



1978

## Before the Law: An Analysis for the Legal Profession

Victor A. Fleming

Follow this and additional works at: <https://lawrepository.ualr.edu/lawreview>



Part of the [Legal Education Commons](#), and the [Legal Profession Commons](#)

---

### Recommended Citation

Victor A. Fleming, *Before the Law: An Analysis for the Legal Profession*, 1 U. ARK. LITTLE ROCK L. REV. 321 (1978).

Available at: <https://lawrepository.ualr.edu/lawreview/vol1/iss2/3>

This Article is brought to you for free and open access by Bowen Law Repository: Scholarship & Archives. It has been accepted for inclusion in University of Arkansas at Little Rock Law Review by an authorized editor of Bowen Law Repository: Scholarship & Archives. For more information, please contact [mmserfass@ualr.edu](mailto:mmserfass@ualr.edu).

# “BEFORE THE LAW”: AN ANALYSIS FOR THE LEGAL PROFESSION

Victor A. Fleming\*

Over half a century ago, Franz Kafka wrote a parable entitled “Before the Law.”<sup>1</sup> The parable is a brief allegory, the narrative of which is simplicity itself. It lends itself, however, to innumerable adaptations and has been said, among other things, to describe “the American system of law so well that it is hard to understand why it is not given more recognition in legal writings.”<sup>2</sup> This lack of recognition is especially puzzling in light of the fact that Kafka himself was a lawyer.<sup>3</sup>

The parable’s main literary appearance is in *The Trial*, Kafka’s classic novel about a man whose dilemma in life is that he has been arrested but is unable to determine the crime with which he is charged. The story is told by a priest to Joseph K., the novel’s main character, in a cathedral into which K. has wandered while waiting for a foreign dignitary to whom he was to give a tour of the cathedral.<sup>4</sup> Upon encountering the priest, K. learns that the priest knows his predicament only too well.<sup>5</sup> Realizing the depths to which the priest understands his problem, K. invites the priest’s rendition of the parable:

“[Y]ou are an exception among those who belong to the Court. I have more trust in you than in any of the others, though I know many of them. With you I can speak openly.” “Don’t be deluded,” said the priest. “How am I being deluded?” asked K. “You are

---

\* Research assistant to the City Attorney, North Little Rock, Arkansas; B.A., Davidson College, 1974; J.D., University of Arkansas at Little Rock School of Law, 1978.

1. The parable was one of Kafka’s favorite pieces, and it was written probably in 1914 or 1915. See M. Brod, *Franz Kafka—A Biography* 244-45 (1st paperback ed. 1963). It is an integral part of one of Kafka’s most famous novels. See F. Kafka, *The Trial* 267-69 (Vintage Books ed. 1969) [hereinafter cited as *The Trial*]. In addition to its inclusion in *The Trial*, “Before the Law” was published two other times: “in the almanac *Vom Jüngsten Tag* [and] in the Jewish weekly *Selbstwehr*. . . .” F. Kuna, *Literature as Corrective Punishment* 132 (1974).

2. Fleming, *Doors of the Law*, *The (University of Arkansas at Little Rock) Forum*, Mar. 23, 1977, at 2, col. 1, col. 2.

3. See M. Brod, *supra* note 1, at 41, 244; see also F. Kafka, *Letter to His Father* 95 (Bilingual ed. 1966):

I knew [that] compared to the main thing everything would be exactly as much a matter of indifference to me as all the subjects taught at school, so it was a matter of finding a profession that would let me indulge this indifference without injuring my vanity too much. Law was the obvious choice. . . . So I studied law.

4. *The Trial*, *supra* note 1, at 247-56.

