



# PLAYWRIGHT OF THE LAW

ELMER RICE

*Allan B. Ecker*

**E**LMER RICE (1892-1967) was one of the two most important and successful playwrights of his day.<sup>1</sup> Over the course of five decades, he wrote – and often directed and produced – 30 three-act plays. A lawyer himself, Elmer Rice frequently chose the legal profession as his subject. Two of his best-known plays, *On Trial* (1914) and *Counsellor-at-Law* (1931), are set in a courtroom and a law office.<sup>2</sup>

Elmer came by his knowledge of the law the hard way. At 20, in 1912, as Elmer Reizenstein,<sup>3</sup> he was managing clerk at House, Grossman & Vorhaus, a now-vanished New York City law firm. His job as managing clerk was “arduous and responsible”: keeping track

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*Allan B. Ecker is the son of Frances S. Ecker.*

<sup>1</sup> While Rice’s once-prodigious reputation has faded, his contemporary Eugene O’Neill (1888-1953) has only grown in renown. Widely acknowledged as the greatest American playwright, O’Neill depicted in his plays tormented characters endeavoring to comprehend their destiny. His best-known works: *Anna Christie*, *Strange Interlude*, *Mourning Becomes Electra*, *The Iceman Cometh*, *Long Day’s Journey Into Night* and *Desire Under the Elms*. Three O’Neill plays won Pulitzer Prizes, and he was awarded the 1936 Nobel Prize in Literature. In a 2009 spring revival, *Desire Under the Elms* played for 12 weeks on Broadway.

<sup>2</sup> Less successful plays Rice wrote about the law were: *For the Defense*, *It is the Law*, *Is He Guilty?*, and *Judgment Day*.

<sup>3</sup> Born Elmer Leopold Reizenstein, Rice changed his name when he became a playwright because it was “awkward and inharmonious.”

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*Elmer Rice on the New York bar exams: "Some of my answers were in blank verse; others included jokes, limericks, quotations from Shakespeare, the Bible, Omar Khayyàm and Lewis Carroll." He passed.*

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of all pending court appearances of the trial lawyers; arranging for service of process by the firm, and receiving service of process on the firm; and filing complaints, answers, motions, and notices of appeal in the right courts at the right time. In sum, Elmer was the cog in the House, Grossman wheel. For performing this essential function, Elmer was paid \$9 a week, plus his \$100 annual tuition at New York Law School. He attended the two-year law school course at night, graduating *cum laude* while still too young to be admitted to the New York bar. Shortly after his 21st birthday, he took the two required bar exams (one substantive, one procedural), entertaining himself in a way that must have bemused the examiners: “Some of my answers were in blank verse; others included jokes, limericks, quotations from Shakespeare, the Bible, Omar Khayyàm and Lewis Carroll.” Rice passed.

At House, Grossman, Elmer did not rate an office of his own. Facing a windowless wall, he sat on a high stool outside the office of the firm’s chief rainmaker, Judge Moses H. Grossman, a relative whom he privately called “Cousin Moe.”<sup>4</sup> Elmer’s stool was squarely wedged against a long table. On this he placed an in-box, an out-box, and the court docket.

Rice was red-headed, gangling and poorly coordinated. He suffered from uncorrected bad vision. This did not stop him from reading every legal document as it passed through his managing clerk’s hands: “pleadings, affidavits, contracts, letters, judgments, briefs, transcripts of testimony.” Thereby he learned what law school did not teach: how to recognize the elements of a *prima facie* case; how to distinguish a well-drafted pleading from an inferior one.<sup>5</sup>

Though his back was turned to Judge Grossman’s office, Elmer took in all the action, while Frances Schuman, Judge Grossman’s

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<sup>4</sup> Grossman had served briefly as a judge on New York’s trial court. He resigned because he could “make more money in front of the bench than on it.” Resuming private practice, the Judge retained his courtesy title.

<sup>5</sup> Rice describes this self-education in his autobiography, *Minority Report* (1963). I never met Rice. The quotations in this article are taken from that book, or from *The Living Theatre* (1959), the playwright’s classic essay on stagecraft.

18-year-old secretary and gatekeeper,<sup>6</sup> courteously admitted, or courteously deflected, the steady stream of visitors who wanted to see “M.H.G.” A born mimic who could have been an actor, Elmer imitated the visitors *sotto voce* – just loud enough to keep Frances, his audience-of-one, in stitches.

