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The Legal System: Defective Product or Sign of the Times?

*Frank L. Maraist**
*Thomas C. Galligan, Jr.***

Charlie was not happy. He usually spent the week between Christmas and New Year's duck hunting, but he was stuck in New Orleans, getting in the remaining hours of CLE required to keep the Supreme Court off of his back. He continued to blame the Supreme Court and the state bar for forcing him to have to take those damn CLE courses. He believed good lawyers like him did not need such stuff. The bad lawyers were the problem. They forced mandatory CLE, and now all lawyers have to pay \$125 a year to catch them doing bad things. To top it off, the only program Charlie could get admitted to at such a late date was "Business Planning for the Successful Practitioner." When the speaker got to the subject of avoiding taxes, Charlie snuck out and across the street to a bar. He'd "been there and done that," losing most of his life's savings in the "lawyer investment credit" craze of the 1970s. "That damned tugboat," he said, almost aloud. Charlie blamed his partner at the time for recommending the tugboat deal. His law partner! What a fiasco that partnership had been. It hadn't lasted long and ended in a near fistfight. Times have changed, Charlie thought. A law partnership used to be like a marriage. "Hell," he said to himself, remembering his own failed marriage, "it still is. Marriages don't last long either and end up in fistfights."

Across the room, Charlie saw a familiar figure, sitting at a booth and making marks on a paper. It was Bill, his old law school buddy who was now a law professor. Eager for company (even that of a law professor), Charlie picked up his drink and ambled over to Bill's booth.

"Hi, old buddy," Charlie said, trying to sound enthusiastic.

Bill looked a little "put out" by the interruption. But he recovered quickly. "Hi, Charlie, it's good to see you. I was lost in thought, with these student papers."

"Oh, are you correcting final exams?" Charlie asked.

"No. I'm simply marking and grading them. I wouldn't live long enough to correct them."

Charlie smiled but wondered if his old law professors would have said the same thing about his exam papers thirty years before. Charlie still wished his professors had taught him a little real law and had not totally wasted two of his three years in law school.

"Well, are they good ones?" Charlie asked amiably.

"About the same as usual. The students work hard but I don't think this generation has the 'street smarts' we had, and it shows in their analysis of legal issues," Bill said.

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Charlie nodded, but he had never thought Bill had all that much common sense.

"I don't see why they're even going to law school," Charlie said. "I mean our profession is shot. It's hard for even us old timers to make a living anymore. Not only that, but it's getting where it's embarrassing to be a lawyer, what with all the jokes and the 800 numbers. When the U.S. Supreme Court said advertising was okay it began the ruin of our profession. That was the beginning of the end."

Bill had heard this talk before. Too much of it. He gave what was becoming his standard answer. "Charlie, I don't take much stock in what people say about lawyers. Those that haven't been involved in lawsuits don't know what good we do. So you can't believe them. And of those who have been involved in law suits, at least half lost their cases and are unhappy with the result and they just blame the lawyers. While most cases settle, no one is ever happy with a settlement. Later, after the deal is done, both sides get to thinking that they could have done better, and they blame their lawyers for not getting them more or costing them too much."

"Yea," Charlie said, "and the losing lawyer blames the judge."

"Apparently blaming the judge is becoming commonplace," Bill said. "Are you attending the seminar across the street?"

"Yep. Damned mandatory CLE. The worst thing since lawyer advertising."

"Did you get to hear the ethics portion this morning?" Bill asked.

"Not all of it," Charlie replied somewhat sheepishly. "I slept in but I heard the end. I'm gonna fudge a little and claim the hour. After all, I've got two extra hours this year. But what are you doing, attending CLE? Don't you get yours from teaching?"

"Well, I get 15 credits from teaching, but I still need to get in Ethics and Professionalism. So I have to go to one seminar a year. At any rate, the ethics presentation was about lawyer conflicts and lawyer conduct toward judges."

"The thing about these ethics and professionalism programs I don't like," Charlie said, "is that it's always a lawyer judging lawyers. Or, even worse, sometimes a law professor judging lawyers."

"But who else can judge us?" Bill asked. "Three-fourths of the public are either ignorant of or angry at the legal system. Besides, we let other professions judge themselves, don't we? We let doctors set the standard for malpractice."

"Not totally. If what doctors do is totally outrageous, we judge them. And we judge manufacturers by our standards."

"Yea," Bill said thoughtfully. "I guess, but I wonder how *our* product would measure up using the standards we impose upon manufacturers. I daresay it might be defective."

