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Denver Law Review

Volume 23 | Issue 10 Article 6

July 2021

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Recommended Citation

L. H. Hansel, The Client Looks at the Lawyer, 23 Dicta 229 (1946).

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The Client Looks at the Lawyer†

By L. H. HANSEL *

I have been asked to make a few suggestions, as the result of personal experience or observation, which might not normally be subject to discussion between attorney and client, and might be helpful to the profession.

The first point that occurs to me from the client's point of view is the difficulty of arriving at an intelligent choice of his attorney. As far as I know at the present time, one can depend only upon personal acquaintance with an attorney or casual advice from friend or business associates. There seems to be no method, within reach of the public at least, by which the client can look over the field of attorneys and get an unbiased background of the attorney that he is considering.

In other words, there is no way for a client to get the type of information such as is possible on a concern through the offices of a firm like Dun and Bradstreet.

It occurs to me that an individual may graduate from a law school, hang up his shingle, and, unless he admits that he is just out of law school, let one entering his office think that he had a number of years of epxerience in his profession. On the other hand, certain attorneys have made a specialty of various branches of law and for particular cases such information publicly accepted would be of value to the prospective client.

In short, the client, in my opinion, has to take the attorney absolutely on faith and only by his individual experience resulting from that connection can he form an opinion as to value. No opportunity is available for making an intelligent selection, and some means should be provided for that purpose.

When I mention the position of a young attorney, I do not mean to set the young man in a spotlight position which would detract from his ability to make a living; but, frankly, I can visualize the sort of report that R. G. Dun makes on a business organization where it outlines the history of the members of the organization, gives an idea of the financial stability, of the specialty that the organization is qualified to handle, and an idea of the experience that that organization may have had.

The second point which is uppermost in my mind is how the average man feels on the witness stand. Here is a broad subject on which I would like to confine my remarks to those court actions which do not involve criminal matters. I refer to actions such as bills in equity, actions at law, and similar proceedings.

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* President, The Felters Company, Boston, Mass., holder of Army-Navy "E" with star.

I have been a witness in such proceedings and have also had opportunity to watch others and I believe may, to some extent, express that of others.

I see no reason, where no crime is involved, why the witness should be (1) intimidated (2) embarrassed (3) made to feel that any slip of the tongue is practically an admission of guilt or a tremendous asset to the opposing side.

I suppose the attorneys figure a great deal of assistance can be obtained by a thorough knowledge of psychology and due to the fact that the attorney is entirely familiar with his own rights and privileges before the court, and the witness is simply a hapless victim and does not know his own rights and privileges, such a witness is naturally under a psychological tension which in my opinion is entirely unnecessary and can often muddle rather than clarify the testimony that is supposed to be given.

It is my understanding that a witness is called for the useful purpose of clarifying an issue. Though it takes a great many people to make up the world, in my estimation, the majority are simply trying to tell their story as honestly and as straightforwardly as they can, and the interjections by the attorney of unreasonable, unfair, sarcastic and even insulting questions or remarks seem entirely unnecessary.

I have had the doubtful pleasure of watching an attorney as a witness and it seemed to me that the best education an attorney could have is to be a witness and subjected to some of the problems that an ordinary man faces.

The third point is the old subject of the value in money of an attorney's services. There is not and never will be any formula that can really estimate fairly that figure. It does, however, occur to me that the issue is somewhat confused by the fact that the profession, neither individually nor collectively, has considered working out an effective compromise.

The compromise that I am suggesting is that prices for routine work be standardized. I refer to such things as drawing wills, drawing leases, checking titles, and many others. I believe it would help the profession if, according to the individual's overhead, the most was known in advance by the client on such routine matters, providing exceptional contingencies do not develop. The cost of that transaction in one office would be a certain amount and, for the same in another, a different amount, but whatever it is, it could be and should be given to the client in advance.

I don't believe the trouble on charges in the legal profession is any different than in the medical profession. Both are complicated, but in the medical profession it seems more easily possible to get some idea of cost before the operation than it does in the legal.

I have had physicans and surgeons answer me directly where a specific question was asked that such an such an operation will set me back $1,000. Immediately my mind tells me whether or not I can afford that money and if I can't, I have a choice of retiring gracefully with the attempt

to find another surgeon who can operate for less money, or that same surgeon will do the $1,000 operation absolutely free if I care to go to the hospital where he gives his time and skill for charity but, without the personal care before and after the operation.