5. *Id.* at 262-66.

deluding yourself about the Court," said the priest. "In the writings which preface the Law that particular delusion is described thus: before the Law stands a doorkeeper. To this doorkeeper there comes a man from the country who begs for admittance to the Law. But the doorkeeper says that he cannot admit the man at the moment. The man, on reflection, asks if he will be allowed, then, to enter later. "It is possible," answers the doorkeeper, "but not at this moment." Since the door leading into the Law stands open as usual and the doorkeeper steps to one side, the man bends down to peer through the entrance. When the doorkeeper sees that, he laughs and says: "If you are so strongly tempted, try to get in without my permission. But note that I am powerful. And I am only the lowest doorkeeper. From hall to hall, keepers stand at every door, one more powerful than the other. And the sight of the third man is already more than even I can stand." These are difficulties which the man from the country has not expected to meet, the Law, he thinks, should be accessible to every man and at all times, but when he looks more closely at the doorkeeper in his furred robe, with his huge pointed nose and long thin Tartar beard, he decides that he had better wait until he gets permission to enter. The doorkeeper gives him a stool and lets him sit down at the side of the door. There he sits waiting for days and years. He makes many attempts to be allowed in and wearies the doorkeeper with his importunity. The doorkeeper often engages him in brief conversation, asking him about his home and about other matters, but the questions are put quite impersonally, as great men put questions, and always conclude with the statement that the man cannot be allowed to enter yet. The man, who has equipped himself with many things for his journey, parts with all he has, however valuable, in the hope of bribing the doorkeeper. The doorkeeper accepts it all, saying, however, as he takes each gift: "I take this only to keep you from feeling that you have left something undone." During all these long years the man watches the doorkeeper almost incessantly. He forgets about the other doorkeepers, and this one seems to him the only barrier between himself and the Law. In the first years he curses his evil fate aloud; later, as he grows old, he only mutters to himself. He grows childish, and since in his prolonged study of the doorkeeper he has learned to know even the fleas in his fur collar, he begs the very fleas to help him and to persuade the doorkeeper to change his mind. Finally his eyes grow dim and he does not know whether the world is really darkening around him or whether his eyes are only deceiving him. But in the darkness he can now perceive a radiance that streams inextinguishably from the door of the Law. Now his life is drawing to a close. Before he dies, all that he has experienced during the whole time of his sojourn condenses in his mind into one question, which he has never yet put to the doorkeeper. He beckons the

doorkeeper, since he can no longer raise his stiffening body. The doorkeeper has to bend far down to hear him, for the difference in size between them has increased very much to the man's disadvantage. "What do you want to know now?" asks the doorkeeper, "you are insatiable." "Everyone strives to attain the Law," answers the man, "how does it come about, then, that in all these years no one has come seeking admittance but me?" The doorkeeper perceives that the man is nearing his end and his hearing is failing, so he bellows into his ear: "No one but you could gain admittance through this door, since this door was intended for you. I am now going to shut it."<sup>6</sup>

After the story is told, the priest and K. engage in a lengthy dialogue, "in which the legend . . . is discussed from various angles,"<sup>7</sup> with the priest emphasizing the views of various unnamed "commentators" of the "scriptures."<sup>8</sup> But all the important questions are left unanswered: Was the doorkeeper deceiving the man, or was the doorkeeper himself deceived? Was the doorkeeper appointed to his post from inside the Law (in which case he would have some knowledge of the inside) or by a voice calling from within? Are the statements that the doorkeeper cannot admit the man and that the door was intended only for the man contradictory or reconcilable? If the door to the Law remains open, as is stated early in the parable, then what authority does the doorkeeper have to state at the end that he is going to close it?

After the dialogue has run its course, K.'s attitude is reminiscent of that of a first-year law student emerging from his first classroom recitation, a recent law school graduate after the bar exam, or perhaps a lawyer at the end of a grueling jury trial or appellate argument:

He was too tired to survey all the conclusions arising from the story, and the trains of thought into which it was leading him were unfamiliar, dealing with impalpabilities better suited to a theme for discussion among Court officials than for him. The simple story had lost its clear outline, he wanted to put it out of his mind. . . .<sup>9</sup>

While Kafka's own dialogistic analysis of the parable is certainly entertaining, provocative, and fascinating in its own right, it falls short of being enlightening. Such was probably the intent, and, such being the case, it is not surprising to find that numerous scholars

6. *Id.* at 267-69.

