

BUSINESS LAW AND PUBLIC RELATIONS

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I plead a cause and this is my brief. You are the Court. If I can convince you of the merits of my cause and persuade you to act on it, I make bold to prophesy that the standards of education in general, and of business law in particular, may be substantially advanced.

I shall start with

A Case in Point

Many years ago, as a callow youth, it was my privilege to work under the direction of a remarkable man. Six feet two, broad of shoulder, with a massive mane and bushy eyebrows, he was the youngest seventy-year-old man I ever knew. And in a day when the term "public relations" was mostly unknown except to those who confused it with "publicity," he perceived and applied the true principles of public relations in respect to the American Telephone & Telegraph Company, of which he was the head, to the end that this organization came to stand out as a shining example of enlightened public utility management. This result was achieved through no hocus-pocus publicity "gimmicks," no fanfare of extravagant claims, but by the recognition of a simple principle, namely, that if you are engaged in a worthy service and you want to extend it and make it more effective, you must let the public know what you are doing, and why; what your problems are and how the public can cooperate, not for the mere purpose of private gain, but for the mutual benefit of the public and the management which seeks to serve it.

Such was Theodore N. Vail, who took a telephone toy invented by a man named Bell and made it a household necessity that converted a continent into a community. Before the telephone was invented, no one knew that the world needed a telephone. Before Vail pledged the telephone industry to let the public into its confidence, no one dreamed of the extent to which an expanding America would come to depend on instant telephone intercommunication for its every business, social, personal, and emergency need.

The Spread of Public Relations

Other organizations and groups, too, have become growingly aware of the importance of establishing and maintaining a live contact with public opinion. This awareness by no means has been confined to industrial and commercial organizations and the numerous trade associations which have come into being during the past half century. Labor organizations, religious groups, social agencies, and numerous other non-profit organizations have come to realize the vital importance of public relations in enlisting either moral or monetary support, or both, for the advancement of their aims and objectives. I happen to be general counsel to three non-profit organizations--the United Service Organizations, Inc. (USO), The Society of Illustrators, Inc., and the Joint Ethics Committee of three leading art organizations in New York City. Two of these organizations maintain active public relations committees. I can attest to the vital usefulness of these committees in furthering the functions for which their organizations exist. Similarly, our professions--medical, dental, architectural, and legal--have found it not only useful, but essential to maintain, through committees or otherwise, alert and active media for informing the public.

Bar Associations and Public Relations

Since I am somewhat familiar with bar association activity in the field of public relations, I should like to say a word or two on that subject.

Every lawyer and most laymen know that lawyers have for many generations been the butt of jokes, gibes, and worse. As far back as Shakespeare's day, the Bard reflected this unpopularity when he made Dick the butcher say, in the grotesque Utopia planned by Jack Cade, "The first thing we do, let's kill all the lawyers." (Second King Henry the Sixth, Act IV, scene 2.) Until quite recently notwithstanding the growing high standards of the legal profession, jokesmiths continued to pick on the legal profession as a favorite hunting ground for sardonic humor, and the shyster has proved a favorite type for stage, screen, and radio villains.

The bar associations, though recognizing the unfairness of perpetrating this outmoded and somewhat libellous characterization of an honorable profession, were slow in acquainting the public with the steps they had taken to elevate the standards of the legal profession, i.e., the more rigorous qualifications of fitness and character for admission to practice, the committees for the maintenance of ethical standards, the committees on discipline and on unlawful practice of the law. Many lawyers shied away from the very term "public relations," as suggesting the type of publicity associated with the blatant hawking of merchandise, the commercial clamor of our advertising columns and the questionable quality of radio programs sponsored by "Curative Cough Drops" or "Aunt Matilda's Pancakes." Ultimately, however, recognition of the importance of informing the public on the true character of lawyers and the law--what the organized bar was doing and trying to do--was borne in upon the legal profession. The American Bar Association, state bar associations, and local bar associations began to establish committees on public relations to acquaint the public not only with what lawyers were doing to elevate and maintain the standards of the profession, but also to serve the public interest by free legal aid to the needy; by intensive study and report on public matters requiring attention; by providing able representation of the profession to assist the courts without compensation in speeding up calendars and promoting more expeditious justice, and in numerous other ways.

