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The Law and Lawyers

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ALUMNI
(Contributing Section)
THE LAW AND LAWYERS
By William Hoynes, A. M., LL.D.,
Dean Emeritus

It is commonly said that the legal profession is over crowded. This is a pessimistic generalization.. It is lacking in valid basis. It may be admitted, however, that there is no special dearth of lawyers anywhere, whether in our cities or average towns. There is probably no county seat in any of our states that has not its due quota of them. Statistics indicate that there is one for every 660 persons throughout the country. Early in the last century they were proportionately less than half as numerous. In other countries they compare numerically with the thousands or more as they do here with the hundreds. Their number has increased responsively to the growth and expansion of business, although doubling relatively to the augmenting aggregate of population.

The late war caused a diminution in the trend of young men to the profession and materially abated the alleged prospect of overcrowding it. Moreover, of late years the normal volume of legal business has measurably decreased. This remark is confined to such business as could customarily be counted upon or expected by the ordinary lawyer—the lawyer in general practice. Many disputed accounts of merchants and traders are now referred to and settled by arbitration. Where this is not done they are usually intrusted to collecting agencies, which have their own lawyers to represent them in litigation. Trust companies and corporations generally in the more

populous centers retain lawyers for their special service and pay them annual salaries. To them for advice or action in court are committed matters involving possible or probable litigation. Needless to state, they are almost invariably disposed of apart from the regular profession or lawyers engaged independently in practice. Their fixed policy, however, seems to be in favor of settlement or compromise and the avoidance of litigation. In this respect their course is commendable and in harmony with the precepts of legal ethics.

But there is another class of lawyers, or pseudo-lawyers, who are appropriately styled shysters. They are intrusive and crafty, unscrupulous and brazen. They do not hesitate to seek and openly solicit business. Indeed, sometimes they go further and actually harass prospective litigants in the hope of being retained by them. If they learn of an accident involving personal injury they lose no time in communicating with the victim or his family, offering their services and saying that they will pay all the costs of litigation and take the case on shares, 40 or 50 per cent. to themselves and the balance to the victim or his family. If they hear of a family quarrel, with prospect of a suit for legal separation or divorce, they let it be known promptly by card or personal interview that their services are at command. If an assault or murder be committed, and the perpetrator or his family can

furnish funds for defense, their business cards or personal appeals to be retained in the case quickly follow. Not a few of them make the police court their favorite morning rendezvous, in order that they may be at hand to tender their legal aid to persons arrested during the preceding night for drunkenness, disorderly conduct, and the like. If they are told of some one having a dormant claim susceptible of being twisted into ground work for a suit they seek his acquaintance, express belief in his having a case and urge him to intrust them with it. Of course, all such practices are violative of legal ethics, discreditable to the shysters and derogatory to the profession. Reputable lawyers are now striving to eliminate these buzzards and prevent hereafter their admission to the bar. Trough such practices a spirit of commercialism has crept into the profession in some of the larger cities, and its traditional dignity, chivalry and honor are thus becoming obscured and jeopardized. Hence the solicitude of the American Bar Association and reputable lawyers generally to block the danger and turn to rescue work.

Trust companies and even labor unions cut materially into the legitimate and regular business of the general profession. Such companies now claim and control in notable degree real estate transfers, the settlement of the estates of deceased persons, the guardianship of orphans or other wards, the collection of money and management of funds according to directions of testators and trustees, the transfer of securities and the investment of funds under trust terms, and, in short, things innumerable that formerly passed in the main through the hands of lawyers

engaged in general practice. And as for labor unions the practice seems to be to turn over to certain lawyers in apparent affiliation with them such matters of litigation as concern the membership as a whole or the members individually.

The pessimist may admit that such facts have weight in disproving his assumption that the profession is overcrowded. "But look," says he, "behold the vast number of students in the law schools of the country who are preparing to enter it! It will certainly be overcrowded when they get their diplomas and pass the examination for admission to the bar!"

Another mistake, Mr. Pessimist! Less than 50 per cent of those who study law follow it as a profession. The knowledge they thus acquire is utilized in other pursuits. It is of exceptional value in all lines of business, not to mention other professions, and as the foundation of a broad and practical education. It is safe to say that no branch of study is more serviceable and illuminating in preparing the mind for the acquisition of sound, useful and available knowledge. It enters almost unconsciously but controllingly into the mind, and imparts prudence to thought and guidance to action. It teaches the mind to investigate and examine the problems and difficulties referred to it for practical consideration and to pursue the path of calm reflection and discerning wisdom in reaching their solution. It guides to sound discretion in business affairs, showing with seeming intuition when a contract has been validly made, when a wrong has been done or may be avoided in tort, or when a lawless act has been perpetrated or threatened in the realm of crime. It opens and presents to the

observing mind the whole vast domain of nature's organic laws and operations and man's countless activities.

