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When I learned per Western Union of the subject assigned to me, I was somewhat startled. It was:

"The Young Man in the Law and His Importance to the Organized Bar."

Can it be, I thought, that the Junior Bar in Chicago has been so completely depleted? But, if so, how chummy it will be with just two of us, he presiding and listening with rapt attention or, calling himself to order as the case may be, the speaker joining in the applause to give the effect of unanimity.

It is an agreeable surprise to learn that Western Union was spoofing. A typographical error, no doubt, like the needle in the soup.

Talking about the "importance" of young men to the organized bar is not unlike discussing the importance of women in the life of a nation. No women—no nation. No young men—no bar, organized or disorganized.

Also, who is a young man? Intellectually, Oliver Wendell Holmes was young at ninety. On the other hand we all know men young in years, but fortunately not many, whose thoughts and ideals are markedly decrepit. Having graduated from college and law school, their education has been finished and eternity will not produce a new idea or a new approach.

Fortuitously, or providentially, as you will, this is not true in Babylon on the Potomac. There the young men in the law exude ideas as readily as equatorial jungles exude miasmas—both equally deadly.

Young men on the bench do some exuding on their own account, which leads one to enquire whether castor oil is altogether desirable as a steady diet. Not but what it is necessary at times, but as someone said of our two political parties—one has no ideas and the other too damn many. This may or may not be cryptic. I don't know, but it is not a *cliche*, at least not an insidious *cliche*.

The prime desideratum of the bar today, it seems to me, is a restatement of legal values. In this era of judicial flux, it is essential that we have fixed values, even though they may not be perfect.

This is manifestly true of administrative agencies whose disregard of values, aye, even of proprieties, both substantive and objective, "smells to heaven."

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*Chairman, House of Delegates, American Bar Association. Speech delivered before the younger members, Chicago Bar Association, Chicago, Illinois, February 25, 1944.

Granting the necessity for protestant reform, yet iconoclasm is rightly but a phase, not the sure foundation for a creed. And right here is the big job for the young men in the law as I see it. The greatest service you can render is to think honestly concerning fundamental concepts. It is surely time that someone set the example. This is the first commandment and the second is to say and do something about it.

The law is not a game, played by unmorals with the lives and properties of animate pawns, and this is true whether we are agents in private brawls or clothed with the "little brief authority" of public office. The accolade of office is not a license to pettifog.

> " 'Tis excellent to have a giant's strength,
> But it is tyrannous to use it like a giant."

The law, as you know, is a high calling demanding the best that man can give. According to De Tocqueville, the American aristocracy occupies the bench and bar. Our profession is not a sordid business and should not be viewed primarily as the means of livelihood. It has been called a "jealous mistress," but I prefer a more domestic simile. One should marry the law. He should pay to it the respect and honor which the church enjoins on those who enter into matrimony. A lawyer, like a husband, should first of all be a gentleman, which connotes among other things certain fixed values.

What are life's values in the law? Well, we still pay lip service to "life, liberty and the pursuit of happiness." This not being a Fascist state, life is reasonably secure. The pursuit of happiness is a euphemism. Liberty exists within the realm of definition, a football for courts, quasi-courts and legislatures.

"We are under a Constitution," I quote Chief Justice, then Governor Hughes, "but the Constitution is what judges say it is."

Liberty meant one thing to Chief Justice Marshall, something else to Chief Justice Taney. Constitutional powers and limitations have been measured by different rods. Until recently the yardstick has had length of life sufficient for a modicum of adjustment. Not so today, as evidence a recent dissenting opinion of Mr. Justice Roberts, in which Mr. Justice Frankfurter, to the astonishment of the lay press, concurred.

I repeat, it is time for a restatement of values. Negation has gone far enough. It gets us no place. This is largely your job. Mind you, I am not suggesting that we turn back the hands of the clock, that the social or other gains of the last decade be abandoned, or that we adopt the medieval political philosophy exemplified by certain pseudo-statesmen. I do not assert that whatever is is right, nor that whatever is new is by that fact better than the old. But, and it is a big BUT, let us have

some definite, certain values, be they what they may. Let us have values which, being with us today, we may expect to have with us tomorrow.