"You talk about our product, but what is our product? Justice? Settling disputes? Let's leave all that business and death stuff out of it. What is our product in terms of litigation?"

Bill assumed a professorial tone. "I don't think we know what our product is. And I don't think we can separate it from the producers."

Charlie looked a little dismayed. "Producers. What do you mean?"

"Well, whatever the product of the legal system is, it is the result of what judges, juries and lawyers do. And the buyer—the public—doesn't perceive the product separate from the producers."

"I'll buy that. I'm not sure I can separate them either," Charlie said. "And boy, don't the judges fail by any test? The public doesn't have the respect for the judiciary it had when I was growing up . . ."

"But that's natural," Bill interrupted. "When we were growing up, we were lucky to know one judge. Now there's one in almost every subdivision. The mystique is gone. It's too political and we know it. Maybe it was always political but we hid the politics behind the 'role' of the judge. Not now. Besides, judges must enforce unpopular laws. Perhaps the public expects too much of judges. They think they should be like Caesar's wife or husband." Twenty years of teaching law had made Bill a "gender neutral" writer and speaker.

"I still don't think we're getting the right people as judges," Charlie countered. "We're not getting the best men—I mean people—out of our profession. The pay is still a little low to attract the best. And who wants to run the risk of being voted out? If they adopted the Missouri plan, we'd get better judges."

"But who'd nominate the candidates and who would select them? If you put the Bishop of Lafayette on the committee to select judges, he would be besieged by politicians. And who would select from the nominees? The legislature? The governor? I think the elective process is the best."

"But," said Charlie, raising his voice, "look at what we have now. Business and lawyers buying judges. If a guy spends \$400,000 to be a district judge, he's got to get the money back from somewhere. And we know where it's coming from."

Bill's years as a professor told him it was time to counterattack. "I don't believe that," he said frankly.

"Even if it isn't always true," said Charlie, "if people think it's true, the system suffers enough from the public's perception."

"That may be right, but we have an appointive process for federal judges, and look what it produces—arrogant dictators. And it is far from free of politics. The federal judge just doesn't get elected directly. Did you ever know a federal judge who didn't owe his or her appointment to a politician?" Charlie pressed on. "I may not like to be in federal court but the appointed judge generally has a sound work ethic. Federal judges control their dockets. They usually are competent and their integrity is preserved by life tenure and the fact that they don't have to enter the usual political campaign to get their seats," Charlie put emphasis on the word usual.

"Yea, I'll give you that," Bill replied.

Charlie pressed on. "I'm amazed at what some judges will decide. We've got one back home who just doesn't understand negligence. I had a case in which my client ran off the road and into a telephone pole. I sued the telephone

company for placing the pole too close to the roadway, and the judge threw me out because he said the placement of the pole was not a 'cause-in-fact' of the accident. Even I know that 'but for' the pole being where it was my client's injuries would not have happened. But the judge said the pole placement was not the cause in fact of the accident. He said my client's driving was the cause. As if there could be one cause of anything."

"I know what you mean," said Bill. "I was on an Evidence panel with a judge and he said that if something was hearsay, it didn't come in unless it fit all of the hearsay exceptions."

"That simplifies evidence."

They were both smiling now, telling judge-bashing stories. Bill continued: "At least the elective process keeps the state judge a little humble. They must send federal judges to arrogance school before they swear 'em in."

"That's natural. Humility and life tenure can't coexist. Look at law professors . . . present company excluded. Biggest bunch of arrogant snobs you ever saw, and I'm being polite with that word, Bill. But, you know state court judges can get arrogant pretty fast. We elected a young gal as judge last year who I don't think ever tried a case before. The first week on the bench, she made a hundred errors but nobody was dumb enough to point them out to her. By the second week, she was talking about how we do things in 'my court.' The king, or queen, has no clothes, but who's gonna tell her?"

Charlie switched subjects slightly. "Bill, if you think the bar is critical of the judges, try the legislature. My state senator says judges remind him of hungry young birds, their mouths wide open for more benefits"

"Hold on to that one," Bill retorted. "Legislatures haven't liked judges since before *Marbury v Madison*. Judges declare acts unconstitutional, or, more often, they find 'ambiguities' and rewrite the law to their own suiting."