One of Elmer’s prime targets for parody was Cousin Moe himself. Judge Grossman was only 5’ 4” tall, but he affected a high silk hat that made him look (and probably feel) taller. So that he could go to court on a moment’s notice, the Judge always wore a frock coat and striped trousers. He carried a gold-headed cane. Promptly at noon every day, he lunched at The Lawyers Club with his colleagues at the bar, and occasionally with judges with whom he had sat on the bench. He was important – and self-important.

At law school, Elmer listened with one ear; from his work at House, Grossman, he already knew much of what the lecturer was telling him. During most classes, he read plays borrowed from the New York Public Library – a hundred plays in the course of two years, including those of such towering figures as Ibsen, Shaw and Galsworthy, and also the work of contemporary playwrights. In his spare time, and with a limited pocketbook, Elmer sat in the second balcony to watch the Broadway plays of the day. He determined that he would rather be a playwright than a lawyer.

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<sup>6</sup> Like Elmer Rice, Frances Schuman studied law at night, attending the better-known New York University School of Law. To win the coveted \$5 a week post as secretary to Judge Grossman, Frances had to demonstrate her proficiency at shorthand using the Pitman method and had to pass a spelling test, orally administered by the Judge’s sister. Frances got every word right, except one: she spelled “realty” as “reality”. Admitted to practice in 1915, one of the first-ever women members of the New York bar, Frances became one of Manhattan’s best-known Real Estate lawyers. Her documents were clean, crisp examples of the draftsman’s art, widely copied. As a lawyer, Frances Schuman – later Frances S. Ecker – claimed with some reason to have “bought and sold every property” in the Yorkville neighborhood of the City. “F.S.E.” (as she signed herself) designated her clients’ corporations with affirmative names, reflecting her own determined disposition: Optimist Realty Corp., Prosperity Properties Inc., and Banyan Real Estate Ltd. Banyan? “Like the tree. It will grow.”

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*Frances Schuman — later Frances S. Ecker — claimed with some good reason to have “bought and sold every property in the Yorkville neighborhood of New York.” From the 1920s to the 1960s, the New York Times reported on scores of her real estate transactions and related litigation.*

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While still at House, Grossman, Elmer “had the audacity to follow a murder trial straight through” in his first play, *On Trial* (1914). The plot involved an ambitious but inexperienced young attorney defending a man on trial for murdering his best friend, who had seduced the wife of the accused. At the end of the trial, the jury acquitted the defendant because of “the unwritten law.” The melodrama was notable for its employment of a flashback technique, later to be popularized in the movies. The trial itself acted as a framework for the flashback scenes. Rice himself called it “a shrewd piece of stage carpentry.” *On Trial* ran for a year and earned Rice the enormous sum of \$100,000. After the Broadway show closed, three companies of *On Trial* went on a national tour, each with a cast of 25 and with five sets of scenery – taking the play to what Rice called an “astonishing” 73 cities, including Los Angeles, Chicago and New Orleans, and such lesser destinations as Wausau, Wisconsin, and Pueblo, Colorado.

Elmer Rice’s next two major plays had nothing to do with the law. *The Adding Machine* (1923), successfully revived off-Broadway in 2008 as an assured musical, was an expressionistic play satirizing the growing regimentation of man in the Machine Age (its antihero: a bookkeeper named “Mr. Zero”). In later years, he would describe *The Adding Machine* as the summit of his achievement, because it best conveyed his message of the declining importance of the individual in modern society.

Then came *Street Scene* (1929), written and directed by Rice, a teeming tale of sweltering heat, ethnic conflict, love, adultery and murder. Rice spent days roaming the Manhattan streets, looking for a location that, until then, had existed only in his imagination. At last, on West 65th Street, Elmer found the exact tenement that he was looking for. Scene designer Jo Mielziner replicated it on the stage of the Playhouse: On a summer evening, the tenement residents lean out the windows, complaining of the weather. Little Willie Maurrant yells from the sidewalk to his mother for a nickel to buy an ice cream cone. Gossipers repeat innuendoes about Mrs. Maurrant and Sankey, a bill collector for the milk company. People pass aimlessly along the sidewalk. Somewhere a voice repeatedly

