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## Are Lawyers Illiterate?

■ Allen Porter Mendenhall ■ Books ■ Intelligence ■ Literature by

Allen Porter Mendenhall

*Webster's* defines "intelligent" as "endowed with intelligence or intellect; possessed of, or exhibiting, a high or fitting degree of intelligence or understanding." This modern understanding of "intelligence" as an innate disposition or propensity differs from earlier understandings of the word as meaning "versed" or "skilled." Milton, for instance, in *Paradise Lost*, calls the eagle and the stork "intelligent of seasons," by which he meant that these birds, because of their experience, were cognizant of the seasons.



The older meaning of "intelligent" has less to do with native endowment than it does with gradual understanding. The older meaning, in other words, is that intelligence is acquired by effort and exposure rather than fixed by biological inheritance or natural capacity: one may become intelligent and is not just born that way; intelligence is a cultivated faculty, not an intrinsic feature.

Because of the altered signification of "intelligent," we use today different words to describe the older meaning: erudite, knowledgeable, informed, traveled, educated. These words seem to us more palatable than their once-favored predecessors: civilized, polished, cultured, genteel, refined. I myself prefer words like "lettered" or "versed" that imply a knowledge of important books and the humanities generally.

The most apt term in this regard is also the most butchered in the current lexicon: "literate." Contrary to what appears to be the prevailing assumption, "literate" does not simply refer to an ability to read. According to *Webster's*, "literate" means "instructed in letters, educated; pertaining to, or learned in, literature."

Not just to read, but to read *well* and *widely*—that is how you become "literate." Accepting this traditional meaning, I question how many lawyers are or can become literate.

In the 1980s, Ithiel de Sola Pool, a professor of communications and media, determined that the average American adult reads approximately 240 words per minute. At that rate, it would take a person around 2,268.36 minutes (or 37 hours, 48 minutes, and 21.6 seconds) to read *War and Peace*, which comes in at 544,406 words. If that sounds encouraging—ever wanted to read *War and Peace* in a day-and-a-half?—consider these offsetting variables: reading at one sitting slows over time; attention span and memory recall are limited; the mind can be exercised only so much before it requires rest; people cannot constantly read for 2,268.36 minutes without going to the restroom or eating or daydreaming, among other things; a healthy lifestyle entails seven to nine hours of sleep per day; large portions of the day are spent carrying out quotidian operations, including showering, cooking, brushing teeth, commuting to and from work, getting dressed and undressed, answering phone calls, reading emails, cleaning, filling out paperwork, paying bills, and so on. Pool, moreover, was not using a text like *War and Peace* to gather his data, and his subjects were not writing in the margins of their books, taking notes on their laptops, or pausing to engage others in critical conversations about some narrative.

The National Association for Legal Career Professionals has estimated that lawyers at large firms bill on average 1,859 hours per year and work 2,208 hours per year. These numbers are more troubling in view of the fact that large law firms require their attorneys to attend functions with clients and potential clients, time that is neither billable nor considered "working hours."

If there are around 8,760 hours in a year, and if a healthy person spends about 2,920 of those sleeping, there remain only around 5,840 hours per year for everything else. If "everything else" consisted of nothing—nothing at all—except reading *War and Peace*, then a lawyer at a large law firm could read that book about 154 times a year. But of course this is not possible, because no person can function as a machine functions. Once the offsetting variables are accounted for—and I have listed only a few that immediately spring to mind, and these for people with no families—it becomes apparent that it is nearly impossible for a lawyer to read more than about four lengthy or difficult books each month, and only the most diligent and disciplined can accomplish that.

Numbers can lead us astray, so let us consider some anecdotal evidence—my own testimony—which suggests that most lawyers are illiterate, or perhaps that lawyers have to try really hard to become literate or to avoid losing their literacy.

I am a lawyer, one who considers himself literate but increasingly in danger of becoming illiterate the longer I remain in my chosen profession. My hope is that literacy stays with you, that if you "frontload," as it were, you can build a wide enough base to allow for slack in later years.

In 2013, I made an effort to overcome the time restrictions of my job to read through several canonical texts of Western Civilization. For the most part I undertook a book a week, although, because of scheduling constraints, I read what I took to be the most important or most famous sections of the lengthier books and volumes such as Aquinas's *Summa Theologica*, a work that would require years of study to fully appreciate. I found myself, on many Thursday evenings, reading so rapidly to finish the text at hand that I could not enjoy myself or absorb the nuances and complexities established by the author.



Reading only one book a week when you are intelligent enough to read more is shameful and disgraceful, the sacrifice of a gift. During graduate school, I could read five or six books a week and can recall more than one week when I read a book a day. But each day I spend working as a lawyer, I am less able to digest the books I consume and to consume the books necessary for intellectual nourishment.

Economists use the term “opportunity cost” to refer to a choice to forego options or to pursue the benefits of one course of action rather than another. The cost of becoming a lawyer is giving up literacy or making its attainment more difficult; the gain, in theory, is a higher salary and financial stability. Whether the gain neutralizes the loss depends on one’s preferences. I myself would not trade for a million dollars the opportunity to read Tolstoy or Shakespeare or Aristotle or Santayana.

To achieve the admiration enjoyed by lawyers, other professionals must do their jobs several times better. Happily, this is not a high bar. That is why people prefer the company of doctors. It is not that lawyers are incompetent or unskilled; it is that they do not put their faculties to good use. All people think, but it is only by degree and by the object of their thought that the literate are distinguished from the illiterate. To put their minds to humane use would improve lawyers’ reputations considerably and call into question that axiom popularized by one of Dickens’s characters: “If there were no bad people, there would be no good lawyers.”

The way I see it, you can spend all your life billing clients and pushing paper under great stress, by investing your talents and resources in prospects that yield no intellectual returns, or you can spend your life establishing high standards of reason, understanding, and creativity by studying the most important and influential works that humans have produced through the ages. You can spend all your time transacting business, prosecuting and defending lawsuits, and preparing briefs and memoranda, or you can cultivate discernment and understanding. The options are not mutually exclusive: I have overstated to draw a sharp contrast, but the point remains.

Do not misunderstand me: working hard and earning profits are not only good and healthy activities but personally fulfilling. Yet they must be supplemented with humane contemplation and the private study of important ideas. Industry and innovation are requisite to a high quality of life, a robust economy, and human flourishing—and they make possible the time and leisure that enable some people to create great art and literature. Not everyone can be literate, and that is a good thing.

It is just that many lawyers never learn to live well and wisely, to place their seemingly urgent matters into perspective, or to appreciate, as Aristotle did, the virtues of moderation. This failure is directly related to lawyers’ neglect of history and philosophy and to their suppression of the moral imagination that works of good literature can awaken. This failure, as well, puts lawyers at a distinct disadvantage when it comes to spiritual, moral, and intellectual pursuits. As Mark Twain quipped, “The man who does not read good books has no advantage over the man who cannot read them.”

Lawyers are illiterate, most of them anyway. Trust them to handle your real estate closings or to manage your negligence claims, to finalize your divorce or to dash off angry letters to your competitors, but do not trust them to instruct you on plain living and high thinking. There are exceptions—Gerald Russello and Daniel Kornstein are two—but generally lawyers are not to be consulted on matters of importance to the soul. For those, we have good books, and with luck, the people who write and read them.

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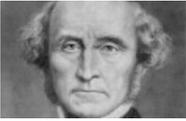
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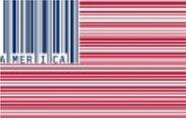
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