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This page set up by [Dr Robert N Moles](#)

On 15 May 2018 Evan Whitton reported 'Our get-the-guilty-off legal system'

Evan Whitton* 1370 words

Notes. The author is a legal historian, a species almost as rare as the pig-footed bandicoot. Dubious lawyers are called shysters, from the German *scheisser*, a shitter. Sources omitted for brevity are in Whitton, *Our Corrupt Legal System* (2009) 'OCLS' [full text available online](#).

Mafia expert Roberto Saviano said in April 2017: "The UK is the most corrupt country on earth." Likewise the common law. The adversary system used in England and its former colonies was designed to make lawyers rich; it does not seek truth and justice.

Taxpayers fund the system and pay the wages of judges, prosecutors, court officials etc. H. L. Mencken, Sage of Baltimore: "If all the lawyers were hanged tomorrow, and their bones sold to a mah jongg factory, we'd be freer and safer, and our taxes would be reduced by almost half." A comparison tends to confirm Mencken:

The inquisitorial system is used in Europe and elsewhere. It seeks the truth and trained judges are in charge. The system was devised in Rome about 450 BC and was adjusted by Pope Innocent III in 1215 and by Napoleon from 1800.

In the current French version, judges use a series of filters to protect the innocent, do not conceal relevant evidence, and do not let lawyers pollute the truth with sophistry, a technique of lying by false arguments, trick Yes-No questions, shifting the goalposts etc..

The commonsense of ordinary people is valued; jurors sit with judges and can outvote them. Most hearings take a day or so. About 95% of accused, including alleged rapists, are convicted. Reasons are given for verdicts. The system convicts twice as many as the adversary system.

The adversary system was devised in London in 1460 AD. The excuse for concealing relevant evidence is that jurors are stupid. Lawyers can use sophistry to confuse witnesses and jurors and can prolong trials unnecessarily for weeks or months. Yale law professor Fred

Rodell said: “The legal trade, in short, is nothing but a high-class racket.” A racket is a criminal enterprise. Jurors are isolated. About half accused – about a quarter in the case of alleged rapists – are convicted, but at least 1% of prisoners are innocent. Jurors do not give reasons for verdicts.

(Civil litigation gives lawyers even more pelf. For example, in discovery a lawyer for one side can ask a lawyer for the other side to “discover” and hand over documents which might help the first lawyer’s case or hinder the other lawyer’s case. Fewer than 50 documents will be relevant, but a few words by “Justice” William Brett in 1882 have made discovery interminable. In the so-called bird-shit case – one of the parties was involved in guano – Brett said any document is discoverable if it **might, directly or indirectly**, lead to a “**train of inquiry**” which **might** help the lawyer’s case or damage his adversary’s. [Emphasis added.] Discovery barely exists in France; if the judge wants a document, he sends for it.)

How the racket defeats truth

OCLS details 24 truth-defeating mechanisms. Here are five:

Lawyers can lie. Ethics is said to be a county in south-east England. US law professor Monroe Freedman wrote in 2006: “... there are circumstances in which a lawyer can ethically make a false statement of fact to a tribunal ... and can ethically engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.” The American Bar Association gave Freedman its highest award for his work on ethics.

Shifting the blame. The Theory of the Case falsely suggests someone else is guilty. A Sydney lawyer, John Dobies, pilloried the theory in what he called The Polar Bear Defence: if there were scratches on a victim, the murderer may have been a polar bear.

The right of silence came from a lie by the first legal academic, William Blackstone (1723-80). It gets off about half of those who hide behind it.

Concealing a pattern. In 1894, a corrupt Chancellor, [Farrer Herschell](#), made a rule which conceals evidence of previous crimes. Jurors thus get the false impression that repeat offenders, e.g. serial rapists and organised criminals, are first offenders.

Beyond reasonable doubt. Jurors don’t know what it means; a Tasmanian judge, Christopher Wright, believed it causes a wrong not guilty verdict in about 25% of cases. Devised about 1800, the formula alone has enabled millions of criminals to escape justice.

Professor Rodell said 99.44% of lawyers don't know the trade is a racket. Perhaps it was a joke; down the centuries, lawyers have extracted billions (trillions?) from clients and taxpayers.

Origins of the racket

William II, king of England from 1087, was a short fat man with a red face and yellow hair who never married; he preferred sodomy. He put every public office on sale; buyers in turn took bribes from people who dealt with the office. He was shot dead on 2 August 1100 and his body left where it lay, but his corrupt system lived on. Among the consequences:

Judges took bribes and lawyers were presumably their bagmen (collectors of bribes), as in Chicago recently; see Operation Greylord.

US appellate judge Richard Posner said lawyers and judges have always been a cartel.

Members of a cartel like to feel the money.

Judges are not trained as judges; they are lawyers trained in sophistry one day and judges the next.

Judges formally rejected truth as the basis of justice in 1219. Libel law has protected rogues in high places and low since 1275. Lawyers were the "dominant influence" in Parliament from 1350. Jack Cade's rebellion was in 1450. In *Henry VI Part II*, Shakespeare had one of Cade's man, Dick the Butcher, say: "The first thing we do, let's kill all the lawyers."

Judges were originally in charge. On a fixed wage (plus bribes) they had no incentive to prolong the process; lawyers paid by the day do. The cartel used pleadings to put lawyers in charge 10 years after the failure of Dick the Butcher's final solution for the lawyer problem.

Pleadings are supposed to narrow the issues but have never had to be true. Lawyers originally pled **orally** before a judge until all agreed on the issue(s); the case then went to a jury. The adversary system began in 1460 when lawyers began to exchange **written** pleadings, thus cutting judges out of the process. Judges did not object.

The result was a huge increase in lawyers' pelf. They can spin out written pleadings, with the meter running, for months or years like a game of ping pong: statement of claim, defence, reply, rejoinder, surrejoinder, rebutter, surrebutter, etcetera, etcetera.

Pleadings confirm Professor Rodell, but he said 99.44% of lawyers don't know their trade is a racket. Perhaps it was a joke; lawyers have extracted billions (trillions?) from clients and taxpayers down the centuries. The system was imposed on England's colonies

including Jamestown, Virginia in 1607 and New South Wales, along with 751 convicts, in 1788.

The public and justice

An Australian judge, Russell Fox, researched both systems for 11 years after he retired from the Federal Court. He concluded: “ ... the public estimation must be correct, that justice marches with the truth.” That means: The public understand justice better than common lawyers, including judges.

Common lawyers are the only people on the planet who believe that justice does not require a search for the truth.

The Dead Camel Party

After 5½ centuries, lawyers are still the “dominant influence” in legislatures in Britain and its former colonies. Today, some 60% of US Senators are lawyers. Hence the Tammany Hall saying: “More lawyers live on politics than flies on a dead camel.”

In effect, lawyers from all parties make up a Dead Camel Party (or perhaps a Shitters’ Party). One of its functions would be to prevent change to a truth-seeking system run by trained judges. Taxpayers should thus:

Vote 1: Anyone but a dead camel.

***Dr Robert Moles, LLB (Hons) Belfast, PhD Edinburgh, said Whitton’s *Our Corrupt Legal System* “is one of the most important books I have ever read on the common law legal system. [It] should be required reading on Introduction to Law courses in all law schools”. The text is free at a section of Dr Moles’s website:**
netk.net.au/whitton/ocls.pdf.