For five years I served as chairman of the committee on public relations of the largest local bar association in the world, with a membership of nearly nine thousand. It is my belief that I barely scratched the surface. But I did have the privilege of cooperating with the corresponding committees of the American Bar Association and numerous local bar associations, and can attest to the effectiveness of this activity, not only in establishing a friendlier attitude toward the legal profession, but--what is more important--in furthering the effectiveness of our bar associations in serving the profession and the public.

Public Relations in the Teaching of Business Law

How does all this bear on the teaching of law in our university schools of business?

The answer is not hard to find. If the maintenance of public relations is essential to the integrity and usefulness of the bar, an intelligently devised program of public relations is doubly imperative in the field of business education and a recognition of this fact cannot come too soon. What with the extremes that a post-Sputnik concentration on scientific courses may invite, the cause of true education may be seriously impaired unless the authorities are made

to understand that you cannot teach science in an educational vacuum without producing robots instead of men. A program of public relations in the field of business education is imperative for the following reasons:

1. The teaching of business law encounters not only the ancient prejudices connected with law and lawyers generally, but the added prejudices of many lawyers themselves who view the teaching of business law as a threat to the integrity of the legal profession; an inducement to substitute half-baked ideas for sound legal guidance.

2. There is a common concept in educational circles, shared, unfortunately, by many who plan our college curricula, that the teaching of law in any form is primarily vocational and should be carefully trimmed down or eliminated altogether lest it diffuse the educational process in the field of the "liberal arts."

The fallacy that teaching law to students of business threatens the integrity of the legal profession needs further explanation. It is only natural that there should be, among members of the bench and bar, misgivings in respect to the study of business law in our college courses in business administration. Lawyers are only too familiar with Pope's warning that a little learning is a dangerous thing. They understand only too well the basis for the quip that a man who is his own lawyer has a fool for a client. I served for eighteen years as vice-chairman of the Committee on Unlawful Practice of the Law of the New York County Lawyers' Association, and I understand this attitude only too well. But the fact is that the very reverse is true: a proper acquaintance with the basic principles of substantive law will alert the students to the legal involvements that may lurk in a proposed business transaction, so that instead of plunging into it without benefit of counsel, he will seek legal guidance where otherwise it might never occur to him that such assistance was necessary. The position has been well stated by Sam C. Hoyle, Jr., member of the Texas Bar and Professor of Business Law, Texas A & M College. In an article by Professor Hoyle, forwarded by Melvin F. Adler, vice-chairman of the Texas Bar Unauthorized Practice of Law Committee, to the Unlawful Practice News, and published by the latter in one of its issues a year or two ago, Professor Hoyle shows how the teaching of business law may constitute one of the most important factors in improving public relations and in combating the unlawful practice of the law. I quote from his article:

"Another matter which should be mentioned is the attitude of the bar in general and of some law schools toward Business Law. Many lawyers ridicule courses in Business Law and some law schools recommend that no courses be taken in Business Law as part of pre-legal education. This is an improper and unwarranted attitude, caused largely by the fact that most lawyers know little about the teaching of Business Law and by the further fact that too many non-lawyers are attempting to teach these courses. Certainly, the teaching of Business Law by non-lawyers, as has been pointed out, can lead to no good results for the bar or for the people of Texas, but, when taught by licensed attorneys, can be of the greatest value. We of the legal profession have done little to help or encourage the feelings of the public toward us. Our friends in the engineering, accounting, and medical professions are far ahead of us here, especially the doctors with their first-aid manuals, and books and articles on medicine. The layman needs legal first aid as well as medical first aid in order to protect himself against the legal emergencies into which he may unwittingly stray. Many a person has gone to the penitentiary, to the poorhouse, or suffered severe financial losses when a little legal knowledge

sensibly applied could have saved him. Many a lawyer has had to struggle against written statements of which his client had no copies, with documents signed without an understanding of their contents, or with estates where there was no will or one improperly drawn. It is important to teach the layman what to do when his lawyer is not immediately available and also to recognize situations which require the services of a trained attorney.