7. M. Brod, *supra* note 1, at 47.

8. The Trial, *supra* note 1, at 269-76.

9. *Id.* at 277.

have taken upon themselves the task of analyzing "Before the Law" for its extensions and adaptations to the times in which they were writing.

It has been said of the doorkeeper that his character "was a direct play on the bearded, grim-looking, heavily cloaked doormen with pointed hats who stood watch with gold-headed pikes at the great doors of the palaces of Prague aristocrats from whose inner recesses an indelibly bright splendor shown forth. . . ." <sup>10</sup> Regarding "the man from the country," it has been pointed out that certain translations of this phrase, with which Kafka would have been very familiar, evoke "the nickname for an ignoramus." <sup>11</sup> Thus, some of the parable's imagery and language probably stems from recollections and study from Kafka's younger years. However, there is obviously much more to the parable than a clever narrative concocted from childhood memories. It must have a deeper meaning. It is all right for Kafka's man to get lost "in the labyrinth of his own internal and external institutions," <sup>12</sup> but members of the legal profession dare not let that be their fate. As has been pointed out by one interpreter of Kafka, "Anyone who has never had to struggle with his own . . . problems . . . can comprehend Kafka only superficially and not basically." <sup>13</sup> The student of law and justice must strive for that basic understanding.

Most commentators who have sought a basic understanding of "Before the Law" have understandably focused on the metaphorical aspects of the man from the country, the doorkeeper, and the door to the Law, in an effort to analogize the essence of the parable to some similar situation in life. A question that crops up time and again is whether the man from the country could have done anything to obtain admittance to the Law. One commentator has stated unequivocally, "The answer must be a firm no." <sup>14</sup> Some analysts tend to view the parable rather fatalistically: "The parable does not

---

10. J. Urzidil, *There Goes Kafka* 32-33 (1968).

11. H. Politzer, *Franz Kafka: Parable and Paradox* 174 (1962). Politzer points out that Kafka would have been familiar both with the Hebrew word, *Am-ha'arets*, and its Yiddish equivalent, *Amhoretz*, which in Biblical times referred to "the whole people of the Palestinian hinterland," a working class which was "looked down upon by the dwellers of . . . Jerusalem living close to the Sanctuary." *Am* refers to people bound by the Covenant, and *ha'arets* refers to the country which "claimed their services and barred them from easy access to the nation's spiritual center, the Law." Politzer further emphasizes that the concept evoked by the term *Am-ha'arets* "has retained vestiges of the tension between the priestly and abstract on the one hand and the profane and concrete on the other." *Id.* at 174-75.

12. J. Urzidil, *supra* note 10, at 65.

13. *Id.* at 98.

14. F. Kuna, *supra* note 1, at 133.

allow any moralising about it, it simply confirms the incompatibility between the Law and human consciousness."<sup>15</sup> One scholar has interpreted the parable to teach that "[n]ot only can man obtain no understanding of the Law as a supernatural revelation, but the message from Heaven does not even reach the ear of man."<sup>16</sup> Another has taken the position that "[t]he parable represents a moment when the mind totally grasps its own situation . . . , an impossible and 'untenable' position like the Archimedean point-only to be reached on condition that it is turned against its possessor."<sup>17</sup> The parable has been called "an almost Spinozistic argument, one sentence of which merely serves to invalidate the other."<sup>18</sup> One pessimistic analyst has concluded that "[t]he parable demonstrates . . . the impossibility of its own interpretation."<sup>19</sup> However, the numerous interpretations of other writers implicitly indicate strong disagreement with such a conclusion.