"You know, that used to bother me." Charlie was beginning to sound like a scholar. "But you can't ignore the fundamental difference between the legislature and the judiciary in the justice process. The legislature is supposed to make general rules that on the whole will produce just results. The judge must make certain the result is just in the particular case before him. Besides, the legislature has the last word. Look at all of this 'tort reform' we've been going through."

"Well," replied Bill, "it ain't over till it's over. The courts haven't interpreted that reform yet."

"Yeah, I know, but my point is that the legislature maybe should make general rules and then let the judge judge and the jury jury. The legislature ought to leave the detail to the judge; let the judge use his or her own judgment. Instead, the legislature is writing more and more specific laws, foolishly detailed stuff. It's as if the modern legislature uses tax laws as the models for perfect statutes: detailed and incomprehensible." Charlie pressed on, switching gears. "I can tell you that the weakest player in our game is the jury. They come up with dumb results, like giving the burglar 2% of the fault and giving 98% to the landlord with a defective latch. Besides, they're not only dumb, but they're not

fair. Our voir dire system is designed to produce a biased jury. And they cost too much. You know the average extra cost of a two day jury trial is about \$600."

Bill taugt procedure and he jumped on this one. "But that cost is outweighed by the value of the jury's participating in the lawmaking process. It gives every citizen a chance to participate directly in the system. It's democratic. Besides, did you know that studies indicate that while there is some inconsistency among jury awards, they are remarkably consistent and that the results reached in jury trials are remarkably consistent with the results reached in bench trials? As far as unfair juries are concerned, some judges let lawyers get away with too much on voir dire. The federal system works better."

"But didn't I hear that there is proposed legislation in Congress to force federal judges to permit the lawyers to conduct voir dire?"

"Yes," admitted Bill, "But it hasn't gone anywhere. At any rate, I think the real problem is that we give juries too much to do. We ask them to decide whether a professional, like a lawyer or a doctor, is negligent or whether a product's design is unreasonably dangerous. Those kinds of decisions require an understanding of the many policies underfoot in tort law, like promoting research and getting products to consumers more quickly and deterring unsafe conduct and products, even though there are some risks. Juries can't understand that. They usually just want to transfer money from the deep pocket to the shallow pocket. Or, now, they've bought the insurance company advertising and don't want to give anybody any money because they think it's coming out of their own pockets. We should only let juries decide those cases in which the only societal policy that is involved is fairness between the two particular parties. But we don't do that. I recall one case in which the issue was whether the agreement between the parties was a contract or a sale, and the judge let the jury decide that question, and simply read to them all of the articles of the Code on sales and on contracts. That's silly. We don't give the juries the right issues, and we don't instruct them properly."

This bit was a little too esoteric for Charlie. He wanted to get back on earth, and he chose the quickest exit. "But juries and judges don't get bashed nearly as much as lawyers do. That's the biggest problem most of the profession faces."

"But that's nothing new," Bill retorted. "People have always criticized lawyers. It just comes with the territory. Shakespeare wanted to kill all lawyers. Remember, a lawyer is a just a modern day hired gun. I bet that the loser's family didn't think much of Billy the Kid, either."

"Yep," said Charlie. "When I was a little boy, I heard a story that a lawyer was smarter than a buzzard because a buzzard needed all of his feathers to steal, but a lawyer could do it with just one feather."

"At least the jokes are getting better," replied Bill. "Somebody asked me the other day why Italy got the Mafia and America got the lawyers."

"I know. Italy had first choice," Charlie stole the punch line. "But don't you think people are more critical of lawyers today, and maybe we deserve some of it?"

"Well," Bill paused as he thought about it. "Surely advertising has hurt our image. And there's supposedly an oversupply of lawyers. I am told by more and more lawyers that the clients are calling the shots. An economics-driven profession is a client-dominated profession."

"But the oversupply is your fault—the law schools' fault. You train too many and you don't train them well. You don't teach them what they need to know to practice law, you don't really teach them ethics and you certainly don't teach them to be professional."

"Well, it isn't *my* fault." Bill was uncomfortable, on the defensive. "Law schools have been 'cash cows' for universities. Big tuition, little cost, comparatively. That's led to more admissions, fewer flunkouts, and larger classes, which means more lawyers."

"More incompetent lawyers," Charlie replied. "It's pitiful the way some of these younger folks don't know."

"I agree. But the decline in lawyer competency is not just because of the numbers. We've had an influx of social scientists into law faculties teaching all sorts of stuff like 'Law and Psychiatry' and things like that. People are not getting core educations in law school anymore."