Briefly, attorneys could be utilized to a larger extent and more freely if a lot of the minor services had standardized charges and I see no reason why it isn't possible. After all, lawyers are in business and must take business risks, and to a certain extent it is impossible to make a profit on each single transaction. The first time one has to look up a land title naturally will be more expensive than the second or the hundredth and after a little experience, an average cost could be worked out and I think the attorney should take his chances on all that type of business during the calendar year as to whether or not he will make an average profit on the whole and not leave the client mystified, worried as to what it costs him, afraid to go back for additional discussions or give additional information because he figures the next call is just adding to his cost, destroying thereby some of the close cooperation between client and attorney that might be helpful to both.

One other point for consideration is the question of how technical an attorney should be in his advice, particularly to business organizations. I have found that many attorneys give advice that is technically correct simply on the letter of the law, thereby hamstringing the client from making any moves, sometimes to the detriment of the business when a properly rendered opinion beyond the technicality would and could have relieved the business, or certain portions at least, and not have closed the door tight.

A good deal of this thought is engendered by the experience of the last few years with so many government regulations that the average businessman could not afford to have his attorney interpret every one. I believe sincerely that the majority of businesses operating under those many regulations produced the weapons of war and each one in some small technicality probably laid itself open to question. Where the attorney was brought into the picture, in many cases, the fear engendered by the resulting opinion absolutely stopped the organization from proceeding.

Naturally, an attorney cannot render an opinion that is not backed up by fact or law. But many an interpretation a lawyer makes of an unadjudicated question is only his own opinion, and should be rendered as such. In other words, if a course of action is clearly proper or improper, a good lawyer so advises his client. But if the client desires to follow a course which is not in itself unethical or foolish but may be open to technical legal objection, his lawyer, instead of closing the door by saying, "You can't do it," should say: "It's not clear whether you can or not; if you do not find you were wrong, the possible penalties are so and so;" and let the client decide whether to assume a business risk.

As a last point, and probably that is the most difficult upon which to make a suggestion, I bring up the question of attorneys as executors of wills and trustees of estates. It is my understanding that the rules and regulations covering the action of such an individual are pretty well defined by the courts, legislatures and the bar associations themselves, but it does seem to me that they haven't covered the relationship between the heir and the executor or trustee.

In my opinion, there is an apparent reluctance in many cases of the attorney to take into his confidence the heirs, even though his actions may be fully protected by law. Quite often an individual left in the position of executor for some unknown reason handles himself as though it was his own private business and will disclose but little except through the periodic examination forced upon him by law. If that individual would only realize that it is the heir's money that he is handling and that many of his difficulties would be obviated if the heirs were more closely in touch with the situation, a forward step would be taken.

Interim reports, perhaps personal conferences, would assist materially. In fact, it could be that the heir occasionally might have a constructive idea and there is no law which prevents an executor from adopting it as his own and operating under it.

Too often, from the time an heir receives the official notice of his inclusion in an estate until some accounting is filed, on the average, no knowledge of the situation as it exists is given, nor is any indication rendered as to how soon he might be able to enjoy his legacy.

I am not asking the impossible, but the pedestal upon which executors and trustees sit should be brought down to the level upon which the heir rests.

In conclusion, I have a deep respect for the legal profession. I believe that any attorney could make constructive suggestions to business on its attitude and methods, and I hope some day one of you will.

Newly Admitted Members of the Bar

BARKLEY L. CLANAHAN, admitted Feb. 1946 as result of Dec. 1945 bar exam. A.B. Univ. of Ill., 1937; Univ. of Ill. and So. Dak. Law School, LL.B. 1939. Member Alpha Tau Omega and Phi Delta Phi. Practiced law in Carrollton, Ill. for one year. F.B.I. special agent for 6 years. Associated in general practice with Benj. C. Hilliard, Jr., 515 Midland Savings Building, Denver.

ERNEST U. SANDOVAL, admitted Feb. 1946 as result of Dec. 1941 bar exam. Univ. of Colo. and LL.B. Geo. Washington Univ. 1942; member Phi Sigma Kappa. Was clerk U. S. Senate; clerk Reconstruction Finance Corporation; contract examiner and reviewer, Genl. Acct. Office, Wash. D.C. Served in army 45 mos. of which 34 mos. was overseas. Retired as 1st lt., SA. Is now engaged in general practice in Colo. Bldg., Trinidad.

CARL PARLAPIANO, admitted Dec. 1945 under special soldier rule. B.A. Univ. of Colo. 1937; LL.B. Westminster Law School 1941. Member Sigma Nu Phi. Served in U.S. Army for period 45 mos. of which 17 mos. was in actual combat in Europe. Had experience in gas and oil business before admission to the bar; is interested in probate and corporation law. Office in Thatcher Building, Pueblo.

