

THE FUTURE OF THE PROFESSION

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One could not hypothesize a better vantage point from which to view the legal profession than Washington, D.C., the national watershed for lawyers. All business and social life here teems with them—tens of thousands of lawyers. From Congress to the bowels of the regulatory agencies, from the Supreme Court to the solicitors' offices in every department, every level of government is blessed with a heavy quotient of lawyers. But lo . . . it works!

If the triumvirate of the executive, legislative, and judicial branches appears ponderous, look closer. There is more dynamism than might be presumed. Each day the minions are energetically elbowing each other out of some presumed fair share of power, funding, prestige, and simple popularity. Jurisdiction, which smiles and cooperation fail to acquire today, will be sought tomorrow in byzantine schemes or open combat. But when the sable curtains of night are pulled over the end of the fiscal year, what obtains, over all, is a vast equilibrium. The balance of power speaks to the genius of the Constitution. But it says more.

Lawyers here as everywhere participate in a daily struggle to ascertain where lies the line below which we may not let our conduct fall. Setting prices on the movement of commodities, an Interstate Commerce Commission attorney must determine how much discretion has been vested in him by Congress on the one hand, and which policies the Administration expects him to pursue on the other. The frustration of applying laws, often gracelessly drafted, to facts or of determining how much common law remains subsequent to a statute's enactment has been keenly felt by every jurist. Only too well am I, myself, aware of the tension between the public's desire to be left in

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peace and its insistence that widespread problems be solved at the federal level. We each are publicly accountable for our decisions; in every case a forum exists in which our failures can claim us.

If this characterization of lawyers' work greatly resembles that done by our profession for a hundred years, what may be novel in the decisions government lawyers make nowadays is their import. I refer not simply to the dollar amounts involved, although it is indeed frightening to be working in hundreds of millions of dollars. It is that our nation, sparsely populated relative to the earth's four billion people, exercises an impossible world-wide clout in its consumption of just under a third of the resources and the energy consumed on the globe each year. As lawyers we have learned to choose not for ourselves but for our clients (and our constituents). An attorney in the employ of our nation cannot avoid the realization that the ramifications of his choices run past geographical boundaries. Because of the awesome nature of these responsibilities, the level of drama in government, not to mention its size or intricacy, is a marvel to behold.

This may be an explanation of the attraction that government service holds for so many graduating law students today. Be it the Federal Communications Commission, the office of a federal district court, or the House Interior Committee—each has a pick of the field in hiring. Over the years I have seen the level of competence of those attempting to enter the government as an attorney rise right out of sight. And the Justice Department could almost exclusively hire valedictorians fresh out of every law school in the land. This is where the action is; the students sense it. This is a trend that I imagine will continue as the work done by government attorneys grows in excitement and satisfaction.

Despite more pessimistic projections, I foresee the same full employment within the legal profession that we have heretofore enjoyed. I do not remember a time when every attorney who desired work could not find it. We are an enterprising lot in any event, but three factors in particular suggest to me that we will remain a healthy profession. I think we are beginning to see a terrific expansion in international commerce. Innumerable fascinating and fulfilling careers are opening up for those attorneys with a facility to move between cultures, or with a competence in legal systems other than their own.

Another quickly developing field is that of group legal services. Credit unions, food co-ops, teachers' associations—it is astonishing how rapidly these groups are associating attorneys to represent their members. The need for such plans, if not the wisdom of them, is evident from the gusto with which large numbers of middle-class people

who hardly ever visited lawyers before are embracing the idea. A third change that I see boding well for the profession is more abstract. I think it is clear that the citizens of this country are developing a finely-honed appreciation of their rights. Although resort to an attorney is still had less frequently than might be helpful, the layman is increasingly alert to any depredation of his civil liberties or his property interests and more inclined to bring these grievances to our doorstep. I believe this is a positive development and one that belies the popular impression of lawyers as mad dogs: more likely to attack you than to guard your house. But it is essential that the profession not slacken its efforts to eliminate from the law the arcane and ridiculous which have, as ever, impeded public involvement in the legal system.

But as for changes in the future day-to-day practice of law—it seems to be doubtful. Try as we might to stretch the law to our own ends, it always snaps back. Every day, seeing plots hatched, faces saved, flanks protected, and facts imaginatively interpreted, I wonder at the resiliency of the law. The over-all impression one must receive is one of coherence. The center does hold. There is a prodigious, pervasive shared sense of values in this society which simply overwhelms conflict.

Never mind how close by sits the courthouse; the countless negotiations lawyers conduct follow an age-old process. You know when to give in on this point, I know when to push on that one. We usually can distinguish the realistic threat from the hopeful one. Why? Nothing less than ten centuries of methodical searching for some process that will best yield an ethical and practical result which everyone can recognize as "right"—this is our heritage. It is to resolve antagonisms that we labor. And when the judge casts his eyes around the country to discern how his fellow jurists have solved a problem; when a United States Attorney chooses to prosecute a case; when a Congressman speaks with a constituent, or when he shepherds legislation through the halls of Congress; in each case we are motivated by a desire to soothe the social fabric. To be a lawyer is to be a peacemaker, and hopefully that will never change.

