



Santa Clara Law Review

Volume 7 | Number 1

Article 1

1-1-1966

The Good Lawyer

John A. Sutro

Follow this and additional works at: <http://digitalcommons.law.scu.edu/lawreview>



Part of the [Law Commons](#)

Recommended Citation

John A. Sutro, *The Good Lawyer*, 7 SANTA CLARA LAWYER 1 (1966).

Available at: <http://digitalcommons.law.scu.edu/lawreview/vol7/iss1/1>

This Article is brought to you for free and open access by the Journals at Santa Clara Law Digital Commons. It has been accepted for inclusion in Santa Clara Law Review by an authorized administrator of Santa Clara Law Digital Commons. For more information, please contact sculawlibrarian@gmail.com.

SANTA CLARA LAWYER

VOLUME 7

FALL 1966

NUMBER 1

THE GOOD LAWYER*

John A. Sutro†

Mr. Justice Cardozo once observed that "There is more to membership in the Bar than a license to sign a brief. . . ." This evening those of you who are about to graduate from Law School are looking forward to your careers in the law. Some of us here this evening view the practice of law from the vantage points which our years as members of the Bar afford. I think it worthwhile to inquire into what membership in the Bar means. What characterizes "The Good Lawyer"?

It is not my intention this evening to review the rules of professional conduct or the canons of professional ethics. I do, however, commend them to you for thoughtful reading. Certainly an important characteristic of "The Good Lawyer" is his continuing effort to live up to their spirit as well as their letter. In his relationship to the Courts, in his work with opposing counsel, in his dealings with his clients, opposing parties, and the public, "The Good Lawyer" makes every effort to conduct himself in keeping with the ethics, ideals and standards of his profession.

"The Good Lawyer" has two major characteristics: he has developed a high level of professional competence, and he devotes a significant part of his life to the "higher aspects" of his profession which are unrelated to the pursuit of financial gain. My purpose this evening is to consider with you the characteristics which set apart "The Good Lawyer."

"The Good Lawyer" begins his course of study from diverse backgrounds. If those of you in the graduating class are true to

* This address was delivered to the students and alumni of the University of Santa Clara Law School at the annual Law Review and Awards Banquet on April 27, 1966.

† A.B., 1926, Stanford University; LL.B., 1929, Harvard University; Past President, The State Bar of California; Member, California Bar.

I wish to express my appreciation to my associate William A. Stricklin, member of the California Bar, for his assistance in the preparation of these remarks.

¹ Harper's Magazine, Aug. 1964, p. 86.

pattern, your undergraduate majors were primarily political science, economics, history or English; you include in your class athletes, musicians, family men, persons from all walks of life and with wide-ranging interests.

Justice Felix Frankfurter once received a letter from a 12-year-old boy who wrote that he was "interested in going into law as a career." He requested advice as to "some ways to start preparing (himself) while still in junior high school." He received this reply:

My Dear Paul:

No one can be a truly competent lawyer unless he is a cultivated man. If I were you, I would forget all about any technical preparation for the law. The best way to prepare for the law is to come to the study of the law as a well-read person. Thus alone can one acquire the capacity to use the English language on paper and in speech and the habits of clear thinking which only a truly liberal education can give. No less important to a lawyer is the cultivation of the imaginative faculties by reading poetry, seeing great paintings, in the original or in easily available reproductions, and listening to great music. Stock your mind with the deposit of such good reading, and widen and deepen your feelings by experiencing vicariously as much as possible the wonderful mysteries of the universe, and forget all about your future career. With good wishes,

Sincerely yours,
FELIX FRANKFURTER²

Soon after he reaches law school, "The Good Lawyer" discovers the great secret of that institution: at law school he does not learn the law, that is an impossible task, but he learns to think. It is inevitable that he acquires some legal knowledge. What he acquires of importance, however, is a knowledge of method, a knowledge of how to do legal research, a knowledge of how to approach a situation in which legal factors play an important part—and, primarily, the ability to use his mind. The knowledge of legal rules and the techniques of the courtroom play a lesser part. He learns them later when he is in practice.

