

THE MYTH OF THE COUNTRY LAWYER

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INTRODUCTION

Everyone knows what a “country lawyer” looks like. He (it’s always a “he”) is middle-aged or older, an avuncular mix of wisdom and good humor. He is a generalist, in a small town, deeply connected to his community. He is trusted and respected. The person who is called upon when trouble threatens. Figures as diverse as Sam Ervin Jr. and Gerry Spence have called themselves “country lawyers,” and many lawyer obituaries claim that their subjects were “simple” country lawyers. The familiarity of the country lawyer qualifies it as an archetype in American culture.¹ But, surprisingly, as familiar as the country lawyer archetype is, there has been little analysis of the history, characteristics, or role of the country lawyer in American culture. This Article will examine how the country lawyer came to be a familiar figure in American culture, tracing the archetype through its fictional and non-fictional manifestations. The Article will also analyze how the country lawyer archetype has affected the public perception of the American legal profession.

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¹ See Collin Messer, *Lawyer*, in *THE COMPANION TO SOUTHERN LITERATURE* 418, 419 (Joseph M. Flora & Lucinda H. Mackethan eds., 2002). Here and throughout, the term “archetype” is used in the literary sense of a “universal symbol,” not in the Jungian sense. *Literary Devices: Archetype Definition*, LITERARY DEVICES, <https://literarydevices.net/archetype/> [<https://perma.cc/Q7HJ-GFRZ>].

I. MYTH

What is a myth? Typically, the label “myth” refers to “an unfounded or false notion,”² or a “widespread but untrue or erroneous story or belief.”³ However, the term “myth” as used in this Article refers to a broader definition of the term: “[A] popular belief or tradition that has grown up around something or someone; especially: one embodying the ideals and institutions of a society or segment of society,”⁴ or a “popular conception of a person or thing which exaggerates or idealizes the truth.”⁵ The country lawyer is above all a “popular” construct, that is, it embodies what people believe about lawyers. This myth can tell us much about the cultural role of the country lawyer—the myth embodies the “ideals” of society and in turn idealizes reality. The country lawyer is the idealized vision of a lawyer shared by the populace. By understanding the figure, we can understand the ideals of the society from which the lawyer springs.

It is impossible to pinpoint the origin of the phrase “country lawyer.” A British treatise published in 1786 is entitled *The Country Lawyer*.⁶ It is intended for the generalist practicing in small towns and therefore lacking access to large urban libraries, as noted by the author:

This Work, which is a Collection of all the useful Acts of Parliament, with the adjudged Cases therein, is designed to give persons that information on subjects which daily occur, and which they are frequently at a loss to obtain: they might collect it indeed from a variety of law-books, which the compiler of these pages has with some labour undertaken, but the books would be not only voluminous but expensive.⁷

Even lawyers practicing in larger cities outside London could be characterized as “country lawyers,” like the attorney described as “a

² *Myth*, MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY (11th ed. 2003).

³ *Myth*, OXFORD ENGLISH DICTIONARY (3d ed. 2003).

⁴ *Myth*, *supra* note 2.

⁵ *Myth*, *supra* note 3.

⁶ JOHN TRUSLER, THE COUNTRY LAWYER: CONTAINING, NOT ONLY LARGE ABSTRACTS OF THE SEVERAL ACTS OF PARLIAMENT, ON THE FOLLOWING HEADS, BUT ALL THE DOCTRINE AND ADJUDICATED CASES, AND EVERY THING RELATED TO EACH SUBJECT, WITH THE AUTHORITIES (1786).

⁷ *Id.* at a2.

country lawyer and recorder of Newcastle.”⁸ Although one source describes a “country lawyer” as an “oracle,”⁹ another asserts that a “Country Lawyer” is always ready to “undertake . . . a bad Cause from a half-witted Client.”¹⁰ In England, the division between city and country had political overtones: the city had supported Parliament in the English Civil War while the country was the bulwark of Royalist support.¹¹ Thus, although the sources themselves do not have an explicit connotation—is a country lawyer an admired figure or an object of ridicule?—the adjective “country” may imply a conservative, traditional connotation.

II. THE COUNTRY LAWYER IN FACT AND FICTION

A. *Lincoln*

In America, the ur-country lawyer is undoubtedly Abraham Lincoln.¹² The homely but wise “prairie lawyer”¹³ taking on any case that comes through the door, embedded in his Springfield, Illinois, community, a man of unimpeachable integrity¹⁴—this is the original vision of the country lawyer. Lincoln’s twenty-four-year legal career developed into the stuff of legend, as remembrances of Lincoln as lawyer were memorialized by Lincoln biographers after his assassination.¹⁵ By attending to the characteristics of legal practice by which his admirers sought to remember him, we can discern the

⁸ 2 SUPPLEMENT TO THE ENCYCLOPAEDIA, OR DICTIONARY OF ARTS, SCIENCES, AND MISCELLANEOUS LITERATURE 585 (1803).

⁹ 6 ROBERT HENRY, THE HISTORY OF GREAT BRITAIN, FROM THE FIRST INVASION OF IT BY THE ROMANS UNDER JULIUS CAESAR 33 (2d ed. 1794).

¹⁰ THOMAS D’UFREY A FOND HUSBAND: OR, THE PLOTTING SISTERS 13 (1678).

¹¹ See C.N. Trueman, *The English Civil War*, HISTORY LEARNING SITE (Mar. 17, 2015), <https://www.historylearningsite.co.uk/stuart-england/the-english-civil-war/> [<https://perma.cc/KH5G-ZK83>].

¹² See Benjamin P. Thomas, *Abe Lincoln, Country Lawyer*, ATLANTIC (Feb. 1954), <https://www.theatlantic.com/past/docs/issues/95nov/lincoln/thomabel.htm> [<https://perma.cc/Y5YS-SBN2>]. Some argue that Andrew Jackson is the original “country lawyer.” See Subhadeep Kumar, *Andrew Jackson – The 7th President of the United States*, WORLD ATLAS, <https://www.worldatlas.com/articles/andrew-jackson-us-presidents-in-history.html> [<https://perma.cc/C5KE-V4PL>] (last updated July 28, 2017). But this claim is implausible. It is doubtful that anyone thinks of Jackson as a lawyer, though he was a lawyer (and a judge as well). See *id.* He is probably best remembered as President and as a warrior, immortalized by the equestrian statue in Jackson Square, New Orleans. See James M. Goodem, *Four Salutes to the Nation*, WHITE HOUSE HIST. ASS’N, <https://www.whitehousehistory.org/four-salutes-to-the-nation> [<https://perma.cc/XV3G-ABEL>].

¹³ John S. Skilton, *Abraham Lincoln: A Lawyer “For The Ages”: From the Prairie to the Presidency-And Beyond*, 2011 WIS. L. REV. at 1, 3.

¹⁴ See *id.* at 5–7, 9.

¹⁵ *Id.* at 3–7, 9.

developing contours of the “country lawyer” in America.

Honesty is a foundational virtue of the country lawyer. The myth of Lincoln begins with his honesty in paying for a book he had borrowed that was damaged by rain. Here is the story as told by James Baldwin:

Among the books that he read were the Bible, the *Pilgrims Progress*, and the poems of Robert Burns. One day he walked a long distance to borrow a book of a farmer. This book was Weems’s *Life of Washington*. He read as much as he could while walking home.

By that time it was dark, and so he sat down by the chimney and read by firelight until bedtime. Then he took the book to bed with him in the loft, and read by the light of a tallow candle.

In an hour the candle burned out. He laid the book in a crevice between two of the logs of the cabin, so that he might begin reading again as soon as it was daylight.

But in the night a storm came up. The rain was blown in, and the book was wet through and through.

In the morning, when Abraham awoke, he saw what had happened. He dried the leaves as well as he could, and then finished reading the book.

As soon as he had eaten his breakfast, he hurried to carry the book to its owner. He explained how the accident had happened.

“Mr. Crawford,” he said, “I am willing to pay you for the book. I have no money; but, if you will let me, I will work for you until I have made its price.”

Mr. Crawford thought that the book was worth seventy-five cents, and that Abraham’s work would be worth about twenty-five cents a day. And so the lad helped the farmer gather corn for three days, and thus became the owner of the delightful book.¹⁶

Whether or not this story is apocryphal, Lincoln maintained his reputation for honesty even as a practicing lawyer in the rough and tumble of Illinois’s Eighth District, based in Springfield.¹⁷ He was

¹⁶ JAMES BALDWIN, *FOUR GREAT AMERICANS: WASHINGTON, FRANKLIN, WEBSTER, LINCOLN* 139–40 (2006).

¹⁷ See Skilton, *supra* note 13, at 9.

known for conceding points he could not contest.¹⁸ On one occasion, he represented a client in a suit for a debt, and upon being presented with a receipt in full signed by his client, he withdrew from the case.¹⁹ His nickname, “Honest Abe,” was cemented during this period of his life, surely a signal achievement in light of the “vague popular belief that lawyers are necessarily dishonest,” as Lincoln put it in a lecture subsequently titled *Notes on the Practice of Law* (1850).²⁰ He placed a high premium on honesty, warning newcomers to the profession:

Let no young man, choosing the law for a calling, for a moment yield to this popular belief. Resolve to be honest at all events; and if, in your own judgment, you can not be an honest lawyer, resolve to be honest without being a lawyer. Choose some other occupation.²¹

In death Lincoln belonged to the ages, but as a lawyer, he belonged to Springfield, Illinois, and the circuit of which it was center. Lincoln was known as a raconteur who mixed wit with wisdom.²² For ten weeks twice a year, he rode Illinois’s Eighth Circuit, consisting of fourteen counties surrounding Sagamon County.²³ During these journeys with fellow lawyers and the circuit judge, he and his colleagues gathered in inns and taverns to trade stories with the local residents.²⁴ Ultimately, “[h]e knew virtually everyone he ran into” and “was the most popular lawyer on the circuit.”²⁵ In fact, he was so well known that it was impossible to seat a jury who did not know Lincoln personally.²⁶ One result of this everyday interaction with small-town residents was a growing understanding and even empathy for just plain folk like farmers, shopkeepers, and craftsmen. As one of his contemporaries remarked: “Few men ever lived who knew, as he did, the mainsprings of action, secret motives, the passions, prejudices, and inclinations which inspired the actions of men, and he played on the human heart as a master on an

¹⁸ See DAVID HERBERT DONALD, *LINCOLN* 149 (1995); ALLEN D. SPIEGEL, *A LINCOLN, ESQUIRE: A SHREWD, SOPHISTICATED LAWYER IN HIS TIME* 45 (2002).

¹⁹ See CHARLES W. MOORES, *THE CAREER OF A COUNTRY LAWYER: ABRAHAM LINCOLN* 25 (1910).

²⁰ DONALD, *supra* note 18, at 149; Abraham Lincoln, *Notes on the Practice of Law* (1850), in *THE PORTABLE ABRAHAM LINCOLN* 33, 34 (Andrew Delbanco ed., 2009).

²¹ DONALD, *supra* note 18, at 149; Lincoln, *supra* note 20, at 35.

²² See Skilton, *supra* note 13, at 8.

²³ See *id.* at 9–10.

²⁴ See *id.* at 10–11.

²⁵ *Id.* at 11.

²⁶ MOORES, *supra* note 19, at 24; Skilton, *supra* note 13, at 11.

instrument.”²⁷ Thus, Lincoln exemplified not just legal knowledge but also the practical wisdom about human nature that enabled him to meet everyone on common ground.

Lincoln had the common touch. Humility was one of his cardinal virtues. He insisted, “I am not an accomplished lawyer.”²⁸ He was unprepossessing in appearance. Edwin Stanton described him as “a tall, rawly boned, ungainly backwoodsman, with coarse, ill-fitting clothing, his trousers hardly reaching his ankles.”²⁹ He was primarily a trial lawyer, and according to one judge who observed him, “[w]hen he came to the argument he had something to say to each juror, and he led each one to believe that, as attorney, his only duty was to help the jury find the truth.”³⁰ “I have sat on the jury in his cases,” one Illinois man observed. “He knew nearly every juror, and when he made his speech he talked to the jurors, one at a time, like an old friend who wanted to reason it out with them and make it as easy as possible for them to find the truth.”³¹

Lincoln’s lack of formal education, his storytelling skills, his ordinary appearance—all of these factors combined to make him accessible to non-lawyers. He used his legal knowledge and wit to “unmask pretense and vanity” and always maintained his “faith in the worth and fundamental goodness of plain people.”³²

Although he eventually became known as a “railroad lawyer”³³ because he so often represented the Illinois Central Railroad, Lincoln had a wide-ranging general practice.³⁴ He and his law partners handled more than 5,000 cases, of which 1,000 or more concluded with jury verdicts.³⁵ The vast majority of Lincoln’s practice was civil, with more than 3,000 cases classified as “debtor and creditor.”³⁶ His criminal practice was limited; he and his law partners “handled only 27 murder cases.”³⁷ In addition to his practice in the Eighth Illinois Circuit Court, Lincoln had an active appellate practice, appearing in “more than 400 appeals before the Illinois Supreme Court.”³⁸ He also litigated “at least 340 cases in the federal district and circuit

²⁷ MOORES, *supra* note 19, at 32.

