

---

Volume 67  
Issue 3 *Dickinson Law Review* - Volume 67,  
1962-1963

---

3-1-1963

## A Lawyer's Professional Responsibility

Burton R. Laub

Follow this and additional works at: <https://ideas.dickinsonlaw.psu.edu/dlra>

---

### Recommended Citation

Burton R. Laub, *A Lawyer's Professional Responsibility*, 67 DICK. L. REV. 315 (1963).  
Available at: <https://ideas.dickinsonlaw.psu.edu/dlra/vol67/iss3/6>

This Article is brought to you for free and open access by the Law Reviews at Dickinson Law IDEAS. It has been accepted for inclusion in Dickinson Law Review by an authorized editor of Dickinson Law IDEAS. For more information, please contact [lja10@psu.edu](mailto:lja10@psu.edu).

# SPECIAL

## A LAWYER'S PROFESSIONAL RESPONSIBILITY\*

AN ADDRESS BY BURTON R. LAUB\*\*

It was Pietro Calamandrei who said, "He who seeks justice must believe in Justice, who like all divinities, shows her face only to the faithful," and there is no better apothegm than this for the legal profession to follow. Justice, after all, is the fruit of law and the target of all legal processes. She is the mistress and lawyers are the servants; she is our *raison d'être*—our justification for existence. Therefore, when we engage in law, more is involved than a mere application to the disciplines of jurisprudence, for we become votaries in the temple of justice, charged with the solemn obligations which that office imposes.

On the day that we determined to enter the field of law we acquired our first client, one as exacting and needful as any other, and one which we may be proud to represent. That client is the legal profession itself, a profession which must be represented in the court of public opinion as vigorously as an individual client in a court of law. So long as lawyers are in disrepute—are vilified, suspected, and condemned—the law itself is suspect and the garment of justice is sullied. Belief in the integrity of the law and its representatives is as important to congregate society as devotion to technologic or ideologic advancement, for in its search for truth, the law must draw upon the people for its testimony and its finders of fact, and in its role as guardian of human rights, the law must have the esteem and understanding of the multitude to prevent chaos and oppression.

The lawyer's duty to his profession is not merely that mentioned by Theodore Roosevelt when he said, "Every man owes some of his time to the upbuilding of the profession to which he belongs." The obligation goes deeper than that, for it involves the highest fealty to the principles of community life. The highway to justice is the path of law. Through legal processes we bind the arms of the oppressor, dismay the tyrant, and quiet the

---

\* Address delivered March 23, 1963, to the Joint Circuit Conference of the Third and Eleventh Circuits of the American Law Student Association at Carlisle, Pennsylvania.

\*\* Judge, Court of Common Pleas, Sixth Judicial District of Pennsylvania; B.S., 1925, Wharton School of University of Pennsylvania; LL.B., 1928, University of Pennsylvania Law School; author, PENNSYLVANIA TRIAL GUIDE and PENNSYLVANIA MANUAL, CIVIL AND CRIMINAL PENALTIES, SENTENCES, JURISDICTION; member, advisory committee to the Pennsylvania State Government Commission; member, State Board of Law Examiners.

waters of strife and turbulence. The law strips the felon of his weapon, confounds the thief in his craftiness, compensates the aggrieved, and lays a restraining hand on the impetuous surge of an overreaching government. Thus, the signature of civilization is the law, and the law is the index of civilization. Without it, every dwelling would become an armed camp, every berry patch a battleground, and every field a cemetery.

We must always be mindful of the detractors, and be quick to uproot the tares which they plant. Even responsible persons, at times, may become the foe, for in a moment of pique or beguilement by public applause, they may take a course, or advocate a measure which undermines all that the law stands for. Robert Browning, for example, in "The Ring and the Book," espouses the so-called "unwritten law," a theory which would make an outraged husband judge, jury and executioner and would condemn to death an accused who has had no opportunity to enter a defense. And, every lawyer has had experience in public gatherings where the law has been under attack, and where some person quotes the famous utterance of Dick the Butcher in Shakespeare's *King Henry VI*, "The first thing we do, let's kill all the lawyers." This is often followed by Mr. Bumble's observation in *Oliver Twist*, that the law is "a ass, a idiot," and almost always there is deleted from this quotation the preliminary qualification of Mr. Bumble's, "If the law supposes that."