In the dialogue following the parable in *The Trial*, the priest singles out two important aspects of the story: the doorkeeper's repeated statements that the man cannot be admitted to the Law and the ultimate assertion that the door was intended only for the man.<sup>20</sup> Here, it has been said, "the doorkeeper is speaking in the character of the church of Calvin, with its emphasis on man's eternal election by God, but his inability to procure [salvation] by any activity of his own, and the final uncertainty as to whether he is really . . . saved."<sup>21</sup> This assertion is consistent with a more recent critique which construes the door to the Law to be the "door leading into heaven" and the doorkeeper to be representative of modern bureaucracy.<sup>22</sup> Proponents of religious and bureaucratic applications<sup>23</sup> of the tale tend to suppose that courageous disregard of the doorkeeper "would have been the liberating act which would have carried [the man] to the shining palace."<sup>24</sup> Expressing a popular

15. *Id.*

16. Schoeps, *The Tragedy of Faithlessness*, in *The Kafka Problem* 294 (A. Flores ed. 1946).

17. A. Thorlby, *Kafka: A Study* 68 (1972).

18. Vietta, *The Fundamental Revolution*, in *The Kafka Problem*, *supra* note 16, at 338.

19. F. Kuna, *supra* note 1, at 132.

20. *The Trial*, *supra* note 1, at 270.

21. Kelly, *The Trial and the Tragedy of Crisis*, in *The Kafka Problem*, *supra* note 16, at 165.

22. E. Fromm, *The Revolution of Hope—Toward a Humanized Society* 6-7 (1968).

23. *E.g.*, Kelly, *supra* note 21, and E. Fromm, *supra* note 22; see also Burgum, *The Bankruptcy of Faith*, in *The Kafka Problem*, *supra* note 16, at 308; Lerner, *The Human Voyage*, in *The Kafka Problem*, *supra* note 16, at 42.

24. E. Fromm, *supra* note 22, at 7; see also J. Urzidil, *supra* note 10, at 54, suggesting that entrance could only have been achieved "by disregarding the watchman [who] serves only as a decoy."

viewpoint regarding most of Kafka's works, one commentator has concluded that in "the magnificent 'Before the Law,' [Kafka] leaves us with a number of possible interpretations and no means of knowing which is the correct one."<sup>25</sup>

Surely most lawyers would disagree with the pessimist's assertion that interpretation is impossible.<sup>26</sup> But exception should also be taken to the guarded optimism of the view that there are no means of knowing which of several possible interpretations is correct.<sup>27</sup> If analogy to a particular set of facts yields a construction that is sufficient for the interpreter's purpose and a different fact pattern evokes a slightly altered construction, it does not necessarily follow that one or the other is incorrect. After all, on an abstract level, every person "has a door to the Law, to existences *dans le vrai*; [and] if he neglects or gambles his entrance away, no recovery is possible."<sup>28</sup>

Perhaps it is true that the parable is merely illustrative of a method by which Kafka was wont to illuminate the things about him, a method which "consists of a slowly growing stock of information followed by brilliant flashes of allegorical insight,"<sup>29</sup> a method not at all dissimilar to the methods used in American courtrooms. What, then, is incorrect with construing the parable to be "a poignant commentary on the remoteness of the common man from an understanding of that which governs his life,"<sup>30</sup> whatever that governing entity may be? Such an analysis, though subject to disagreement by some, is surely not incorrect. Neither is it incorrect to describe Kafka's man from the country as

representative of so many people: Those who come just close enough to the door of the Law to become apprehensive about the formidable-looking ornaments that adorn it; those who refuse to tamper with the unknown despite its being the sole barrier to what they seek, to what they think they deserve.<sup>31</sup>

It has been suggested that the man from the country might have fared better with the doorkeeper if he had brought a lawyer with him, but it has also been speculated that perhaps the man's purpose in coming to the door of the Law in the first place was to find a lawyer.<sup>32</sup>

---

25. G. Anders, *Franz Kafka* 54 (1960).

26. See F. Kuna, *supra* note 1, at 132.

27. See G. Anders, *supra* note 25, at 54.

28. J. Urzidil, *supra* note 10, at 53.

29. C. Neider, *The Frozen Sea: A Study of Franz Kafka* 115-16 (1962).

30. Fleming, *supra* note 2, at col. 2; see also E. Fromm, *supra* note 22, at 6-7.

31. Fleming, *supra* note 2, at col. 3.

32. *Id.* at col. 4.

