

TRIUMPHANT PLUTOCRACY

The Story of
American Public Life
from 1870 to 1920

By
R. F. PETTIGREW
Formerly United States Senator
from South Dakota



Printed by THE ACADEMY PRESS
112 Fourth Avenue, New York City

THE NEW YORK
PUBLIC LIBRARY

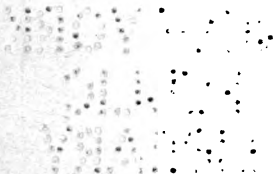
50077A

ASTOR. LENOX AND
TILDEN FOUNDATIONS
R 1922 L

Copyright 1921 by R. F. Pettigrew.

All rights, including the right of translation into foreign languages, reserved.

Published January 1, 1922.



XI. LAWYERS

The Constitution of the United States was made by business men. The work of managing and directing the government machinery that has been erected in pursuance of the Constitution has been placed almost exclusively in the hands of lawyers, who sit in the legislatures and make the laws; sit in the executive chairs and enforce the laws, and sit on the bench and interpret the laws.

Lawyers dominate the city, state and national governments to an astonishing degree. In one sense, they are the Government, at least in so far as manipulating its machinery is concerned. The lawyers have become a governing caste in the United States. Their official position is out of all proportion to their number.

The total number of "lawyers, judges and justices," as given in the census of 1910 (the latest one available at this writing) was 114,704. The same volume of the census reports that there were more than 38,167,000 gainfully occupied persons in the United States. That would make three lawyers for each 1,000 of the gainfully occupied population. Therefore, if the lawyers had their proportional share of the governing positions, they would get less than one-third of one per cent of the Government jobs.

The actual situation is far different. In the affairs of government—particularly of the Federal Government—the lawyer plays a leading part. He is only one one-three-hundredth of the gainfully occupied population, but he is the majority of those upon whom falls the duty of making and enforcing the laws.

Take the situation in the Federal Congress. There has never been a time during the fifty years that I have known Washington when the lawyers constituted less than half of the membership of both houses of Congress. Usually, they made up two-thirds of the membership. The proportion varies, but the principle holds. The present Congress (the 65th) reports in the

House 263 lawyers out of a total of 388 who gave their occupations. (No occupations were given for 47.) In the Senate, there are 60 lawyers out of a total of 89 Senators who reported their occupations. The census shows that the lawyers constitute only three in every thousand of the gainful population. In the Senate, they are in the proportion of 674 per thousand; and in the House in the proportion of 677 in the thousand. Thus, two-thirds of our national law-makers are lawyers.

The same thing holds true of our Presidents. Since the United States has become a government by the corporations, their presidential candidates have almost invariably been lawyers. Harrison, as President, was a lawyer, and reputed to be a good one. He had been preceded in that high office by Grover Cleveland, a lawyer from Buffalo, New York. Harrison was followed by Cleveland. Cleveland was followed by another lawyer—McKinley, who was elected and assassinated, and thus Theodore Roosevelt, who was his Vice-President, and not a lawyer, accidentally became President. He was succeeded by another lawyer, Taft, who was not a good lawyer. He had neither the judgment nor the ability to make a good lawyer, and he was therefore a very satisfactory representative of the predatory and exploiting corporations which, during all of my time in public life, have been the real force in control of the Government. Taft was followed by Wilson, a lawyer, and after his eight years the people elected Harding, another lawyer—giving him a plurality of more than six million of votes.

There is no question of party politics involved. Of all the Presidents that I have known, two were Democrats (Cleveland and Wilson); the rest were Republicans. With the exception of Roosevelt, all of them since Garfield—and including Garfield—have been lawyers.

The lawyers have an even higher percentage among the successful presidential candidates than they have among the members of Congress.

When it comes to the courts, the whole field is in the possession of the lawyers, who have built up a system of exalting the law above everything else in the land—life, happiness and liberty included. They have worked out a “precedent” under which no one may become a judge unless he has previously been a lawyer. As a matter of practical fact, it is not necessary that a judge should be a lawyer. On the contrary, a lawyer trained under the present system is not fit to be a judge, but the thing has been worked out in such a way that all of the judges are lawyers.