"The Good Lawyer," as Professor Leach describes him, is "A professional in versatility."³ Judge Learned Hand once said he is a person with "a bathtub mind"⁴; he can fill his head with facts immediately necessary, then pull the plug, scour away all recollection of those facts, and refill for the next situation.

² Saturday Rev., June 16, 1956, p. 9.

³ Mehler, *Language Mastery and Legal Training*, 6 VILL. L. REV. 205 (1961).

⁴ Sat. Eve. Post, Feb. 26, 1966, p. 37.

As our civilization becomes more and more complex, countless problems arise which demand solutions. More times than not it is the lawyer who must find these solutions. "The Good Lawyer" can analyze a complicated set of facts and state them for anyone to understand. He can find solutions to his clients' problems, and he can convince others of the soundness of his position, be they his clients, opposing counsel, courts or juries.

"The Good Lawyer" realizes that essential to his effectiveness as a lawyer is his effective use of language, both oral and written. Some individuals are fortunate enough to acquire the ability to communicate at an early stage in life. However, many others arrive at law school unable to express themselves clearly and concisely. The curriculum of the law schools is seldom designed to improve the lot of these students; it is in the course of their first few years of practice that these men learn the way in which their opponents will set upon words they have written and twist their meaning to their own ends. Early in his career "The Good Lawyer" learns the importance of the pleadings and briefs he must write. His complaints should not be subject to demurrer. His briefs should be persuasive. Any lawyer can write a long, rambling brief—only "The Good Lawyer" can write a short, persuasive brief. "The Good Lawyer" draws contracts which cannot be construed to bind his client to more than was intended or to obligate the other party to less than was intended. Lawyers, even more than most writers, must make sure that their words mean and convey precisely what they intend, no more, no less.

"The Good Lawyer" also develops an intense power of concentration. So many interruptions occur in the course of a lawyer's day that the ability to concentrate is a must if a lawyer is to be productive.

"The Good Lawyer" knows that justice delayed is oftentimes justice denied. He does not procrastinate. He develops work habits which will enable him to meet his deadlines—and thus best serve his clients' interests.

"The Good Lawyer" finds early that there is no substitute for thorough preparation. He learns that cases are won most often by the lawyer who has prepared for all eventualities which reasonably can be anticipated.

It is during the early years of practice that "The Good Lawyer" develops the habits of professional conduct which stay with him throughout his career. He learns to keep his clients' affairs in the strictest of confidence. Practically all other men are permitted

the luxury of satisfying their egos by splendid accounts of the things they have done and said each day. This is denied the lawyer.

"The Good Lawyer" avoids any action whereby he obtains personal benefit from the confidence of his client.

"The Good Lawyer" acts as a stabilizing influence. He regards the stirring up of strife and litigation as unprofessional. He regards as one of his functions the settling of disputes; he knows that the earlier he performs this function, the better the job he has done.

"The Good Lawyer's" conduct before the court and with other lawyers is characterized by fairness. He will not misquote nor mislead.

"The Good Lawyer" values his relationship with his fellow lawyers. He is mindful that clients, not lawyers, are the litigants. He makes every effort to prevent any ill feeling of his client from influencing or affecting his own conduct toward opposing counsel or their clients.

"The Good Lawyer" knows that a lawyer is more than a legal technician; more importantly, he is an adviser to human beings with human problems. He does not lose sight of what Dean Griswold describes as "the humble human relationships which law is intended to serve. . . ."⁵

In fixing fees "The Good Lawyer" learns to avoid charges which overestimate the value of his service. Some, like Daniel Webster, believe that "A lawyer should work hard, live well, and die poor."⁶ I believe there is a happy medium.

"The Good Lawyer" is kind in his dealings with others. Because of his innate intelligence and his legal training, the lawyer is powerful in argument. At his best, he can all but turn black into white—as critics of our profession delight in pointing out. "The Good Lawyer" recognizes that with this great power comes a responsibility to use it only for proper causes. There is also a human duty of kindness toward those less gifted with whom he deals. Dean Acheson once noted that a philosopher friend of his watched him demolish a proposal put forward by a third person.