Like so many concepts in legal literature, Kafka's parable simply cannot be colored black or white; it is written in a hazy shade of grey. If it may be interpreted one way for a given set of facts and a different way for another, then it has a trait that is characteristic of numerous cases and statutes that fill the law books. And, like those cases and statutes, flexibility does not necessarily render a particular construction incorrect. The doorkeeper can be a literary picture of the doormen in Prague,<sup>33</sup> "conscience and the mentor of responsibility,"<sup>34</sup> the essence of modern bureaucracy,<sup>35</sup> the mouthpiece of the Calvinist church,<sup>36</sup> and a gatekeeper at the entrance to Heaven,<sup>37</sup> all at the same time. The parable itself can symbolically express the "situation of modern man before the Law,"<sup>38</sup> demonstrate "what is possible in the way of cruelty when form is idolized to the detriment of spirit,"<sup>39</sup> and sum up the seeming "impenetrability of the world's laws,"<sup>40</sup> and still not admit of an *incorrect* interpretation.

It is interesting to analyze "Before the Law" in the context of the legal profession today. It is especially challenging to do so, examining the identity and authority of the doorkeeper in various analogies. The process by which one enters the legal profession is filled with obvious parallels: the Law and the legal profession, the man from the country and the candidate for admission to the bar, the doorkeeper and the bar examiner. A cursory examination of this analogy might tempt one to conclude that the parable serves as a didactic way of illustrating what might happen to the law school graduate who does not sufficiently prepare for the bar exam. But a close examination of the parable reveals that the analogy of the doorkeeper to the bar examiner fails at a crucial point: the doorkeeper's asserted authority is greater than that which the bar examiner purports to possess. The doorkeeper has apparent authority to prevent the man from gaining access to the Law through a door which the doorkeeper himself knows is intended for the man. The bar examiner's authority to deny one's admission to the bar ends where the demonstrated entitlement of the candidate begins. This

---

33. J. Urzidil, *supra* note 10, at 32-33.

34. *Id.* at 49.

35. E. Fromm, *supra* note 22, at 6-7.

36. Kelly, *supra* note 21, at 165.

37. H. Politzer, *supra* note 11, at 183 (citing G. Scholem, *Major Trends in Jewish Mysticism* (1941)).

38. Schoeps, *supra* note 16, at 292; *see also* Fleming, *supra* note 2, at col. 3.

39. C. Neider, *supra* note 29, at 116.

40. A. Thorlby, *supra* note 17, at 67.

is to say that, theoretically at least, unsuccessful examinees, by their failure to pass the bar exam, indicate that they are not truly entitled to admission to the bar at that time.

This breakdown in the doorkeeper-bar examiner analogy leads to analytical difficulties with the analogy of the man from the country to the recent law school graduate. Two major snags appear, and they are not unrelated. The first is that the man from the country is completely ignorant regarding the station and authority of the doorkeeper. Second, he is, although "equipped . . . with many things for his journey,"<sup>41</sup> woefully unknowledgeable about what is necessary for entrance into the Law. The bar applicant, however, has previous knowledge about the bar examiner and about what is necessary for gaining admittance to the bar. It is the lack of prior knowledge, which presumably could have been acquired by some sort of threshold preparation, that prevents the man from the country from capitalizing on his basic right to have access to the Law through the door intended for him. In summary, and at the risk of demonstrating the circular nature of such analysis, the man, though basically entitled to entrance through that door, is not *truly* entitled because he was not sufficiently prepared to capitalize upon his basic entitlement.<sup>42</sup> He is indeed an ignoramus<sup>43</sup> for the reason that he cannot secure for himself that which is meant for him. His tragic flaw leads to a pitiable existence. For the bar applicant, however, preparation and entitlement are closely intertwined and related to each other. There can be no basic entitlement without adequate preparation. And when entitlement is lacking, for whatever reason,