The position of the lawyers in the Government is absurd in view of their small numerical importance. There are only a little more than a hundred thousand of them in a country of more than a hundred millions, yet they make up more than two-thirds of the membership of both houses of Congress; the majority of the state legislatures; most of the governors; all of the prosecuting attorneys; most of the Presidents, and all of the judges. The lawyers enact the laws; interpret the laws and enforce the laws. The Government is a lawyer-government, and we are a lawyer-ridden country.

Then there comes a question. If the business men of the United States run the Government, as I have asserted that they do, how comes it that they are willing to let the lawyers hold all of the important public positions?

The answer to that question is very simple: Because the lawyers do it so well!

If the lawyers failed to do what the business men want done, the business men would soon put an end to their domination of the political machinery. The lawyers know that as well as the business men. But the lawyers are kept in their present position because they are such splendid representatives of the predatory interests. A lawyer, by his training and by his practice, is calculated to serve the ruling class of the country, and, where the rulers can get able servants, there is

no reason why they should do the work themselves. They have ample resources. They can afford to pay, and with the lawyers at hand to do their work they are as well served as though they served themselves. The lawyers are not experts in government, but in debauching and corrupting and crippling the Government in the interest of those who pay them their fees. So here they sit, in the legislatures, in the executive offices and on the bench, running the Government in the interest of those who are plundering the people.

Business interests support and finance their lawyer handy-men because these lawyers are able to do what the business world wants done. The lawyers have been developed into a class of professional manipulators and wreckers of Government machinery because they are trained from the outset to regard the interests of their clients as of greater moment than the public interest.

A man, to become a good lawyer, must have spent his life studying "precedent." What is precedent but the preservation of the *status quo*, and what is the *status quo* but the wisdom of yesterday? The good lawyer is therefore the lawyer who is able to preserve the shadow of yesterday and use it to darken the sunlight of today.

The good lawyer, to educate himself, pores over the Common Law of England. When his head is filled with seventeen hundred decisions handed down by judges who lived in the seventeenth century, before the American Colonies found the British rule intolerable, he fills up the chinks of his mind with Blackstone and with Kent's Commentaries. He then studies what the judges (lawyers) of the United States said during the past hundred years, and after that he is considered as prepared to defend the interests of the exploiters of America.

This precedent-fed human being is valuable to the great interests for three reasons:

First, because his study of precedent has rendered him incapable of thinking into the future and has thus made him a natural protector of things as they are;

Second, because the tradition of property rights inherited from the past can best be preserved through such a class of "dead-hand" experts;

Third, because the lawyer, under the ethics of his profession, is the only man who can take a bribe and call it a fee.

The real work of the world is done by those who envisage the future and prepare for it. Such an ability is the first essential in a statesman, or in any other person who assumes to play a role in the direction of human affairs. The lawyer finds it virtually impossible to look ahead. He has been trained to move forward with his eyes over his shoulder.

Any ruling class, depending for its profits on some special privilege, like the ownership of land or of machinery, must see to it that these special privileges are not interfered with, otherwise its source of profit may be destroyed. At one time, under the Feudal System, it was the church that acted as the policeman for the landlord, keeping the tenants quiet with threats of dire punishment in the hereafter in case they interfered with the sacred person or with the still more sacred property of their overlords. That function, at the present time, has been taken over by the lawyers, who threaten the penalties of criminal codes and of Espionage Acts for those who transgress the sacred precincts in which the property of their clients is enclosed.

All of this work is done by the simple method of allowing one man for himself and for his heirs, forever, certain corner lots and choice quarter-sections without which his fellows cannot continue to make a living. The world marches by his door and, for the privilege of so doing, it pays the property-holder his rent.

The lawyer has studied the precedents established by the land-holding aristocracy of Great Britain. From them he has derived the "common law," and to that he has added tens of thousands of pages of statutes which are designed to perfect the system the land-

holding aristocracy of Great Britain has worked so hard to establish.

The traditions of English civilization are traditions of wealthy land-holders and manufacturers and bankers, on the one hand, and an overworked, exploited population of laborers on the other. No one who has seen the condition of the British workers can have any delusions as to the terrible way in which they have suffered under the "property-first" system of British society. It is this system that is being perpetuated in the United States, by means of the Constitution, the laws, the courts and the lawyers, who are the handymen of big business, in control of every important branch of the public service.

