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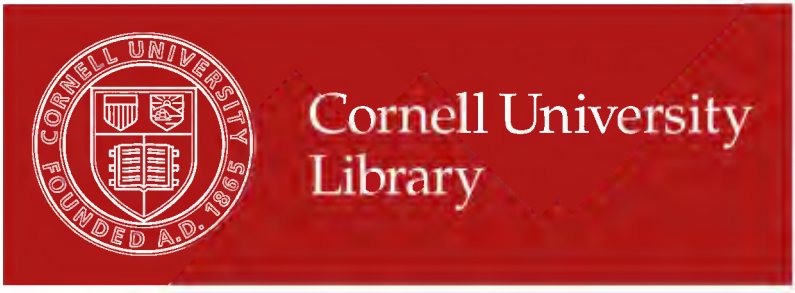

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Ethics of the Practice of the Law

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PREFACE

The writer of the following pages graduated in law at the University of Virginia, receiving the degree of B. L. in June, 1872; was admitted to practice law by the Supreme Bench of Baltimore City in September, 1872; by the Court of Appeals of Maryland in October, 1872; and by the Supreme Court of the United States in the Fall of 1875, and since his first admission to the Bar in 1872 he has practiced continuously before the Courts of Baltimore and the State of Maryland to the present time (1908), as well as having tried cases in the Courts of other States and in the Supreme Court of the United States, giving his personal attention to his professional duties continuously since his admission.

He became a member of the Bar Association of Baltimore City on the date of its formation, December 26th, 1879, and has served as a member of the Committee on Admissions of that association for three years, the last of the three as chairman of that committee. He also became a member of the American Bar Association in 1886, and of the Bar Association of the State of Maryland in 1903, and has continued a member of these three Associations from the dates of his admission to each respectively until the present time. On his initiative the Bar Association of Baltimore City adopted the code of legal ethics previously adopted by the State Bar Association, and it was on his motion that the code was with slight amendments adopted on April 7th, 1903, by the City Bar Association.

He is not conscious of ever during the whole of his thirty-six years of practice having deviated from the courtesy and just consideration due to the Courts, to counsel, or to others.

He has taken the liberty of bringing to the attention of the reader the above personal matters only as some justification for writing the following paper on the ethics of the practice of the law.

Ethics of the Practice of the Law

A Code of Ethics for practicing lawyers having been adopted by so many Bar Associations in this country, there is thus sanctioned a set of rules which every gentleman in his intercourse with others would likely by instinct and training have conformed to without being obligated to memorize the formulas which embody such. Hence in the following pages I have only gratified the inclination to illustrate in a natural way some of the principles of conduct that will appeal to those who are engaging in the practice of law—what is said does not profess to be didatic, but is written in a wish to entertain the reader in setting forth ethical questions confronting a lawyer in the practice of his profession.

It can never be lost sight of that one adopts the profession of law to engage in its practice, and that sensible ethical rules should be proposed for the advancement of the lawyer as a necessary factor in promoting the welfare of the community.

A professional life will provide interesting reading, dull though may be the customary routine of its plodding work. Indeed, even a toiling day cannot be a fruitless field to a careful observer, and one may emerge from its tasks with convictions not less chastened from the contest. One can acquire more or less clearly certain conceptions that may appear as truths. In obtaining a better knowledge of human nature one will have a more hopeful opinion of its operations. If he is convinced that society should have been constructed upon the principle that the law of self-preservation is more effectually to be secured by furnishing to each the incentive to zealously labor for his neighbor, and thereby be a participant himself in the

results of such a system, he will conclude that the world may possibly be slowly drifting along in that direction; and that many persons whose creed this is, do in fact aspire to, in some degree at least, practice homiletic theories. The choice of an occupation is so seldom the result of deliberate, judicious selection, that not in a few instances it may be said that a grotesque notion is his who enters upon a career in law. Assume a careful education and a college degree — and then well-inculcated legal studies, with a law-school diploma, and the aspirant for legal activities will ordinarily regard the peculiar merit he possesses entitled to attract occupation and commensurate reward. If the reward is slow, as may be likely, he will ponder the cause and desire to seek its solution in the experience of others who may have traveled the route he now would pursue. An account of what has come under the observance of one who has pursued that route, coupled with unbiased criticisms, may furnish some aid in that respect. Viewed by him who decides to study for the legal profession, the latter is usually a closed book, for a discussion on the motives leading thereto will in each instance likely prove a clear misconception of the nature of the reward that is sought. The quiet contemplation of listening to statements of a law case, with a few questions and some slight criticisms, do not, as might appear, bespeak ease and leisure, nor does the confounding of a witness or the convincing argument in a trial mean a great pecuniary reward or a glorious reputation from cotemporaries.

Strong nerves and a young heart make the prospect in life eminently cheerful, the vanity of the struggle being as yet relegated to the keeping of the aged. What brighter career to be pictured than the practitioner full of the joyous inexperience of youth, strong in confidence, in skill yet untried.

Schooled with a care, perhaps unusual, the novitiate enters to engage on a career in which no visions appear other than pleasing. To each may be assigned some motive that excites the desire to engage in his chosen

profession, a motive born likely of immaturity and inexperience, but backed by the powerful influence of the unknown, impelled by visions that may scarce be realized, and if realized, fraught surely with trials and tribulations.

This motive when analyzed is to be referred with little deviation to the not overengaging one each possesses of a desire simply for personal advancement. Few are those that use discretion, judgment and deliberation in selecting a profession. Not a few are they, however, who feel a perfect ability to make such selection—a selection often with no reference to any previous training, present capacity or future usefulness. No greater motive resides in human hearts than a desire for public esteem. Than this is nothing more powerful, even the desire of wealth. A candidate for the Priesthood is never unconscious of that deference and consideration extended to the good parson; one who aspires to the art of the physician does not fail to see the regard and tender affection with which the family doctor is considered, and no one can fail to notice the opportunities for power and influence open in the pursuits of the lawyer. Left to his own decision, man consults his nature in desiring that occupation which he conceives most conducive to his success. Success as it furnishes his advancement, his advancement as it assures him the esteem and regard of the community around him. Every biographical history will undertake with pleasing accuracy to detail the events of the child, and thus foretell the career he is to attain to. Enamored of his subject, a writer will discern in the traits which all children possess in common those qualities of heart and mind which are to secure him future eminence. It is flattering to conceive in the child who is merely stubborn that great determination of character that is often confused in analyzing character, or in the stupid child that great integrity of purpose that lacks versatility, just as selfishness might mean to some a possession of power and authority, and a display of personal vanity a desire to advance the interests of the public. But, however interesting the events of childhood may appear to the biographer, they may be all likely

relegated to commonplace occurrences, for children are born, reared, attend school, are praised and chided, have ailments, pleasures, and ultimately reach the point where one is segregated from the masses. So that, however eminent any reader of this may expect to become as a great lawyer, he need scarcely worry himself in preserving for his future biographer any reminiscences of what are likely in any long life to constitute its happiest period.