²⁸ Skilton, *supra* note 13, at 22.

²⁹ *Id.* at 18.

³⁰ MOORES, *supra* note 19, at 24.

³¹ *Id.*

³² Thomas, *supra* note 12.

³³ Skilton, *supra* note 13, at 14.

³⁴ *See id.* at 5.

³⁵ *Id.* at 6.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

courts.”³⁹ These numbers paint a picture of Lincoln as a willing advocate, whether in Springfield or in one of the many towns around the circuit. Far from limiting his practice, he took on a variety of cases, including those involving issues of slavery,⁴⁰ taxation,⁴¹ and patents.⁴²

Finally, despite his thriving practice, Lincoln was notoriously unconcerned with fees. Not only did he represent some clients pro bono, in at least one case, he accepted payment in “wildcat currency.”⁴³ On one occasion, a client “sent [Lincoln] a check for \$25.00 for drawing up some legal papers,” but Lincoln returned ten dollars to the client, remarking, “You must think I am a high-priced man. You are too liberal with your money. Fifteen dollars is enough for the job.”⁴⁴ On another occasion, a banker asked a friend residing in Springfield to recommend a lawyer to represent the bank in a case worth “several thousand dollars.”⁴⁵ Lincoln was recommended, successfully represented the bank, and charged the bank twenty-five dollars.⁴⁶ The banker wrote to his friend, “We asked you to get the best lawyer in Springfield, and it certainly looks as if you had secured one of the cheapest.”⁴⁷

From this survey of Lincoln’s legal career, we can discern several salient characteristics of the country lawyer. First, the lawyer is embedded in a community, whose denizens know and admire him. Second, the lawyer values the members of the community and does not hold himself aloof. Third, the lawyer possesses legal knowledge, practical wisdom, and empathy. Fourth, the country lawyer is a generalist, representing a variety of clients in a variety of cases. Finally, the country lawyer is honest, humble, plain in appearance and dress, and unconcerned with financial gain.

³⁹ *Id.*

⁴⁰ See DONALD, *supra* note 18, at 157.

⁴¹ See, e.g., Ill. Cent. R.R. Co. v. County of McLean, 17 Ill. 290, 290–91 (1855).

⁴² See, e.g., McCormick v. Manny, 15 F. Cas. 1314, 1316 (C.C.N.D. Ill. 1856); Thomas S. Johnson, *Lincoln and the Great Reaper Trial*, ROCKFORD REG. STAR (Aug. 2, 2009, 1:04 AM), <https://www.rstar.com/article/20090802/NEWS/308029949> [<https://perma.cc/W66P-E7ZK>].

⁴³ MOORES, *supra* note 19, at 30; Kristen Sunday, *Pro Bono Gets Presidential*, MEDIUM, <https://medium.com/join-paladin/pro-bono-gets-presidential-afc578f29b9f> [<https://perma.cc/WT7F-DT4K>].

⁴⁴ DONALD, *supra* note 18, at 148.

⁴⁵ MOORES, *supra* note 19, at 30.

⁴⁶ *Id.*

⁴⁷ *Id.*

B. Samuel Selden Partridge

Soon after Lincoln's death, Samuel Selden Partridge was admitted to the bar in Rochester, New York, and traveled south to the small town of Phelps to investigate the possibility of "hang[ing] out his shingle" as a solo practitioner.⁴⁸ After encountering no resistance from the town's only other lawyer, Partridge decided to set up his practice in Phelps, where he found "a life that was close to growing things, people of the soil around him, neighbors who would be friends."⁴⁹ His son, Bellamy, who published a memoir of his father, *Country Lawyer*, in 1939, was conscious that his father's story represented an archetype:

The fact that these incidents have been taken from the practice of a single country lawyer in an upstate New York town should not be accepted as a reason for regarding either the town or the lawyer as regional. The setting could well have been duplicated in any of five thousand small towns scattered over the American landscape; and the country lawyer might as easily have sprung from Kansas or Kentucky origin as from a Vermont-born father and a mother of native New York stock.

The period of my father's practice as a country lawyer—the half century of comparatively peaceful times between Appomattox and Sarajevo—seems from the viewpoint of today to have been the golden age of the country town and the country lawyer. I do not mean to say that life was better then or fuller: merely that, more secluded and less regimented than life today, it gave greater scope to the development of the individual and of the flavor of the locality.⁵⁰

Partridge exhibited many of the characteristics pioneered by Lincoln. Like Lincoln, Partridge was admired and respected in his community.⁵¹ Beginning as a stranger in town, Partridge gradually became a busy lawyer, a leader in the Republican Party, and by analogy to an "amicus curiae," the "people's . . . friend."⁵²

Because Partridge came to Phelps having tried only one case, he

⁴⁸ BELLAMY PARTRIDGE, *COUNTRY LAWYER* 11 (1939).

⁴⁹ *Id.* at 12, 15–17.

⁵⁰ *Id.* at 6.

⁵¹ *See id.* at 316.

⁵² *Id.* at 166, 279.

decided to “school[] himself in the selection of jurors, the examination of witnesses, the tactful handling of the court, and the parrying with difficult counsel” by trying hundreds of cases in the justice of the peace court.⁵³ Just as Lincoln developed his legendary skills of cross-examination and argument by riding the circuit, so Partridge gradually developed “a gift in the selection of juries that amounted almost to clairvoyance.”⁵⁴ But the real secret to his busy practice was his willingness to take any case that came through the door.⁵⁵ In contrast to city lawyers, Partridge’s son observes, “Specializing is something that the country lawyer knows very little about.”⁵⁶ When Partridge first moved to Phelps, he did a kind of market study, analyzing the types of cases that would be in demand.⁵⁷ He noted that with the exception of a few mills, the majority of the area was devoted to farming.⁵⁸ He therefore began to develop an expertise in real property law, but he never limited his practice to only those cases.⁵⁹ Instead, his practice consisted of a dizzying range of cases involving “contracts, torts, decedents’ estates, domestic relations, negotiable instruments, bailments, fraud and deceit, justifiable error, trespass, ejectment, injunction, mandamus, partition, foreclosure, defamation of character, false arrest, breach of promise to marry, desertion, corporations, partnership, gifts, guaranties, and covenants running with the land.”⁶⁰ Partridge’s willingness to take any case that came through the door rapidly made him a popular lawyer.

Another aspect of Partridge’s practice made him popular: his fees. Like Lincoln, he did not charge exorbitant fees.⁶¹ In one case, Partridge drafted a will for one dollar.⁶² On another occasion, he won the business of the town’s wealthiest resident by charging him nothing for notarizing a document.⁶³ He also did pro bono work.⁶⁴ As his son recalled, he was outraged by injustice and would “accept the case of the veriest old vagabond against the mightiest if he thought there was any chance to uncover what he called ‘facial piety’ on the

⁵³ *Id.* at 28.

⁵⁴ *Id.* at 33.

⁵⁵ *See id.* at 279.

⁵⁶ *Id.* at 198.

⁵⁷ *See id.* at 37.

⁵⁸ *Id.*

⁵⁹ *Id.* at 198.

⁶⁰ *Id.* at 199.

⁶¹ *See id.* at 38–39.

⁶² *Id.* at 39.

⁶³ *See id.* at 40–41.

⁶⁴ *See id.* at 227.

part of the higher ups.”⁶⁵ Partridge’s practice fulfilled the prediction of the local banker, who warned him early on that he “would never get rich” in Phelps.⁶⁶

Ultimately, though, he became so popular that he was drawn into politics.⁶⁷ As Bellamy Partridge observes,

It is practically impossible for the country lawyer to keep out of politics. Whether he has a real interest or not he is likely to be dragged into every campaign. Practiced speakers are needed, either to discuss the issues for the voters or to preside at the rallies and introduce other speakers, and in the country town there are few men who can talk on their feet except the lawyers and the clergy.⁶⁸

Although Partridge never ran for public office, he was active in the Republican Party, and regularly attended Republican Party conventions.⁶⁹ Nevertheless, he “never allowed politics to interfere with his friendships, . . . and all through the county he had almost as many friends in one party as in the other.”⁷⁰ In fact, his Democratic friends engaged him to review and file their own campaign documents, indicating a level of trust in his integrity that is the hallmark of the country lawyer.⁷¹

Partridge’s standing in his community was hard-won and carefully maintained. Just as Lincoln came to Springfield as a young lawyer, so Partridge came to Phelps as an outsider and had to earn the respect of his potential clients. Of course, the qualities already mentioned—his assiduous attendance at the justice’s court, his willingness to take a wide variety of cases, his reasonable fees, and his political activity and integrity—contributed to his status. But there was something more, and his son strove to define the ineffable quality that made his father the community’s trusted counselor, advocate, and repository of family and professional secrets.

Early on, Partridge “made a point . . . of getting acquainted with” members of the community.⁷² But he did not join clubs and civic

⁶⁵ *Id.*

⁶⁶ *Id.* at 16.

⁶⁷ *Id.* at 167.

⁶⁸ *Id.* at 165.

⁶⁹ *See id.* at 165, 256.

⁷⁰ *Id.* at 256.

⁷¹ *Id.*

⁷² *Id.* at 40.

organizations.⁷³ As his son points out, “[Joining clubs] is of little use in a small town, where everybody knows everybody else without joining anything at all.”⁷⁴ Instead, the variety of work Partridge engaged in helped bring him in contact with his neighbors.⁷⁵ For example, he was hired by the Pennsylvania Railroad to clear title to land the railroad was acquiring for a short-line railroad near Phelps.⁷⁶ In doing so, Partridge encountered every landowner along the railroad and settled all the titles without litigation.⁷⁷ Another issue that arose with respect to his standing in the community was the potential animosity of those he bested in litigation; Partridge worried whether his vanquished opponents would hold their defeats against him.⁷⁸ But he assuaged his fears with a stoic philosophy:

As time went on my father became firmly convinced that the best course in the long run was to try his cases hard and clean, to win if it was humanly possible, and then to trust to luck that his opponents would believe that they had been beaten by a better man—or if they did not happen to be beaten, that they would know they had been in a real fight.⁷⁹

A final component of Partridge’s standing in the community was his integrity. He was scrupulous in maintaining his clients’ secrets.⁸⁰ For example, he once represented two partners in a grocery business.⁸¹ As he met with each partner in turn, he learned that each was stealing from the business, unbeknownst to the other.⁸² But, according to Bellamy Partridge, “he never told either partner what the other had confessed to him.”⁸³

But this was not the only instance in which Partridge became the repository of secrets; indeed, one characteristic of the country lawyer is that he keeps his finger on the pulse of the community, largely through listening to gossip.⁸⁴ As his son recalled, “My father used to say that gossip was the boon and the bane of the country lawyer’s

⁷³ *See id.* at 39.

⁷⁴ *Id.* at 40.

⁷⁵ *See id.*

⁷⁶ *See id.* at 45.

⁷⁷ *Id.*

⁷⁸ *See id.* at 46.

⁷⁹ *Id.* at 47.

⁸⁰ *See id.* at 207.

⁸¹ *See id.* at 204–05.

⁸² *Id.* at 205, 207.

⁸³ *Id.* at 207.

⁸⁴ *See id.* at 188.

existence.”⁸⁵ In the world of the country lawyer, “gossip” plays a benign role. Because country folk care about their neighbors, “[y]ou want to know who they are and what they are up to.”⁸⁶ Gossip gives the country lawyer the knowledge he needs to represent his clients effectively and, perhaps more importantly, to counsel them wisely. For example, Partridge believed that gossip was especially important in estate matters.⁸⁷ The facts necessary to contest a will almost always came through gossip, that is, shared community knowledge about the testator’s affairs.⁸⁸ In fact, Partridge used this practical wisdom to counsel his estate planning clients.⁸⁹ As his son recounts,

Occasionally an old shellback would come along who wanted to carry a quarrel beyond the grave and cut off the offending son or daughter with six cents. And though it was my father’s definite intention to let a testator dispose of his property according to his own inclinations, he would sometimes try to argue a man out of what appeared to be an unjust or spiteful act of disinheritance. “You can’t change these things after you are dead and gone,” he used to say, “and if, in another life, with a little clearer vision and a less prejudiced view, you find that you have made a mistake and are treating your own flesh and blood unjustly, you are not going to feel quite as well satisfied as you would if you could say, ‘Well, at least I gave him the benefit of the doubt.’”⁹⁰

Partridge was known as a sensitive listener; he could draw others out in order to overcome “the mental anguish from which shy people usually suffer when making disclosures of an intimate or confidential nature.”⁹¹ In his son’s words, “[He] never turned anybody away.”⁹² He became a sort of life coach to his community. Contrasting the city and the country, Bellamy Partridge asserts that city folks are not well acquainted with the law, which they encounter sporadically over the course of a lifetime.⁹³ For country folks, on the other hand, “the law

⁸⁵ *Id.*

⁸⁶ *Id.* at 187.