Inscrutable in many respects though it be to our hampered vision, yet it is the most interesting and inviting vista to which the human eye may turn in the whole plan of mundane life. Knowledge of the fact seem to be instinctive, and it is reasonably obvious that the law offers the surest and most practicable means of journeying safely and creditably through the mazes of human life. Its helpful guidance is a trusty mentor that leads not astray. Is it surprising, therefore, that so many apply themselves to its study, even without purpose to engage in its practice, viewing it as a matchless factor in sound educational equipment?

Though they finish, let it be repeated, the prescribed course of study in law schools and receive diplomas evidencing the fact, yet from 50 to 60 per cent of them turn to other professional walks and the occupations innumerable they decide to select. Their knowledge of the law bespeaks for them high standing and exceptional success in the fields of their ultimate choice. Many even of those admitted to the bar, as in the case of President Wilson, see surer ground of success and advancement in other lines of activity, and act accordingly, yielding to the impulse of following the latest alluring call.

The man destined, however, to become a power in the law decides unalterably to stick to it. The hardships he must encounter and the difficulties he must overcome may seem unbearable, but he does not become faint-hearted nor is his courage abated. His clothes may become

thin and threadbare, but he complains not of cold and seems to ignore their shabbiness. His larder may be empty and his food the coarsest and cheapest procurable, but the pinch of hunger does not affect him and the simplest food is a feast before the great and dominating passion he cherishes for his beloved Themis—the Law. He knows that it is within the common experience to wait many months and tedious years for success, and he is willing, goodnaturedly to get into line and wait his turn. Health may fail, but the spirit does not, in a young man of this type. He reads, works, observes and studies to the full measure of his strength. He takes to heart and cultivates the qualities likely to make him popular, respected and trustworthy. He knows that character makes the man and is the stamp which unquestionably passes current everywhere, so he seeks to base his own on the pedestal of honesty, reliability, truthfulness and efficiency. He aspires to become learned, efficient, successful and conspicuous in the law, and to this end thus visualizes in mental picture as to traits and character his inspiring exemplar of honorable achievement and acclaimed greatness in the profession.

My exemplar in law is fundamentally and invariably a gentleman, although in this respect all the learned professions are or should be in kinship. He is liberally educated and fully aware of the obligations he sustains to his profession, fellow-citizens and society. He is alert and prompt in the discharge of the duties he assumes, punctual and reliable in the performance of his professional functions, deliberate in judgment

and conscientious in conforming to the trust and confidence reposed in him. By nature, inclination and civic study he is fond of his country and ready to respond to its call in forum, field or council whenever emergencies arise and dangers seem imminent. As a representative of the law he aims to be unbiased in his estimate of men. In dealing with them he is modest, kindly, genial and altruistic, and thus easily obtains access to their confidence and abiding claim on their good will. If in his way right be assailed by wrong his sense of justice impels him instinctively by word and act to side with the right and repel the wrong with requisite force and valor. He mingles unassumingly with his fellow-citizens and is ready always to bear his share of the common burden, as well as to proclaim and advocate or defend all reasonable measure looking to the public welfare. In doing so he serves with alacrity in any capacity that the occasion may demand. The mean passion of envy and the odious vice of duplicity find no room in his frank and manly nature. In the discharge of his varied duties, civic and social, he aims to be just and honorable. He makes no promise that he cannot or does not intend to fulfill. Honesty is his pole-star, and he abhors the thought of cheating, deceiving or misleading any man. He believes that religion is the soul of the law, complementary to it at every angle, and he endeavors to square his thoughts and acts conformably to its teachings. He views the law as a noble science, not as a mere art, and conscientiously dedicates to it his life and best services. He would make and keep it impartial, efficient and trustworthy—the palladium of right, the embodiment of justice

and the preserver of peace—in short, a blessing indispensable to society and mankind. He desires his profession to be as learned in fact as it reputedly is in name. He knows that his acts, whether good or bad, will be imputed to it in some measure, and finds in this consciousness an added stimulus to think, speak and act the part of a gentleman, whether in the forum on the hustings or in the public mart. His professional work is characterized by forethought and careful preparation, so that he may not betray ignorance and suffer humiliation before the court and jury, embarrass the judge and consume time not his own in correcting or amending with judicial leave mistakes in his pleadings, trespassing on the time of other lawyers and the public by delaying the regular procedure of the court through his inexcusable negligence and blundering, forfeit the confidence of his client and probably lose his case through negligence and incompetency.

The aspiring and reflecting student might have added many other traits of character to his ideal picture of a great and honored lawyer before his eager vision. At any rate, so far as they go, they promise efficiency, popularity, success and distinction in the profession. The student's visualized exemplar beckons inspiringly to all learners of the law.

A LETTER

Hoynes College of Law
 University of Notre Dame
 Dear Colonel Hoynes:—

The November issue of the Notre Dame Law Reporter will contain for the first time the Alumni Section. In this section it is contemplated that in each issue there may appear some