---

41. The Trial, *supra* note 1, at 268.

42. A bewilderment about how to obtain freedom and happiness in life is typical of the main characters in many of Kafka's works, and most of them meet fates similar to that of the man from the country. See, e.g., F. Kafka, *The Judgment* (sentenced to "death by drowning" by his father, Georg Bendemann throws himself off a bridge); *The Metamorphosis* (Gregor Samsa is "transformed. . . into a gigantic insect" and later mortally wounded when his father hurls an apple into his back); *In the Penal Colony* (attempting to demonstrate a bizarre execution apparatus, the Commandant himself is maimed by it), in *Selected Stories of Franz Kafka* (1952). As indicated by the themes of the cited works, Kafka was obsessed with his relationship with his father, who was a stern businessman to whose expectations Kafka felt he could never measure up. At one point in life, Kafka wrote a long (over 100 pages) letter to his father, attempting to explain his feelings in this regard, but the letter was never delivered. It was, however, published posthumously and is considered one of Kafka's significant pieces of literature. See F. Kafka, *Letter to His Father*, *supra* note 3; see also M. Brod, *supra* note 1, at 15-18. Brod's work is a concise but insightful biography of this literary genius. It was Brod to whom Kafka gave several manuscripts with instructions to burn them. "Fortunately, [Brod] took upon himself the honorable responsibility of disregarding that desperate last instruction." Rahv, *Introduction* to F. Kafka, *Selected Stories of Franz Kafka*, *supra*, at xxii.

43. See H. Politzer, *supra* note 11, at 174.

the message of nonentitlement is not delivered by a lowly doorkeeper. Thus, it may be seen that this two-pronged concept of entitlement and preparation expands the adaptability of the parole to areas other than the threshold of the legal profession, both prospectively and retrospectively. And, although the preceding example sufficiently conveys the lesson that one should not allow himself to be like the man from the country, a key to determining just what this lesson means lies in identifying the doorkeeper. In that regard, other examples are helpful.

Consider, as another example, one of the initial steps in becoming a lawyer, the task of gaining admission to law school. In the process of completing college, enrolling with the Educational Testing Service, taking the Law School Aptitude Test, and applying to various institutions, the applicant must be aware of the doorkeepers that lurk "from door to door" and must, above all, avoid the fate of the man from the country. Each individual step of the application process involves a certain amount of preparation, and each step is merely one element of the task of showing true entitlement to law school admission. With the successful completion of each step, a doorkeeper is left behind. It may be argued that, in the long run, there is a certain element of arbitrariness in the selection process, but this is not the working of a doorkeeper. It is a part of the system about which all applicants are on notice from the outset. And though the unsuccessful candidate may wish to place the blame elsewhere, the message comes from within the Law, from a higher authority than a doorkeeper. Simple and plain, the message is that, all efforts at preparation notwithstanding, true entitlement appears to be lacking. There is no whispered or shouted statement of futility that "this door was intended for you [but] I am now going to shut it."<sup>44</sup>

Consider a third example: a lawyer whose goal is to obtain the best result for his client in a trial. Adequate preparation will generally disclose the result to which the client and lawyer are entitled. The process of adequate preparation will leave in the wake all doorkeepers with ostensible authority to preclude the appropriate result. If the trial does not yield the desired result, the lawyer may wish to place the blame on some mysterious and intimidating doorman, appearing to be an absolute bar to justice. But if in fact he was well prepared, he will know and understand the message only too well. According to the rules of the profession, of which he was well aware from the outset, true entitlement was lacking in the eyes of the judge

---

44. The Trial, *supra* note 1, at 269.

or jury, entities with far greater authority than a doorkeeper.