⁸⁷ *See id.* at 188.

⁸⁸ *See id.*

⁸⁹ *See id.*

⁹⁰ *Id.* at 237.

⁹¹ *Id.* at 256.

⁹² *Id.* at 279.

⁹³ *Id.* at 263.

is a real and living entity.”⁹⁴ They know the lawyers and judges personally, and they understand legal issues and “the machinery of the law.”⁹⁵ In contrast to city folks, who encounter the law unwillingly in a divorce or as a result of a traffic ticket, “[i]n the country a man goes to his lawyer as freely as he goes to his doctor. He has property rights and personal rights in which he takes a certain dignified pride, and he does not propose to have them trampled upon.”⁹⁶ It is the country lawyer’s job to know those people and their rights, to respect their dignified pride, and to make sure neither is trampled upon.

This duty sometimes requires the country lawyer to represent an unpopular client, and Samuel Selden Partridge did so in “his first big case.”⁹⁷ A series of arson fires had struck the town of Phelps, and the insurance company had sent an “undercover man”⁹⁸ to investigate. His suspicions fell on the Partridge’s gardener, “a simple man of the soil” named Jerry Billings.⁹⁹ As Bellamy Partridge describes his father’s defense of Billings,

In his defense he was not merely fighting for a client, he was defending a retainer and friend—and aside from my father Jerry had nobody that he could really call a friend. He had never taken the trouble to make any. All his life his attitude had been that he did not give a damn what people thought of him—and now he was fighting with his back to the wall while the hysterical townspeople, after the long torment they had been through, were in full cry for a victim.¹⁰⁰

Not only did Partridge undertake the defense of this unpopular client, he spent his own money “to investigate the private life of the undercover man, who was to be the principal witness for the prosecution.”¹⁰¹ After a contentious trial, the jury deliberated all night and all the next day before convicting Billings of arson.¹⁰² Despondent, Partridge appealed the case at his own expense.¹⁰³

⁹⁴ *Id.*

⁹⁵ *Id.* at 264.

⁹⁶ *See id.* at 263–64.

⁹⁷ *Id.* at 68–69.

⁹⁸ *See id.* at 50, 66, 74.

⁹⁹ *Id.* at 66, 69.

¹⁰⁰ *Id.* at 69.

¹⁰¹ *Id.*

¹⁰² *See id.* at 73–74.

¹⁰³ *Id.* at 74.

When Partridge informed his client that the appeal had failed, his grateful client responded, “Guess you done all you could—and a damn sight more’n I had any call to ask of you or anybody else.”¹⁰⁴ With his defense of Jerry Billings, Partridge added yet another component to the myth of the country lawyer: he defends the underdog.

C. Arthur Gray Powell

The Southern example of a country lawyer is found in Richard Holmes Powell, who was almost an exact contemporary of Samuel Selden Partridge.¹⁰⁵ After his release from a Confederate hospital at war’s end, he returned to his home town in southwest Georgia, a small town called Blakely.¹⁰⁶ Situated in an area of pine forests, Blakely was populated by folks who lacked formal education and had little money.¹⁰⁷ Powell read law with an older attorney in town and was admitted to the bar by “examination in open court.”¹⁰⁸ Like Lincoln, Powell rode circuit in several surrounding counties.¹⁰⁹ And like Partridge, he employed his son in his practice.¹¹⁰ Ten-year-old Arthur Powell mostly did copying work, but occasionally he was sent to the justice’s court to obtain judgment on a promissory note.¹¹¹

When Arthur formally joined his father’s practice in 1891, after reading law and passing his examination by a committee of local judges, he had already been practicing law for several years.¹¹² Like Partridge, he immediately began a busy practice (rather than the occasional practice he had had as a ten-year-old) in the justice’s court.¹¹³ As his father told him, “The justice’s court is the place to learn to practice law. . . . Never solicit a case; but take every case that is offered to you whether you get any money out of it or not.”¹¹⁴ He took his father’s advice and joined him in riding the local circuit, becoming acquainted with the judges and fellow lawyers who were likewise on the circuit.¹¹⁵ And like Lincoln and Partridge, Arthur

¹⁰⁴ *Id.* at 74–75.

¹⁰⁵ See Malcolm B. Seawell, Book Review, 1944 U. PA. L. REV. 344, 344–45.

¹⁰⁶ ARTHUR G. POWELL, I CAN GO HOME AGAIN 4–5, 26 (1943).

¹⁰⁷ *Id.* at 8–9.

¹⁰⁸ *Id.* at 27.

¹⁰⁹ *Id.*

¹¹⁰ PARTRIDGE, *supra* note 48, at 5; POWELL, *supra* note 106, at 59, 127.

¹¹¹ POWELL, *supra* note 106, at 59.

¹¹² See *id.* at 127.

¹¹³ See *id.* at 128.

¹¹⁴ *Id.*

¹¹⁵ *Id.* at 135.

Powell had a wide-ranging practice. As he put it, “One of the chief charms of a law practice, especially a country law practice, one of the things that keep it constantly interesting, is that the lawyer never knows where the next case is coming from”¹¹⁶ After the death of his father in 1900, Powell increased his practice to the point that he was handling cases in fifteen counties around Blakely.¹¹⁷

Until he was elected to the Georgia Court of Appeals in 1906,¹¹⁸ Arthur Powell played a role in his community similar to that played by Partridge in Phelps, New York. Like Partridge, he had a wide-ranging client base, and like Partridge, he kept his clients’ secrets. As counsel for the Georgia, Florida & Alabama Railroad Co., he was contacted by a train conductor who related an incident that had occurred on the train the previous night.¹¹⁹ The conductor, along with the baggagemaster, was involved in a confrontation with three passengers, and in the melee, one of the passengers was fatally shot by the baggagemaster.¹²⁰ However, the conductor told Powell that he wanted to take responsibility for the killing because the baggagemaster had a wife and children, while he, the conductor, was terminally ill and had provided adequately for his wife’s support.¹²¹ Powell undertook an investigation of the incident, and reported the facts of the incident to the sheriff, stating, “At that instant the shot was fired,” thereby accusing neither the conductor nor the baggagemaster.¹²² The grand jury refused to indict anyone in the death.¹²³ As Powell later wrote, “I sacredly observed, so long as he and the baggagemaster lived, his request that I should never tell that it was the baggagemaster and not he who had fired the fatal shot.”¹²⁴

In 1939, Bellamy Partridge wrote a eulogy for the country lawyer:

It was true what they said about nobody’s being able to take my father’s place—for that place had ceased to exist. The small town was no longer dependent on the country lawyer. All the best of the younger legal talent had begun to drift to the county seat or the larger towns. In the quarter century since my father’s death the drift has been pretty well

¹¹⁶ *Id.* at 258.

¹¹⁷ *Id.* at 246.

¹¹⁸ *Id.* at 293, 298–99.

¹¹⁹ *See id.* at 247–48, 251.

¹²⁰ *See id.* at 252.

¹²¹ *See id.* at 251–52.

¹²² *Id.* at 253.

¹²³ *Id.* at 254.

¹²⁴ *Id.*

completed. Here and there a shrewd old counselor will still be found among his battered books in a grubby, paper-littered office in an out-of-the-way country town. But the country lawyer, as he existed between the days of Abraham Lincoln and Calvin Coolidge, is no more.¹²⁵

At about the same time, Chief Justice Harlan Fiske Stone pointed out the changes in the legal profession that challenged the primacy of the country lawyer.¹²⁶ As reported by Justice Hugo L. Black,

Chief Justice Stone made an address some years ago which I would recommend that lawyers read from time to time. He pointed out there the changes that had resulted in society, and that lawyers should recognize that those changes had occurred. There were times, as in the little village from whence I came in Alabama, when the country lawyer took clients as they came. He did not know who the next client would be. There are some lawyers like that, of course, today; but Chief Justice Stone pointed out that as the economy of our society had changed there had been corresponding changes on the part of the legal profession. Lawyers had become specialists, precisely as business had been specialized. He pointed out that there were many firms in the country—not in criticism, but in recognition of the existing facts—which acted more on the basis of mass production.¹²⁷

D. Robert H. Jackson

Despite these eulogies, there was at least one modern example of the country lawyer: Robert H. Jackson, Supreme Court Justice and prosecutor at the Nuremberg Trials.¹²⁸ Like many other country lawyers, he bore that label at death, though the “country lawyer” identity is also one that was integral to Jackson in life.¹²⁹ Even at the peak of his success as a member of the country’s highest court, Jackson looked to his time as a “country lawyer” with a fondness

¹²⁵ PARTRIDGE, *supra* note 48, at 317.

¹²⁶ See Hugo L. Black, *The Lawyer and Individual Freedom*, 21 TENN. L. REV. 461, 466–67 (1950).

¹²⁷ *Id.*

¹²⁸ See Harold Jackson Adams, *A Tribute to Robert Jackson by His Nephew*, 68 ALB. L. REV. 2 (2004).

¹²⁹ See *id.* at 2; *American Lawyers Mourn the Passing of Mr. Justice Jackson*, 40 A.B.A. J. 970, 970, 972 (1954); Bennett Boskey, *Bob Jackson Remembered*, 68 ALB. L. REV. 5, 5 (2004).

bordering on reverence.¹³⁰ In recalling a conversation Jackson had with a friend later in his career, the friend said, “[Jackson] asked me what I was doing in that part of town, and I told him I was being a country lawyer again, looking up my own witnesses. He said: ‘Good for you. I wish I were back here with you doing the same thing.’”¹³¹

What sets Jackson apart, however, is that his awareness of his role as a “country lawyer” extended beyond himself.¹³² In his speeches and in his writings, Jackson painted an image of the country lawyer (or “county-seat lawyer”¹³³) that was, in many ways, an image of himself. In a speech entitled *The County-Seat Lawyer*, Jackson identified the country lawyer as “an American institution—about the same in South and North and East and West.”¹³⁴ Like Partridge, Jackson was a denizen of upstate New York. He was raised in the small town of Frewsburg, but after graduating high school, he moved to Jamestown, New York.¹³⁵ Jackson’s country lawyer “read law”¹³⁶ as Jackson himself did, studying only one year at Albany Law School before finishing his education through an apprenticeship.¹³⁷ Before his ascent from Solicitor General to Attorney General to Supreme Court Justice, Jackson was a general practitioner,¹³⁸ like the image of the country lawyer he envisioned, and “did not specialize, nor did he pick and choose clients.”¹³⁹

In his essay, Jackson noted the paradox that the small-town lawyer, like Lincoln and Partridge, could represent both the most powerful institutions in the community, banks and railroads, and the poorest of the community’s poor.¹⁴⁰ Jackson himself, early in his career, was in fact a “railroad lawyer.”¹⁴¹ Among his clients as a country lawyer were the “Jamestown Street Railway Company, the

¹³⁰ See *American Lawyers Mourn the Passing of Mr. Justice Jackson*, *supra* note 129, at 972.

¹³¹ EUGENE C. GERHART, *AMERICA’S ADVOCATE: ROBERT H. JACKSON* 46 (1958).

¹³² See *American Lawyers Mourn the Passing of Mr. Justice Jackson*, *supra* note 129, at 972.

¹³³ Robert H. Jackson, *The County-Seat Lawyer*, 36 A.B.A. J. 497, 497 (1950) [hereinafter Jackson, *County-Seat*]. This article relied on a book review Jackson had published earlier, Robert H. Jackson, *Tribute to Country Lawyers*, 30 A.B.A. J. 136 (1944) (book review).

¹³⁴ Jackson, *County-Seat*, *supra* note 133, at 497.

¹³⁵ John Q. Barrett, *A Jackson Portrait for Jamestown*, “A Magnet in the Room,” 50 BUFF. L. REV. 809, 810 (2002).

¹³⁶ See Jackson, *County-Seat*, *supra* note 133, at 497.

¹³⁷ *Jackson’s Albany Law Experience*, ALB. L. SCH., <http://www.albanylaw.edu/about/history/alumni/jackson/Pages/Jackson-Albany-Law-Experience.aspx> [https://perma.cc/Q5PC-4XV4].

¹³⁸ See WHITNEY NORTH SEYMOUR, *MR. JUSTICE JACKSON: FOUR LECTURES IN HIS HONOR* 1, 1 (1969) (“[Jackson] engaged in a *comprehensive* law practice in Jamestown for twenty years. . . .” (emphasis added)).

¹³⁹ Jackson, *County-Seat*, *supra* note 133, at 497.