One evening in 1871 I was sitting in a passenger coach going from Baltimore to Washington. Only one other person was aboard. He was a little man and sat on my side of the car, a few seats ahead, reclining in the most restful attitude, indicating in bearing and expression extreme complaisance. Added to his consequence was the deference of the conductor, who heard him announce his name and then passed on to me. Shortly afterward came the baggage agent, who with deference collected the little man's checks for his trunks. I have no idea how I knew my fellow-traveler as the eminent lawyer of that time. I had never before seen him, though often since, but his complaisance, self poise and absolute bearing of independence, with possibly the impressions I noticed on the conductor and baggage agent, decided me on the selection of the law as my profession. Viewed now in the light of subsequent experiences, it is likely that what suggested as the possession by my ideal of importance and power was really the manifestations of a dull, monotonous and laborious life, absorbing of mental and physical vigor, with a pecuniary recompense so commensurately inadequate as to sober absolutely the temper and disposition.

Whatever the motive in selecting the legal profession, whether a feeling that it is a gentleman's occupation, whether a desire for public notoriety or whether a yearning for political preferment, it can in each case be truthfully asserted that the aspirant for legal honors is absolutely unaware of the paths he will have to tread, as well as the fate to befall him.

The writer, completely innocent of all knowledge of a lawyer's career or associations, with the simple concep-

tion formed to adopt this profession, but no ties of any sort to enlighten as to the way, it was natural to turn to the law school for preparation. Before the Civil War there was no mental debate in a Southerner's mind as to the university he would attend. All young men of means with a recognized social status who did not go abroad went, of course, to the only real university then in the South. It was the ambition achieved of all who under pecuniary straits could complete their training there, and a degree either in law or medicine obtained there secured recognition of effectual equipment for a start in one's profession.

This general acknowledgment of the status of the first university in the South existed for a great many reasons; it had originated at the conference of many public men, in which three former Presidents of the United States took a prominent part. It was founded upon a system of government for its students in which their sense of self-respect and honor alone were relied upon. And it was launched and maintained with men as its teachers who were recognized in the educational world as distinctively representative men in their several departments. It had thrived and grown in strength for near forty-five years when the Civil War arrived, and when that struggle was over it reinstated its authority and influence, so that now the sons and grandsons of its earlier students were attending the same lecture halls, living in the same quarters, roaming over the same walks and fields and viewing the same scenery as their fathers and grandfathers did before them.

Titles were always quite as liberally bestowed in Virginia as in other parts of the South, and Colonels were so numerous among the better class that one could no more readily assign a military origin to their possessors than one could the title of Captain, by which they were called, be assigned to the army of sail or steamboat masters and railroad conductors. So that when I appeared in the little room on what is known as "West Range" at the University of Virginia and introduced myself to the proctor I

was in a quandary whether the title of Colonel, by which he was addressed, was incident to his office or had been earned in military life. The proctor understood his business pretty well. It was no doubt a mental diversion to him, furnishing interesting variety to extract from the applicant the few dry facts of his age, name, residence and the intended studies, to determine from these and his personal inspection just what kind of assignment he should be furnished for his room and boarding place. In my case he proposed, for some reason known only to himself, to make it exceedingly interesting by informing me that there was only one room vacant in the University. This room was one in a little house off to itself on the outskirts of the University. He created an uneasy anticipation on my part by stating that the students assigned to it seemed to have an unreasonable prejudice against it without the slightest foundation therefor, and that I would be exceedingly comfortable and enabled to devote my attention to study, unaffected by the distracting noises and confusions to which the students in the larger houses were subjected. I accepted my assignment of quarters with plenty of doubt as to the enjoyment of that happiness promised me by the contriver of this arrangement, and in my eagerness to fully enter on my University career hastened to the place selected as my future home. One look satisfied me that I could not in my isolation, as the occupant of that place, expect to be exceptionally popular with my fellow-students. The implicit reliance of youth, however, upon the truthfulness of my mentor recalled to me the fact that this was the only vacancy existing, and I bravely reconciled myself, arguing that the situation might not present itself to others in the bad light I viewed it, and I must, if need be, accept the ostracism that attached to the occupant of that room in order to enter upon my student life. The preliminary work of domiciling myself having been accomplished, I started to deliver my letters of introduction to the various professors to whom they were addressed. I soon discovered that such letters were not recognized by the older students as desir-

able or promising features to induct one into University life, and as students are usually good judges of what promotes success, I had a misgiving as to the fate that might befall me from my letters. I soon found, however, that their consequences depended as much upon the character of the writer as upon the character of the person addressed, and that what might ordinarily be regarded as an intolerable bore in having thrust upon a professor's notice a student distinguished from the others alone by a letter of introduction, would in the case of some other professor be recognized as a gratifying appeal to his sympathy; and these disdained mediums of acquaintance became in many instances distinctively gainful. As the surroundings gradually became familiar I was not wholly oblivious to the innumerable vacancies in various parts of the University, and my situation was not rendered happier by the reception the older students accorded the announcement of my location until finally my decision was reached upon an older friend informing me with hearty frankness that I must vacate that place, that the proctor was invariably trying to foist upon some new students. Instinctive preservation had induced me to obtain from my friend the proctor an assent that I should vacate this favorite assignment of his if I could better myself, and as the Range vacancies were controlled by him, it never occurred to me that he would recede from this statement that my assignment had been the sole remaining vacancy he had, so that perforce I sought to find a location in one of the several student boarding houses outside of the University grounds.

At the period in question—1872—there were but two of these, one presided over by a physician who combined with this pursuit that of a students' book store and gave to himself a distinction in the esteem of students by refraining in favor of his subordinates from any personal concern with his mercantile pursuits and arrogating to himself the dignity and respect of his medical title that each one soon became conscious he possessed. This gentleman constituted himself in his book store the stu-

dents' older companion, and the degree of pleasure he extracted from the easy personal intercourse with the students was an assurance that his table and boarding place was the aristocratic quarter where it was a privilege to enter.

The other hostelry was presided over by a widow. Her boarders, some fifty, came from all parts of the United States. One of the greatest worries in a business is the uncertainty of earnings varying with circumstances and the degree of attention. How this was modified when a fixed price per month was the unvarying revenue from each student and the only uncertainty was whether, with everything furnished—food, service, lodgings, etc.—the vigorous appetites of healthy students left any surplus. This can only be answered in that this lady ceased to do business there after a few years. At this last place two former school friends of mine resided, and when the decision to change my quarters finally came late the second evening I went direct from my unpleasing abode to my friends' room and detailed, greatly to their enjoyment, my unhappy predicament. They heartily entered into the spirit of helping me, and I was taken forthwith and introduced to the landlady, who, with a professional instinct as to the true situation, announced that she had also had but one vacancy, premising by saying she was afraid it would not suit me, as it had been occupied the previous year by two students who had failed in their examinations. That, in addition, as it was an exceedingly sunny, bright, cheerful room, she was reserving it there to keep her geraniums and flowers for the winter, but if I thought it would suit and I was willing to pay a price per year she named, which was just double the usual price for one person, she might give it up. Although only too eager to accept, I determined this time to first inspect. As it appeared just as she described and as the fate of my two predecessors in this room did not deter me, I eagerly closed with my thrifty landlady.

