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Education of Lawyers

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By JUDGE JOHN H. DENISON, Chief Justice of The Supreme Court of Colorado

THE law is, theoretically, a science. The "practice of the law" is an art, which requires a variety of high qualities, well balanced and correlated. Just as the player of any game of manual skill, tennis, baseball, billiards, must have, for great success, eyes, muscles, joints, nerves and emotions under control and so related to each other that they work in harmony, so the psychological powers of a lawyer must work, and much more education and training than mere knowledge of the written and unwritten law is necessary to that end. The collegiate and other training of the average law student is not sufficient nor is it always rightly directed to secure the most appropriate results. It is true that no knowledge is inappropriate to a lawyer. He is always called upon for the unexpected and often for the unforeseen; no education, therefore, can be too broad and deep and no training too exact for him.

But the law is more. Viewed as an occupation it is a profession, not a mere business, and all reasoning about it by the analogies of business is misleading. One of the characteristics of a profession is that it requires its devotee to spend his time and energy for the benefit of others; to occupy himself with the concerns of others, and, when necessary to their good, to surrender his own. In this respect the lawyer is one with the clergyman, the physician and other professions.

Is it not self evident that for such a life the broadest knowledge and the highest moral training is desirable? Is it not certain that some measure of these qualities is requisite and should be required of every candidate? Is it not clear that some education and development in the ethical traditions

and conventions of the profession is indispensable to the best results. We all lack these things in their completeness. None of us has enough. Some of the greatest of us have acquired some portions without a collegiate course. Lincoln and Marshall did so. But what is the ratio of Lincolns and Marshalls to the uneducated mediocres and shysters, to those whose comprehension of their profession is that it is a mere instrument for making a living and perhaps of acquiring wealth and not a public office with duties and responsibilities as high and exacting as those of a judge?

It is not conceivable that one not widely read can be so good a lawyer as if he were otherwise. He has, let us suppose, acquired so perfect a knowledge of law alone that he can answer any possible question thereon, but has read no history, no biography, no philosophy, none of the great dramas or the fictions of Scott, Thackeray or Dickens and so lacks knowledge of the opinions of great observers of human relations and thinkers on the subject of right conduct and moral obligation; how can he be a proper man to whom to entrust the fortunes of his clients? True one may acquire all this by individual work. Lincoln did so; but he was a miracle, outside of the natural order of humanity. The parishioner said to his pastor "I can worship in the fields", "but", said the pastor, "do you?" No, he does not; nor does the ordinary lawyer make any serious attempt to educate himself. I could name notable exceptions, all honorably high among their fellows, but they are exceptions.

The problem of the courts and the bar is not, as so many arguments assume, to open an avenue of business

success to enterprising men. The ultimate end and aim is justice and the administration thereof. Everything else should be subordinated. To attain this end everything in a lawyers education should be directed.

If the practice of the law were a business it would be well to let those come in who wished and the fittest survive, as in other lines of business; but the legally authorized governmental powers are certifying these men as qualified officers of the court with powers and duties, from which the ordinary man is excluded, to appear for other men in court, to advise them as to their conduct, and, under certain conditions, even to control it. The unrighteousness of thus turning the litigants and seekers for advice over to any class of men except the best that can be selected by the best process that can be devised is obvious. It is equally certain, though not so obvious, that a practicable standard is required by which to measure the qualifications of the new law student. How can we know whether he is worthy?

The proposition that a certain amount of collegiate education should be required in one entering the study of the law is advanced by some and denied by others. The real question, if what has been said above is right, is whether a collegiate course will accomplish the desired end; whether it will give or tend to give the qualities we have mentioned; if it will it should be required and there can be no valid argument to the contrary except to reveal some plan that will more surely or fully produce the same result. Our colleges are organized, upheld and used for these purposes. The people, by using them recognize that they are in some degree efficient to these ends. If there is any substitute which will furnish practicable standard or scale to determine what has been accomplished by way of pre-

liminary education in any given case, I have never heard of it.

It is often urged that the bar should be democratic, i.e. I presume, open to all. If this means open to all on equal terms, we must say "yes", but the terms must be such as to produce the best results, and to best produce the ultimate result, justice by the proper administration of the law. If democratic means more than this, if it means open to the ignorant, who can soberly advocate it?

I am convinced that a collegiate education for every lawyer would be a public benefit, and I think the steps we have already taken in that direction have already begun to show good results, and that such results were manifested in the last class that appeared for examination.

Butler's Retort to Sam'l J. Randall

"General Butler was the leader of the House in 1875, and Sam'l J. Randall, leader of the Democratic side. As the 43rd Congress was about to close, I was with Randall when Butler came up, and Randall asked him to hold a Sunday session. Butler said no, that was not necessary. Randall turned and chaffingly said: 'Oh, that is your New England Puritanism, I suppose. That serves you a good purpose and I expect to meet you some day, Butler, in another and better world.'

"Butler replied in a flash: 'Oh, no Sam; you will be there, as you are here, a member of the Lower House.'"

—Melville E. Stone.

Law and Public Opinion

"With us law is nothing unless close behind it stands a warm, living public opinion. Let that die or grow indifferent, and statutes are waste paper, lacking all executive force."

—Wendell Phillips.