¹⁴⁰ *Id.*

¹⁴¹ See *American Lawyers Mourn the Passing of Mr. Justice Jackson*, *supra* note 129, at 970.

Jamestown, Westfield and the Western Railroad Company, and John Wright's famous Jamestown Telephone Company."¹⁴² He "argued seven cases before the New York Court of Appeals" (New York's highest court) on subjects as diverse as shareholders' rights, charitable bequests, and workers' compensation, representing banks and employers.¹⁴³ Yet, Jackson also advocated for the underdog. For example, in an era of robust union-busting, "[o]ne of his first cases was the successful defense of strikers against a charge of criminal syndicalism."¹⁴⁴ This willingness to swim upstream against the tide of popular feeling, a willingness crucial for the development of the iconic status of country lawyer Atticus Finch, was included in Jackson's definition of the county-seat lawyer: "He was not always popular in his community, but he was respected. Unpopular minorities and individuals often found in him their only mediator and advocate."¹⁴⁵

Jackson had the typical characteristics of a country lawyer:

While modest in manner, he expressed his views with confidence and held them firmly. His statements were always vigorous and forthright, sometimes edged with satire or illuminated by flashes of wit. He was a natural-born lawyer, endowed with great native ability, a large fund of common sense and a strong grasp of the practical.¹⁴⁶

He was as comfortable addressing a jury of Jamestown farmers as he was arguing a case before future Supreme Court Justice Benjamin Cardozo.¹⁴⁷ Like Lincoln, Jackson became a rising star, as shown by this anecdote:

In February 1930, the American Law Institute's council met to vote on candidates who had been nominated for membership. Robert Jackson of Jamestown, then age 38, was one of the nominees. During discussion, a committee member

¹⁴² *Id.*

¹⁴³ John Q. Barrett, *Robert H. Jackson's Oral Arguments Before the New York Court of Appeals*, NEWSL. HIST. SOC'Y CTS. ST. N.Y., Spring/Summer 2004, at 3, 3-5, <https://www.roberthjackson.org/wp-content/uploads/2015/08/Robert-H.-Jacksons-Oral-Arguments-Before-the-New-York-Court-of-Appeals.pdf> [<https://perma.cc/EDD2-XWWU>].

¹⁴⁴ Philip Halpern, *Robert H. Jackson, 1892-1954*, 8 STAN. L. REV. 3, 5 (1955).

¹⁴⁵ Jackson, *County-Seat*, *supra* note 133, at 497; *see* Halpern, *supra* note 144, at 4-5.

¹⁴⁶ Halpern, *supra* note 144, at 3.

¹⁴⁷ *See id.* at 5; Barrett, *supra* note 143, at 4-5.

voiced his skepticism: “Who is Jackson? I have never heard of him.”

The ALI’s vice president, New York’s Chief Judge Benjamin N. Cardozo responded with a certainty that was prophetic: “You will—in time.”¹⁴⁸

Despite his growing reputation, Jackson turned down offers to join New York City law firms, choosing to remain in Jamestown, where he felt rooted in the community.¹⁴⁹ Jackson recognized the importance of community, not just to the success of the county-seat lawyer but also to the continued vitality of democracy in America.¹⁵⁰ Like Samuel Selden Partridge, he believed that denizens of rural communities are peculiarly sensitive to the role of law; they are in effect guardians of democracy:

[T]he circle of the man from the small city or town is the whole community and embraces persons of every outlook. He sees how this society lives and works under the law and adjusts its conflicts by its procedures. He knows how disordered and hopelessly unstable it would be without law. He knows that in this country the administration of justice is based on law practice. Paper “rights” are worth, when they are threatened, just what some lawyer makes them worth. Civil liberties are those which some lawyer, respected by his neighbors, will stand up to defend.¹⁵¹

Biographer Eugene C. Gerhart in many ways continued to fashion the image of Jackson as a country lawyer, a task first started by Jackson himself.¹⁵² In his seminal Jackson biography, Gerhart wrote, “Jackson’s method of working as a lawyer reflected his independent spirit.”¹⁵³ This “independent spirit” is itself a trait lauded by Jackson as being a part of the county-seat lawyer identity.¹⁵⁴ “He was too independent to court the populace,” said Jackson.¹⁵⁵ “[H]e thought of himself as a leader and lawgiver, not as

¹⁴⁸ Barrett, *supra* note 143, at 5.

¹⁴⁹ Halpern, *supra* note 144, at 5.

¹⁵⁰ See *American Lawyers Mourn the Passing of Mr. Justice Jackson*, *supra* note 129, at 972.

¹⁵¹ Jackson, *County-Seat*, *supra* note 133, at 497.

¹⁵² GERHART, *supra* note 131, at 50 (1958); *American Lawyers Mourn the Passing of Mr. Justice Jackson*, *supra* note 129, at 972.

¹⁵³ GERHART, *supra* note 131, at 52.

¹⁵⁴ See Jackson, *County-Seat*, *supra* note 133, at 497.

¹⁵⁵ *Id.*

a mouthpiece.”¹⁵⁶ This was a spirit, too, reflected by Jackson not just by biographers and by himself in theory, but in his own approach to lawyering.¹⁵⁷ E. Barrett Prettyman, Jr., who served as a law clerk under Justice Jackson,¹⁵⁸ wrote, “Jackson’s self-observation that he was ‘by temperament an individualist’ was borne out by his operation of the Solicitor General’s office.”¹⁵⁹ Prettyman notes that anecdotes of the time suggested Jackson rarely consulted his staff, a stark contrast to other notable Solicitors General preceding him in the role.¹⁶⁰ Even while on the Supreme Court, Jackson held steadfast to his individualism. Chief Justice Rehnquist, who also served as a law clerk to Justice Jackson, though with much less fondness than Prettyman seemed to,¹⁶¹ stated, “Justice Jackson never succumbed to that temptation [‘to become isolated in Washington’], and time and again vigorously reasserted his independence of judgment even though it might conflict with currently fashionable modes of thought. There was indeed always ‘a good deal of Frewsburg’ in him.”¹⁶²

Judge Charles S. Desmond, in a speech honoring Justice Jackson, echoed this continued individualism:

The virtue of independence which he praised in others was consciously his own Independence was always a basic element of his character, as witness his opposition to our armed involvement in World War I, and in many a political position taken by this outspoken Democrat in a strongly Republican Community.¹⁶³

¹⁵⁶ *Id.*

¹⁵⁷ See E. Barrett Prettyman, Jr., *Robert Jackson: “Solicitor General for Life”*, 1992 J. SUP. CT. HIST. 75, 77.

¹⁵⁸ E. Barrett Prettyman, Jr., *Robert H. Jackson: Head of State?*, 68 ALB. L. REV. 67, 67 n.** (2004).

¹⁵⁹ Prettyman, *supra* note 157, at 77.

¹⁶⁰ See *id.*

¹⁶¹ See Laura K. Ray, *A Law Clerk and His Justice: What William Rehnquist Did Not Learn from Robert Jackson*, 29 IND. L. REV. 535, 535 (1996) (noting the lack of close relationship alluded to by Rehnquist); Dennis Phillips, *Last Robert H. Jackson Law Clerk Passes Away*, POST-JOURNAL (Nov. 17, 2016), <https://www.post-journal.com/news/page-one/2016/11/last-robert-h-jackson-law-clerk-passes-away/> [<https://perma.cc/Q6GM-EVGV>].

¹⁶² William H. Rehnquist, *Robert H. Jackson: A Perspective Twenty-Five Years Later*, 44 ALB. L. REV. 533, 539 (1980). Frewsburg, New York, was where Jackson spent much of his childhood. *Robert H. Jackson Biography*, ROBERT H. JACKSON CTR. (Feb. 15, 2012), <https://www.roberthjackson.org/article/robert-h-jackson-biography/> [<https://perma.cc/VQ3R-CE8H>].

¹⁶³ Charles S. Desmond, *The Role of the Country Lawyer in the Organized Bar and the Development of the Law*, in MR. JUSTICE JACKSON: FOUR LECTURES IN HIS HONOR 13, 18 (1969).

Beyond his own definition of “country lawyer,” Jackson’s identity as a country lawyer became conflated with his identity as an American lawyer—a conflation played out after his death, but, perhaps, as well, even in life, in his role as a Nuremberg prosecutor. In an article published soon after Justice Jackson’s death, the American Bar Association wrote, “Well may American lawyers pause today and mourn the loss of America’s advocate at Nuremberg, of the country lawyer from Jamestown, New York, who became one of America’s greatest lawyers.”¹⁶⁴ And so, the country lawyer and the American lawyer became one being—both exemplified by Jackson. As Judge Desmond explains,

This is one chapter in the life history of Bob Jackson, small town lawyer who traveled long and far from the hill country of southwestern New York to the marbled halls of Washington; from a village boyhood to the inner councils of the National Government and a seat on the world’s most powerful judicial tribunal; from small city law practice to arguing before the Supreme Court some of the most significant constitutional issues ever litigated in America; from justice of the peace courts in Chautauqua County to the War Trials Tribunal at Nuremberg; from the representation of little people in little courts to representing the world’s conscience at an international judgment seat. And along that long road and to its end he traveled as a country lawyer.¹⁶⁵

“That lawyer has been an American institution,” said Jackson of the county-seat lawyer.¹⁶⁶

But inherent in that assertion is that American law is integral to the country lawyer’s practice. And American law is exactly what Jackson brought to the Nuremberg negotiations. “The judges will have to inquire into the evidence and reach an independent decision,” said Jackson of the Nuremberg defendants.¹⁶⁷ “I have no sympathy with these men, but, if we are going to have a trial, then it must be an actual trial.”¹⁶⁸ This evokes not only Jackson’s country lawyer’s dedication to American law, but also his assertion that the county-

¹⁶⁴ *American Lawyers Mourn the Passing of Mr. Justice Jackson*, *supra* note 129, at 972.

¹⁶⁵ Desmond, *supra* note 163, at 24–25.

¹⁶⁶ Jackson, *County-Seat*, *supra* note 133, at 497.

¹⁶⁷ Henry T. King, Jr., *Robert Jackson’s Transcendent Influence Over Today’s World*, 68 ALB. L. REV. 23, 25 (2004).

¹⁶⁸ *Id.*

seat lawyer was one who “respected the judicial office deeply,” and “demanded the highest standards of competence and disinterestedness and dignity.”¹⁶⁹ Even a continent away, following a great atrocity, Jackson, a country lawyer to his core, “respected the judicial office deeply.”¹⁷⁰

E. Sam Ervin and Gerry Spence

By the time Robert Jackson served on the Supreme Court, the country lawyer figure was well established in the American mind. A lawyer who called himself a “country lawyer” (or a “simple country lawyer”) associated himself with the virtues originated by Lincoln: honesty, practical wisdom, community approbation and respect, concern for the underdog, wide-ranging legal skills, and a lack of care about money.¹⁷¹ Prominent public figures as diverse as Senator Sam Ervin and Gerry Spence have called themselves “country lawyers.”¹⁷² In his book, *Humor of a Country Lawyer*, Ervin explained that he invoked the term when a Republican colleague on the Senate Select Committee on Watergate objected to his strenuous questioning of a witness:

As a practitioner of the biblical admonition “a soft answer turneth away wrath,” I said: “I have asked the witness questions to find out what the truth is. I am sorry my distinguished friend from Florida does not approve of my method of examining the witness. I am an old country lawyer, and I don’t know the finer ways to do it. I just have to do it my way.”

Lyndon Johnson once said to me, “When I see a country lawyer approaching, I grab my pocketbook, and run.” I replied, “That’s not surprising. Country lawyers often compel evil-doers to disgorge their ill-gotten gains.”

Country lawyers have some advantages their more prestigious city brethren do not enjoy. Their clients come to them from all classes and conditions of men. They take their

¹⁶⁹ Jackson, *County-Seat*, *supra* note 133, at 497.

¹⁷⁰ *Id.*; *see, e.g.*, King, *supra* note 167, at 25–26.

¹⁷¹ *See* DONALD, *supra* note 18, at 148–49; Molly A. Guptill, Note, *The More Things Change the More They Stay the Same: Mr. Tutt and the Distrust of Lawyers in the Early Twentieth Century*, 3 CARDOZO PUB. L. POL’Y & ETHICS J. 305, 322–23 (2004).