I continued to keep a watch on my first assignment of quarters for months afterward to see what befell it, but

whether my friend the proctor gave up with me or whether he continued to deseribe its pleasures to future applicants, I know not, except that the helplessness of the situation evidently became so desperate that subsequently it was transformed into a laboratory room.

This was the introduction to the training intended to fit one for a professional career, and at the end of the eight months' session I was awarded that degree in law conferred upon those who completed the course laid out therefor.

Conditions will never likely again exist at that law school as they existed shortly after the Civil War, the period I allude to.

The lawyers then sent forth are now retiring from active life, giving place to younger men fully equipped with all a finished classical and professional eourse can provide, but at that time few of the law students had enjoyed a classical edueation, the four years of the Civil War had sadly interfered, so that while to some had been extended limited opportunities for such classical training, to others all they had to show was a service and experience acquired through the campaigns and fighting of that period, and, while the gentlemen who now emerge from the University Professional School are generally youths whose career until then have been confined to school and college, then the law students and graduates were usually men of mature years, often with families to eare for, and many of them with titles earned in military life. These same men, too, showed the effects of their hard war experiences, for, with rugged and thin visages, many had been compelled to exercise undue economy to attain the education needed to prepare for their chosen profession. So that scant food in private boarding elubs and well-worn elothes rendered their student life one for philosophical consideration.

My graduation degree in law of B. L., secured in a session's work, added to a previous college graduation, secured after two years, entitled their possessor, so he fancied, to sufficient regard that professional employment

would be enjoyed in certainly some small part, and with this conception I entered upon the selection of my location for practice.

The selection of an office will constitute the lawyer's first engagement. Here he will dwell day by day, reflecting over the present and the future, visiting and visited by his contemporaries in the law, hoping for clients and professional employment.

The character of the office will depend upon his resources. With no income, he will be furnished a problem to secure the best in location and attractiveness for the least outlay, and every expenditure will be counted with doubled caution. The furnishing will likewise be a subject of anxious thought—how many chairs and the style, second-hand or new, and the same as to stove and the table.

Some bought and some perhaps borrowed. Even the sign will create a struggle between economy and show. The same influence will reach the stationery and stamps. Office boys and typewriters are luxuries for the older practitioners. Books and law reports are not dreamed of. Entire dependence is placed upon the public law library, and the fee for this will be a problem. Janitors are necessary in cold weather, for fires are to be made, but the floor will wholly remain unswept and the furniture undusted in the months fires are no longer needed, for the janitor's regular stipend adds to the many other unwelcome demands.

The question of food and clothes and shelter will confront the beginner in a most uncomfortable manner, for the money he is accustomed to spend for such necessaries seems to go as of course, and yet whence it is to come is a matter of anxious moment. He fain may seek shelter in a way to be sparingly alluded to in after years, and the garret or couch in one's office may be not ignored. As to clothes, such, with care, can be carried along from year to year, and food can be reduced to a system of economies that will produce surprise as well as health and vigor. But these experiences are not the exclusive enjoyment of beginners in professional life, but, like the blessings

of spiritual aid, fall to each and all alike in our civilized society as now constituted, unless the novice is sustained by wealthy parents or an inheritance. So that, whether the agonies of the cheap boarder be endured or the wondrous experience of the lunch counter, it requires no introduction into a profession to record the trials that beset those who enter the struggle for worldly advancement. The smaller details of comfort and appearance require some outlay, and where the means are to come from will monopolize the attention to that extent that altogether life will become interesting enough. During this period the fond expectation of parents or near relatives or friends will be voiced in little sage suggestions intended to promote the general result—and success will ultimately come in some shape to one who is a miracle of patience, of application, of industry and of learning. Before this period arrives any one or more of numerous expedients may be seized upon to help. Any employment in the line of one's profession is looked upon as a grateful blessing. And with the whole soul and heart involved in the outcome, no effort, however rash and untried, will appear without hope. There is no great difference in the experience each and all enjoy in the start. Months of waiting may roll into one, two, or even three years, with some trivial employment or account to collect, a deed or legal contract to write, a matter of advice, or even some petty magistrate's case will furnish the scope of service; and when ultimately a retainer is conferred for some case in court the beneficiary will believe he has finally entered upon that stage when he is to reap the reward of a recognized professional status.

When a prospective client enters one's office to engage his services in some litigation the thrill of joy will only be equaled by the nervous solicitude one will with great difficulty refrain from displaying over the event. And the amount of labor and study devoted to the preparation and trial will be such as would appall him who endeavored to adjust the proportion between labor and reward.

If you escape some crudity or immature exposition

you will feel lucky at your fate, and if the result will be as you thought, happy may you be at the good grace to befall you. Your career at the start will presumably attach you, even if only in some mild measure, to an older practitioner to whom you will defer in little points of direction and practice, for as it is the custom to be admitted to the bar of the court through the introduction of one already a member, and as you naturally solicit for this service that gentleman to whom you have ready access, so the same person you will be apt to regard as your mentor in times of trouble, and peace and joy will abide with that youth who has not misplaced his confidence in such friend. A word here and a word there may be as grains of gold to the novice, and patience and solicitude in even some slight degree will return in blessings to him who has not overlooked the disparity between youth and experience. If you locate with your advisor and conceive you are under the shade of benign influence from which you expect only blessings, you will be fortunate in a high degree if your faithfulness will secure some tender consideration in the burdens you will carry. This experience may constitute the portal through which you pass from the comrade student life to the cold, stubborn and apparently heartless contest for advancement. The bitterness of this is to the youth as nothing. Strength, hope, anticipation alone prevail. When fairly launched on the legal career, confronting you will first be a proposition whether to fight singly or with one or more in partnership. This question will likely be considered from the standpoint of expense, not profit; the first is sure, the latter uncertain. A not unimportant element in weighing this question will be the future prospect, and this prospect, of course, is going to depend on so many considerations that only your inexperience is what will enable you to decide it to your satisfaction. The advice of unworldly relatives will, no doubt, first be solicited as to this, and they will enjoy the pleasing duty of aiding you in this conclusion. If you select to be a partner of some other young practitioner, there will be the customary maneuver-

ing as to this. You may treat with the indifference of some grande dame the advances of one who may be persona non grata to come ultimately to the conclusion that perhaps wisdom will suggest the prudence of a more deferential regard, and if you finally believe that this points the way to promised success, you will soon be involved in the details of an alliance that will be wholly ideal, at least, in freedom from immediate practical results. Like a more solemn tie to be contracted later in one's career, happiness and success will very much turn on the mutual esteem and consideration each partner extends to the other; especially will this be true if the alliance will not only embrace professional work, but, in addition, various domestic features. Forever confronting one is the need of economy, which will suggest an extension of the partnership to the more intimate personal needs. If the partnership shall comprise two it will be quite easy and natural to extend it to a bedroom in common, but with often the fate that befalls those who are too closely allied, and he may discover that too much intimacy can impair that deferential regard needed for professional success.

