

The Roots of the Liability Crisis

by James L. Payne

Swapping stories about the outrages going on in American courts these days is like playing “Can you top this?” There seems to be no limit to either the size of the awards or the frivolity of the lawsuits. This system of sue, sue, sue costs us billions in lawyers’ fees and insurance premiums. This cost is, in effect, a tax on virtually all public and private activities, from running Boy Scout summer camps to delivering babies.

The liability system has gotten so far out of hand that it’s starting to gobble up our civil liberties too. Consider the case of Larry Fine. Fine is a piano technician who wrote an excellent volume entitled *The Piano Book*, in which he gave a frank assessment of the virtues and defects of each brand of piano. The first edition of the book appeared in 1987. In preparing a second edition for 1990, he sent all manufacturers a copy of his proposed evaluation of their pianos, asking for comments and corrections. Most manufacturers, he reports, were “gracious in accepting criticism.” Some, however, reacted negatively, even using their attorneys to suggest possible lawsuits. As a result of this pressure, says Fine in the preface of the second edition, “some reviews have been ‘softened’ a little to keep the peace and avoid expensive litigation.”

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One company, a famous American piano maker, I’m sorry to say, was especially threatening. Fine reports it “sent a letter saying that if I published the reviews the company might file a lawsuit against me.” Fine pondered this threat and realized that “even lawsuits that have no merit can be prohibitively expensive and time-consuming to defend oneself against.” He decided to delete the reviews of the company’s pianos from the second edition.

So there it is: censorship. Violation of freedom of the press courtesy of the great American liability system. Fine could not say what he wanted to say, and his readers could not learn what they wanted to learn because of the threat of a lawsuit. If we keep going down this road, will we have any freedom of expression left? Will a movie critic pan a film, or an auto magazine rate a car?

What can we do about this problem of rampaging “sue-itis”? The starting point is to take a clear view of what a legal system really is. The courts with their judges, lawyers, and laws are, at bottom, simply a complicated arrangement for applying physical force. This is the system that directs policemen, jailers, and SWAT teams. If someone is being violent, then this system of deploying force is necessary to restrain him. That is the mundane task of a proper judicial system. It is socially necessary, but not an activity that reflects man’s higher nature.



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In the modern era, this view has been obscured. The courts seem an attractive institution, and we see litigation as a noble, patriotic way of accomplishing our goals. We fail to realize that in suing or threatening to sue we are actually reaching for the use of force against others. It is true that the "legal" use of force is generally a little less destructive than using force directly ourselves. If you are so angry at someone that you feel you must use force, then it's better to use force through the courts than on your own. But you shouldn't be very proud of what you are doing. You shouldn't have this anger and this urge to use force against your neighbor in the first place.

It's easy to overlook this moral perspective, given the example of government, which has gotten itself so deeply into the coercive regulation of practically everything. With thousands of special interests descending on Washington to use the force of the state to get what they want, we say,

"Why shouldn't I use a little of the force of the state to get what *I* want?"

But if we think about it honestly, we know it's true: nice people don't sue. The ancient Christian teachings are explicit on this point. Paul, in his first letter to the Corinthians, criticized his followers for using the courts. "When one of you has a grievance against a brother, does he dare go to law before the unrighteous instead of the saints?" he asked. "Can it be that there is no man among you wise enough to decide between members of the brotherhood . . . ? To have lawsuits at all with one another is defeat for you."

The politicians may be able to patch over some of the worst problems of the liability system. But real reform awaits a change in the attitudes that are at the root of the problem. It awaits an awareness that the use of aggressive force, be it private force or governmental force, is an unsound approach to our problems. □

Home Schooling: A Personal Experience

by Hannah Lapp

“**W**here did you get your education?” or “Which college do you attend?” are questions I find harder to answer than most people do. Education has meant much more to me than mere academic study.

My own formal education, and that of most of my 11 brothers and sisters, consisted of eight years of schooling at home. Our teacher was Mother, or our big sister Lydia. Going to school meant going to an upstairs hall or other suitable room in one of the sundry and fascinating dwellings we called home in those days. Our curriculum contained the basics for each grade in English, arithmetic, geography, and so on. Lydia selected our books from companies such as Scott, Foresman and Company, Laidlaw Brothers, and other publishers; some of the texts were as old as the McGuffey Readers.

As students, we were aware that education is serious business, and we worked our brains to the fullest. School was a thrilling opportunity. It opened the doors of knowledge and was a path into the mysteries of grown-up life.

Inborn in a healthy child is a thirst for the liberating powers of knowledge. Our teacher utilized these instincts of her students in introducing us not only to hard academic facts, but to an infinite learning process whose boundaries only our own self-discipline could shape. School learning meant learning how to expend mental energy to get information we wanted. Thus our minds were exercised not only in academic questions, but also in such difficult social concepts as freedom through meeting obligations, and the price of privileges.

“How can eight years be enough?” is a justifi-

able challenge offered against an educational background such as my own. Certainly the potential of young minds is much too valuable to justify halting education at age 14.

It does not occur to me to separate the education I received after the age of 14 from my eight years of formal schooling. For I regard the disciplined acquisition of knowledge too highly to draw its boundaries at the doors of an academic institution. I also respect it too much to assume that it is best taken care of by a government bureaucracy or any other monopolizing agency. For where, but within individual minds and circumstances, can it be determined what type of knowledge is the most needful and how it is best obtained?

The most suitable continued education for me and most of my siblings involved such things as skills training on our farm and self-help through reading, using libraries, taking short courses in specific subjects, and so on. Those of us who later decided to pursue specialized professions had no problem passing a high school equivalency test and taking off from there.

Even during my years of going to school at home, those hours of book-learning that qualified as a legal education were only a small part of my total education. More than we could fully comprehend at the time, we youngsters were receiving daily moral, emotional, and intellectual exercises that were just as important in preparing us for adult life as the mandatory hours spent in school. For just as becoming literate was essential to a self-sufficient and productive future, so also was learning responsibility and proper human coexistence. These concepts were instilled in us through necessity in our large, close family with many children to feed.

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