

Lawrence M. Friedman  
A HISTORY OF AMERICAN LAW  
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The early colonial years were not friendly years for lawyers. There were few lawyers among the settlers. In some colonies, lawyers were distinctly unwelcome. In Massachusetts Bay, the Body of Liberties (1641) prohibited pleading for hire. The "attorneys" of early Virginia records were not trained lawyers, but attorneys-in-fact, laymen helping out their friends in court. In 1645, Virginia excluded lawyers from the courts; there had been a ban in Connecticut too. The Fundamental Constitutions of the Carolinas (1669) was also hostile; it was considered "a base and vile thing to plead for money or reward." Apparently, no lawyers practiced law in South Carolina until Nicholas Trott arrived in 1699. The Quaker colony at Burlington, West New Jersey, made do with a single lawyer until the end of the seventeenth century. In Pennsylvania, it was said, "They have no lawyers. Everyone is to tell his own case, or some friend for him. . . . 'Tis a happy country."

There is some evidence, then, to back Daniel Boorstin's comment that "ancient English prejudice against lawyers secured new strength in America. . . . [D]istrust of lawyers became an institution." Thomas Morton, who arrived in Plymouth about 1624 or 1625, has been called the first Massachusetts lawyer. He was jailed and expelled for scandalous behavior. Thomas Lechford, who had some legal training, arrived in 1638. He practiced in the colony as a courtroom attorney, and as a draftsman of documents. Lechford had unorthodox religious views, which won him no friends among the magistrates, nor did the fact that he meddled with a jury by "pleading with them out of the Court." It was an uncomfortable, hostile environment; Lechford eventually sailed back to England.

Distrust of lawyers arose from various sources. The Puritan leaders of Massachusetts Bay had an image of the ideal state. Revolutionary or Utopian regimes tend to be hostile to lawyers, at least at first. Lawyers of the old regime have to be controlled or removed; a new, revolutionary commonwealth must start with new law and new habits. Some colonists, oppressed in England, carried with them a strong dislike for all servants of government. Merchants and planters wished to run their affairs, without intermediaries. The theocratic colonies believed in a certain kind of social order, closely directed from the top. The legal profession, with its special privileges and principles, its private, esoteric language, seemed an obstacle to efficient or godly government. The Quakers of the Middle Atlantic were opposed to the adversary system in principle. They wanted harmony and peace. Their ideal was the "Common Peacemaker," and simple, nontechnical justice. They looked on lawyers as sharp, contentious — and unnecessary — people. For all these reasons, the lawyer was unloved in the 17th century.

In the 18th century, too, there was sentiment against lawyers. The lower classes came to identify lawyers with the upper class. Governors and their royal

parties, on the other hand, were not sure of the loyalty of lawyers, and were sometimes afraid of their influence and power. In 1765, Cadwallader Colden, lieutenant governor of New York, told the Board of Trade in England that the "Gentlemen of the Law" had grown overmighty. They ranked just below the large landowners, and just above the merchants in society. Lawyers and judges, said Colden, had such power that "every Man is affraid of offending them"; their "domination" was "carried on by the same wicked artifices that the Domination of Priests formerly was in the times of ignorance." Lay judges, too, may have resented the lawyers' threats to their competence and prestige. And as law became more "rational" and "professional," it became more confusing and remote to merchants and businessmen.

How strong the resentment against lawyers was, how deep it went, is hard to say. The evidence is partly literary; pamphlets and speeches are notoriously unreliable as measures of actual feeling among a diverse population. Some hatred was surely there; there is hard evidence of riots and disorders against lawyers and judges. Lawyers, like shopkeepers, moneylenders, and lower bureaucrats, are social middlemen; they are lightning rods that draw rage during storms in the polity. In 18th-century New Jersey, the "table of the Assembly groaned beneath the weight of petitions . . . invoking vengeance on the heads of the attorneys." The "Regulators," in late colonial North Carolina — a kind of vigilante group — rose up to smash corrupt and incompetent government. Lawyers were in the camp of the enemy. They perverted justice; they were "cursed hungry Caterpillars," whose fees "eat out the very Bowels of our Common-wealth." In Monmouth and Essex counties (New Jersey), in 1769 and 1770, mobs rioted against the lawyers.

But the lawyers were, in the end, a necessary evil. In the end, no colony could even try to make do without lawyers. . . .

The bar has always suffered from a certain degree of unpopularity. During the Revolution, it is said, lawyers became even more unpopular than before. If so, it was not for lack of heroes. Many lawyers were loyalists, to be sure; more than two hundred of these, perhaps, eventually left the country. About 40 percent of the lawyers in Massachusetts were loyalists. But, on the other side, almost half of the signers of the Declaration of Independence and more than half of the members of the Federal Constitutional Convention were lawyers. Jefferson, Hamilton, and John Adams, patriots without blemish, were lawyers.

The two groups might have canceled each other out in the public mind. If they did not, one must search deeper for causes of unpopularity. Some lawyers, not Tories themselves, defended the Tories against state confiscation laws between 1780 and 1800. Alexander Hamilton built a career by working for these unpopular clients. Yet even this fact does not carry one very far. Broader social forces were undoubtedly at work. Economic depression followed the end of the war. Clamor against lawyers was a tide that rose and fell with the business cycle. In Massachusetts, during Shays's Rebellion, there were uprisings against courts and lawyers; the lawyers seemed too zealous in the oppression of debtors. It was a common lay opinion that the law was all tricks and technicalities, run by un-

scrupulous men who built legal careers "upon the ruins of the distressed." "Lawyers," wrote St. John Crèvecoeur in 1782, "are plants that will grow in any soil that is cultivated by the hands of others; and when once they have taken root they will extinguish every other vegetable that grows around them. The fortunes they daily acquire in every province, from the misfortunes of their fellow citizens, are surprising! . . . They are here what the clergy were in past centuries. . . . A reformation equally useful is now wanted."

At various points in history, the lawyer has been labeled a Tory, parasite, usurer, land speculator, corrupter of the legislature, note shaver, panderer to corporations, tool of the trusts, shyster, ambulance chaser, and loan shark. Some of his bad odor is due to his role as hired hand. The rich and powerful need lawyers and have the money to hire them. Also, lawyers in the United States were upwardly mobile men, seizers of opportunities. The American lawyer was never primarily a learned doctor of laws; he was a man of action and cunning, not a scholar. He played a useful role, sometimes admired, but rarely loved. The role, of course, was shaped by concrete circumstances. A revolution is an attack upon a specific government; and the government in turn means specific men, in this case the local agents of the tyrant king, many of them lawyers. Later, with the rise of Jeffersonian and Jacksonian democracy, the leading political party opposed the idea of government by experts. This was a point of view that implied either some limits on the power of the bar, or opening the bar to all or more comers.

Under the pressure of American practical politics, it would have been surprising if a narrow, elitist profession grew up — a small, exclusive guild. No such profession developed. There were tendencies in this direction during the colonial period; but after the Revolution the dam burst, and the number of lawyers grew fantastically. It has never stopped growing.

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President Derek Bok, of Harvard University, took the occasion of his 1981-1982 Report to the university's Board of Overseers to say some words about lawyers and the legal profession. Notably, President Bok is a labor lawyer and former dean of the Harvard Law School.

**Derek Bok**  
**1981-1982 REPORT TO THE HARVARD**  
**UNIVERSITY BOARD OF OVERSEERS**

One half of our difficulty lies in the burdens and costs of our tangle of laws and legal procedures. Contrary to popular belief, it is not clear that we are a madly litigious society. It is true that we have experienced a rapid growth in the number of complaints filed in our courts. But filings are often only a prelude to