

August 2021

Is This True?

Denver Bar Association Record

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

Recommended Citation

Is This True?, 2 Denver B.A. Rec. 5 (1925).

This Article is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

Is This True?

"Law, in the abstract, is a noble profession. Very few laymen and by no means all lawyers quite realize how noble it may be made or how closely its higher aspirations approach the spiritual and the divine. And yet, despite its possibilities, despite the lofty character of a considerable portion of its practitioners, it has failed to maintain its standards at as high a level as have the other learned professions. Sometimes we hear of a black sheep in the church, and his delinquencies are headlined from one end of the country to the other simply because he is a clergyman. In somewhat lesser degree the same is true of physicians, scientists and educators; and yet, by and large, men in these callings, whether rich or poor, dedicate their lives to the service of society. They live for it and work for it. They do not work against it for the sake of a bigger income.

"The legal profession cannot, as a whole, make a like boast. The anti-social lawyer always has his old defense, his inherited excuses and his tiresome sophistries whereby to justify himself. And yet when he has talked himself to a standstill he has not disabused one intelligent man of the conviction that in every large city a fairly large number of lawyers are in one way or another working against the best interests of their own community. There is scarcely a populous jurisdiction in the United States whose bar does not need a thorough housecleaning.

"Not all lawyers of upright personal character and unblemished reputation are wholly free from blame. There are members of the bar who may refuse to soil their fingers by contact with the criminal classes; who may even be engaged in civil practice exclusively, and still find ample and profitable opportunity in politics, in municipal and in corporation affairs to work almost as much harm to their community as their unsavory brethren who practice from year to year on the ragged edge of disbarment. Underlying this condition is the fact that there is something in the very nature of the law which makes it exceedingly

difficult to enforce a code based on common sense and common conscience instead of on rules and precedents.

"The better element in the profession writhes under a stigma which will be plastered upon it until a new spirit and a new set of ethical and civic standards dominate the practice of the law and cast out the vicious minority which is bringing it into such disrepute.

"The bar associations are doing their best, but they can scarcely expect to overcome in a decade a set of conditions which have been centuries in the making; neither can they expect the passage of resolutions to do the work."

The above article was taken from the Saturday Evening Post of October 10, 1925.

No doubt, many people feel as the writer of this article felt toward lawyers and their profession. Experiences of the Secretary during the last month in dealing with three individuals, who claimed to have grievances against certain reputable members of our Bar, lead us to believe that a great deal of the adverse criticism that is leveled at the legal profession is unfounded.

During the past month, two women, both of whom seemed plainly to be suffering from delusions, insisted upon sending to the Grievance Committee long drawn-out, incoherent written statements concerning some of the most reputable members of our Bar. Another individual, a man who also wrote an unintelligible story about certain improper practices on the part of a member of our Bar, whose reputation has always been of the highest, insisted upon forwarding his statement to the Grievance Committee. In all of these cases, it was apparent, that no adjustment could be arrived at between the respective complainants and the respective attorneys, and for this reason, the respective letters were forwarded to the Grievance Committee without arranging a conference between the complainant and the attorney involved. It is very plain, however, that each of these three individuals during most of his waking

hours is spending the greater part of his time broadcasting the supposed abuses which he claims to have suffered at the hands of the respective attorney. In all of these cases, it is very apparent that the respective attorney has been without fault. In one case, he refused to go to Court until paid his fee, but these facts do not appear in the written statement sent to the Grievance Committee. In another case, the woman changed her mind as to the relief to be sought after the attorneys had obtained the relief originally desired. In another case, one of the attorneys was accused of conspiring to take the complainant's

property from her, whereas, the only connection he had with the transaction was that he represented the administrator, who sold the property under order of Court, subject to a contract of purchase in favor of the complainant, the administrator having notified the complainant to vacate the premises unless certain back payments were paid within the time provided by the contract, and this leads us to surmise that, perhaps, a great deal of the adverse criticism against the legal profession and its members is due to misguided and unfounded statements of such persons as those referred to above.

The Small-Claims Court

(Editor's Note: Several months ago, in addressing the alumni of Westminster Law School, Judge Charles C. Butler, now president of the Denver Bar Association, advocated many reforms in law and procedure. Among them he urged the establishment of a small-claims court, to care for the rights of poor people who cannot afford to seek "their day in court." We consider his remarks in this direction both timely and instructive, and are printing them below.)

Among many recent reform movements that are worthy of your earnest attention, are those to promote conciliation, and to establish small-claims courts. I will not attempt to discuss them at length. My purpose is to tell you just enough about them to arouse your interest, and stimulate a desire to know more.

In Norway and Denmark for over 100 years they have had a system of conciliation that has in recent years attracted much attention in this country, and has caused a movement in a number of states to establish a somewhat similar procedure.

In these two countries no suit can be brought in court until the claimant has tried to compose his dispute before a conciliation board consisting of two members, elected annually. The claimant writes a letter to the board, setting forth his claim. The board invites the one against whom the claim is made to attend the next meeting of

the board. Where both parties appear, they may agree to be bound by the finding of the board, or they may reserve the right to litigate the matter, if the finding is not satisfactory.

In the former case, the finding of the board is conclusive. The matter is then presented quite informally to the board, which attempts to bring the parties to some fair degree of settlement. Statistics show that about 80 per cent of these hearings in Norway resulted in friendly adjustments, and in Denmark, it is said, the percentage is even higher. If no adjustment is arrived at, the board so certifies, and either party may then bring an action in court.

This proceeding is so sensible, so inexpensive and so successful, that in a modified form it has been adopted in North Dakota, and Iowa, and in the municipal courts of Cleveland, Minneapolis, Philadelphia, St. Paul and Stillwater, Minnesota.

Let us hope that some day the people of Colorado will appreciate the advantages sufficiently to adopt it, at least for small claims and demands.

It has long been a reproach that a poor person, having a small claim, cannot enforce such claim for the reason that court costs, sheriff's fees and attorney's fees would amount in many instances to more than the claim itself. For a poor person to be unable to enforce a claim of \$15, \$10 or even