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# Destiny Beckons

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## Destiny Beckons

The law business of my father aroused my boyhood curiosity. What were those clients doing when they went into his private room and he closed the door? It was all very mysterious. There were so many of those secret conferences and so many papers to be signed. When I asked my mother about it, she said that a lawyer's business was confidential and no one was supposed to know what the clients wanted. She made me promise not to disturb father when he was busy. That promise was kept, although I continued to wonder. It was not until long after, when I, myself, had been practicing law for many years, that I really knew the answer.

The calfbound law books in my father's library interested me. Occasionally I took one of them down from the shelf and tried to read it, but it was all so much Greek to me. This made me more determined than ever that sometime I would read every one of those books in that library and know what the law was. It was a childhood fancy for little did I realize then that law books would multiply much faster than they could be read, and that the law itself would be changing more rapidly than any one lawyer could keep up with.



Perhaps it was just as well, for those imposing shelves of law books did rouse in me the first spark of legal ambition.

My early experience in listening to cases being tried in the courtroom made a deep-rooted impression upon me and strengthened my determination to become a lawyer. Growing up in that atmosphere as a boy, I would often dream of the time when I would stand before a jury and enthrall them with an eloquent plea and win the case for my client, or at a political convention I would sway the delegates with a masterful speech and bring success to whatever cause I was upholding. How was I to know then what absorbing memories those experiences were to leave with me, and how they would recur again and again in the years that were ahead. But they were not merely dreams. They were visions through the dim and lengthening future pointing the way towards a distant destiny.

Let us turn the pages of the time forward to test those ambitious boyhood dreams and the resulting destiny.

#### *Oath of Office*

It is the first day of the November 1904 term of the District Court. I am walking up the steps of the local courthouse with my father. Many times before I had entered the portals of the building, but this time it seemed different. Only a few short weeks before I had stood in the Supreme



Court Room in Des Moines, with the other successful candidates at the bar examination and, with my right hand upraised, had taken the oath of an attorney and counselor at law.

This solemn ceremony, in the presence of the black robed judges of the court, was so impressive as to leave a lasting impression on my mind. The physicians may venerate their ancient Hippocratic oath, but the moral, ethical and legal principles imposed upon a lawyer require the very highest standard of professional conduct in the cause of justice. Then and there I resolved to live up to these traditions of the profession.

As we entered the courthouse we did not go up the wide, winding, walnut-railed staircase that led to the courtroom on the second floor, but we proceeded through the clerk's office and up the narrow wooden stairway that was used by the lawyers and court officers. The well-worn steps bore testimony to the generations of legal talent that had proceeded me. At last, I was an attorney at law and entitled to sit within the bar railing.

Court had not yet convened. I glanced at my father as we sat there waiting. He was smiling and his face beamed with pride as we accepted the congratulations of the attorneys as they came in. This was a happy day for him as he now saw the realization of his long years of hope that his son would carry on with him in the law. It gave me an added happiness that I was able to fulfill



that desire of my father. It was too bad that my mother could not be there to share that pride. She was proud I was sure, but not just like my father, because she had always nursed a fond hope that I would be a minister.

As my father and I sat there I looked around the courtroom. It all came back to me. As a boy, I used to wander through the building in search of excitement. I had spent hours here listening to my father or some other lawyers try a case. The courthouse somehow seemed different; there was almost a feeling of veneration, as I thought of it now as the place where I was to fight legal battles in the years to come.

The entry of the judge cut short the reveries of my boyhood days and brought me back with a start. "You may open court, Mr. Bailiff," said the judge. The bailiff in a loud voice intoned the formula so long used in our district court, "Hear Ye! Hear Ye! The District Court of Palo Alto County is now in session." As the judge took his seat he beckoned me to approach the bench. "Hello, Counselor," he said as he shook my hand warmly and congratulated me upon my admission to the bar.

#### *Officer of the Court*

At last my dreams had come true. My ambition was realized. I was in court, an officer of the court, a counselor at law, and ready to start on my career as a lawyer.



My dreams did come true as far as making speeches to juries and to political conventions is concerned. That is commonplace for a lawyer. But as to the spellbinding I am not so sure. I soon discovered that mere oratory is like the tricks of a magician, it may fool the people, but it does not carry conviction. Clarence Darrow, the famous criminal lawyer, arrived at the same conclusion. In the story of his life he said: "I hope people have outlived oratory. Almost none of it is sincere. The structure, the pattern, the delivery are artificial."

