

I Will Not Sit By and Say Nothing Again



Donald G. Rockwell

I will not forget an opportunity given to me a few years ago to expound on and promote the vital importance of our profession. The reason I remember it so well is not so much about the opportunity, but rather about my response—or the lack thereof, I should say. I failed to live up to the expectations I set for myself and, most likely, your expectations as well.

It was a Saturday morning and I was reading a magazine in the waiting room of a local tire store while my car's winter tires were being replaced with summer tires—a great time of year for me. Two men were sitting next to me, and I couldn't avoid listening to their conversation. One man was reading a newspaper article aloud to the other. The article was about lawyers and how the United States had the highest number and highest concentration of lawyers of any country in the world. From what I could determine, the article didn't appear to be judgmental toward lawyers in any way, but that didn't prevent the two men from drawing their own conclusions, which quickly led to them criticizing our justice system and assigning blame on this newly revealed (at

least to them) fact. "No wonder our justice system is so screwed up," said one, adding that "it was because of the way-too-many lawyers we have."

It would have been so easy to lean over, introduce myself, and politely ask if I could make a few points. I could have told them that approximately half of the signers of the Declaration of Independence in 1776 were lawyers, far outnumbering any other profession¹—and that they did so risking their lives, the lives of their families, and all the property they owned to establish a country with individual freedom.

I could have said that in the late 1700s, monarchs and dictators ruled the vast majority of the world. I could have further pointed out to these men that during this time, the legal profession comprised the majority of the delegates serving in the Constitutional Convention in Philadelphia.² This incredible group in Philadelphia carefully weighed the personal and property rights of individuals against the need of a centralized and structured government—a government that was to be selected and empowered by its citizenry—and the form of government established by our Constitution has withstood the trials of history for well over 200 years.

I could have mentioned that a group of lawyers led by future Supreme Court Justice

Thurgood Marshall convinced the Supreme Court in *Brown v Board of Education* to overrule the separate-but-equal doctrine, and by doing so, allowed our country to start down a true path toward equal protection under the law for everyone.³

I could have said that lawyers fought to ensure everyone the right to an attorney in criminal matters, even if one could not afford a lawyer, and that one is entitled to be given his or her legal rights when being arrested before seeing an attorney.⁴

I could have reminded them that when the outcome of the 2000 presidential election seemingly rested on bits of paper in Florida, the vast majority of the country slept soundly as the Supreme Court considered the matter.⁵ I could have also mentioned the insightful rhetorical question regarding *Bush v Gore* I heard on television from retired Wyoming Senator Alan Simpson, who asked something to the effect of, "Which country do you want to move to have this matter decided?"

I could have said that lawyers and judges have dedicated their careers to protect the rights of all to voice their opinions, including the right, of course, to roundly criticize the number of lawyers in this country.

Lastly, I could have pointed out to both of them that developed countries have the

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highest concentration of lawyers, and that in these countries, perhaps not coincidentally, people have the broadest individual rights.⁶

I could have said any or all of these things and more—but I didn't. I just sat there and read my magazine.

I don't know if injecting myself into their conversation would have made the slightest difference to them, but I know it would have made a difference to me. I haven't forgotten that Saturday morning and the missed opportunity to defend our profession. I continue to be disappointed in my failure to say something, anything, to defend our profession's efforts to make our nation fair and just for all who live here. I feel this disappointment most keenly now at the conclusion of my year as State Bar of Michigan president, a year that has given me the wonderful experience of meeting so many of our colleagues and witnessing their dedication to the rule of law. To say that I have been impressed with engaging our profession is an understatement. At no time in my life have I been prouder and happier to say I am a lawyer.

Needless to say, I have since vowed to myself that if I'm ever in a similar situation, I will not sit by and say nothing. ■

ENDNOTES

1. See USConstitution.net, *Signers of the Declaration of Independence* <<https://www.usconstitution.net/declarsigndata.html>>. All websites cited in this article were accessed August 22, 2018.
2. More than half of the delegates were trained as lawyers and some had served as judges. See Wikipedia, *Constitutional Convention (United States)* <[https://en.wikipedia.org/wiki/Constitutional_Convention_\(United_States\)](https://en.wikipedia.org/wiki/Constitutional_Convention_(United_States))>.
3. *Brown v Bd of Educ.*, 347 US 483 (1954).
4. The right to an appointed attorney under the Sixth Amendment is found in *Gideon v Wainwright*, 372 US 335 (1963). The right to be advised of your rights upon arrest is found in *Miranda v Arizona*, 384 US 436 (1966).
5. *Bush v Gore*, 531 US 98 (2000).
6. Here are some of the countries with the most lawyers: Clements Worldwide, *The Most Litigious Countries in the World* <<https://www.clements.com/sites/default/files/resources/The-Most-Litigious-Countries-in-the-World.pdf>> and here are the countries with the most freedoms: Freedom House, *Freedom in the World 2017* <<https://freedomhouse.org/report/freedom-world/freedom-world-2017>>.

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