The eager yearning for employment which dwells in the heart of him who has launched on his professional career will suggest divers expedients to advance this, and he may assiduously cultivate the good graces of friends and acquaintances who, while extolling his energy in this, will with entire impartiality ignore his advances, waiting until the young lawyer is tried before trying him.

He may even attempt some ungracious task like, for instance, forming a building association, the only agency for the loan of money that is without commensurate reward to its legal representative, and he will be lucky if he has read to him a lecture on the usual history of such efforts. He may likely thereby be saved the opportunity of that drudgery which pertains to the life of a small conveyancer and examiner of titles, with a devotion to the legal field and associations of such.

The lack of this drudgery, however, will leave opportunity for ample efforts in other directions, and he may,

perhaps, expend some energy and precious money on fruitless advertising. As preliminary to this he will likely harass some of the more prominent friends of his family by soliciting the use of their names as references, and these futile efforts for professional employment may continue until one or two more years of barren results and pecuniary exhaustion may produce a condition of desperation only to be neutralized by some desperate remedy. For a meager revenue, insufficient to pay, perhaps, even office rent, with well-worn clothing and scant food, coupled with unswerving but futile efforts, will finally bring one to the consciousness of the need of a miracle. Every known method vainly exhausted for securing professional employment, the passing of years in deferred hope, if it does not break the suffering spirit, will suggest desperate expedients to him who seeks success. Of all the desperate expedients that could be suggested to one in this condition, what more appalling than that of assuming a new obligation in life, as is too often the fate of the young lawyer—the obligation to provide for the comfort and happiness of another who will be called upon to share the future joys and sorrows of this partnership. And yet this in the course of nature will be one of the first thoughts to occur to him who has plodded along some years on the way. If he induce another possessing enough courage to enter upon this arrangement, only dire disaster will be escaped through the sharpened wits of the new responsibilities.

Now, a curious paradox will arise here. The depths of despair suggest the need of companionship, but the aid of such is going to be secured only when the condition is bettered. Thus springs up a new incentive for professional work and advancement. How is this result to be secured?

You need entertain no surprise at the various notions one's acquaintances associate with the business of a lawyer. Every trouble hard to solve, if it be over property, or over rights or wrongs, real or imaginary, suggests the lawyer, so there gravitates toward this agency for transacting worldly business many novel propositions, a not un-

common one is the application to sell property, and our friend, who through added responsibilities is now imbued with a new hope in life, will no longer hold aloof from other than strictly technical professional work, but will eagerly avail of all offers in the line of the profession that will add to income. He will wonder how one matter suggests another, for a sale of real estate will not unlikely lead to the drafting of the deed and an examination of title. Before he is conscious of the change his enlarged field of mental vision, his activity over practical matters and his incisive energy will reap fruits previously undreamed of. No diffidence will longer retard in the prosecution of some difficult question. All barriers disappear and in an incredibly short while he finds himself prepared to enter upon a new stage in his career.

The association of partners for the practice of the law may be secured through the exercise of some diplomacy, but the latter fades beside the course of a lawyer who is intent to add to his trials and tribulations in life. Animated with such thoughts, lightness of heart and joy of work are as nothing; the earnings, heretofore so scant and so precious, flow unrestrained. Time is of small moment, and the eagerness to begin life on a higher and different plane leaves nothing comparable to it.

When eventually launched, the practice of law assumes a new phase. Previously it was a dignified waiting for something to turn up and a strict determination to adhere to the reserve of professional etiquette; now, however, activity takes the place of waiting and etiquette is closely observed by availing of every proper and legitimate opportunity for advancement. As your responsibilities in life increase, proportionately will also increase your energy and acumen, until ultimately you will attain that pleasing state of success as to excite the envy of your less laborious and less prosperous contemporaries.

At the commencement of this legal career several months of expectancy, assiduous cultivation of all friends that could be reached, eager qui vive for any development, finally may bring a modest result. In my case my shoe-

maker, who lived in a litle side street, had unwittingly trusted a minor who was a butcher's boy for a pair of boots, the cost of which was nine dollars. The bill he offered to me for collection, and if successful my charge was to be 10 per cent. I eagerly undertook the job, and when the nine dollars was gotten from the butcher's boy my firm fee of ninety cents I shared equally with my law partner. The total professional earnings of the first twelve months of legal practice gave to me an exceedingly modest sum; the second twelve months were slightly under this result, calculated to be quite too dispiriting, and which ended the law partnership; but the third twelve months discharged accumulated obligations and showed a net result beyond the wildest expectations that had been indulged in for the two first years.

The two slim years can be assigned to inexperience, for a youth with the conception that results achieved by study would attract esteem, and this in turn good will, and the latter to preferment in law, has calculated to discover in course of time, if still holding on and still sanguine, that results were achieved by distinct personal activity. An early recognition of this can save many an unhappy moment, for, with all the economy human ingenuity can exercise it would require a conjurer to subsist on the earnings mentioned.

Whether the advantage is with those who locate in the office of a settled lawyer in an established practice or with those who launch out independently will depend in a great measure upon the personality of the individual.

If the young lawyer will respond heartily to suggestions in lines of work, devote himself earnestly to a task which may appear almost hopeless of results, and exercise ingenious originality in his efforts, he is, perhaps, better fixed in the office with older lawyers, for these latter will always have on hand matters which, however unpromising, yet nevertheless are worthy of some attention and the care of which they willingly bestow on a junior who shows a disposition to labor without a too-exalted notion of the reward therefor. This is about the only class of

business a young novice will get there; for lucrative business of an important character is always too gladly claimed by the experienced advocate to think of delegating it to others at his own costs and the likely disadvantage of a client.

The small matters which fall to the youthful assistant will, if the fee depends upon results, in perhaps all save rare instances, prove futile, but if tenacious, incisive and astute work is applied to each, the occasional success will often obtain a result to well pay for the labor for all. However, much self-reliance may be developed by independence, yet in modern complications of business affairs legal work is secured by a large office force, comprising partners and subordinates, whether employes or junior associates; for the details of a complicated legal matter are now so extensive and must each be traced out and followed up so persistently and minutely that one person's efforts alone can scarcely obtain an entirely satisfactory result. Again, experience teaches the wisdom of specializing in the practice of law, so that a lawyer to whom all things will come in the course of practice must, to avail himself of all, be a member of a firm or locate in an office where the work can be assigned to each according to his specialty, with the result that all business can be accepted, and through ample help and intelligent treatment be satisfactorily dispatched.