Thus, in the quest for the identity and authority of the doorkeeper, it is important to note that, in the foregoing examples, he is not metaphorically representative of the bar examiner, the dean of admissions, and the judge or jury. For they can only deny admittance to those who, according to rules of which all potential entrants are aware, are not entitled. The doorkeeper in the parable asserted authority, or power, to deny access to that to which he knew the man to be entitled. In the situations described in the foregoing examples, one who is adequately prepared at each stage of his "journey" should never come face to face with a doorkeeper.

Although it has been said, perhaps accurately, that the man from the country "decide[d] not to decide,"<sup>45</sup> it was his lack of knowledge or awareness of the rules that led to this "decision." And while the contention that some type of disregard for the doorkeeper's ostensible authority was the man's only hope for salvation<sup>46</sup> may have some merit, such boldness is not likely to be demonstrated by one who has not sufficiently prepared himself for all that he may encounter on such a sojourn. Had the man from the country been adequately prepared, he would have never encountered the doorkeeper, who would have been left behind at an earlier stage, unrecognized.<sup>47</sup> In terms of the man's entitlement, the only thing lacking is some fleeting aspect of preparation that on one hand is somehow related to the doorkeeper's identity, but on the other hand, if present, would have obviated the encounter with the doorkeeper altogether.

The close link between the missing element of preparation and the doorkeeper's identity is key to the discovery of the doorkeeper's authority. And the doorkeeper's actual authority is key to a determination of his identity. He is an entity that persons should never meet if they are adequately prepared for the achievement of goals to which they are basically entitled. He is the spirit of the adversary, but not the adversary himself. He is the intangible extension of self that allows one to be unprepared for things to which he is entitled. He is as strong as the unprepared person allows him to become. To the prepared person, however, the doorkeeper is no more than an obstacle to be hurdled without a second thought in the routine

---

45. J. Urzidil, *supra* note 10, at 45.

46. *Id.* at 54; E. Fromm, *supra* note 22, at 7.

47. Obviously, such a change of events would eliminate the essence of the paradox and thus emasculate the parable of all meaning. The man from the country would no longer be an ignoramus. See H. Politzer, *supra* note 11, at 174. Furthermore, the door to the Law would be without a keeper, the identity and authority of which to explore.

process of preparation. He is but a mere functionary who can and will possess only so much authority as one allows him to assume. One should never have to stoop so low as to negotiate with him, let alone the fleas in his collar. The person who finds himself face to face with a doorkeeper asserting authority to prevent his access to that to which he believes himself entitled had best take a second look at the situation. That person has not adequately prepared.

As members of the legal profession and aspirants thereto, we have already encountered the first door to the Law, as that aspect of the parable applies to admission to law school and/or admission to the bar. But as we journey farther along the road to other goals, we must remember the lesson taught by Kafka's parable. With regard to each individual goal that we may have, there is a door to the Law and a series of grim-looking doormen, who "[f]rom hall to hall . . . stand at every door, one more powerful than the other."<sup>48</sup> Adequate preparation for the particular goal—whether it be a jury verdict, a favorable property settlement, an acquittal, a fee, election to a judgeship, or whatever—will lead to true entitlement and obviate the necessity for any close encounters with intimidating doorkeepers. With this lesson in mind, we can perhaps maintain our practices, indeed our very existence, well inside the doors through which we are entitled to pass and not find ourselves negotiating with a doorkeeper on the threshold, before the Law.<sup>49</sup>

---

48. The Trial, *supra* note 1, at 268.

49. To readers who enjoy literary aspects of law and legal aspects of literature, the following works are commended: *Law and Literature: A Symposium*, 29 Rutgers L. Rev. 223-331 (1976); Wigmore, *A List of One Hundred Legal Novels*, 17 Ill. L. Rev. 26 (1922), reprinted from 2 Ill. L. Rev. 574 (1908). See also Weisberg, *Wigmore's "Legal Novels" Revisited: New Resources for the Expansive Lawyer*, 71 Nw. U.L. Rev. 17 (1976).