As the limerick has it, "this walking around without touching the ground is getting to be quite a bore."

Perhaps I should be more specific. There was a time when, despite the unsettling effect of the extension of the police power, a lawyer could advise his client with reasonable assurance respecting constitutional limitations. This has not been true for at least ten years. St. Paul may have had this decade in mind when he wrote to his protege, Timothy, "Desiring to be teachers of the law: understanding neither what they say, nor whereof they affirm." And again in Hebrews 7-12: "For the priesthood being changed, there is made of necessity a change also of the law."

As long ago as 1934, Professor Corwin, writing of and in the *Twilight of the Supreme Court*, made the following astonishing statement, citing 232 U. S. 548, at 558, as his authority:

"Today," he said, "the protection afforded by the 'obligation of contracts' clause has been to a great extent absorbed into that general principle of judicial discretion wherein all constitutional restraints have tended latterly to lose identity."

Think of it, and that was ten years ago! There are those who carry Professor Corwin's thesis down to date by saying that if there was twilight in 1934 there has been a black-out since.

Now, if all constitutional restraints tend to lose their identity in the general principle of judicial discretion, what is there left that is solid? The Constitution becomes fluid. Its constraints evaporate, leaving only a mirage.

"The Constitution," said Governor Hughes, "is what the judges say it is." But Mr. Justice Black says that the Constitution does not mean what Mr. Justice Frankfurter says and vice versa, ad infinitum.

In the current issue of the American Bar Association Journal nineteen decisions of the Supreme Court are reviewed and in ten there were dissents. In one there were three separate dissenting opinions, possibly four, in another two together with an opinion dissenting from one of the dissenting opinions. There is here an exception taken to "the error of interpreting legislative enactments on the basis of a court's preconceived views on 'morals' and 'ethics'." This, however, is precisely what is done from time to time both by the learned authors of the anamadversion and those at whom it was aimed. It is, in fact, the necessary result of absorbing clauses of the Constitution into the "general principle of judicial discretion."

We can but hope that out of this "confusion worse confounded" there will emerge some measure of stability, some reasonably certain cri-

teria by which we may be guided out of the "dark and dreary wood" of constitutional chaos where we now wander falteringly like lost souls.

When we leave the domain of the traditional tribunals of justice and enter into that of the sacrosanct administrative agencies, words fail us. As members of the bar we are under compulsion to respect the courts, but we are under no such compulsion with respect to those excrescences in the body of the law, those executive vampires who mock justice as they let its blood.

Here we enter a door marked "Hysteria," so let it pass. Suffice it to say that you young men in the law will deserve the everlasting thanks of present and future generations if in honest thought and courageous speech and action you scotch this snake.

Yet I would not have you think that I question the good faith or motives of those who "mock justice" in their bureaucratic activities. By and large they are honest, forward looking men, imbued with liberalism, altruism, not to mention other isms.

But they have the faults of their virtues, not the least being the idea that the end justifies the means—a concept, by the bye, which consciously or unconsciously is currently dictating the trend of world, as well as of juridical events.

Neither do my somewhat harsh reflections apply by any means to all or even to most administrative agencies. There are many excellent men doing splendid work in this field. But, and here is another big *But* —a chain is no stronger than its weakest link. These good and able men suffer from the errors of their lesser brethren. In fact they probably suffer as victims quite as much as does the public. Furthermore, that there are good and able men, and young men, in administrative agencies is demonstrated by the number who are leaving to reenter private practice. They just can't take it. And won't, thank God.

Now what are you going to do about it? Nothing? I doubt it. The interest which young men in the law are taking in the affairs of the organized bar as well as in all other important activities today negates "nothing."

In you we see the future justices, judges, legislators, aye, even presidents (providing you outlive Methuselah). It is your vision, your restatement of values, your courageous exemplification of the dignity of the law, upon which depend life, liberty and the pursuit of happiness in the republic (democratic, of course) in which we proudly live.