

A QUESTION OF WHOSE OX IS BEING GORED

I just read the viewpoint [article] by the President Judge of the McKean County Court of Common Pleas, John M. Cleland, called "Remembering the Real Role Lawyers Play in Our Society." This article appeared in *The Pennsylvania Lawyer* of September/October 2005 and it is worth reading by all lawyers who recognize the legal profession's importance in society.

Judge Cleland comments on the broad-ranging attacks on American lawyers by the press and members of our society from time to time complaining, inter alia: "There are too many lawyers; they sue too much; they are responsible for ... the medical malpractice crisis [resulting in] high insurance rates," etc., etc.

The judge relates (in the hereinafter quotes) the extreme levels that these critics [reach]; an example of one editorial recites a line from Shakespeare: "The first thing we do, let's kill all the lawyers." He recognizes that the editorial writer who invoked Shakespeare in support of his argument never read the source of that quote, which appears in

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the play *Henry the Sixth, Part Two*, "a play that chronicles several simultaneous plots undertaken to overthrow the rule of King Henry VI." In that play is [a character] named Dick the Butcher. Dick is part of a group of conspirators who are led by "an illiterate, brutal, violent scoundrel" named Jack Cade, "rude and merciless" men whose vision for a new England is to "do away with Parliament and 'burn all the records of the realm,' [then] 'break open the jails



and let out the prisoners.'"

This group of conspirators ... desired to "dismantle the social fabric of England under King Henry the IV," "destroy the moral force of the church and its bishops" and "disband Parliament," resulting in the destruction of "the hard-won protections of the Magna Carta." Thus, Dick the Butcher knows just how to do it: "The first thing we do, let's kill all the lawyers."

As Judge Cleland writes, "This little bit of history and literature draws into focus a reminder of the important

role lawyers play in our society. Lawyers are skilled in the process of free government — the process by which we enact the rules of society, question governmental power, test the respective rights of citizens, arbitrate the conflicts of the community and maintain stability and order. It is that process that defines the kind of society we live in." He further states that we should not be "troubled by the fact that lawyers and judges are not always pop-

ular figures. ... It is often our duty to speak for those who have no voice and to stand by those who have been kicked aside. Theirs may be problems that the society would rather forget or ignore."

The judge admirably concludes, "We are a society of law. As a profession schooled in the law, it is our unique responsibility to assure that the law is used to protect the social welfare and promote the legitimate ends of government," thus, "we are worthy to continue the great traditions of our profession and genuinely to be called the protectors of freedom."

I am reminded of the criticism we lawyers are subjected to from time to time when I recall a conversation I had with a very prominent orthopedic surgeon with whom I was meeting. At that time, he decried the personal injury lawyers who were creating the insurance crisis and causing high insurance premiums to be paid by doctors, all, he said, resulting from the many malpractice verdicts being obtained by top lawyers. He said that we must get rid of them or doctors would leave this jurisdiction for other states where P.I. lawyers are not so successful. During our conversation, he mentioned the injuries his wife recently sustained because of the action of an orthopedist and that he was going to seek a top lawyer to handle his wife's case. He seemed to feel no reluctance whatsoever in pursuing a malpractice action on behalf of his wife, all of which he discussed with me following our conversation about personal injury lawyers.

I guess viewpoints are based on "whose ox is being gored."

Yes, it's true, as Judge Cleland judiciously notes, "As a profession schooled in the law, it is our unique responsibility to assure that the law is used to protect the social welfare and promote the legitimate ends of government"... and of doctors, too.

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