¹⁷² SAM J. ERVIN, JR., *HUMOR OF A COUNTRY LAWYER*, at x (1983); GERRY SPENCE, *THE MAKING OF A COUNTRY LAWYER* 331 (1996).

cases, civil or criminal, great or small, and learn to appraise aright their joys and their sorrows.¹⁷³

Like the typical country lawyer, Ervin returned to his small-town home, Morganton, North Carolina, after receiving his law degree from Harvard.¹⁷⁴ He immediately took a seat in the North Carolina General Assembly, having been elected prior to his graduation from law school.¹⁷⁵ His law practice was varied: “He represented all kinds of clients—rich and poor, black and white—in all kinds of cases, in all kinds of courts, all across western North Carolina.”¹⁷⁶ Although Ervin was generally conservative in his politics—he led Southern Senators’ opposition to *Brown v. Board of Education*¹⁷⁷ and opposed the Equal Rights Amendment¹⁷⁸—he did display concern for the underdog in his law practice. For example, he defended Arthur Montague, an African-American man accused of raping a white student at the North Carolina School for the Deaf.¹⁷⁹ After Montague was convicted and sentenced to death, Ervin paid for his appeal out of his own pocket, “for which he received a good deal of criticism back home in Morganton.”¹⁸⁰

Another self-styled country lawyer, Gerry Spence graduated first in his class from the University of Wyoming law school in Laramie, and set up practice in the small town of Riverton, Wyoming.¹⁸¹ In his autobiography, *The Making of a Country Lawyer*, Spence recounts his early days of practice in a two-man office, where he learned to write title opinions.¹⁸² After his partner retired, Spence went solo, noting, “I didn’t know how to file the simplest case in the justice of the peace court”¹⁸³ So, like Samuel Partridge before him, Spence went to work in the justice of the peace court, eventually learning his trade well enough to be elected county attorney.¹⁸⁴ Spence describes his campaign strategy this way:

¹⁷³ ERVIN, *supra* note 172, at x–xi.

¹⁷⁴ KARL E. CAMPBELL, SENATOR SAM ERVIN, LAST OF THE FOUNDING FATHERS 48 (2007).

¹⁷⁵ *See id.*

¹⁷⁶ *Id.* at 50.

¹⁷⁷ *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954); CAMPBELL, *supra* note 174, at 99 (“Ervin’s sophisticated opposition to the *Brown* decision earned him a reputation as one of Jim Crow’s most articulate defenders.”).

¹⁷⁸ *Id.* at 179 (“No politician did more than Sam Ervin to defeat the ERA.”).

¹⁷⁹ *Id.* at 51–52.

¹⁸⁰ *Id.* at 52.

¹⁸¹ *See* SPENCE, *supra* note 172, at 263, 274.

¹⁸² *See id.* at 275, 277.

¹⁸³ *Id.* at 279.

¹⁸⁴ *See id.* at 295.

A few days before the election, I took out a large ad in the Riverton paper proclaiming that, while both my opponent and I were native sons, I was the only candidate who could claim he was Wyoming educated, the only one who was a practicing Fremont County attorney, the only candidate professionally listed as a Wyoming lawyer, the only continuous resident of the county, the only parent and homeowner and civic leader, and I was experienced in the law. I was, in short, one of the folks while my opponent was, I implied, a mere carpetbagger who had moved into the county for the sole purpose of running for political office.¹⁸⁵

Having whetted his appetite for political office, Spence followed in Lincoln's footsteps and ran for Congress in 1962 on the Republican ticket.¹⁸⁶ After being soundly defeated, he returned to his solo practice.¹⁸⁷

As one of the "folks," Gerry Spence, like Lincoln, knew everyone in town. A trip down the Main Street of Riverton made him realize that he either knew or represented every shopkeeper on the street.¹⁸⁸ As he put it,

We didn't represent a bank and we didn't represent the oil and mining companies—that's where the big money was—but we represented many of the local folks, state law providing that the county attorney could take on private cases so long as they weren't in conflict with his official duties.¹⁸⁹

He quickly gained a reputation as a successful trial lawyer, taking "the cases as they came."¹⁹⁰ He became a champion of the underdog: "I held the so-called 'lowliest' people up in the faces of the petty politicians. I shoved the poor and the powerless down their throats, for my clients' vengeance, and for my own. If there was an unpopular case, I took it."¹⁹¹ But he also served the traditional country lawyer role as adviser, noting, "If someone was in trouble, he came to me for advice. He knew nothing would shock me . . ."¹⁹²

¹⁸⁵ *Id.*

¹⁸⁶ *See id.* at 332, 334.

¹⁸⁷ *See id.* at 341–42.

¹⁸⁸ *See id.* at 316.

¹⁸⁹ *Id.* at 317.

¹⁹⁰ *See id.* at 351–52.

¹⁹¹ *Id.* at 351.

¹⁹² *Id.*

However, like Lincoln, who simultaneously represented common folk and railroads, Spence eventually became the modern-day equivalent of a “railroad lawyer”: he yielded to the temptation of steady money and became counsel to the St. Paul Insurance Company.¹⁹³ But, unlike Samuel Partridge, who found that the townspeople of Phelps did not hold his positions against him, Spence learned that his victories for the insurance company at the expense of the little guys in Riverton alienated him from his community.¹⁹⁴ One day, he walked into the Teton Hotel Coffee Shop, and “the talking stopped”.¹⁹⁵

The mayor was there, always was, the city engineer, too, the chief of police, the old boy who ran the local shoe store, the local Coors distributor, the owner of the electrical supply house, the owner of the local lumber company—they were the town fathers. I knew them all, knew their kids, their wives, their customers, their competitors, their enemies, their cousins . . . ; knew them, and had known them for all those years.

When they saw me walk in, they looked silently away. Not one invited me to join them. I was a pariah, all right. . . . I had sued some of them, or some member of their family, some of the lawsuits so long ago I had nearly forgotten. But they hadn’t forgotten. . . . I’d lived in Riverton, Wyoming, those seventeen years, and I’d been successful in alienating nearly every living soul in that small, forgiving community.¹⁹⁶

Ultimately, Spence underwent a crisis of conscience, realizing that he could no longer “cheat old men out of justice.”¹⁹⁷ Thereafter, he refused to represent “non-breathers”: “I refused to represent any insurance companies and any banks and any more of those invisible creatures called corporations, those fictional entities created by man that permit men to do against each other what they would not do in their own names.”¹⁹⁸ Just as “country lawyer” Abraham Lincoln became President of the United States, and “country lawyer” Sam Ervin became Senator from North Carolina, “country lawyer” Gerry

¹⁹³ See *id.* at 381, 383.

¹⁹⁴ See *id.* at 403.

¹⁹⁵ *Id.* at 402.

¹⁹⁶ *Id.* at 403.

¹⁹⁷ *Id.* at 424.

¹⁹⁸ *Id.* at 425.

Spence became America's highest-profile trial attorney, winning millions for the estate of Karen Silkwood and successfully defending former Philippines first lady Imelda Marcos against criminal charges.¹⁹⁹

F. Ephraim Tutt

Yet, as firmly established as the country lawyer myth is in fact, it is perhaps even more firmly established in fiction. Perhaps the most controversial image of the country lawyer is the one who bridged the realm between fiction and reality: the short story, novel, and "autobiography" character, Ephraim Tutt. He appeared in eighty-six short stories in *The Saturday Evening Post* between 1919 and 1945, which were collected into three book-length collections.²⁰⁰ Although forgotten today, except by legal and literary scholars, Tutt was "[t]he most famous fictional lawyer of the early 20th century."²⁰¹

Tutt, the creation of author and lawyer Arthur Train,²⁰² embodied the ideals of the country lawyer: "Readers admired Tutt for the principles that guided his actions—from his policy of never turning a blind eye to a person who needed assistance to his general intolerance for injustice and ready willingness to sacrifice his own well-being for the benefit of someone who had been wronged."²⁰³ He "loved his country life,"²⁰⁴ and his "country practice brought him a variety of cases, and he always seemed to have a clever way to resolve each one, satisfying his client but also leaving his adversary with the impression that a just result had been obtained."²⁰⁵ And so, Ephraim Tutt lived the "country" experience of the country lawyer, and the general practitioner experience as well.

Molly A. Guptill defined the country lawyer as represented by Tutt:

[He] was respected by his neighbors and community and was their chief source for guidance and advice. Country lawyers

¹⁹⁹ *Id.* at 430.

²⁰⁰ David Ray Papke, *Lawyer Fiction in the Saturday Evening Post: Ephraim Tutt, Perry Mason, and Middle-Class Expectations*, 13 *CARDOZO STUD. L. & LITERATURE* 207, 210–11 (2001).

²⁰¹ See Joe Patrice, *The Famous Lawyer Who Never Existed*, ABOVE THE LAW (Aug. 28, 2013), <https://abovethelaw.com/2013/08/the-famous-lawyer-who-never-existed/> [https://perma.cc/Q4F3-LPVC].

²⁰² *Id.*

²⁰³ MOLLY GUPTILL MANNING, *THE MYTH OF EPHRAIM TUTT: ARTHUR TRAIN AND HIS GREAT LITERARY HOAX* 15, 21–22 (2012).

²⁰⁴ *Id.* at 50.

²⁰⁵ *Id.* at 49.

were known for their wide professional knowledge of esoteric concepts, which enabled them to take any case that came their way. Moreover, the image of the archetypal country lawyer symbolized “equal opportunity, social mobility, and professional respectability.” Beyond these characteristics, the country lawyer had practical wisdom, good judgment, broad knowledge, and was sympathetic towards various causes. Tutt possessed all of these traits; his “outstanding characteristics” were once described as including “erudition, a thorough knowledge of the law, a great ability to make use of his knowledge in the interest of his clients, a choice of his clients irrespective of whether or not they are able to pay for his services, a highly idealistic approach to the legal profession, and a readiness to combat any betrayal of its ideals by either judge, prosecutor or attorney-at-law.”²⁰⁶

Further, the country lawyer of Jackson’s musings, who “rarely declined service to worthy [clients] because of inability to pay”²⁰⁷ found an embodiment in Tutt, who “would even work for free when he felt compelled to intervene on behalf of someone who had experienced an injustice but had no means to pay for an attorney to right it.”²⁰⁸ As Mr. Tutt himself said, “Our duty as sworn officers of the judicial branch of the Government renders it incumbent upon us to perform whatever services our clients’ exigencies demand.”²⁰⁹

The controversy surrounding Tutt arose after he was well established as a fictional character from his many stories published in the *Saturday Evening Post*.²¹⁰ In 1943, Arthur Train, under the name Ephraim Tutt, published *Yankee Lawyer: The Autobiography of Ephraim Tutt*.²¹¹ And with that publication came a flurry of debates: those who believed in Ephraim Tutt the character,²¹² those who believed in Ephraim Tutt the real lawyer,²¹³ and those who found

²⁰⁶ Guptill, *supra* note 171, at 322–23 (first quoting JEROLD S. AUERBACH, *UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGE IN MODERN AMERICA* 16 (1976); and then quoting Maximilian Koessler, Book Review, 47 A.B.A. J. 719, 719 (1961) (reviewing ARTHUR TRAIN, *MR. TUTT AT HIS BEST* (Harold R. Medina ed., 1961))).

²⁰⁷ Jackson, *County-Seat*, *supra* note 133, at 497.

²⁰⁸ MANNING, *supra* note 203, at 200.

²⁰⁹ ARTHUR TRAIN, *The Human Element*, in *TUTT & MR. TUTT* 1, 5 (1920).

²¹⁰ See Guptill, *supra* note 171, at 320 & n.73, 338.

²¹¹ See MANNING, *supra* note 203, at 157, 232.

²¹² See, e.g., *id.* at 133 (quoting a letter from a soldier who detailed a debate between troops as to whether Tutt was real or just a fictional character).

²¹³ See *id.* at 138 (“Ironically, Train wrote such a convincing and detailed fictitious ‘life’ for Ephraim Tutt that people became certain that Tutt actually existed.”).

humor and entertainment in his stories (and autobiography), regardless of his true identity.²¹⁴ “Dead, alive, or nonexistent, it was no matter. Tutt was beloved by his fans”²¹⁵

Those who felt betrayed by the ruse seemed to feel as such not because they bought or read a book that was “marketed”²¹⁶ as an autobiography, but rather because Tutt had come to represent an American ideal.²¹⁷ If Tutt did not exist, there was the chance that the ideal did not exist either. “The very possibility that Tutt was a real person caused many people to grapple with whether Tutt’s representation of American culture was authentic, even if Tutt was not.”²¹⁸ Further, “the legal profession [was] faced” with an “ethical dilemma”: “The public wanted lawyers to be like Tutt, however, the standard which Tutt had set was one that could not realistically be carried out in a society that had experienced incredible growth in population, commercialization, and urbanization in a short period of time.”²¹⁹

From that sense of betrayal, the story of Ephraim Tutt as a country lawyer became the story of three (and perhaps many more) lawyers who could very well bear the title: Arthur Train, Tutt’s creator,²²⁰ Ephraim Tutt himself, and Lewis Linet, the Philadelphia attorney who brought suit against Train after discovering that the “autobiography” of Tutt was a work of fiction itself.²²¹

Being a public-spirited lawyer who spent his time guarding the interests of his community, Linet felt that he needed to take action to prevent others from being tricked and fooled as he had been. . . . It would seem that Linet’s philosophy

²¹⁴ See *id.* at 134. After describing a letter from a soldier, Manning notes, “This final sentence suggests that even if Tutt were not real, the ideals he represented made the readers of *Yankee Lawyer* respond so strongly to this character.” *Id.*

²¹⁵ *Id.* at 156.

