired habits of idleness.

Neither does the average law school make any study of the
student's character. He may be a moral degenerate, a hard drinker, or outright dishonest, and if he satisfies the professors on his law subjects, he is allowed to graduate and go forth with their stamp of approval upon him to feed upon an innocent public. Can you wonder that the personnel of the bar is not better? Are the law schools not to blame in this day when practically every new member of the bar is the product of some law school? Verily it is time for the law schools to drop their slogan of "many graduates" and adopt a new one.

It should be noted also, that the bar is not free from blame. They do not resent and disprove the untrue charges of dishonesty, graft and similar charges, made against the profession. It is the duty of every lawyer to resent any charge of this kind against the profession as a direct charge against himself. It is a pretty state of affairs, indeed, when the noblest of all professions is regarded with such suspicion that the members thereof must go forth and disprove the charges and remove the suspicions of a misguided public. But we must admit that the condition exists and we must make the best of it—that is the reason for this article.

It is to be hoped that at least a small part of the profession and law students will wake up. The awakening may be rather rude—it was meant to be! Nothing short of a rude awakening will produce action. If we are to reinstate our profession on its proper plane and are to meet the greater demands of a progressive and educated people, we must act. We must make it so unpleasant for shysters, ambulance chasers and money-grabbers that they will seek new fields for their endeavors. We must raise the requirements of admission to the Bar until no new members of these unprofessional classes can get in. We must so disapprove of the law schools' present system of graduating everyone that they will not only require of their graduates a thorough knowledge of the law, but honesty, morality and character as well. We must create a condition that will make it possible for only men of sound legal training to practice in the profession without a sacrifice of their clients' rights.

To do this we must co-operate. The members of the Bar, the law students, and the law schools must all put their shoulder to the wheel and push with all their might. Even then the task is a momentous
one. If we drift on without a co-operative and concentrated action the "suspicion" of that great living body, the massess, will grow into a "conviction." And then, not only will we have failed in our pur-
pose, but the legal profession will no longer be called a profession, but rather a business—and not the most honorable of businesses at that.

E. L. Fowler, Evansville (Ind.) Bar.

*OUR CHIEF EXECUTIVE.

In order to understand the powers given to, and the limitations placed upon, the President of the United States, it is necessary to have an intelligent conception of that instrument wherein these powers and limitations are defined. That instrument is the Federal Constitution. "A constitution is but a law; it emanates from the people, the depository, and the only one, of all political power; it is therefore the supreme law." Commonwealth v. Collins, 8 Watts, 331. Judge Story has well defined it as "a fundamental law or basis of govern-
ment, constituting not a cause but a consequence of personal and polit-
ical freedom; it grants no rights to the people, but is the creature of their power, the instrument of their convenience." It is to this personal and political freedom that the Preamble to the Constitution of Massachusetts refers, in saying:

"When one becomes a member of society, he necessarily parts with some rights or privileges which as an individual not affected by his relations to others, he might retain. A body politic is a social compact by which the whole people covenants with each citizen and each citizen with the whole people, that all shall be governed by certain laws for the common good."

Chief Justice Black has given rather a clear statement concerning the origin of our political system in Sharpless v. Mayor of Baltimore, 21 Pennsylvania, 147. He said:

*This article is based chiefly upon a review of Judge Wm. H. Taft’s book, "Our Chief Executive," Columbia Press.