To secure the employment one longs for such must be offered by some individual and by an individual requiring the lawyer's services. As only a small fraction of one's acquaintance may need legal aid, it follows the larger the acquaintance the greater the prospects of reward. Of all the various channels of forming acquaintances some will appeal to one, some to another, and they may be difficult or easy; but one or more are essential. Envy or ill-nature often insinuate that the earnest devotion to church duties indicate not so much sterling faith in religious exercises as faith in the effectual means of securing thereby clients for a happy practitioner. All the secret beneficial orders, of which a multitude exists, com-

mencing with Freemasons in the lead and running through Odd Fellows, and so on to the end, will be suggested by some sage friend to the young, enterprising practitioner as a means of securing a complement of friends with whom the fraternal relations he establishes will likely materialize when occasion arises. So that his merits, which appeal to these friends, will be offered opportunities for testing in a decidedly practical manner and with gratifying substantial results. Society judicially cultivated by one willing to devote the time and strength needful will be suggested as affording to him who can discriminate fruitful fields. The clubs furnish a desirable means of extending a valuable acquaintance, bearing in mind especially that the facility and success with which a lawyer's business is transacted greatly depends upon his relations in the business world with those through whom such is transacted. Fortunate is the young practitioner who establishes a friendly footing with some corporation, especially one engaged in financial transactions and passing upon credits, for in the exigencies of business pursuits the need of financial aid will not only develop extraordinary conditions affecting one who seeks it, but complications will subsequently arise, in all of which instances the lawyer's talent will be exercised in elucidating the transaction.

One is not amiss in assiduously cultivating the goodwill of all the court officials and deputies with whom court duties bring one in touch, whatever the relative position of such officials—high or low—for here again, while the success of a transaction is greatly affected by the mental attitude of the officials through whom the business must be conducted, it is not to be forgotten that a word fitly spoken can often influence in a favored one's way matters of great consequence, and that the vast number with whom such officials come in contact, whether in official or social capacities, to every one he is distinctly a person known to have to do with legal matters and with lawyers.

A gentleman now retired on a judicial pension equal to his former salary was a judge of distinction and previ-

ously a lawyer of eminence. He had achieved as great results as a strictly professional life usually aspires to. His success was traceable to a simple formula he had conceived on his start in life, namely, to form the acquaintance of at least three persons every day. This was not difficult until his circle of eligible acquaintances became so extensive that he was regarded as a political possibility, with the result, however, that as his aim was invariably professional advancement, his political affiliations ultimately secured him his judicial position.

The chances are decidedly that the first employment to a lawyer will be the collection of a debt, usually a pretty bad debt. This matter, handled properly, can often be turned to effective advantage. A lawyer's perfect fealty to this work is the surest way to success. Ordinary dunning for a debt can be indulged in by a hackneyed collector, but the scientific treatment of an astute lawyer is needed to induce the debtor to eagerly desire to pay what previously no ordinary coercion could extract from him. A minute examination of every detail in reference to the debtor from the date of contracting the debt can only secure this. His business, his dealings in reference to his property disclosed by the records or otherwise, his methods of life, relations toward others, past or present, in property examinations—and, above all, a correct interpretation of the meaning, often hidden, of what is discovered and a judicious and effective handling of the situation will not only often secure the result, but in it also a remuneration very far in excess of the amount involved. A claim of a few hundred dollars may bring several times that amount in fees, at the same time securing a most advantageous result for one's client; of course, this will usually be through the discovery and legal elucidation of some fund, estate or property against which your client's claim, with others, can be charged.

The most modest and unassuming claim will often lead to momentous legal results, as the following incident, among a host of others, will illustrate. A marketman was given, in the absence of something more pleasing,

the written promise of an impecunious customer to pay a long-overdue account out of the share of an estate in the process of settlement in the court. This written promise, after long and fruitless waiting, was turned over to counsel for attention. Investigation of the court case disclosed a decree of sale of the real estate many years before, and thereupon a cessation of further procedure. The trustees had lost the incentive of a commission, for one of them had become judge and the other clerk of the court. The parties in interest were entirely complacent, for the shares of most of them were fully pledged for their debts, and in the meantime until the sale they had the welcome enjoyment of the income. A creditor of one of the impecunious parties was a trust estate represented by an old practitioner of the Baltimore bar, who at the time in question, although quite advanced in years, was still very active, among his valuable clientage being the Baltimore and Ohio Railroad, for which corporation he was chief counsel. The marketman's attorney visited the older lawyer to hear more of the case, and that liberal and large-hearted gentleman, with great earnestness, encouraged the young lawyer's efforts by saying that this was the very case for an energetic and attentive young lawyer, and suggested that he insist on the execution of the decree, saying he would add a fee for the services in this respect that would accrue to his client. He added to the pleasure of the interview by recounting the various members of the bar who had been trained under his guidance, saying that he had impressed upon each the need of always constantly observing the five "Ps," which stood, he said, for Probity, Perseverance, Precision, Promptness and Politeness, and terminating the interview with the exceedingly flattering suggestion that he observed in the young man the possession of his five "Ps."

The prosecution of this case resulted in the judge resigning as trustee in favor of the young attorney, and thereupon ensued litigation over the validity of the decree, the jurisdiction of the court having been changed in the meantime by legislative act, necessitating a ruling of the

Appellate Court, with the result that services of counsel, which had started with the collection of a small claim, were rewarded with fees far in excess of the wildest expectations.

One of the most resourceful ways of enjoying a law practice is to have facilities for loaning money on mortgage, either by representing an individual or corporation who make such loans.

In addition to the fees for the mortgage papers and the examination of title, there often arises in connection with the loan complications which require the services of a lawyer. But above all is the examination of title prolific of troubles apt to require a lawyer's aid to straighten. Very nearly any title examined with great technical care will develop irregularities of a character many of which are sufficiently serious to require to be corrected, and as will almost always fall to the lot of the examining lawyer to take the necessary steps therefor.