²¹⁶ Indeed, Train did not appear to see the risk of marketing the book as it was. It was first sold as fiction, and Train himself did not see any threat of the public believing Tutt to be real after his years as a fictional character. See Guptill, *supra* note 171, at 320 n.73, 338; see also MANNING, *supra* note 203, at 168 (discussing Train’s confusion as to how to address the issue of people believing the autobiography to be real). But see Guptill, *supra* note 171, at 338 (“Overall, it seems that Train *wanted to convince the public that Tutt was real* because Train was concerned that the reputation of the legal profession was plummeting.” (emphasis added)).

²¹⁷ See MANNING, *supra* note 203, at 157 (“Readers related to Tutt’s rise from a humble background, admired him for living the American Dream, and applauded his self-made success in life.”).

²¹⁸ *Id.* at 170.

²¹⁹ Guptill, *supra* note 171, at 333.

²²⁰ While not yet a lawyer at the time, Train accompanied his father, who was a lawyer, as he traveled “riding circuit” as Lincoln did. See MANNING, *supra* note 203, at 8.

²²¹ See *id.* at 173.

mirrored Tutt's, for when Linet perceived what he believed to be an injustice against the reading public, he felt the victims of Train's hoax deserved a day in court.²²²

Although the outcome of Linet's suit was not as widely publicized as the suit itself,²²³ the message was clear: while some members of the reading public were willing to overlook, or were even amused by, the "hoax" that arose from Tutt's "autobiography," others felt defrauded.²²⁴

G. *Atticus Finch*

What the Tutt episode seems to reveal is an underlying theme of the "country lawyer" narrative: a tension between an American ideal and reality as expressed through the legal profession. Nowhere is this tension more evident than in the iconic novel *To Kill A Mockingbird*, whose Atticus Finch reigns supreme as the foremost American legal hero, and foremost fictional country lawyer.²²⁵ Atticus shares many of the characteristics of the country lawyer: born in a small town, he goes away to the big city for law school, but instead of remaining there, he returns to Maycomb to practice law.²²⁶ By the time we meet him, when his oldest child, Jem, is 12 years old,²²⁷ he has been in practice for a while.²²⁸ It is not clear exactly what kind of cases he takes, but we do know that he takes real property cases, such as helping Walter Cunningham break the entail

²²² *Id.*

²²³ See Guptill, *supra* note 171, at 338 n.169 ("Linet's case against Train, Charles Scribner's Sons, and Maxwell Perkins was settled before final judgment, and thus there is no official report of the case. Linet's second cause of action, an injunction to cease the sale of *Yankee Lawyer*, was dismissed on summary judgment. However, the first cause of action, 'seeking damages [for fraud], was discontinued by stipulation on May 2, 1947.'" (internal citations omitted)).

²²⁴ *Id.* at 336–37.

²²⁵ See, e.g., Patrick G. Goetzinger & Robert L. Morris, *Project Rural Practice: Its People and Its Purpose*, 59 S.D. L. REV. 444, 454 (2014); Bill Haltom, *But Seriously Folks: Atticus Remains My Hero*, TENN. B.J., Sept. 2015, at 34, 34–35; Baz Bamingboye, *Mockingbird Message Still Packing a Punch*, DAILY MAIL (Jan. 4, 2019, 6:58 AM), <https://www.dailymail.co.uk/tvshowbiz/article-6556155/BAZ-BAMIGBOYE-Saoirse-Ronan-reveals-learned-tough-nuts-Mary-Queen-Scots.html> [<https://perma.cc/W9ND-XT22>]; Chris Jones, *Sorkin Drags "Mockingbird" into Present*, CHI. TRIB., http://digitaledition.chicagotribune.com/tribune/article_popover.aspx?guid=bf61a2f7-c471-43d5-ace3-81bd0f2dc3dd [<https://perma.cc/K85D-KPUF>]; Ray Mosby, *Just a Little Personal Hero Worship*, MERIDIAN STAR (Nov. 30, 2018), https://www.meridianstar.com/opinion/columns/ray-mosby-just-a-little-personal-hero-worship/article_2db5f2f9-d9a8-5f9a-935e-2bc9feb48eec.html [<https://perma.cc/F5Y5-3CUD>].

²²⁶ HARPER LEE, *TO KILL A MOCKINGBIRD* 10 (1960).

²²⁷ *Id.* at 9.

²²⁸ See *id.* at 11.

on his farm.²²⁹ Although his first two clients were executed for first-degree murder, instilling in Atticus a “profound distaste for the practice of criminal law,”²³⁰ he agrees to take an appointed criminal case, Tom Robinson’s.²³¹

Atticus is a solo practitioner, at least until his youngest child, Scout, reaches adulthood, when he takes on a partner, Henry Clinton.²³² He knows everyone in town, up and down the social scale: from the small-town aristocrats, the Radleys and Mrs. Dubose; to the irresponsible drunkard, Bob Ewell; to the “respectable” African-Americans, Calpurnia and Tom Robinson; to the honorable farmer, Walter Cunningham; to the sheriff himself, Heck Tate.²³³ It is likely that Atticus knew everyone in the lynch mob and on Tom Robinson’s jury. And, like Samuel Selden Partridge and Arthur Gray Powell, Atticus is the repository of secrets. His awareness of Mrs. Dubose’s opium addiction may have come to him as her counselor—he prepared her will²³⁴—or as the hub of his community, around whom gossip flows.²³⁵

Atticus is a man of great practical wisdom. He advises Scout not to let the taunts of her classmates rile her up;²³⁶ he tells her that she must “walk around in” a person’s shoes before she can understand or judge; he relates that his “conscience” demands that he defend Robinson, even at the cost of his safety and reputation;²³⁷ and, to the horror of some critics,²³⁸ he advises calm in the face of KKK raids at home and Hitler’s rise to power abroad.²³⁹ Likewise, Atticus has great courtroom skills. His cross-examination of Mayella Ewell displays his understanding of what her life is like tucked away in the house by the dump with the red geraniums in the chamber pots.²⁴⁰ In his cross-examination of Bob Ewell, he demonstrates that Ewell is left-handed,²⁴¹ while in closing argument, he makes sure the jury

²²⁹ *See id.* at 27.

²³⁰ *See id.* at 10–11.

²³¹ *See id.* at 83.

²³² *See* HARPER LEE, *GO SET A WATCHMAN* 12–13 (2015).

²³³ *See* LEE, *supra* note 226, at 11–12, 27, 83.

²³⁴ *See id.* at 120.

²³⁵ *See id.* at 11.

²³⁶ *See id.* at 83–84.

²³⁷ *Id.* at 36, 113.

²³⁸ *See, e.g.,* Malcolm Gladwell, *The Courthouse Ring: Atticus Finch and the Limits of Southern Liberalism*, *NEW YORKER* (Aug. 3, 2009), <https://www.newyorker.com/magazine/2009/08/10/the-courthouse-ring> [<https://perma.cc/9V89-7849>].

²³⁹ *See id.*

²⁴⁰ *See* LEE, *supra* note 226, at 182, 190, 199.

²⁴¹ *See id.* at 188–89.

knows that Tom Robinson's left hand is disabled.²⁴² Like Lincoln with his farmer's almanac, he impeaches his opponent's testimony in one fell swoop.

Also, like Abraham Lincoln, Atticus is a politician, serving as state representative for Maycomb.²⁴³ We don't hear much about his exploits in Montgomery, but we do learn that he is lampooned in the press.²⁴⁴ His willingness to endure opprobrium signals his most notable characteristic: Atticus Finch champions the underdog. His defense of Tom Robinson is analogous to Samuel Selden Partridge's defense of Jerry Billings, the gardener accused of arson. Both defendants were downtrodden; both were convicted despite the best efforts of their attorneys. Yet what matters in both cases is the lawyer's willingness to swim upstream against community opinion in order to provide the best defense possible. As Atticus tells Scout about his decision to take on Robinson's case, "[I]f I didn't I couldn't hold up my head in town, I couldn't represent this county in the legislature, I couldn't even tell you or Jem not to do something again."²⁴⁵

Country lawyer Atticus Finch embodies the American ideal of the lawyer: he has integrity, practical wisdom, and legal acumen. He advocates for the underdog and is unconcerned with money. Like Lincoln he is deeply embedded in the community, even representing them in the state legislature. He is the ultimate insider who gives outsiders like Tom Robinson access to justice. It is therefore not surprising that Atticus Finch has been named the foremost legal hero in American fiction and film.²⁴⁶ In his closing argument, Atticus says, "I'm no idealist to believe firmly in the integrity of our courts and in the jury system—that is no ideal to me, it is a living, working reality."²⁴⁷ Similarly, the type of lawyer Atticus represents was idolized by Americans as a reality, not just an ideal. The power of

²⁴² See *id.* at 202, 216. In the novel, Tom Robinson is unable to lift his left arm to take the oath. See *id.* In the movie version, Atticus throws a glass at him, and Robinson is unable to lift his left hand to catch it. Movieclips, *To Kill a Mockingbird (4/10) Movie CLIP - Atticus Cross-Examines Mayella (1962) HD*, YOUTUBE (May 27, 2011), https://www.youtube.com/watch?v=44TG_H_oY2E (TO KILL A MOCKINGBIRD (TM & Universal 1962)).

²⁴³ See LEE, *supra* note 226, at 83.

²⁴⁴ See, e.g., *id.* at 126.

²⁴⁵ *Id.* at 83.

²⁴⁶ Atticus Finch is ranked as the greatest movie hero of all time by the American Film Institute. *AFI's 100 Greatest Heroes & Villains*, AM. FILM INST., <https://www.afi.com/100years/handv.aspx> [<https://perma.cc/62GY-M8WE>]; *To Kill a Mockingbird* is ranked as the greatest law novel of all time by the *A.B.A. Journal*. *25 Greatest Law Novels Ever*, A.B.A. J., <http://www.abajournal.com/gallery/25greatestnovels/826> [<https://perma.cc/4HST-T9MD>].

²⁴⁷ LEE, *supra* note 226, at 218.

the myth of the country lawyer is that all lawyers are judged by his standard.

III. THE MYTH OF THE COUNTRY LAWYER

If the eulogies for the country lawyer are right—if the country lawyer and all he represents have disappeared from the American legal landscape—then the myth has become divorced from reality. Americans could view the real-life country lawyers described above, and their fictional embodiments, as the great equalizers in American democracy, the ideal “tribune[s] for the poor, the weak, and the outcast.”²⁴⁸ When humble, down-to-earth general practitioners rooted in their communities, trusted by their neighbors with their secrets, crusading for the underdog are replaced by big-city specialists divorced from their communities and engaged in the kind of “mass production” envisioned by Chief Justice Stone,²⁴⁹ then a sense of betrayal on the part of the public is inevitable. As David Ray Papke concludes, “The failure [of contemporary lawyers] to measure up to this image must, in fact, be one of the reasons actual lawyers are often unpopular.”²⁵⁰ However, to determine whether the country lawyer is indeed extinct, and if so, to assess the results of that extinction, we must dig deeper into the demographics of the contemporary legal profession and the current public attitudes toward lawyers.

A. *The Survival of the Country Lawyer*

Despite Robert H. Jackson’s predictions that the country lawyer was disappearing from the American zeitgeist,²⁵¹ there are very few demographic statistics that definitively detail the rural lawyers and solo practitioners who are most likely to bear the title.²⁵² Stephanie Francis Ward’s podcast, *Do You Have What It Takes to be a Rural*

²⁴⁸ See Papke, *supra* note 200, at 211.

²⁴⁹ See Black, *supra* note 126, at 466–67.

²⁵⁰ Papke, *supra* note 200, at 217.

²⁵¹ See Jackson, *County-Seat*, *supra* note 133, at 497 (“The county-seat lawyer and the small-town advocate are pretty much gone, and the small-city lawyer has a struggle to keep his head above water.”).

²⁵² See Lisa R. Pruitt et al., *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL’Y REV. 15, 22–24 (2018) (“Relatively little data has been collected about the access-to-justice crisis in rural America . . .”). That crisis is described in the article as a shortage of attorneys in rural areas, a lack of understanding of legal issues facing rural citizens, and the structural issues preventing rural citizens from accessing legal assistance. See *id.* at 22–23.