"The layman will not appreciate the need of going to a lawyer and of learning these lessons of self-protection unless he is given an elementary knowledge of the topics involved, as of contract law, tort law, and the like. Recently the writer saw an effective illustrated lecture concerning the heart and its diseases. The doctors can talk to us until they are blue in the face about the danger of over-eating and over-exertion, but we will not appreciate it or observe it nearly so much as when we find out how the heart acts, see pictures of it, and understand how injury is received. The same is true of Business Law. The practicing attorney has no better friend than a good teacher of Business Law. Such a teacher gives his students an insight into the complexity of legal problems, illustrates the methods of the experienced trial lawyer, and points out the pitfalls that actually occur in everyday affairs. Such a teacher emphasizes constantly the need of employing an attorney in matters of importance, and the great danger of attempting to be one's own lawyer. The teacher of Business Law can tell his students things which a lawyer hesitates to tell his clients, such as the need for a will or a contract properly drawn. If he is a licensed attorney the Business Law teacher can also be one of the strongest forces in the profession to combat the evil of unauthorized practice. For all of these reasons it is suggested that lawyers in general would do well to develop a more sympathetic attitude toward the teaching of Business Law.

"From a long-range point of view, the teaching of Business Law can be one of the most important factors in the improvement of the public relations of the bar as well as in combating the unauthorized practice of law. This is the opportunity and challenge presented to each Business Law teacher. It is hoped that a sustained and long-range program will be adopted by our State Bar to use to the maximum extent the teaching of Business Law as one of the important sources of bettering our public relations."

The fallacy that courses in business law diffuse the educational process in the field of "liberal arts." In analyzing this concept, we step at once into the hazy realm of definitions. Lawyers are familiar with the time-honored logician's adage, "Give me the right to frame definitions, and I will beat you at any argument." Since what we seek is truth, not argument, we must recognize that the terms "liberal arts" and "liberal education" are far from absolute. But if, as Prof. Joseph L. Frascogna suggests a liberal education consists in the pursuit and exposition of truth, there can be no question as to whether a liberal education includes a basic understanding of the rules by which we live as civilized human beings, i.e., the system of rights and duties and the remedies for their invasion which make possible the orderly process of living in a civilized community. The only question is the relative importance of such an understanding in any system of education we may devise. I believe that Professor Frascogna has made out a convincing case in support of the view that "academic provision for the study of business and for the preparation for participation in business is not only justified but is an educational necessity today." He has shown that that business law is an indispensable part of business education.

Basic Law Essential to a Liberal Education

With all due respect to Professor Frasca, I would go further. We live in a world where it is simply not enough for a student--if he is to cope successfully with the complex and rapidly expanding problems of today--to confine himself to the conventional academic studies. No matter what path he may pursue, he is bound to run into situations where a basic understanding of legal principles is at least as essential as a knowledge of history, English, economics, or psychology. Far from being a mere handmaiden to the study of business principles and business methods, I firmly believe that an academic study of the rules of justice by which we live is a sine qua non to a fully rounded and properly balanced education in a world where legal relations of man to man have become more closely interwoven than ever before in history.

I am not referring merely to the self-evident fact that the businessman of today must recognize the legal implications of what he is doing if he is to avoid expensive pitfalls and costly litigation. I am not merely pointing to the fact that every state in the union has made the study of commercial law mandatory if one is to practice in such professions as certified public accountancy. I am not alluding to the mandatory requirements of a basic knowledge of legal principles which have been imposed upon the practice of insurance counseling, estate planning, and similar quasi-professional activities. What I am referring to is the study of basic legal principles as a matter of education for education's sake, as an integral and necessary part of the liberal education of the man of today.

If I am right in this belief, then we as educators owe it as a public duty to alert the public to the importance of this truth, to the end that we may achieve a better-informed and better-educated citizenry. And we must do this now, before we and the rest of the country lose sight of this important truth in our newly-imposed zeal for specialization in the sciences. Whatever the extent of such specialization, we must never lose sight of the fact that a scientist, to make his work effective, must be more than a specialized robot: he must be a fully educated man. As Dr. Jonas Salk recently put it, he must diligently "nurture the creative spirit."

If we, as educators in this field, are to bring this important truth to full realization, we must hold the light high so that all may see.

This means public relations.

Meaning of Public Relations

Numerous books on public relations present an infinite variety of definitions. Public Relations News, a number of years back, invited its subscribers and others to submit suggestions for definitions and got back a snowstorm of some two thousand versions. The derogatory ones, such as press agency with a necktie, and publicity with a frock coat, are no longer considered smart or valid. The value of sound and honest public relations, as already stated, is now widely recognized.

Perhaps for our present purpose it will suffice if we define public relations as acquainting the public with what you are doing or aiming to do, so that, with public aid and understanding, you may continue to do it, and do it better.