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calls out “Char-lie!” Through this accumulation of familiar details, Rice establishes the rhythm of tenement existence: busy, varied, flowing, real. Slowly 50 characters take on individuality; slowly each of the several stories begins to emerge. *Street Scene* ran for 601 performances, demonstrating Rice’s ear for everyday speech and his eye for the vivid gesture. For its compassionate chronicle of tenement life in New York, *Street Scene* won the Pulitzer Prize for Drama in 1929. Samuel Goldwyn purchased the rights. In the 1931 black-and-white movie version, directed by King Vidor and based on Rice’s own screenplay, the set was the size of a city block, giving the drama what viewers described as a subtly enveloping quality, and making *Street Scene* one of the most watchable of the early talkies. The film starred Sylvia Sidney, nominated later for an Academy Award in a different role. Kurt Weill (music), Langston Hughes (lyrics) and Rice (libretto) transformed *Street Scene* into a musical drama. In translation, *Street Scene* in its original form was a success in the Soviet Union, where it was viewed as depicting the dark side of capitalism. *Street Scene* is still a staple of repertory and high school performances.

In 1931, Elmer returned to his first subject, the law – writing, directing and producing *Counsellor-at-Law*. Starring the celebrated actor Paul Muni, *Counsellor-at-Law* was a smash hit, running for 412 performances, and another 258 with Muni in revival a decade later.<sup>7</sup> By contrast to the city block set in *Street Scene*, *Counsellor-at-Law* takes place in what the script identifies simply as “A suite of law offices in midtown New York.” (Elmer himself is recognizable in the cast as “Henry, a young gangling office messenger.”) The offices of Simon & Tedesco are awash with visitors, each with a personal crisis, each certain that George Simon will produce the solution. Rice interweaves a dozen different narratives about Simon’s clients with a confrontation involving Simon himself: he is threatened with disbarment because it appears that he knew at the time that a

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<sup>7</sup> Rice’s audiences had come to expect realism to the nth degree. A climactic scene in *Counsellor-at-Law* hinges on a telephone call. On the morning after the opening, Rice reports in *The Living Theatre*, “At least 20 people called me up to say that Paul Muni had dialed only six times instead of the required seven.”

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criminal defendant whom he successfully represented had faked his alibi. On a Sunday night during the run of the play, Rice directed the cast in a special performance at Sing Sing Correctional Facility, a major New York prison in Ossining, New York. Two thousand men in gray, prisoners doing sentences from one year to life, watched in silence, while an apprehensive Elmer Rice thought he had missed his mark. But as the final curtain fell, the audience broke into thunderous applause: the assembled felons knew the real thing when they saw it. With a screenplay by Rice, and under the direction of William Wyler, the movie version of *Counsellor-at-Law* was fluid and tense. In the lead role as George Simon, John Barrymore gave what critics called the best performance of his screen career, then nearing its end.

(Someone told Judge Grossman, by now quite elderly, that *Counsellor-at-Law* was based on House, Grossman. The Judge called Elmer Rice to invite him – as he had never done while Elmer was at the firm – to lunch at The Lawyers Club. Elmer declined.)

Rice, married three times, had five children. His marriage to Betty Field, a popular actress, inspired him to create *Dream Girl*, a romantic powder-puff of a comedy (1945). Theatergoers enjoyed it as a welcome change from Rice's more solemn efforts.

At the depth of the Depression, Rice persuaded Harry Hopkins, F.D.R.'s one-man brain trust, to establish a nationwide Federal Theatre Project under Hallie Flanagan's direction, with Rice as New York Regional Director. Its objectives: to provide work for unemployed actors, to stage the plays of new dramatists,<sup>8</sup> and to bring cheap entertainment (at only 25¢ or 40¢ a ticket) to audiences numbered in the thousands.

To make sure their plays reached the audiences they deserved, Rice and four other famous playwrights, Maxwell Anderson, S.N. Behrman, Robert E. Sherwood and Sidney Howard, founded in 1937 a theatrical production company, The Playwrights' Company. (The only non-playwright in the group was John F. Wharton of

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<sup>8</sup> Arthur Miller, now regarded as one of America's most important playwrights, began his career in Rice's Federal Theatre Project.

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Paul Weiss Rifkind Wharton & Garrison, dean of the Entertainment law bar, who acted as counsel to the Company.) Among the many hits produced by The Playwrights' Company were *Present Laughter*, *The Country Wife*, *The Bad Seed*, *Street Scene*, *Candle in the Wind*, *There Shall Be No Night*, *Key Largo*, *Knickerbocker Holiday* and *Abe Lincoln in Illinois*. Directed by Elmer Rice and starring Raymond Massey, Robert E. Sherwood's *Abe Lincoln in Illinois* was a skillful distillation of the Lincoln-Douglas debates. It would win the Pulitzer Prize for Drama in 1939 – another good play, staged by a lawyer, about a lawyer.