The lawyer makes a good servant of the ruling class because he spends his life making the world believe that the property rights are more important than the human rights. Again, he is useful because he may be bribed at almost any stage of his public career, and may accept the bribe without losing his professional self-respect.

During the twelve years that I was a member of the United States Senate, more than two-thirds of the members of both houses were lawyers, and those in the Senate were generally old lawyers who had spent their lives in the service of the great interests. So far as I know, these lawyers, in both Houses, never hesitated to take a fee from any interest that wished to employ them. They satisfied their consciences by assuring themselves and their friends that no matter what the size of the fee it did not influence their actions as lawmakers.

I know personally of one Senator who received a fee of \$49,000 for representing one of the greatest of the industrial combinations in a case before a Federal court. This man was as honest a lawyer as I ever knew. His vote could not have been purchased for any consideration; yet after he had received the \$49,000 fee, if a question had come up which involved the inter-

ests of that corporation, or which was in the nature of an attack upon it, it is useless to insist that the thought of the fee would not have had at least some influence in determining what he should do and how he should vote.

Senator Edmunds of Vermont was chairman of the Committee on the Judiciary during the twelve years that I was a member of the United States Senate. He reported the Sherman Anti-Trust Law from that Committee. Afterward, the United States Government began a suit against the Joint Traffic Association, which was a combination of thirty-two railroads running west from New York, on the ground that that combination was in violation of the Sherman Anti-Trust law, the suit having been started before Judge LaComb, the Circuit Judge of the District of New York. The judge announced from the bench that he was disqualified from hearing the case because he was the owner of the stocks and bonds of the defendant railroad, and he said, in open court, that he believed every judge in the circuit was suffering from a like disqualification. The railroads had put their attorneys on the bench. It was finally found that Judge Wheeler, just appointed through the influence of Senator Edmunds, from the State of Vermont, was not the owner of stocks and bonds in the defendant railroads, and the railroads thereupon employed Edmunds to go before this judge—a creature of his—and tell the judge that the Sherman Anti-Trust Law was not being violated.

No one knows how big a fee Edmunds received, but it created no comment, for it is now well understood that a lawyer can be bought and call the purchase price of his opinions and convictions a fee.

In the case of Foraker, of Ohio, and Senator Bailey, of Texas, the amount of money paid them by the Standard Oil Company was so large, and the transaction was so under cover, that it excited no great amount of comment until the newspapers took it up,

and then the matter became so scandalous that the public thought it best to call a halt.

These are only illustrations. It is a universal practice among the lawyers of both Houses to take a fee from the industrial combinations whenever they can get it, and they boast among their fellow members if the fee is big enough to be worth while.

This was the practice during the whole twelve years that I was in the Senate.

From what I have said about the training of lawyers it must be apparent that a lawyer cannot be a statesman. First, because he is trained to look backward rather than forward and, second, because in order to be a statesman it is necessary to have some appreciation of the general welfare, and the lawyer can only represent his clients and assist them to protect and defend property rights.

How is it possible to produce statesmen under the conditions that prevail in the United States, or in any of the other great capitalist countries for that matter? Under the system the land, the resources, the means of transportation and the money power are handed over to the favored few. They manipulate the Government, through their agents, the lawyers, and thus the machinery that should be employed to feed and care for the people is employed for the enrichment of the few at the expense of the many. It is the lawyers who have acted as the go-between. They have drawn the papers under which the riches of the nation have been placed in the hands of a few, who hold legal commissions that enable them to rob the many. Under these circumstances, it is not the general welfare that is uppermost in the minds of those responsible for the direction of public affairs, but the manipulation of public business in such a way as to add still more to the power of those who hold the special privileges of the nation.

It is only in England and in the United States that

the people have been satisfied to build up a ruling class—the lawyers—and to put into their hands all branches of the Government.

The people of Russia have provided in their constitution that every person over eighteen years of age can vote if they are engaged in some useful employment, and have thus, in my opinion, disfranchised the lawyer, for a lawyer spends the first half of his life over the past, and the last half of his life trying to apply the past to the present, and lets the future go to hell; and I submit this is not a useful occupation.

Lawyers should be excluded from the bench and from every legislative assembly. A well-trained lawyer is unfitted for doing anything else except defending the cases that he is hired to defend, and he should be compelled to stick to that. Above all, he should not be entrusted with any share in the direction of public affairs.