"Well, whose fault is that?" Charlie asked. "Don't look at me. And what should you be teaching them if not how law impacts real life? I could have used 'Law and Psychiatry' a lot more than I used what some old guy who never tried a case told me about the rules of evidence. C'mon. You remember some of those folks we had teaching us. You remember the one who spent most of one class telling us that it was an open question whether the lawyer's lien trumped the undertaker's lien in distributing succession assets. How many lawyers would have gotten involved in a succession with that little money? And besides, my niece, who is a law student, says some of that Law and . . . stuff is the best stuff she takes. It's the first time in law school that she sees how what she learned as an undergraduate can tie in to what she's going to do for a living. I'm not nearly as critical as you; I think maybe I ought to be the academic and you ought to be the bitter old lawyer." Charlie laughed, pleased at his own sense of irony. "Why not an apprenticeship?" Charlie continued.

"Apprentice them to whom?" Bill asked. "We've thought about an intern program, but there are a lot of lawyers we don't want anywhere near our students, and we don't think we'd have the political guts to say so."

"I see your point," Charlie replied, assuming he was not one of the class to which Bill alluded. "But your lack of political guts isn't my problem. Maybe it's time you guys made some tough decisions instead of pretending that everything is peachy keen."

Bill nodded.

"But, you know," Charlie continued, "we used to have a *de facto* intern program for young lawyers with criminal appointments and those little 'fender-bender' subrogation claims and some *pro bono*. But now public defenders, legal aid, arbitration, and simple economics have taken most of that away."

"You're right," said Bill, "and the big clients won't let the big law firms charge them for training young lawyers. The days of three attorneys representing one client at a deposition or trial are almost over."

"They should be," said Charlie. "But, you know, I've been representing the textile plant that came into our town, and at first I just would send them a bill; then they wanted an itemized bill; and then, they told me some of the things I charged them for should have been done by a paralegal and they wouldn't pay me the regular rate for that. Then last year they sent my bill to another lawyer for a 'reasonableness review.' It's their right, but it hurt my feelings more than a little."

"I can imagine," said Bill. "There's a whole new profession developing which advises clients on what bills to pay, and how much. But I think there are some other reasons why lawyer competency appears to be on the decline. One, I think, is that we have too many laws on the books. A lawyer simply can't keep up."

"Tell me about it," said Charlie. "I filed a collection suit in the wrong venue and had to pay \$500 to avoid even bigger penalties. Something called the Fair Debt Collection Practices Act. I'd never heard of it until I bought part of it."

"Perhaps specialization is the answer," Bill observed.

"Aw Bill, that's just a way to let some lawyers charge more than others. Does taking a test really make you a specialist? And can a young mother who's being abused and desperately wants out of a relationship afford to look around for a 'Domestic' specialist?"

"Can she afford not to?"

"Oh man, don't give me that. Specialization happens, but we don't need to regulate it. Next you'll tell me we need specialized courts."

"Well, we already have them for bankruptcy and tax and family law in some places and criminal cases in some places."

"So," asked Charlie, "do you want an auto accident specialty court? And a consumer, non-personal injury, court? And more? Give me a break. We have to simplify this, not jumble it up more. Besides, specialty courts get jaundiced from seeing too much of the same thing. Look at specialized criminal courts. The biggest problem is that the judges see so many guilty people they are in danger of assuming that all defendants are guilty."

"I agree," replied Bill. "At least subconsciously they may do so. It's human nature."

Charlie was in high gear now. "Besides, as I said before, how can a law professor talk about too many lawyers when you control the flow? You plan the curriculum and you give the grades. And you give passing grades to Johnnie, who can't write and, just as bad, you don't teach him to write. I've seen some of these youngsters. They're functionally illiterate."

"I agree that some are, but most of them write adequately. Just compare their briefs with those of middle-aged lawyers. People our age are worse. The quality of lawyer work is abysmal. Anyhow, we can't teach both law and remedial writing at the same time, in three years."

"You could try to do something. At least teach them something meaningful. Remember, who gets paid first, the undertaker or the lawyer?"

Bill pursed his lips before speaking. "The fault lies in the educational system. Undergraduate and high school. I once heard a high school teacher complain that she couldn't teach the students proper English because the grammar school teachers had fallen down on the job."

"Oh, you can't blame everybody else. Take some responsibility," Charlie replied, missing the irony. Nonetheless, Charlie pressed: "Either way, why don't y'all keep down the number of graduates? We don't need that many lawyers. It ain't fair to anyone. It doesn't mean you have to fail them out—just don't let them in."