Who is the Public in Public Relations?

It is important, however, to bear in mind the public you are trying to reach. Everyone with whom you and I are likely to come into contact is part of

our public. There are all classes and segments of the public, including ourselves, our colleagues, our students, our deans, our presidents, our trustees, our alumni, and everyone having any possible interest in education, which just about includes everybody.

But in a very real sense, public relations begin at home. We as a group engaged in teaching what we now call "business law" (how I wish we had a better and broader descriptive term!) in universities throughout the length and breadth of the land must get to know one another much better than we do, to commune with one another more frequently and more intimately than heretofore. Perhaps this could be accomplished by more intensive regional organizations, and by circulating the articles and papers published by our Association to all teachers of business law, whether members of the Association or not, with a covering note as to the advantages of membership. We must formulate more definitely, and yet more imaginatively, our true aims and purposes and the methods by which we can most effectively achieve them; in short, we must establish more effective "public" relations among ourselves before we can hope to achieve substantial results by a wider and more ambitious program of public relations throughout the country. If we are truly convinced of the cause we serve, if we are truly dedicated to its broader usefulness, we shall have made a considerable start toward effective public relations. The rest will be largely a matter of means and method.

Means and Methods of Public Relations

There is no standard method of achieving satisfactory public relations. Methods and means must be adapted to the service that is being rendered.

In my own experience, upon assuming the chairmanship of the Committee on Public Relations of the New York County Lawyers' Association, I started with the numerous committees of the Association. There were over sixty of them. For many years each committee was required to make an annual report to the Association's board of directors. This report was published in an annual volume, a copy of which went to each of the Association's nine thousand members. I doubt if anyone other than the proofreader ever read these reports. I therefore began by having the chairman of each committee, after each monthly meeting, submit at the close of each meeting, on a form prepared for the purpose, a short, crisp account of what had transpired that might be of interest to the membership and the public. These crisp summaries were published in the Association's monthly periodical, with press releases for the more noteworthy and newsworthy matters of public interest. The results were almost instantaneous. Round tables followed, to which the public was invited. The Association's name and activities began to figure more prominently in the public press. One of the committee matters achieved statewide and some national prominence, namely, Freedom of the Press v. Fair Trial, which dealt with the danger of allowing newspaper headlines and stories during the course of criminal trials to interfere with the jurors' impartial decisions.

We then followed up with radio and television programs on legal aid and other Association activities. We even appeared on CBS-TV's "Camera Three" in a program participated in by the Honorable David W. Peck, Presiding Justice of the New York Appellate Division; Alison Reppy, Dean of the New York Law School, and the writer of this article. The program concerned the evolution of modern justice and attracted considerable attention at the time.

These and other means are still being utilized by the same bar association in maintaining an alert program of public relations.

The means and method for achieving the most effective public relations on behalf of the American Business Law Association will necessarily have to be adapted to the aims, objectives and resources of its members. We should have the facilities as well as the alertness to pick up articles such as the one by Professor Hoyle which I have quoted above, and give them the widest possible publicity. We should have press releases prepared for outstanding points of public interest in papers read at the annual meetings of the American Business Law Association, and at such regional meetings as may be held in different parts of the country. If these releases are newsworthy and interestingly prepared, newspapers will be glad to publish them. The facilities for radio talks and television appearances on matters of public interest should not be neglected.

There is, of course, a practical side to public relations in the teaching of business law. In some respects teachers of business law, if not members of a forgotten profession, are most definitely members of a generally unappreciated profession. Yet the teacher of business law has a task more challenging than that of the law school instructor. To teach law to future practitioners, in the technical language that law students must accept and that law professors may force down their throats so to speak, is simplicity itself compared to the task of translating legal concepts into simple language to lay students as part of a broad educational pattern. It is a difficult and important task, worthy of corresponding reward. Adequate reward must be preceded by adequate public recognition.

Again I would emphasize the importance of immediate action before misguided, one-sided ideas have a chance to jell and work serious mischief in the field of true education. The steps to be taken should, of course, be dignified but forceful.

We shall get nowhere if, like Bottom in Midsummer Night's Dream, we propose to enact the part of the well-bred lion, and "roar you gently, like a sucking dove."

Our guiding star should be visible usefulness. The more visible our usefulness, the more useful we shall become.