In this connection a case, a number of years later in a neighboring county seat, comes to mind. I was defending a young boy accused of statutory rape, the girl being under the age of consent. We were a full week trying the case and I had built up a strong defense. I pulled out all the stops and put everything I had into my plea. I could feel the breathlessness of the audience that packed the courtroom and as some members of the jury openly wept tears of sympathy, it looked like a sure acquittal. Alas, in spite of their tears, the verdict was "guilty." A few months later the girl gave birth to a colored baby and it was discovered that a member of a traveling Negro ball team was the real culprit. So after all, justice was on my side. My client was promptly paroled and cleared.

In another case in my home court the opposing attorney grew eloquent in his address to the jury



and so swayed the audience that they burst into applause in spite of the admonition of the judge. In my reply I ignored the oratory of my opponent (much to the disappointment of the crowd) and confined myself to a careful discussion of the case. On the way out of the courtroom I overheard one spectator say to another, "What's the matter with McCarty, why didn't he take the hide off that fellow?" Obviously they were more interested in a good battle between the lawyers than in the law suit itself. However, what really counted was that the verdict of the jury was for my client.

In the Iowa Supreme Court room one day, I was waiting my turn to argue a case. The lawyer in the case before the court had from the start indulged in flights of oratory and in eloquent pleas for his client. Finally, the Chief Justice leaned over the bench and interrupted him, saying, "Your time is fast running out. We would like to know what are the facts in your case." On appeal, it is facts and pertinent argument that count, not oratory.

This does not mean that oratory does not have its place in a trial. There are times of great stress or great wrong when its use is imperative. But I have found that a thorough study and knowledge of the facts and the law and a forceful and convincing presentation are, as a general rule, much more effective.

Jonathan P. Dolliver was the congressman from



our district and was considered one of the foremost debaters of that time. As a great admirer of Dolliver, I followed his career in Congress closely. His masterful speeches on the tariff inspired me to give the subject considerable study, and it resulted in the publication, in 1909, of my first book — *History of the Tariff*. He served as United States Senator from Iowa from 1900 to 1910 and was recognized as one of the strong statesmen of his day.

The courtroom was the scene of many political battles, which were often exciting. But it was the legal battles and the tense dramas of the courtroom that drew crowds and swayed emotions of the spectators. When court adjourned, they swarmed out of the courthouse to argue the case all over again and to carry their interest out into the community.

#### *People and Emotions*

In his practice a lawyer comes in contact with all kinds of people and all kinds of problems. A few examples taken from my files will serve to illustrate this fact.

A breeder of fancy hogs had built up a big business as he shipped pedigreed animals all over the country. He also held \$30,000 and \$40,000 sales. When the depression hit, the fancy hog business folded. The breeder owed a bank quite a sum of money, and I was appointed receiver to collect and hold the assets.



The principal asset was a prize boar, which had been valued at \$25,000. I was somewhat uneasy about having such valuable pork in my custody and the possibility that something might happen to his royal highness. It was a needless worry inasmuch as I held a sale and sold the animal for \$200.

This same hog dealer finally landed in bankruptcy. I was examining him at a hearing trying to find out if anything could be salvaged for the creditors. Remembering that he had had a large diamond ring, I asked him if he still had it. "Oh, no," he replied glibly, "I lost that when I was taking a load of hogs to market. It dropped in the bedding straw in the railroad car and I never did find it." There was not much the creditors could do about that story.

A few years later a better hog story turned up. I had eighty acres of land to rent and finally rented it on a share crop basis to an old bachelor. He raised a good crop of corn but kept putting me off in delivering my share. It was discovered that he had moved away and had sold a considerable amount of corn to an elevator.

When he was located at last, I told him I knew he had sold his share of the corn and then asked him what he had done with mine. "Oh," he said, "the neighbor's hogs got into the cornfield and ate up your share." I had never realized before that hogs could be so discriminating as to eat up the



landlord's share of undivided corn in the field and still leave the tenant's share unmolested and ready for hauling to the market. But it seems we are always learning something new in the law business.

One of my pessimistic clients, getting the worst of it in an automobile trade, remarked, "Everybody is so damned dishonest that it is getting so I can't even trust myself."

There is an old Arab saying, "Trust in God, but tie your camel." That is a good maxim for a lawyer. He needs faith, but must always maintain a practical cynicism that demands proof and takes nothing for granted.

It is my plan sometime to lift the veil of secrecy and describe some more of the realities that faced me in the realization of those boyhood dreams: the bitter legal battles, the backwash of divergent personalities, the sorrows of defeat and the joys of victory, the humdrum of office routine, all wrapped up in the years of a country practice.

DWIGHT G. McCARTY