You have just made a great mistake, the philosopher said, and possibly an enemy. You have reasoned with a man who is not trained to reason and have made him look foolish and feel frustrated. Very few people understand logic or relevance, or are governed in their

⁵ Harper's Magazine, Jan. 1960, p. 67.

⁶ Time, June 11, 1965, p. 61.

thinking by either. You are trained in law; I in philosophy. We are in a small minority. Most people associate ideas and hold them together by the strength of their wish to do so.⁷

“The Good Lawyer” makes every effort to leave people their pride and to soften the cold analysis and relentless logic which are his.

“The Good Lawyer” is concerned about who will speak for the thousands of individuals accused of crime who do not have the wherewithal to pay a lawyer. He knows that these persons must be defended by the able advocate who makes our adversary system of justice what it is supposed to be: a truth-seeking contest between equal rivals. As a matter of professional responsibility “The Good Lawyer” bears his fair share of work representing the indigent. He participates in the development of solutions to the many problems of the poor, civil as well as criminal.

“The Good Lawyer” wants to see differences reconciled in our courts and legislative halls, rather than in our streets. He reminds unruly demonstrators that we are a nation of laws, not of men.

“The Good Lawyer” comes to the defense of our judges and our courts when they are subjected to improper attacks. He is fully conscious of his profession’s duty to challenge those who oversimplify and distort the views of our courts. He requires those who attack decisions of our courts to state their reasoning. He urges the public to be thoughtful, temperate, and tolerant in all dealings with the judiciary. He draws a sharp distinction between constructive criticism of judicial decisions and personal attacks on judges. He urges respect for our courts and judges.

“The Good Lawyer” senses an obligation, in the words of Pollock, “To keep the rules of law in harmony with the enlightened common sense of the nation.”⁸ He views this as a twofold responsibility: he keeps a constant eye on the rules of law to urge necessary changes, and he keeps the common sense of the nation enlightened by full participation in public debate.

Chief Justice Warren once stated: “There is no tribe on the face of the earth . . . that is without some . . . code of crime and punishment. The problem . . . is not so much to introduce law anywhere as it is to improve, strengthen and civilize law everywhere . . . especially . . . the law of nations.”⁹ “The Good Lawyer” strives to see the rule of law displace force in international relations. He

⁷ Esquire, July 1961, p. 101.

⁸ Fortune, Nov. 1955, p. 107.

⁹ *Ibid.*

recognizes that we now have at least the beginning of an international rule of law which could displace the use of force. In his thoughtful discussions with others, "The Good Lawyer" does his small part to develop the universal will to accept peaceful settlement of disputes in a framework of law. He appreciates that, in a very real sense, the world no longer has the choice between force and law. Upon contemplation of the responsibilities of destruction within our world today, he, like all thoughtful men, is driven to the sober conclusion that if civilization is to survive, it must choose the rule of law. "The Good Lawyer" recognizes the special responsibility which is his to communicate that fact.

Lawyers in the United States are more prominent, more influential and better paid than lawyers in any other part of the world. As Alexis De Tocqueville pointed out about our country 135 years ago, "When the wealthy, the noble, and the prince are excluded from the government, the lawyers take possession of it . . . as . . . the object of the popular choice. . . ." ¹⁰ Few other men today exercise power and influence in the business and political communities equal to that exercised by members of our profession. While others are being retired, the lawyer is at the height of his career with a promising future still before him. "The Good Lawyer" is a contented and happy person. He finds challenge and fulfillment in his profession. He feels that somehow he is participating in what life is all about.

President John F. Kennedy once said: "The story of man's advance from savagery to civilization is the story of reason and morality displacing brutal force."¹¹ It is to that story that each of us here has committed his life. My congratulations and best wishes for success to those of you who are about to graduate from the law school.

¹⁰ Esquire, July 1961, p. 101.

¹¹ 28 FED. REG. 817 (1963).