

What is a Lawyer?

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There is no categorical answer to this question; because the facets of his profession are as many as those in a finely cut gem. He is a scholar assigned to research and brief-writing, whose life, for a while, is bounded by book-lined walls. He is the dignified and kindly patriarch who occupies the lavish room at the front of the suite. He is the expert at interviewing witnesses and the preparation of trial briefs. He is the genius in the court-room to whom these trial briefs are as road maps to the traveler. He is the logician appearing before the Appellate Court. He is an economic wizard when advising a Corporate Bond of Directors. He is an Engineer when evaluating a patent application. He is a Professor of Etymology when advising on the drafting of a liability policy; but he is a Professor of Semantics when counsellings a claimant under that policy. He is the local historian when making an abstract of ownership of property. He is an Accountant when preparing a tax return or planning an Estate.

At all time he is a student devoted to the study of law and human nature. He is no respecter of time when engrossed in the problem of his client, for he knows that to his client no problem that can motivate the seeking of legal advice can be unimportant or inconsequential one, and his concern for the trivial is as great as for the tremendous. He is sometimes unwittingly inconsiderate of his family in his zeal to be conscientious in the cause of his client. Yet, he remains to them a symbol of integrity and honour of stature and stability.

He is at once kind and consoling to a bereaved widow and harsh and reprimanding to the neglectful parents of a wayward child. He is a psychologist in dealing with the distraught couple whose mauiage is drifting towards the rocks. He is resolute in resisting the demands of the oppressor and equally implacable in enforcing the rights of the oppressed. He is the essence of confidence in relating his client's cause and the essence of humility in advocating it to the Court.

"He is the Mayor of his village. He is the Red Cross Chairman and the Scout Master. He is a Director of a Bank and an Officer of his Church. He is a selfless devotee to all that is good for his community. He is a Member of the Legislature and the Governor of his State. He is the Adviser of Presidents."

Student, Counsellor, Advocate and Leader-the Lawyer is all these things and remains so only through a deep devotion to his profession, constant application to his profession, constant application to the rigours of time-consuming and often unremitting work, sincere regard for justice and fair play, and through an abiding love for his fellowmen.

Now, it is interesting to note the origin of the term "Advocate", "Barrister", "Attorney-General", "Solicitor-General" and their precedence. The Earl of Halsbury, in his Laws of England, has dealt with the term "Advocate". The Bishops, as their duties increased, found it necessary to delegate their judicial and administrative powers to be executed by persons learned in the civil and canon law under the name of official Principal and Vicar-General. This, and the necessity of qualifying for practice in the ecclesiastical courts, led to the formation of a society of civilians or persons learned in the civil law, who, after taking the degree of Doctor of Laws in the University of Oxford or Cambridge and having studied the canon and civil law for five and, later, for three years were admitted by the Archbishop of Canterbury to the Doctors' 'Commons' Bar and to practise as Advocates in the ecclesiastical courts. Until 1545, Chancellors, Registrars and other officials of the ecclesiastical courts were obliged to be in minor year. In 1768, a Royal Charter was obtained by which the then Members of Society of Advocates and their successors were incorporated as a College under the name and title of "the College of the Doctors of Law", except in the ecclesiastical and admiralty courts.

The Dean of the Arches for the time being was the President of the College. On the creation of the Court of Probates and the Court for Divorce and Matrimonial Causes in 1857, power was given to the College to dispose of their property and surrender their Charter. Accordingly, in 1865, the property was sold to the Metropolitan Board of Works, and the purchase money was equally divided among the existing members of the College. It has since been held that a Barrister can practise in the ecclesiastical courts, and, in 1877, Solicitors were expressly empowered to do so. This is thus the origin of the term "Advocate". Lord Campbell, in his 'Lives of Lord Chancellors'. Volume I, page 411, observes that the success at the civilian Bar frequently led to promotion in Church and State.

So far as the origin of the term Barrister is concerned, the Earl of Halsbury in his work The Laws of England observes, "The right of practising as a Counsel in England is reserved to Barristers, " that is, to those who have been called to the Bar by one or other of the four Inns of the Courts. The Inns of the Courts are the Societies of Lincoln's Inn, the Inner Temple, the Middle Temple and Gray's Inn; they are voluntarily unincorporated societies of equal rank and status independent of the State, each of which has a similar constitution and is bound by the same rules. They are outside the jurisdiction of the courts but are subject to visitatorial jurisdiction of the judges. "These Societies have existed from very ancient times" and seem originally to have been association of apprentices (apprenticii ad legem), a name which is found in use at the end of the thirteenth century to denote those legal practitioners who were not Serjeants-at-law, but from whose rank the Serjeants were chosen. In the fourteenth century the apprentices are found living in certain Inns or Hostels near the city of London. Of these Inns, the Principals were the four Inns or Houses of Courts which still remain; and subordinates to them were a number of Inns Chancery all of which have now ceased to exist. In these Inns the apprentices lived a semi-collegiate life and were subject to a common system of education, discipline and Government. The Serjeants-at-law had two Inns of their own, known as Serjeant Inn of which the Judges of the Courts of Common Pleas and King's Bench and afterwards of the Exchequer were also members. These Serjeants-at-law were chosen from the ranks of apprentices and the persons so chosen were obliged to take upon themselves the degree of Serjeant. On becoming a Serjeant the apprentice left the Inn of the Court to which he belonged and joined one of the Serjeants' Inns. The possession of the degree of Serjeant was, upto 1st November, 1875, a necessary qualification for the Judges of the superior courts of common law, but since that date now new Serjeant has been made, the property of the order has been sold and the order is almost now extinct in England. Afterwards the Members of the Inns of Courts before they could become practitioners were obliged to attend and take part in the exercises of reading on Statutes, Moots or arguments on points of law, generally, real property law and putting of cases. It was in connection with the Moots that the term Barrister originated. The earliest known instance of the use of the word

Barrister is in the Black Books of Lincoln's Inn in the Trinity term 1445.

There are certain rules governing the precedence and pre-audience of a Counsel in English Bar and this right of audience is conferred by the Inns of Courts. The right of pre-audience and precedence is conferred by the Crown. The English Bar is therefore divided into two ranks: (1) the King's Counsel and those Barristers who have patents of precedence—they wear silk gowns and sit within the Bar in the Supreme Court and are called 'Silks' or 'Leaders', (2) all Barristers who are not of that rank. These sit outside the Bar, wear Stuff Gowns and are called Stuff Gownsmen or Juniors. The Attorney-General takes precedence over all other Barristers in the Supreme Court. Next to him comes the Solicitor General and then come the King's Counsel and those to whom patents of precedence have been granted. This ranks inter se according to the date of their patents, with the King's Counsel's rank, the Queen Consort's Attorney-General and Solicitor-General. Then come the Junior Barristers whose precedence inter fie is determined by the date of their call. The general rule is that a Stuff Gownsmen should not accept a junior brief in preference to another Stuff Gownsmen junior to him in point of call.

In the House of Lords, where English and Irish Barristers and Scotch Advocates are heard the Attorney-General has precedence. Next to him comes the Lord Advocate and then . the Solicitor-General. In the Judicial Committee of the Privy Council, where the Colonial, as well as the English, Irish and Scotch, counsel are heard, it was at one time the practice for English King's Counsel to lead in all cases. But Lord James Hereford, when Attorney-General, gave an opinion that Colonial Barristers should take rank according to their colonial precedence [(1884) 19 L. J., page 596]. The constitution of our Supreme Court has adopted the terms, "Attorney-General" and "Solicitor-General" and has left out the term "Lord Advocate, " who was next to Attorney-General.