If an examination is required by an estate the chances are heavily increased of finding trouble, with the additional chances of discovering that the interest was in some respects different from what was supposed, or affected by conditions or circumstances not previously known and which when disclosed to the outside party by the examiner will almost invariably secure a grateful memory for the diligence and astuteness of such examiner to his great profit in very likely the near future. Nothing more quickly brings a client within the sympathetic touch of counsel than information of an interest a little more advantageous than previously conceived, either as to amount, time of enjoyment or conditions of such. To illustrate would likely cause suggestions that the instances cited were peculiar and rare. It needs to be surmised, however, that such may be said of the myriads of law cases daily arising. Each one has its own peculiar facts requiring application of its own peculiar legal principles. A few examples may be more acceptable. In 1886 a man died, leaving a considerable amount of real and personal property in Baltimore. He was the only child of a French

physician who had settled there early in the century and had there married. The relations on the mother's side appropriated this property and commenced a proceeding in court to sell it and divide the proceeds among themselves. Attention was required by a matter in connection with this case. Afterward in reflecting over the proceedings, an examination of which had been necessary, it was recalled that two of these relatives had testified that the family of the deceased on the father's side was extinct and that he had frequently been heard to say so. This statement, couched in this language, was so unnecessary to reinforce their claim that it was calculated to excite the belief they were apprehensive, for very few can cite an actual instance where one whose parentage was known was without at least some relatives more remote. If there were any relatives on the father's side they took the real property to the exclusion of those who were claiming it. A thorough investigation and inquiry developed such relatives in France, and upon the necessary proof they received the estate. The point in the above was the impression on the lawyer made by the testimony, suggesting its character as being fictitious and inducing an investigation as to its accuracy.

This case involved a principle of legal ethics—that which prohibits solicitation of particular individuals to become clients. In a large community the litigious possess usually neither great wealth nor great learning; people in these two classes generally either avoid strife, or if involuntarily involved manage to secure amiable adjustment.

The exceedingly few that, notwithstanding, become involved in the meshes of law retain counsel connected by family ties or kindred, or in questions of great moment seek the aid of one who has attained eminence that comes alone from experience and age as well as learning and capacity. The litigious are ordinarily those who need counsel, because unable or unwilling to arrange their matters without the aid of such. This latter class will generally assign to all lawyers equal merit and will exercise slight dis-

crimination in their selection. So that this rule confronting him, the young lawyer will meditate with how much patience he must anticipate the time when business will come his way without infringing the rule. And if he is conscientious in adhering to it in principle as well as in practice he will entertain misgivings to what extent prosperous contemporaries conform to it, and he may conclude that it is a great help to the aggressive and those with not over-nice discrimination to have so many men, scrupulous and honorable, curbed by a rule whereby the latter are practically eliminated as rivals in the acceptance of the usual law business. It will scarce contribute greatly to his comfort to be informed it is his merit that should secure him success, because he recognizes in his busy contemporaries not only merit, but a reward that he feels would have been his with a slight advance on his part. How is the young lawyer going to realize his deserts while at the same time honorably conforming to the rule? He will ponder with plenty of tribulation in vain search for the way, and if he flatters himself with its discovery he is apt to feel the sting of mistaken confidence if he pursue the course disclosed to him. His advances may be so delicate in character as to contain not the slightest suggestion of solicitation. His mission to the prospective litigant may be ostensibly on a subject entirely foreign to the purpose, and his conversation may so please and entertain that his friend will feel disposed to extend any token of good-will, and unless some suggestion is given or elicited, how will the true purpose of the visit materialize. And how will this mission of ingenious and subtle self-seeking and this indirect way of realizing constitute adherence in principle to the rule in question. Some may solve this enigma by concluding that the rule is only an expression of one's self-respect, involving a question of principle only to that extent, and that hence so long as no actual solicitation is indulged in there is no violation of the rule and hence no violation of one's obligations, and as a consequence of one's principle. Others without reference to any sophistry or reasoning as to the matter will conclude

that the rule is deeper and more far-reaching, and that it was formulated from an experience and wisdom concededly the highest. So how is the young lawyer with this conviction going to acquire clients? There is but one answer. The high courtesy and great consideration such a type of man will instinctively evince toward all, leave the mere self-seeker, with his devices and cunning, to serious meditation, and he will finally conclude that his overmodest rival may not be, after all, a victim of his own conscience. Furthermore, the same rare type, with superior conception of principle, while not wanting in friends, will never slight in the smallest degree any trust confided to his professional care, and it will be a revelation the results secured by his close application and indefatigable zeal, so that we need indulge in no lament over merit and talents unrecognized and unrewarded. This brings the question down to the ultimate basis as to the purpose in practicing law. In mercantile pursuits, where the sole aim is pecuniary gain, every device to secure business is cheerfully employed and no harsh criticism follows.

Solicitation of the most seductive character is employed to sell one's goods by grotesque advertising, which may appeal to cupidity, the spirit of economy or the close and narrow lines of the poor. Advertising circulars may be scattered broadcast, and soliciting agents skilled in an accurate knowledge of human nature and its weakness may seek trade without a menace to the correct status of the merchant. But the professional man, whether he be a minister, doctor or lawyer, has dedicated his labors to a mission in which his personal qualities are alone employed, and to force his services unsolicited on others is not only going to detract from the self-respect he must maintain for his personality, but will lessen his usefulness in the career he has chosen in consequence of the bad impression others thus form of the distress and necessities of such a self-seeker. He may have a long, trying ordeal, but if he is no laggard and pursues the true spirit just mentioned in detail he will in good time obtain the reward. But he is not to contentedly repose in quiet patience wait-

ing this reward, for, should this spirit possess him, he will in vain seek that skill which alone accrues from practice, and his sauntering through life will be conspicuous for a signally empty performance. Thus is suggested a situation with irreconcilable possibilities, namely, a lawyer is to severely refrain from soliciting professional work, and at the same time he is to earnestly devote his energies to professional work, and now, as professional work does not seek the unknown advocate, how is the latter to confront the situation? The natural reply is, engage with him who possesses this work, or in that department of activities in which such work exists; that is to say, seek employment with an established law office or with a corporation whose business furnishes legal occupation. How is this principle, so easy in theory, to be availed of in practice. The solution thus suggested will be entertained with slight enthusiasm by one who lacks the influence commonly conceded necessary to secure footing in one of these desirable locations. But here again the personal merit must furnish the recommendation. For in our modern day the lawyer who seeks an effective position for his calling attends one of the law schools possessed by every large community, and in that law school are professors who are usually well advanced in their legal careers and who are in a position to aid with the necessary influence the aspirations of any zealous, painstaking and earnest student, so that the young man with personal merit need only seek the aid of his teacher to achieve his wish for employment in one of the ways alluded to.

Now will be understood the propriety of the course pursued in the case of the French heirs above cited, and it will be seen that the case referred to was in no manner a violation of the rule of legal ethics just set forth. The information of a great wrong intended by unjust claimants was conveyed to the French Government by one under no professional obligation of any kind, and the employment was both a perfectly natural as well as grateful reward for such service.