Lawyer? (which opens with the proposition: “Tired of the city living? Maybe the life of a country lawyer is for you—or maybe it isn’t”)²⁵³ acknowledges as much, even as the guests seek to discuss the realities of rural practice.²⁵⁴ On the need for lawyers in rural areas, guest Lorelei Laird said, “It was hard to track down statistics on this, because nobody keeps good track of it.”²⁵⁵

Despite this general lack of statistics, a cobbling together of modern access-to-justice statistics combined with historical demographic accounts at least begin to paint a picture of who country lawyers are and what their practices look like. In a book published in 1967, a study of a “middle-sized Midwestern city” given the pseudonym “Prairie City” analyzed the practices belonging to private attorneys, both in firms and acting as solo practitioners.²⁵⁶ An early discovery of the study was that “[l]ack of specialization . . . was startling. More than half (57 per cent) of the lawyers in Prairie City considered themselves specialists, but only 17 per cent spent at least half of their time in their main area of practice.”²⁵⁷ Notably, this focus on generalized, as opposed to specialized, practice was not just an attribute of solo practice, as seems to be the case for the stereotypical country lawyer.²⁵⁸ Rather, many lawyers, even those in firms and partnerships, offered their community relatively generalized practices.²⁵⁹ And yet, perhaps giving credence to the fear that country lawyers are disappearing, increased specialization in law seems to abound.²⁶⁰ As one scholar writes, “[T]he growth of legal specialists has been no accident in complex, secular, commercial societies.”²⁶¹ Thus, one of the defining characteristics of the country lawyer, that of the general practice, seems to have shifted as society and its need for legal representation have shifted.²⁶² However, the same author who notes that need for specialization also notes that small community, individual-client centered representation is favored by some attorneys and, while “[t]he number of lawyers who

²⁵³ Stephanie Francis Ward, *Do You Have What It Takes to Be a Rural Lawyer?*, A.B.A. J. (Oct. 6, 2014, 8:30 AM), http://www.abajournal.com/news/article/podcast_monthly_episode_55 [<https://perma.cc/T94M-PFPL>].

²⁵⁴ *See id.*

²⁵⁵ *Id.*

²⁵⁶ JOEL F. HANDLER, *THE LAWYER AND HIS COMMUNITY: THE PRACTICING BAR IN A MIDDLE-SIZED CITY* 5–6 (1967).

²⁵⁷ *Id.* at 16.

²⁵⁸ *See id.* at 4.

²⁵⁹ *See id.* at 16.

²⁶⁰ *See* THOMAS D. MORGAN, *THE VANISHING AMERICAN LAWYER* 28 (2010).

²⁶¹ *Id.*

²⁶² *See id.*

will enter that kind of practice in the future is uncertain, . . . there is no reason to expect the role to disappear entirely.”²⁶³

Furthermore, while little information exists regarding rural practice statistics,²⁶⁴ anecdotal evidence suggests that the country lawyer as a general practitioner has not completely disappeared from rural communities.²⁶⁵ One report that detailed the lives of various Texas attorneys in small towns states, “Like many rural attorneys, Berkley serves a region with a high ratio of attorneys to population; this three-county area has 33 attorneys for almost 39,000 people or 1:1,171. So, he handles a variety of matters, including agricultural law issues . . . , probate, and more.”²⁶⁶

Developing such statistics even further, this study notes,

Statistics on Texas lawyers reveal some interesting trends of the dispersal of the legal workforce. The state has a ratio of one attorney for every 312 citizens, and metropolitan areas have a ratio of 1:288, which is similar to the national attorney-population ratio of approximately 1:252. But in rural areas, the ratio becomes 1:896.

From 2012 to 2013, the number of rural attorneys increased by 2.3 percent, which was 1.9 percent more than the growth from 2011 to 2012, indicating that this population was catching up with that of metro attorneys, whose similar 2.7 percent increase from 2012 to 2013 was up only 0.1 percent from the previous year. Still, most of the growth in the number of Texas attorneys from 2003 to 2013 occurred in metro areas of the state, whose 28 percent increase outpaced the general metro population’s 24 percent increase.²⁶⁷

Similar disparities exist in California as well. According to a recent study, “[t]he ratio of attorneys to urban residents in California is 1:175, while each rural lawyer serves nearly four times as many residents (1:626), and each frontier lawyer serves on average a still greater number (1:738).”²⁶⁸ Therefore, while rural lawyer

²⁶³ See MORGAN, *supra* note 260, at 132.

²⁶⁴ See Ward, *supra* note 253.

²⁶⁵ *But see* Pruitt et al., *supra* note 252, at 22 (“While about 20% of our nation’s population lives in rural America, only 2% of our nation’s small law practices are located there.”).

²⁶⁶ Lindsay Stafford Mader, *Way Out Yonder: Many Texas Attorneys Are Making Happy Homes and Profitable Practices in Small Towns and Rural Communities by Using a Tried-and-True Model of Business*, 78 TEX. B.J. 524, 525 (2015).

²⁶⁷ *Id.*

²⁶⁸ Pruitt et al., *supra* note 252, at 47.

populations may be growing in some areas (at least in Texas), there are still fewer rural lawyers proportionally to other areas in the country. Further, in California, not only were there fewer country lawyers for rural populations, but the number of rural attorneys was also declining.²⁶⁹

Likewise, consistent with national trends, South Dakota has seen a decline in rural and small-town practitioners. Out of South Dakota's sixty-six counties, "[a]s of 2011, six counties have no lawyers, nineteen counties have one to three lawyers, fourteen counties have four to six lawyers, while sixty-five percent of the active members of the State Bar of South Dakota were concentrated in only four cities."²⁷⁰ Eager to address this disparity, bar and judiciary leaders formed Project Rural Practice, an initiative designed to encourage new lawyers to set up practice in small towns and rural areas by providing law practice resources, matching new lawyers with mentors, and providing economic subsidies.²⁷¹

The Prairie City study found a demographically homogenous group in its subject city, in contrast to the stratified groups of New York City lawyers.²⁷²

In general, . . . Prairie City bar was . . . homogenous. Over 70 per cent of the lawyers were Protestant; over 90 per cent had fathers who were businessmen, professionals, or semiprofessionals, or who had held higher white collar positions; almost 90 per cent of the lawyers had received college degrees; all but one graduated from law school; only 5 per cent went to law schools offering both day and evening divisions, and all of this group had been admitted to practice before World War II.²⁷³

As further evidence of this homogeneity, the elite lawyers of Prairie City were less likely to be the children of immigrant or working-class parents.²⁷⁴ Notable, too, is that, as the lawyers with the fewest generalized practices²⁷⁵ and the most likely to work in firms rather

²⁶⁹ *See id.* at 37 ("One aspect of California's recent attention to rural access to justice has been an awareness of the diminishing number of rural attorneys.").

²⁷⁰ Goetzinger & Morris, *supra* note 225, at 446.

²⁷¹ *See id.* at 447, 452, 456, 459.

²⁷² *See* HANDLER, *supra* note 256, at 67–68.

²⁷³ *Id.* at 45.

²⁷⁴ *Id.*

²⁷⁵ *See id.* at 38 tbls.3.3 & 3.4 (showing the rates of retention of clients and the legal issues most handled by lawyers in each category of lawyer).

than as solo practitioners,²⁷⁶ the Prairie City elite lawyers were also the least likely to fit the mold of the country lawyer.²⁷⁷

While current demographic statistics are not readily available, *perception* that rural practice conditions continue in a trend similar to the Prairie City of the 1960s seem to, at least anecdotally, dissuade some law students from pursuing careers in rural areas. As one study found, “A number of students who self-identified as racial or sexual minorities expressed concern about traditional attitudes in rural places, which made them fear that they would not be accepted there.”²⁷⁸ Notably, this study was premised upon the idea that access to justice issues in rural areas are endemic: “The number of Arkansas attorneys who now live in, work in, or serve rural communities is dwindling with each passing year.”²⁷⁹ This is not a concern unique to Arkansas. Rather, rural communities across the country are faced with significant access to justice concerns rooted in a lack of lawyers in rural areas.²⁸⁰ This is further exacerbated by the lack of data about attorney practice: “One [obstacle] is the lack of systematically collected data about exactly where lawyers are practicing within a given state. We generally do not know—except by casual anecdote—how great the rural lawyer shortage is within any given state”²⁸¹

These concerns related to potential lack of diversity and a potential presence of discrimination against minorities is not limited to those respondents in Arkansas. Rather, “many young lawyers have negative attitudes towards rural people, including an expectation that rural people will be biased towards minorities, women, and the LGBT community.”²⁸² This is one of many reasons cited for a decline in rural law practice.²⁸³

Furthermore, while the Arkansas study does not fully discuss the demographics of country lawyers specifically, instead measuring demographic data separately from practice-location data, the

²⁷⁶ See *id.* at 54 tbl.3.11 (showing that 54% of elite lawyers are a part of large firms, 46% a part of small firms, and 0% individual practitioners).

²⁷⁷ See *id.* at 39.

²⁷⁸ Lisa R. Pruitt et al., *Justice in the Hinterlands: Arkansas as a Case Study of the Rural Lawyer Shortage and Evidence-Based Solutions to Alleviate It*, 37 U. ARK. LITTLE ROCK L. REV. 573, 640 (2015).

²⁷⁹ *Id.* at 579.

²⁸⁰ See Robin Runge, *Addressing the Access to Justice Crisis in Rural America*, A.B.A. (July 1, 2014), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/2014_vol_40/vol_40_no_3_poverty/access_justice_rural_america/ [https://perma.cc/7W3M-TCSQ].

²⁸¹ Pruitt et al., *supra* note 278, at 581–82.

²⁸² Pruitt et al., *supra* note 252, at 124.

²⁸³ See *id.*

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demographic data provided does paint at least a partial picture of lawyers in the state:

Five hundred and ninety-five Arkansas attorneys responded to the lawyer survey, about 7.9% of the state's 7,562 actively licensed lawyers who reside in Arkansas. Ninety-two percent of the attorney respondents (535) live in the state of Arkansas, but only seventeen (3.12%) live in a county with a population of 15,000 or less. Despite very few respondent attorneys living in rural areas, slightly more respondents—7.69% or forty-one respondents—practice in rural areas. Nearly 60% of respondents who practice in a Rural County commute from a more populous county.

The majority of attorney respondents were over the age of thirty-four, and 21% were under the age of 34. . . . The majority of respondents were non-Hispanic white males. Sixty-four percent of respondents identified as male, 34% identified as female, and 1% declined to state. Ninety percent of respondents were White (Caucasian, non-Hispanic), 4% were African American, and 4% declined to state; 1% each identified as Hispanic/Latino, Native American, Asian, and bi-racial.²⁸⁴

Therefore, anecdotal evidence seems to support an understanding that rural law practice continues to be relatively homogenous. This homogeneity remains true to the country lawyer paradigm: “The aristocratic and democratic country lawyer had arisen out of a mostly homogenous society; but by 1900, that homogenous national and professional culture no longer existed.”²⁸⁵

Anecdotally, this homogeneity is true of gender as well. As one study of northern Wisconsin found,

Unaware of local practices, less experienced attorneys struggle to establish rapport with circuit court commissioners and judges, and some advocates describe certain northern county courts or court personnel as openly hostile to attorneys perceived as “outsiders” due to their age, professional

²⁸⁴ Pruitt et al., *supra* note 278, at 643.

²⁸⁵ James E. Moliterno, *Crisis Regulation*, 2012 MICH. ST. L. REV. 307, 312.

experience, regional background, and, for women in particular, *gender*.²⁸⁶

Anecdotally, too, in a rural community in California, “[f]ive attorneys have addresses in Sierra County, but only one is available for private representation; having been admitted to the bar in 1972, she is likely nearing retirement.”²⁸⁷ Thus, the concerns about discrimination and lack of diversity are not necessarily unfounded, though more data is necessary to confirm those fears.

Another issue faced by potential country lawyers is whether the general practitioner tradition is one that is feasible in today’s legal economy. Again, the statistics on this issue are far from complete, but a collection of anecdotal evidence suggests that there may not be a perfect solution. South Dakota’s legislature passed a bill providing payments of \$13,288 per year to each of sixteen attorneys who agreed to practice for five years in counties of ten thousand or fewer.²⁸⁸ But money is not the only challenge; so is competence. One city-turned-country lawyer stated, “Out here, you have to be more of a general practitioner and be aware of not only the particular problem but also how to fix other things in your clients’ lives.”²⁸⁹ Yet, from a “marketing” standpoint, general practitioners may be at a disadvantage. As guest Stephanie Kimbro said on an episode of *New Solo*, “If you’re trying to market five or six different practice areas, that’s really difficult.”²⁹⁰

This focus on “marketing” shows yet another distinction between contemporary lawyers, regardless of demographics, and the prototypical country lawyer identity (one that is, at least anecdotally, still a concern for lawyers and law students practicing or considering practicing in small towns). Whereas “marketing” is viewed as an integral part of contemporary private practice, the prototypical country lawyer seems to derive business from community connections.²⁹¹ One rural lawyer attributes his success to “the

²⁸⁶ Pruitt et al., *supra* note 252, at 83 (emphasis added).

