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DON'T BE A LAWYER — A REPLY

I N the January, 1936, issue of *The American Mercury* there appeared an anonymous article under the caption "Don't be a Lawyer." The author of the original article assembles many of the disgraceful and nauseating practices of which a few of the moral vermin who have been admitted to the bar have been guilty, and, from these isolated facts, reaches the astonishing conclusion that young men considering a life's vocation should shun "the law" as a pestilence, if they would retain their self-respect and preserve their moral integrity. Since this conclusion of the author expressed in the bold and catchy title, and the article itself, taken as a whole, conveys a grossly unfair, false and misleading impression, it seems appropriate that it should receive some attention.

Many, if not all, the facts set forth by this author are true as every experienced reputable lawyer knows and deplors, but the conclusion at which he arrives, in his pessimistic mental wanderings, is demonstrably false. It is true, for example, that many so-called lawyers (not yet disbarred) are "ambulance chasers." These gentry engage in races to hospitals with the equally despicable "claim adjusters," shoving their professional cards into the trembling hands of

the semi-conscious victim of an auto smash-up as he is carried into the hospital on a stretcher. The purpose of the first named is to get a "case," and the second to secure a satisfaction for the prospective defendant, but of both to plunder and take advantage of ignorance and helplessness.

It is true, also, that many men occupy judicial positions who are not only lacking in educational background, but are inexperienced and even stupid, but this applies only to those few who might be called the dumb-bell fringe of the judiciary. These unhappy accidents will continue as long as judges are selected by election. But, notwithstanding these exceptional cases of ignorant and stupid judges, it is an incontestable fact that, as a whole, our judiciary is composed of learned, courageous and upright men.

Then we have that other kind of lawyer, who, while denouncing the lowly and despised "ambulance chaser" in unmeasured terms, accomplishes the same result himself by having "arrangements" with banks and other financial institutions so that he will be "recommended"—*for a price*. Yes, we have such moral excrescences at the bar, but what profession is free from them?

The unfairness of the article in question is the omission to state the widespread and serious activities of bar associations and others to rid the profession of these moral fungi. Within the past ten years, scores of these persons have been subjected to discipline and even disbarred for life. The leaders of the bar do not attempt to deny or minimize these scandals, but on the contrary, boldly denounce them, and are slowly but surely separating the counterfeit from the genuine. In many states the law requires that an applicant for admission to the bar must first pass a "moral" examination before he is even eligible to take the usual examination as to his mental qualifications.

The author strongly hints that the legal profession occupies a very low place in popular esteem. Fully aware of

the slighting way in which many thoughtless people sometimes refer to the profession, I undertake to deny this implication *in toto*. The vast majority of the legal profession is composed of men of unquestioned honesty, and people daily entrust them with their most important affairs, never doubting or having reason to doubt, that they will receive skilled, competent, and solicitous care. These are the lawyers who are doing ninety per cent of the legal business of this country. Of course, you will not find them hanging around police courts attempting forcibly to fasten themselves as "counsel" on some poor wretch behind the bars. Nor will one reach their offices by being taken there by a block and tackle. Obviously, too, their "law" practice does not consist of threatened groundless garnishment of salaries of wage-earners, nor in taking washing machines from widows who are in default of a \$2 installment. Everyone everywhere enjoying security in his person and property depends absolutely upon the *law*, expounded by lawyers at the bar and declared by judges from the bench. By them and by them alone is he made secure in his most prized possessions not only against the night marauder and the business sharper, but against unconstitutional enactments of legislative bodies responsive to transitory, temporary and emotional spasms.

Going back now to the conclusion the author has drawn from his isolated odoriferous facts of the practices of some lawyers, we may ask, Is his conclusion justified? It is the old error of reaching a general conclusion from isolated instances. If that reasoning is sound, would it not operate to dissuade everyone from entering any profession? By a parity of reasoning, one could as sensibly broadcast a warning to everyone "Don't be a doctor," because there are hundreds of members of the medical profession who are quacks and charlatans and who shamelessly advertise to "cure" any and every human ailment from cancer to fallen arches. Moreover, there are many doctors whose chief

source of income is the performing of criminal abortions. Hence, on the same line of argument, no one could become a member of the medical profession without becoming morally tainted. Likewise, there are scores of pedagogues who are intellectual stuffed shirts, and, even though they have taken courses in methods of teaching, have nothing to impart from the sterile intellectual soil they occupy. Reasoning along the same fallacious line, one might strongly advise against becoming a clergyman because a few members of that sacred vocation have miserably fallen short of its high requirements. In a word, if one declined to enter any profession because a few members of it have been guilty of outrageous unethical practices, he would close all professions against himself. The author's conclusion is an obvious *non sequitur*. By like reasoning, or the lack of reason, a strong case may be built up against the institution of marriage, based upon the numerous infidelities and brutalities of spouses. Pointing dramatically to these abnormalities of marital behavior, it may be assumed that our author would say "Don't marry." And, of course, the business of banking would have to go into the list of tabooed occupations because there are so many bankers in penitentiaries and so many others who should be there. And even the potato-raising occupation, which the author seems to recommend, would have to be placed on the proscribed list, because many potato-raisers put the big healthy potatoes in the top of the sack and the puny, *consumptive* ones in the bottom! It appears from our author's point of view that the only way by which a man may protect himself from moral contamination would be to have himself wrapped in antiseptic cotton at an early age and kept in a glass case.

Now we come to that part of our friend's outburst against choosing the law as a vocation which has to do with the pecuniary returns, a point I consider the least important of all. Notwithstanding my anonymous friend's statement that

legal ability and real talent are no assurance of success, my own intimate observation and experience of over thirty years active practice at the bar is exactly the reverse. In all that time, I have never known any lawyer with moral courage, ability, integrity and dependability who has failed to enjoy a satisfactory practice yielding amply sufficient pecuniary returns to support himself and family in decency, and to properly educate his children. None of them are, or ever will be, millionaires. None ever wanted to be. Their burning and abiding ambition was to become competent lawyers, and to enjoy the trust and confidence of the communities in which they lived and wrought, and this they achieved. And whatever others may call it, I call it "success."

There never has been a time, at least since the adoption of our Federal Constitution, when there was as great demand for lawyers of courage and ability as the present. Novel economic theories are rapidly becoming crystallized into legislative enactments, and questions almost daily arise whether such enactments are within the powers granted by the Constitution to the legislative branch of our government. Many of these questions are "close" questions requiring and demanding for their solution the keenest analytical ability. As always, none but lawyers can solve them, and upon their correct solution depends the perpetuity of our Nation. The creation of numerous boards and commissions whose powers are necessarily limited and very often, in unseemly legislative haste, the boundaries of such powers as they have are left vague and indefinite, frequently lacking constitutional sanction, calls for legal ability of the highest order. No greater or more helpful service to the republic could be imagined than the right judicial determination of these questions. These constantly recurring problems not only afford an opportunity but impose a duty upon all students of the law to become qualified intelligently to participate in their settlement.

Timid and ill-informed persons sometimes pose the question of whether the republic will survive. Of course it will survive, but it will be lawyers who will most largely contribute to the job. This opens an almost limitless field for the exercise of legal ability.

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