

The County-Seat Lawyer

The county-seat lawyer, counsellor to railroads and to Negroes, to bankers and to poor whites, who always gave to each the best there was in him—and was willing to admit that his best was good. That lawyer has been an American institution—about the same in South and North and East and West. Such a man understands the structure of society and how its groups interlock and interact, because he lives in a community so small that he can keep it all in view. Lawyers in large cities do not know their cities; they know their circles, and urban circles are apt to be made up of those with a kindred outlook on life; but the circle of the man from the small city or town is the whole community and embraces persons of every outlook. He sees how this society lives and works under the law and adjusts its conflicts by its procedures. He knows how disordered and hopelessly unstable it would be without law. He knows that in this country the administration of justice is based on law practice. Paper "rights" are worth, when they are threatened, just what some lawyer makes them worth. Civil liberties are those which some lawyer, respected by his neighbors, will stand up to defend. Any legal doctrine which fails to enlist the support of well-regarded lawyers will have no real sway in this country.

It has been well said that "The life of the law has not been logic: it has been experience." The experience that gave life to our judge-made and statutory law, at least until the last few years, was this type of country life. From such homes came the lawyers, the judges and the legislators of the nineteenth century. Their way of living generated independence and amazing energy, and these country boys went to the cities and dominated the professions and business as well. They controlled the country courthouses and the state houses and the Nation's capitol as well, and

they weighed legal doctrines, political theories, and social policies in the light of the life they knew. If we would understand the product of those courthouses and state houses, we must understand that life and the impression it made on the minds of men. Much of the changing trend of law and of political and social policy is due to the declining number of men who have shared this experience. More men now come to the profession from the cities, fewer from farms. There isn't a whiff of the stable in a carload of college freshmen. More and more those who in court and classroom and legislative body restate our legal principles are men who have not experienced the country life of which our law was so largely the expression.

The county-seat lawyer and the small-town advocate are pretty much gone, and the small-city lawyer has a struggle to keep his head above water. Control of business has been concentrated in larger cities, and the good law business went to the city with it. The lawsuit has declined in public interest before the tough competition of movie and radio. Most rural controversies are no longer worth their cost to litigate. Much controversy has now shifted to the administrative tribunal, and the country lawyer hates it and all its works.

But this vanishing country lawyer left his mark on his times, and he was worth knowing. He "read law" in the *Commentaries* of Blackstone and Kent and not by the case system. He resolved problems by what he called "first principles." He did not specialize, nor did he pick and choose clients. He rarely declined service to worthy ones because of inability to pay. Once enlisted for a client, he took his obligation seriously. He insisted on complete control of the litigation—he was no mere hired hand. But he gave every power and resource to the cause. He identified himself

with the client's cause fully, sometimes too fully. He would fight the adverse party and fight his counsel, fight every hostile witness, and fight the court, fight public sentiment, fight any obstacle to his client's success. He never quit. He could think of motions for every purpose under the sun, and he made them all. He moved for new trials, he appealed; and if he lost out in the end, he joined the client at the tavern in damning the judge—which is the last rite in closing an unsuccessful case, and I have officiated at many. But he loved his profession, he had a real sense of dedication to the administration of justice, he held his head high as a lawyer, he rendered and exacted courtesy, honor and straightforwardness at the Bar. He respected the judicial office deeply, demanded the highest standards of competence and disinterestedness and dignity, despised all political use of or trifling with judicial power, and had an affectionate regard for every man who filed his exacting prescription of the just judge. The law to him was like a religion, and its practice was more than a means of support; it was a mission. He was not always popular in his community, but he was respected. Unpopular minorities and individuals often found in him their only mediator and advocate. He was too independent to court the populace—he thought of himself as a leader and lawgiver, not as a mouthpiece. He "lived well, worked hard, and died poor." Often his name was in a generation or two, forgotten. It was from this brotherhood that America has drawn its statesmen and its judges. A free and self-governing Republic stands as a monument for the little known and unremembered as well as for the famous men of our profession.

ROBERT H. JACKSON

Supreme Court of United States