²⁸⁷ *Id.* at 49 (citing *Carolyn Ingrid Larsson #50964*, ST. B. CAL., <http://members.calbar.ca.gov/fal/Member/Detail/50964> [<https://perma.cc/BXN4-B78M>]). Notably, while this potential “country lawyer” may defy gender stereotypes, by being the only private attorney, her presence still demonstrates the small population of lawyers in that area.

²⁸⁸ See Goetzinger & Morris, *supra* note 225, at 456.

²⁸⁹ Mader, *supra* note 266, at 525.

²⁹⁰ *Choosing Your Specialty: Areas of Law for the Successful Solo Practitioner*, LEGAL TALK NETWORK 7:20 (Sept. 11, 2014), <https://legaltalknetwork.com/podcasts/new-solo/2014/09/choosing-specialty-areas-law-successful-solo-practitioner/> [<https://perma.cc/SLH8-EW2R>].

²⁹¹ See HANDLER, *supra* note 256, at 143; Mader, *supra* note 266, at 526; see, e.g., Mary K. Young, *Marketers Should Help Steer Law Firms’ Strategic Planning Processes*, LAW.COM (May

community involvement he puts in after-hours, attending civic meetings, chatting with local business owners, and holding happy hours in his home.”²⁹² Noticeably absent from that list is a comprehensive marketing campaign like the one Kimbro fears would be made difficult by generalized practice.²⁹³ Thus, the experience of contemporary rural lawyers replicates the experience of country lawyers from Lincoln to Spence: their practice is driven by the individuals they know in their communities.

This emphasis on networking rather than marketing seemed to be reflected in Prairie City as well. While not discussing “marketing” as a way of attracting clients, an ethics study based on the Prairie City lawyer population found that attorneys were most likely to follow ethical standards as a means of upholding general social standards in Prairie City.²⁹⁴ The author found,

Perhaps the most universally condemned practices were those which at the same time (a) would offend the general ethical standards of the community, (b) would be likely to come to light, (c) in that event would injure the lawyer’s business, and (d) if generalized, would turn the Prairie City bar into something like the dirty, competitive, no-holds-barred practice in the lower reaches of the profession in New York or Chicago.²⁹⁵

Underlying these concerns is that community perception, rather than a more formal marketing strategy, is what helped or hindered a lawyer’s practice in Prairie City.²⁹⁶

On balance, the few statistics and the anecdotal evidence suggest that the country lawyer is endangered, though not extinct. Increasing urbanization and specialization of the bar make it likely that fewer Americans than before have access to the kind of lawyer typified by Lincoln and his successors.²⁹⁷ Citizens called for jury

02, 2019, 3:30 PM), <https://www.law.com/americanlawyer/2019/05/02/marketers-should-help-steer-law-firms-strategic-planning-processes/> [https://perma.cc/M2LX-WZS6].

²⁹² Mader, *supra* note 266, at 528.

²⁹³ See *Choosing Your Specialty: Areas of Law for the Successful Solo Practitioner*, *supra* note 290.

²⁹⁴ See HANDLER, *supra* note 256, at 142–43.

²⁹⁵ *Id.* at 143.

²⁹⁶ See *id.*

²⁹⁷ See, e.g., Goetzinger & Morris, *supra* note 225, at 446. It should also be noted, as David Ray Papke points out, that even the mythic country lawyer largely served the needs of middle-class Americans. See Papke, *supra* note 200, at 217–18. Apart from the exceptional case—like Partridge’s Jerry Billings or Finch’s Tom Robinson—the poor had little access even to the local

duty, even in a small town, likely do not know the lawyers appearing before them. Even the American Bar Association has recognized the decline in the population of rural lawyers; Resolution 10B of the House of Delegates, passed in 2012, reads as follows:

RESOLVED, That the American Bar Association urges federal, state, territorial, tribal and local governments to support efforts to address the decline in the number of lawyers practicing in rural areas and to address access to justice issues for residents in rural America.²⁹⁸

As the myth of the country lawyer becomes more divorced from reality, individuals lose the ability to sustain the view of the legal profession fostered by the myth. A lawyer is no longer a neighbor, a trusted advisor, a repository of secrets, a valued public servant, and an affordable guardian of legal rights. Instead, a lawyer becomes an expensive luxury, distant from the community and the concerns of its citizens. As the gulf between the ideal and the reality widens, a sense of betrayal seems the inevitable result.

B. The View of the Legal Profession

Lawyers have been mistrusted and ridiculed from the inception of the legal profession in England. “Since the 1640s in England, vicious attacks on lawyers and the common law have occasionally accompanied reform movements.”²⁹⁹ Even before that, “[t]he sovereign and democratic people of Athens, at least during the second half of the fifth and the first half of the fourth century B.C., displayed a pronounced and lasting aversion to the professional lawyer.”³⁰⁰ In the United States, early mistrust of lawyers resulted in the use of non-professionals instead.³⁰¹ Similarly, lawyer jokes have been around for centuries.³⁰² And Shakespeare’s injunction “let’s kill all

general practitioner. (And, ironically, in both these cases, the lawyers were unsuccessful in their defenses, but were viewed as heroic just for making the effort.)

²⁹⁸ AM. BAR ASS’N, RESOLUTION 10B (2012); Goetzinger & Morris, *supra* note 225, at 453.

²⁹⁹ Jeffrey K. Sawyer, *Distrust of the Legal Establishment in Perspective: Maryland During the Early National Years*, 2 GA. J.S. LEGAL HIST. 1, 1 (1993).

³⁰⁰ Anton-Hermann Chroust, *Legal Profession in Ancient Republican Rome*, 30 NOTRE DAME L. REV. 97, 97 (1954).

³⁰¹ See Harlan F. Stone, *The Lawyer and His Neighbors*, 4 CORNELL L.Q. 175, 175–76 (1919) (“In many colonies those acting as attorneys were forbidden to receive any fee. In others paid attorneys were not allowed to appear in court and in all they were subjected to restrictions indicating a want of confidence in their character and integrity.”).

³⁰² See generally MARC GALANTER, *LOWERING THE BAR: LAWYER JOKES AND LEGAL CULTURE*

the lawyers,” although subject to a more benign interpretation, has been repeatedly quoted as proof that the Bard himself shared the sentiments of ordinary people about the legal profession.³⁰³

The modern lawyer also experiences distrust, though the type of distrust seems to have evolved with the profession. As one lawyer stated, “Since Watergate, when the nation discovered that a legal education seemed to be a common attribute of everyone who planned the burglaries, destroyed documents and tapes, and, when need be, lied under oath, there has been open distrust of the legal profession.”³⁰⁴ Furthermore, the modern distrust of lawyers shows no signs of stopping in an age when distrust seems to have become the norm.³⁰⁵ Gallup polls taken between 1976 and 2018 show the public perception of lawyers remaining remarkably stable.³⁰⁶ The polls asked, “Please tell me how you would rate the honesty and ethical standards of people in these different fields,” and the percentage of respondents rating lawyers “high” or “very high” ranged from a low of 13% in 1999 and 2009 to a high of 27% in 1985.³⁰⁷ Concomitantly, 46% of respondents rated lawyers “low” or “very low” in 1994, while only 26% of respondents rated them “low” or “very low” in 1976 (ironically, just two years after the culmination of the

(2005) (cataloging the history of lawyer jokes).

³⁰³ See WILLIAM SHAKESPEARE, *THE SECOND PART OF KING HENRY THE SIXTH* act 4, sc. 2, l. 75 (Barbara Mowat & Paul Werstine eds., Folger Shakespeare Library 2015) (1623); see, e.g., Barrie Hardymon, *Let's Not Kill All the Lawyers*, NPR (July 8, 2010, 3:00 PM), <https://www.npr.org/sections/talk/2010/07/08/128387579/let-s-not-kill-all-the-lawyers> [<https://perma.cc/87QK-DZVV>] (“[The line] is ‘often taken out of context But that doesn’t mean there aren’t tons of morally bankrupt (tho [sic] rarely financially so) lawyers in literature.’”). But see Debbie Vogel, *Kill the Lawyers, A Line Misinterpreted*, N.Y. TIMES, June 17, 1990, § 12LI, at 19 (“Shakespeare’s exact line ‘The first thing we do, let’s kill all the lawyers,’ was stated by Dick the Butcher in ‘Henry IV,’ Part II, act IV, Scene II, Line 73. Dick the Butcher was a follower of the rebel Jack Cade, who thought that if he disturbed law and order, he could become king. Shakespeare meant it as a compliment to attorneys and judges who instill justice in society.”).

³⁰⁴ Scott Turow, *Law School v. Reality*, N.Y. TIMES (Sept. 18, 1988), <https://www.nytimes.com/1988/09/18/magazine/law-school-v-reality.html> [<https://perma.cc/6CS7-M7GS>]; see also GALANTER, *supra* note 302, at 7 (“The Watergate crisis (1972–74) accelerated the decline of public confidence in elites and, in particular, discredited lawyers who figured so prominently among the Watergate villains . . .”).

³⁰⁵ See Rachel M. Zahorsky, *It’s Not Just Money Fears Blocking Access to Legal Help; Lawyer Distrust is Growing*, A.B.A. J. (Dec. 1, 2012, 8:20 AM), http://www.abajournal.com/magazine/article/its_not_just_money_fears_blocking_access_to_legal_help_lawyer_distrust_is_growing [<https://perma.cc/KU6E-GWN2>] (“[W]hile would-be clients, courts and lawyers struggle to find cost structures that bridge the gap between needs and services, another barrier was repeatedly cited while I was speaking with folks along the Gulf Coast: distrust of the private bar.”).

³⁰⁶ See *Honesty/Ethics in Professions*, GALLUP, <https://news.gallup.com/poll/1654/honesty-ethics-professions.aspx> [<https://perma.cc/9F87-WJ5Z>].

³⁰⁷ *Id.*

Watergate scandal).³⁰⁸ In comparison, medical doctors earned “high” or “very high” ratings from as many as 70% of the respondents (in 2011 and 2012), while being rated as “low” or “very low” from a maximum of 13% of the respondents (in 1994).³⁰⁹

Interestingly, while Watergate seems to have marked the ebb of trust in the legal profession, a country lawyer shone as the pinnacle of legal ethics at a time when most notable legal reputations were held in disrepute.³¹⁰ That lawyer was Sam Ervin.³¹¹ Despite his segregationist views, some of which seeped into Ervin’s commentary during the Watergate hearings,³¹² Ervin, the country lawyer, was praised as “a man who knew right from wrong” during an era where many lawyers were accused of doing wrong.³¹³ Ervin’s performance during the Watergate hearings indicates a seeming truth of the country lawyer myth—it represents an ideal (although a flawed ideal) of cultural expectations for lawyers. That it perhaps can never be fully achieved is but one source of the sense of “betrayal” felt by the public related to the legal community.

CONCLUSION

The Atticus Finch of 1960’s *To Kill a Mockingbird* represents the high-water mark for the country lawyer in America. Just as the Atticus Finch of *To Kill a Mockingbird* disappears in 2015’s *Go Set a Watchman*, so the country lawyer has virtually disappeared from contemporary America. The increasing urbanization and specialization of the bar has made the country lawyer an endangered species. Most lawyers are now “city lawyers,” isolated in high-rise buildings and catering to small segments of their communities, usually the well-heeled segments. Fewer Americans than ever know a country lawyer, the hub of the community, taking all manner of

³⁰⁸ *See id.*

³⁰⁹ *See id.* However, lawyers were not alone in being viewed as untrustworthy or unethical. Lobbyists, telemarketers, and Members of Congress had worse ratings than lawyers over roughly the same period. *See id.*

³¹⁰ *See* Moliterno, *supra* note 285, at 323 (“The sense of crisis overwhelmed the legal profession in the wake of the Watergate revelations. The prominent role of lawyers in the scandals presented an unprecedented public relations crisis for the profession.”); *Lie Detectors: How Watergate Became the Greatest Show on Earth.*, SLATE (Dec. 19, 2017, 9:00 AM), <https://slate.com/podcasts/slow-burn/s1/watergate/e4/lie-detectors> [<https://perma.cc/5Q9G-BJFV>].

³¹¹ *See Lie Detectors: How Watergate Became the Greatest Show on Earth*, *supra* note 310 (discussing Sam Ervin in his role on the Watergate Committee, the narrator describes Ervin as a “folk hero”).

³¹² *Id.* (including audio of Ervin praising the “spirit of sacrifice” of the Civil War and detailing his record on race).

³¹³ *Id.*

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cases, and caring little about payment. To be sure, this kind of lawyer still exists in a few small towns, but the fewer the number of country lawyers, the fewer clients can access the justice system. These days, poor clients are served, not by their state representative who knows their characters, their families, and their secrets, but by a “pro bono” lawyer borrowed from a big firm whom they will probably never see again. The myth of the country lawyer produced an archetype of the lawyer in the popular imagination, and although this archetype had both factual and fictional exemplars, the widening gap between image and reality has undoubtedly contributed to the negative view of lawyers held by the American public.