Again, a merchant by his will directed that his book-

keeper, who was one of the executors, and another employee should have the use in his business of his capital for three years without interest. The two in that time lost the capital. Years after one of the parties entitled under the will after the death of the widow, who had the estate for life, applied for information in reference thereto. An examination involved an inquiry as to the disposition of this capital in the business. In addition to the loss, it was elicited that the two who had used it claimed they were not responsible for the loss, as they had exercised their best judgment as to its care and that its use was an arrangement devised by the testator for the benefit of his estate, as it was expected thereby, through the continuance of the business, to realize debts and assets that would otherwise be lost. A test in court determined that the capital was a loan willed to them which they could accept or reject, as they desired, and, having accepted, they did so with the simple qualification of paying no interest, but must return the principal at the time stipulated upon the three-year expiration. A subsequent litigation decided that the executors and their sureties were liable for failure to assert on behalf of the testator a claim at the end of three years for the return of the capital.

The above two illustrations are prosaic to the degree of commonplace, but were the results of a close scrutiny which whenever applied to almost any case will almost invariably discover some legal question or trouble.

No more prolific source of business exists than that flowing from the examination of titles to real estates. The fee for examination may be nominal, indeed is usually inadequate, but a painstaking examiner, disregarding the fee and regardful alone of the fealty due his client, inquiring into every feature of a title, will, with few exceptions, show defects that must either cause rejection of title or else require the services of a lawyer to have such defects corrected. Often the defects are so serious that the correction is elaborate and expensive.

The examination of title usually comes from two sources—loans on mortgage and purchase of real estate.

The former a lawyer can find for his client who has money to loan. The latter usually comes from clients who have made a purchase of property.

It may be said that lawyers have in all times remarked a disposition on the part of themselves and their colleagues to criticise various agencies as making inroads on professional practice. One of those most subject to criticism in latter years has been the trust company. This legal entity, more markedly at the beginning of its history than latterly, secured a firm hold on the imagination of the community. Its proffer to act as executor or administrator in advertisements spread broadcast—something a lawyer in his case would regard as most reprehensible and unprofessional—appeals to the public as affording a medium for settling an estate that gives security through the wealth of the corporation, that gives accuracy through the business principles of its management, and that gives promptness through its routine as a banking institution. When in addition it becomes gradually understood that the trust companies prepare free of charge the wills of all who desire to place their affairs under their charge, it can be conceived what that means to the legal profession, for wills drawn by lawyers afford a very large source of legal practice when in the due course of nature these wills become effective. Almost every estate of any consequence in course of settlement after the probate of a will or after the grant of administration furnishes numerous occasions for the services of a lawyer that often require great legal skill and mean momentous consequences to the estate. Wherever settled in the usual way of the trust company the lawyer is never called upon unless his need is suggested by some clash that arises which is beyond the capacity of the ordinary trust company's official to solve, with the result often that curious consequences ensue to the estate by reason of the often complete elimination of the lawyer. To cite an instance: A man died leaving a very large estate. By his will everything went absolutely to his wife, but she had died before him and also left a will, giving all to her husband. The children of the two selected a trust

company to administer, and this company, through its officials, drew a deed of trust whereby the children granted to the company all the property they inherited from either parent to sell and divide the proceeds. One of these children, who had been charged in the deed with large advances, became dissatisfied and went to a lawyer. The lawyer knew what the trust officials did not, viz.: That the estate devised by the father was saved from lapsing only by the statute, and that when the statute declared the estate went to those who would be the heirs of the wife, that did not mean, under the decision of the Appellate Court construing the statute, that it became a part of the deceased wife's estate and either went under her will or was inherited from her, but simply that the estate was one created exclusively by statute and went to those parties, by virtue of the statute, who would have been the statutory heirs at law or distributees of the deceased devisee or legatee, but who took not because they inherited, but because the statute designated them as such takers—that they did not take by descent, but by purchase under the statute.

When the trust company found its deed worthless and because voluntary, therefore, incapable of legal reformation, except by assent of all, an agreement was reached whereby the charge for advancements—many thousands of dollars—was abandoned, and the counsel who secured this result was engaged by assent of all to obtain a decree construing the deed as intended to comprise the estate of both parents, so that the trust company secured its commissions that otherwise would have disappeared through its ineffectual deed.

The preparation of wills and deeds of trust are a copious source of legal business. In each instance work of a legal character must ensue therefrom ultimately. And there is less reason for the testator to suppose the lawyer will lay out work for himself than for supposing the trust company, whose motive in gratuitous drafting of wills is to get commissions, will therein arrange the amplest opportunities to realize such. The testator has professional

pride and fealty to rely upon in the first case; in the second he must bear in mind he is dealing with a corporation whose ultimate purpose is to create a business with best pecuniary results for its owners, the stockholders.

While on the subject of the trust companies it may be well to elaborate the status of this modern institution more at length, so that its merit in the case of an estate as contra-distinguished to the services of a reliable attorney can be deliberately considered, for my experience and observation teach me that a good trust company, conducted on honest principles, is a valuable feature in a community, but that a reliable lawyer is an absolutely essential factor as to which no other can take the place.

The true status of such a company should be better known. I believe the following account furnishes needful data, but in a light somewhat opposed to the views referred to and in a light I believe true.

A safe deposit and a trust company was originally designed by the founder of this form of industry for the double purpose of first furnishing fireproof and burglar-proof vaults, to be divided up into small compartments and rented out to persons who would thus find a secure receptacle for coupon bonds and valuable papers, and even money, jewelry, etc., and, secondly, to act as fiduciary for estates, and thereby accomplish several results recognized as good, among such: Obtaining a trustee or executor who would not die, securing the influence and authority of a rich and powerful company to advance the prosperity of and ward off trouble from the estate, and obtaining the management of a corps of skilled clerks, whose attention would be given exclusively to this work, under the supervision of the representative head of the company, who would possess all the business acumen and superior integrity expected to be found in the principal officer of such a corporation.

The scheme of companies thus planned rapidly developed: For instance, many trust companies selected as trustee for the bonds of a corporation became the depository in its vaults of the bonds until issued, became the registrar

in its capacity of trustee of the bonds, and from that position to another, which some of them rapidly reached, of placing or selling the bonds through its financial alliances, its directors, and ultimately others of them attained the still higher position of underwriting in advance and through the same mediums any promising financial venture. Two things were requisite for success in these new or modern lines of trust companies, viz.: Money to buy or to back the underwriting and "spots" to place as investments the securities underwritten, so that many trust companies, in addition to endeavoring to secure all the estates it can manage, also has a banking department, in which it accepts all the deposits it can obtain by allowing attractive rates of interest. The modern lines of such a trust company have placed it by the ventures in which it engages in such sharp contrast to banks that it now results that this corporation called a trust company, which deals in the most highly speculative transactions, also solicits that class of business requiring the most conservative business qualities—the business of managing the estates of widows and orphans, a combination of two extremes, which, if found in an individual, would certainly exclude him in the selection by any court as a trustee for an estate.