Because the law is an ox which goes with impartiality, it is not surprising that it is unpopular in some quarters. There is a loser in every lawsuit. As John Trumbull says in *McFingal*, "No man e'er felt the halter draw, with good opinion of the law." By the same process of mental gymnastics which prompted M'Naughten to transfer his hatred of the State to Robert Peel, its representative, and to attempt to obtain personal satisfaction by killing Peel, and eventually to make the fatal mistake of killing Peel's secretary, losers in litigation often transfer their hatred to the lawyers or the judge involved. There is hardly a lawyer of my acquaintance who has not been approached by the time-worn observation, "It's refreshing to see a lawyer with his hands in his own pockets, for a change," or perhaps a similar insult such as the one attributed to Samuel Johnson, "I do not like to speak ill of any man, but that fellow is a lawyer." You are fortunate indeed if you have not heard of the dispute between Satan and St. Peter over the fence between heaven and hell. As the story goes, by contract, St. Peter agreed to build the fence, and Satan agreed to keep it in a perpetual state of repair. When, after many centuries the fence became dilapidated and threatened to fall down, and St. Peter called upon Satan to live up to his contract, Satan refused. St. Peter then threatened to bring suit, and Satan replied, "Oh, yeah! Where are you going to get a lawyer?"

It might be wise to take another look at this profession of ours to see whether its history justifies the treatment afforded it. The Christian era is a good place to begin, for apart from serious religious differences, both Jew and Christian agree that Jesus of Nazareth exercised a tremendous benign influence on civilization. It was Joseph of Arimathea, "an honourable counsellor" or judge of the Sanhedrin—a lawyer, if you please—who claimed the body of Jesus following the crucifixion and buried it in his own tomb. It was another judge of the Sanhedrin, a doctor of the law named Gamaliel, who saved the apostles from death by one of the most stirring jury speeches in history. When the apostles were brought up and threatened with death, this doctor of the law said this: "Take heed what ye intend to do as touching these men. For before these days rose up Theudas, boasting himself to be somebody; to whom a number of men, about four hundred, joined themselves; who was slain; and all, as many as obeyed him, were scattered, and brought to naught. After this man rose up Judas of Galilee in the days of the taxing, and drew away much people after him; he also perished; and all, even as many as obeyed him, were dispersed. And now I say unto you, refrain from these men, and let them alone: for if this council or this work be of men, it will come to naught: but if it be of God, ye cannot overthrow it; lest haply ye be found even to fight against God." No wonder, in the face of such logic, the apostles were acquitted. It might be noted in passing, however, that Gamaliel's verdict was of the Scotch variety, similar to our modern verdict of "Not guilty but pay the costs," for although acquitted, the apostles were beaten severely before being released.

Before leaving the early Christian era some mention should be made of St. Paul, the one individual credited more than any other with organizing and perpetuating the Christian faith following the crucifixion. While we are accustomed to think of St. Paul as a tent maker, it must not be overlooked that he was a lawyer; in fact, he was a sort of self-constituted district attorney, for he was en route to Damascus to prosecute Christians when he received the vision which changed his life. When he himself was under accusation, St. Paul boasted of his legal training and called attention to the fact that he studied at the feet of the same doctor of the law, Gamaliel, who made the speech just quoted.

Of more recent years it should not be forgotten that it was the lawyer who made our present form of government a living thing. De Tocqueville, an early and wise commentator on our formative years said this more than 125 years ago: "The profession of the law is the only aristocratic element which can be amalgamated in America without violence with natural elements of democracy. I cannot believe that a republic could subsist if the influence of lawyers in public business did not increase in proportion to the power

of the people." At the time of this utterance, the pre-Revolutionary influence of such men as Patrick Henry and Andrew Hamilton, the defender of John Peter Zenger, had already been felt. The lawyer Jefferson had already drafted the Declaration of Independence, and the lawyer Monroe had already promulgated the Monroe Doctrine. Four of the five preceding presidents of the United States had been lawyers, and the first Secretary of the Treasury, a lawyer, had been influential in keeping the American financial head above water. The legal mind which conceived the Emancipation Proclamation and the Gettysburg Address was yet to make its presence felt, and the full contributions of such lawyers as Choate, Webster and Marshall had not yet been made.