ERNEST O. TULLIS, admitted Dec. 1945 under special soldier rule. Univ. of Neb. 1935-38; LL.B. Univ. of Colo. 1942; member of Chi Phi and Phi Delta Phi. Served as criminal investigator, army, Jan. 1943-Oct. 1945. Served in England, France, Brazil from Aug. 1943 to Sept. 1945. Practicularly interested in real property and probate law. Is associated with Edgar L. Dutcher in the firm of Dutcher and Tullis, First National Bank Bldg., Gunnison, Colorado.

FREDERICK M. KAL, admitted Feb. 1946 under special soldier rule. Colo. State Col. of Education, Denver University and LL.B. Westminster Law School 1940. Member Pi Kappa Delta. In school was active in debate and oratory. Prior to admission was asst. mgr. clothing mfgr., OPA investigator and price analyst, army contract termination and surplus property work. Interested in medico-legal work and administrative law. Now located 203 Empire Building, Denver. Is interested in associating with firm or individual where can handle own practice and do some work for others.

JOHN VINCENT CONDON, admitted Feb. 1946 under special soldier rule. B.A. Univ. of Colo. 1940; LL.B. Univ. of Colo. 1942; member Pi Kappa Alpha and Phi Delta Phi. Was on inter-frat. council. Prior to admission was in the army as instructor, passenger flying A.T.C. overseas. Is particularly interested in real estate law. Is in the office of C. L. Harrison, 9516 E. Colfax, Aurora, Colo.

JOSEPH W. HAWLEY, JR., admitted Feb. 19, 1946 under special soldier rule. A.B. Univ. of Colorado, 1940; LL.B. 1942. Member Delta Tau Delta and Phi Delta Phi. In school was editor in chief Rocky Mt. Law Rev., and member of Order of the Coif. Was in the army 3 yrs., 2 of which were in Italy. Made study of Roman law and the modern civil code of Italy. Is interested in contracts, bankruptcy and real property. Is Asst. Atty. General of Colo., working with the P.U.C.

EARL W. HAFFKE, admitted Feb. 1946 on motion. Univ. of Omaha LL.B. 1936. Member Lambda Phi. Prior to admission Colo. bar practiced law in Omaha, Nebraska, and was then enforcement atty, with the fed. gov. Entered U.S. Navy 1943. Is now in partnership with George A. Doll under the firm name of Doll & Haffke, 230 Main Street, Ft. Morgan, Colorado.

JUSTIN D. HANNEN, admitted Feb. 1946 on motion. Notre Dame Univ.; A.B. Kans. Univ. 1936; LL.B. Kans Univ. 1938. Member Phi Alpha Delta. Before admission practiced law in Kans. for 4 years. Served as county atty. for Coffey County 2 terms. Served 4 years as naval avia. pilot and retired as lt. U.S.N.R. Is interested in real estate and probate law. Is associated with Chas. J. Munz, 312 Symes Bldg., Denver, Colorado.

L. JAMES ARTHUR, admitted on motion May 1946. B.S. in Business Administration, Univ. of Mich. 1935; LL.B. Mich. Univ. 1938. Member Sigma Chi and Phi Delta Phi. Practiced law in Kans. City, Mo., for 3½ yrs. Entered military service in 1942 and upon discharge came to Denver. Interested in labor law. Associated with F. P. Cranston, 409 Equitable Bldg., Denver.

LAWRENCE A. LONG, admitted on motion May 1946. A.B. and LL.B. Univ. of Alabama, 1934. Member Alpha Tau Omega. Practiced from 1935 to 1942 in Jacksonville, Fla.; in 1942 at the time of entry into the U.S. army was a member of the firm of Milam, McIlvaine & Milam, Jacksonville. Served 28 mos. overseas in No. Africa and Italy. Post judge advocate at Buckley Field until his discharge as lt. col. in Feb. 1946. Interested in probate, trust and insurance law. Is practicing by himself at 638 Symes Bldg., Denver.

Book Review

LABOR UNIONS AND MUNICIPAL EMPLOYE LAW (1946) by CHARLES S. RHYNE, published by the National Institute of Municipal Law Officers, 730 Jackson Place, N. W., Washington 6, D. C.; 583 pages, Price $10.00.

In this volume the complete experience in this recently developed field of labor law is compiled. Based on the judicial, legislative, constitutional, statutory and practical experience in this field as reflected from a survey of over 400 American cities, the report embodies a volume of 583 pages and constitutes an up-to-date edition of a similar report issued by the National Institute in 1941, entitled, "Power of Municipalities to Enter Into Labor Union Contracts—A Survey of Law and Experience." City experience is covered from the Boston police strike in 1919 to the Houston city employes strike in 1946. In view of the current membership drive by unions affiliated with the C. I. O. and the A. F. of L. in the government field, the volume is especially timely.

The author first considers the question of the rights of unions of municipal and other public service employes as they exist with respect to their public agency employer. He then analyzes every known court decision, of