Bill countered: "Anti-trust laws might come into play here, assuming all of the law schools could agree. And we have to let in a certain number of students to keep operating, and you can't fail someone who does an adequate job on a law exam simply because we have too many lawyers. That would be unconscionable. And most of our students do adequate jobs on exams. Besides, we don't let them in just to become lawyers. We think a law degree is a very useful degree for all sorts of occupations or intellectual fields."

"Then tell them that. You don't say that. You let them in and then you act as if the be all and end all is practicing law in some firm somewhere. Why else do all sorts of young people who go to law school to do some good in the world come out and go to work for some big firm representing some big company, or looking for that one big case to make them rich? You guys do something to them. And whatever that something is, it isn't fair to hide behind 'what a good degree law is for other things.' That's true, but you don't say it often enough or clearly enough. So whose fault are all the problems then? The bar examiner's?" Charlie asked.

"I don't think so," Bill responded. "Louisiana's bar 'flunking' rate is one of the highest in the nation, and some time ago there were complaints that the bar examiners were flunking too many students to keep down the number of lawyers. Those complaints didn't get anywhere, and shouldn't have."

"Well maybe the lack of an effective disciplinary mechanism causes problems. Most lawyers think the disciplinary system is a joke. A lawyer steals from a client and gets a public reprimand."

"I've heard the same complaint many times," Bill said. "But it's just like flunking out a student because we have too many lawyers. We have to be careful not to deprive a person of a profession he's earned because he stumbled. And for every story about a lawyer who only gets slapped on the wrist, there's another about an ex-lawyer now working as an investment advisor."

"Yea," Charlie said. "The older I get, the more I want mercy and not somebody else's brand of justice."

"To get back to something you said before, advertising certainly is one of the culprits," Bill said. "I think the legal profession is attracting the modern day entrepreneur," Charlie said. "Those kinds of people used to borrow money to develop subdivisions or businesses and now they go to law school and get an 800

or 888 number and with a couple of good cases they make as much money as they could in business. You know, I think my wife hit it on the head the other day. She told me that what was wrong with the legal profession was that it was merely a microcosm of what's wrong with society. People see lawyers as greedy, but greed is rampant everywhere; we're only the scapegoats. Like she said, this is the 'if it feels good, do it' society, whose motto is 'if something bad happens to me, it must be somebody else's fault.'"

"Does that explain the rage of frivolous suits that lawyers file?" Bill asked.

"I think it does. It takes two to tango, a lawyer and a client who is willing to pursue a frivolous claim. Besides, we've become a transient society. Peer pressure doesn't resolve disputes anymore—judges and lawyers do. And the loser comes away hating the other lawyer and the judge. Sometimes his own lawyer, too. As my partner used to say 'a lawsuit is not a popularity contest.' You're lucky if you come out of it with your own client speaking to you."

Charlie looked at his watch. "Well, I've got to go. They're talking about employment discrimination and I've gotta learn something about that. Another one of those new areas of law that make this such a complicated business. That and ERISA. What did I hear it stood for the other day. 'Every Ridiculous Idea Since Adam?'"

"Amen," said Bill. "I've enjoyed our little talk. But we never did solve the big problem in judging our product, or even deciding what our product is supposed to be. Is it supposed to be justice, or is it supposed to be the speedy and inexpensive resolution of a dispute? And, are the two always compatible?"

"Not always. Sometimes it takes a case a long time to develop, and you may be forced to go to trial too early."

Bill looked at Charlie as though he were a student. "Suppose we were writing on a clean slate. What could we do to make sure our product was speedy and inexpensive justice? Do away with the jury system? Curtail discovery?"

"I'll buy that," Charlie said. "When I first started practicing, we didn't have all of that foolishness, and I think the lawyering was just as good. Back in those days, discovery was sitting in the courtroom before the trial and looking at the people who walked in, and if you didn't know what they were there for, you asked your client 'who's that?' If he didn't know, there probably was a surprise witness. But you know, 'trial by ambush' wasn't nearly as bad as nowadays, when we spend two thirds of our time and money on discovering or litigating over discovery. Anyhow, in trial by ambush, the more experienced lawyer has an advantage. Discovery is for the young folks. And for the tough folks. Look at all the Rambo tactics at depositions. I talked to Eddie, who does trial work with one of the biggest firms, and he told me his firm was looking to hire a big tough young lawyer to use as their designated puncher at depositions."