It was the lawyer whose influence permitted thirteen little colonies to expand into a great nation, reaching from coast to coast, and extending from the southern border of Canada to the northern shores of the Gulf of Mexico. Without the lawyers and the protection of law which they fostered and developed, our cattle would not now graze a thousand plains, nor would our rivers run laden with wealth to the sea without fear of banditry, looting and murder. Without the lawyer, who can tell to what sovereign we now would bend the knee?

The lawyer's obligation to his profession and the mistress it serves is never at rest. Like the admonition of Dana, "Six days shalt thou labor and do all that thou art able, And on the seventh—holystone the decks and scrape the cable." There is no Cave Adullam to which the profession may retire, for the law must be ransomed with both labor and love. As architects of the law we must build straight; we must build with artistry; we must build high.

But, protecting the name of the profession and defending the law from external attacks is not enough. The leadership and influence of the bar must always be concentrated on reforming the law itself; this cannot be done by condemning it. One does not improve a woman's beauty by vilifying her hair-do; you find a way to suggest a hair cut. Of course the law moves on leaden feet, but it is not static. It must not rush to meet every social change and destroy ancient precepts in the process. It must move slowly, lest that which is temporary, plausible and insecure, fasten itself like a barnacle to the body of the law and destroy its efficacy. Legal principles have been built from the experience and wisdom of centuries, and we must not fall into the error of belief that ours is the last great chamber of the Nautilus of wisdom. Of course, principles should not be rigid, for principles are the children of men and men are not possessed of sufficient omniscience to create inflexible rules applicable to every conceivable set of facts. But law without principle is not law at all—it is merely the launching pad for

rocketing ideas, bound for endless time or doomed to fizzle, sputter or explode before gaining altitude. We must not be beguiled by the failure of law in a few specific instances, for every defect is no argument for drastic alteration. Because the automobile has been known to destroy property, mangle pedestrians and slay drivers, this is no reason for abolishing motor vehicles and tearing up our highways. It is only when failures are frequent, or threaten to be frequent, and when injustice invariably results or probably will result, and when the effect of law is oppressive or threatens to be oppressive, that the law must be changed. And when these things happen, it is the lawyer who should be in the van or, like Abdul, be shouting hallelujah from the rear. Shakespeare has a neat expression for what I have been saying. He said: "We must not make a scarecrow of the law, setting it up to fear the birds of prey, and let it keep one shape, till custom make it their perch, and not their terror." Therefore, let us see to it that the law is altered only when it needs alteration, for without stability, no citizen can know his rights, nor can any lawyer intelligently advise his client.

In conclusion let me make one more observation. As a member of the State Board of Law Examiners, it is part of my task to help determine who shall and who shall not become members of the bar of the Supreme Court of Pennsylvania. It is not our chore nor that of other similar bodies to see to it that the bar consists only in highly skilled, brilliant and extraordinary lawyers, but merely to eliminate those who appear to be unqualified. We do the best we can, basing our judgment upon the moral attributes of the candidates as reported to us by those in his community who know him best, and by marking his examination papers to determine his academic qualifications. We cannot exclude those who meet the tests nor can we determine that only those who will become dedicated servants of the law will be admitted. The system leaves it to the successful candidate whether he will become a business man only, concentrating his efforts to the making of a material success, or whether he will become a true lawyer in every sense of the word. The law schools can teach the disciplines of jurisprudence and the rudiments of ethics, but they cannot be charged with cultivating a love of law and a dedication to humanity. The law usually does this chore itself, for after a few months of association with it, the law student usually makes the choice, almost without knowing it. To these I must say, "God Bless You," and to the others I must say, "What a pity."