"I've got to remember that one," Bill replied. He continued: "Would you do away with class actions? One can argue that the class action simply has undercut the de minimis concept. Punitive damages? Pain and suffering? Adopt no-fault? But has it really worked elsewhere? The contingent fee? ADR?"

"Alternative dispute resolution?" Charlie asked.

"Yes. Arbitration and mediation. Both are becoming popular. In some states, there is mandatory pretrial arbitration and if a party rejects the arbitrator's award and doesn't fare better at trial, he pays *all* of the expenses, and maybe even the other side's lawyer's fees."

"Well," Charlie opined, "I like mediation. Particularly when I am having trouble with a client who won't be reasonable about settlement. It also makes me prepare my case earlier."

"Good point," replied Bill. "I think one of the problems is that lawyers can file suits from the 'gitgo' without thinking much about it, and they can develop the case through amendments. This prolongs litigation and runs up court costs. We need a mechanism which will require them to think out the case before they file it."

"Well," Charlie said defensively (you could tell Bill had struck a nerve), "it's that darned 'short fuse' statute of limitations. If we had two or three years like other places, we could give it more thought. Besides, Rule 11 takes care of the real abuses here."

"Not so," Bill fired back. "At least not in state court. A judge who is coming up for re-election is not likely to reach into the pocket of a lawyer who might oppose him or put up money against him. Another problem I have with early or fast filings of suits—it gets the judge involved in the discovery and settlement process too early, and that's not good, especially in bench trials and where the lawyers can't agree on discovery. Maybe we don't need more judges, but just require lawyers to be ready to try their cases when they file them."

"Well, professor, what is the answer to the mess we're in?"

"I don't know the answer," Bill summed up. "As a law professor, I'm just accustomed to framing the questions. But it's obvious that we need to do something. People who have never heard of Shakespeare are yelling 'let's kill all the lawyers'."

"Yeah," Charlie said, "but they'd better not kill 'em all. They'll need one to defend them on the murder charges."

Bill nodded. "And one to hear the case. Besides, I think what Shakespeare was talking about was that you first had to kill all the lawyers before you could have anarchy. Remember, we're still the oil that makes the engine of democracy run."

"On that, I'll leave," Charlie said.

"But you know, maybe part of the problem is in the democracy. It's a whole lot more democratic than it used to be. Women are a political, business, *and legal* force. All sorts of groups who never had a voice before have a voice now."

"So?" The professor was perplexed.

"So, maybe you've been in that ivy tower too long. Maybe the reason we have problems is because we're a different society and we haven't come to terms with that yet."

"Elucidate." Bill suddenly was fascinated by Charlie's thought.

"We are a new and changing society trying to write its own new rules. And that means there's more fights and more arguments about rules and more people trying to take advantage of the changes instead of trying to bring about a better system."

"You mean lawyers?"

"And other people too, yeah. So anyway, when there's change afoot you're going to see problems in dispute resolution. And those problems are aggravated because lawyers who are supposed to resolve disputes are part of the same process of change and consequently are just as confused as everyone else. We're on the cutting edge of a cutting edge society, and we ain't prepared for it."

"Yeah, and lawyers who got rich bringing some of that change to pass are thinking about getting richer instead of letting things settle."

"And other lawyers are trying to return us to a world that never really was by bringing back old rules," said Charlie.

"I get it; you just can't go home again."

"You can go home prof, but it's going to be a different place and you can either fit in to the new place or get out or stay in the old place and spend your time moping around and talking about the good old days."

"The solution?"

"I have none, prof. But I do think that whatever we lawyers do to improve the quality of justice, we have to make sure that we do it for this world and this society and not for the world we knew growing up."

"I agree, but isn't part of the problem the fact that law always lags behind society? It's just the reality that disputes usually get settled long after the fact."

"That's true," said Charlie. The two were silent for a moment. Then Charlie continued: "I started this talk with you all depressed about the state of the profession. I'm still concerned, but I think I'd rather be a part of it and a part of solving the problems of a new world than just complaining about it and saying how hopeless things are and always will be."

"An optimist?"

"I guess so," said Charlie. "But isn't that what a lawyer ought to always be." More silence. Then Charlie continued, "I sure have enjoyed the conversation."

"Me too," said Bill. "It beats the hell out of grading papers."

"I bet. But do me a favor Bill?"

"What's that?"

"Do a little correcting too. It'll be good for your soul." Charlie smiled. Bill smiled back.