In recent years there seems a desire to name as trustee in wills a trust company. This has been the case in some fairly large estates and in very many of medium size and smaller estates. It is a noticeable fact, however, to those who observe such a tendency existing, that the very large capitalist, particularly those in any manner connected with trust companies, with scarcely any deviation, select as trustees under their wills one or more individuals, rather than a trust company. A list before me, although not given, as this article is not intended to deal in personalities, will exemplify what has been stated, for each mentioned in the list was a director in a trust company and all have died in the past few years, and each left a will and a very large estate, without in any instance naming a trust company as executor. An examination of the names of those who have served as directors in such companies for

the past few years will verify this.

Why should the owner of a moderate estate prefer a trust company as trustee or executor, and the very wealthy men, particularly one who is connected with a trust company, ignore such company for executor, notwithstanding his relation toward it and interest in it. Any testator, whether his estate be little or big, in selecting a representative to execute his will is generally influenced by motives common to all. He wishes the best security, most efficient service and least expense, and his conviction and experience as to where these qualities are to be found point to him the individuals from which he makes selection. Now, to the minds of those who are not identified as officers or directors with the working of a trust company, it represents the security existing in a large capital stock, generally insuring thereby that the executor or trustee will not abscond with the estate, or that if any loss occurs it will quickly and without trouble be made good. A testator further believes that his estate can be administered more efficiently by the regular routine business methods of a successful corporation whose affairs are managed by experienced and skillful business men, and that the degree of care and economy will be secured which is applicable to the conduct on the part of the corporation of its usual business affairs. These are all substantial reasons and powerfully influence one toward the selection of an executor or trustee that will meet these requirements. But, from the standpoint of one such as an officer or director, familiar with the workings of a trust company, does it in fact meet these requirements? A trust company is managed exclusively for the profit of its stockholders, and it is a success to the extent it earns dividends on its stock, and it undertakes to act as executor or trustee purely in furtherance of this purpose. Whether an estate will pay or not to administer will depend upon the character of it and the character it can be made to assume.

To draw the dividends on stock or clip the coupons from bonds require neither much labor nor skill, whereas to collect rents from tenants, look after repairs and pro-

tect the property generally requires more labor, more intelligence and, therefore, more expensive employes, and yet the commission or profits of the company will be the same, whether the income is from stocks and bonds or from house property and lands. Bearing in mind that these earnings are exclusively in the shape of a commission of almost invariably 5 per cent. on the revenue or income collected, a conclusion suggests itself as likely to occur from the conditions mentioned, namely, that a trust company as trustee will feel inclined to dispose of the assets requiring unusual labor, time and trouble and expense, and convert them into assets of a simple and less troublesome character, and what thus suggests itself is found often to be actually the case, for it is the experience of those who have relations with trust companies in the management of estates that many companies advise and urge the conversion of real estate into stocks and bonds.

A corollary ensues from what has been stated that a trust company seldom suggests to itself the prudence of investing in any character of real estate, even ground rents; but money, whether the proceeds of property sold or cash on hand, usually goes for investment almost exclusively in stocks and bonds. Just at this point is developed the serious weakness of such of these companies as pursue this course for filling the office of executor or trustee. It would very greatly startle a testator to be told that his estate, the cash on hand and the proceeds of the converted realty, might be utilized either for the personal profit of the company itself or one or more of the directors, or of other persons who exercised a greater or less controlling influence in the affairs of the company—might be utilized to help float a venture for the personal profit of others, a profit sometimes modest as such ventures go in these days, but also sometimes quite astounding in its proportion, and when I say astounding it is only necessary to remember some of the many ventures floated in the past few years. A few illustrations might make the matter clearer, but I am not dealing in personal references, however remote. And these financial ventures, speculative in character and de-

pending for their success both upon the skill, integrity and aggressive management of their promoters, as well as upon the generally good business conditions, constitute a good part of the business now engaged in by many trust companies.

The modus operandi of exploiting or financing a deal is very simple in principle; some operator or promoter conceives that it will be profitable to consolidate or combine certain interests, be it railroads, street railways, gas companies or certain commercial interests. He forms a combination of three or more persons who have been favorably impressed with the scheme; this combination always includes one or more bankers, or one or more directors in a trust company, or men of powerful financial interests, who can dictate the policy of a bank or trust company. Every trust company makes up its directors from among those whose names and influence in the commercial or banking world will advance its prosperity. They are sometimes large stockholders, but not always so. When the directory is large usually a finance board is provided, consisting generally of a limited number who pass upon investments.

Now, when a deal is contemplated the combination desiring to advance it can usually assign or parcel out to sufficient trust companies, banks, savings banks, fire insurance companies or other corporations with money to invest sufficient of these bonds to produce the money necessary to make the deal a success, with ample profits to the promoters, and the combination expects that these corporations can be reached and the bonds thus placed through channels connecting one or more members of the combination with the prospective purchasers of the bonds.

This channel may be the very simple one of a member of the combination being a director or having business associates or representatives as directors in the other company, or it may be that of a broker who is thus situated, or it may be financial or business dealings between a member of the combination and the controlling officers of the corporation which do not permit the combination being

ignored. The medium or channel of communication between the combination and the corporation may be any one of such a large variety that those familiar with these matters can readily suggest them.

With a knowledge of what has been above stated, is it any longer a matter of surprise that those familiar with the workings of a trust company, its method of managing its trust estates and making investments for such, should ignore these companies as executors and trustees and prefer individuals for this office?

It may be finally but surely said that a lawyer who is executor or trustee and would purchase an investment at one price and turn over to his trust estate at an increased price, either directly or indirectly, thus making a profit on what has been intrusted to his care and fidelity, would not only lose the profit, but would also be promptly superseded in his office of executor or trustee, and with a strong possibility of being also superseded in his right to any longer counsel and advise others as to their legal rights, obligations and duties.

Just as I regard some trust companies a frail agent for the administration of an estate, yet such a company usually possesses the most skilled, the most courteous and the most assiduous of employes, who deserve for their fealty to their employers a tribute that they not often receive—a tribute in a large salary and great latitude of action. The company that administers estates to make dividends for its stockholders is in unfortunate contrast with the honorary status of the administrator at the common law, and also with the lawyer with his professional ethics, and the employe of this company is valued as his skill, courtesy and acumen will promote the prosperity of the company in its dividend-paying attributes. I have here in mind a number of officers of trust companies who are unsurpassed in the qualities I have just alluded to and who in place of laboring to advance the interests of the corporations they serve would be great public benefactors were they engaged exclusively in matters involving the interests of the general public, with the obligation to ex-

tend fealty to such public interests.

In view of the trust company and its eagerness for estates, of the title company and its guarantee against defects in title, of the arbitration committees in the various exchanges and their settlements, there is the not overpleasing compensation for the young lawyer of knowing that his training, while not affording him at first a very extensive field for general clients, nevertheless fits him for a skillful and valuable employe, whose services are readily availed of as such employe by corporations, and sometimes by individuals. And consequently at the outset of his career the young lawyer will often have to elect in these modern progressive times between taking service as an employe of another or enduring an apprenticeship of patience for some years until a foundation is secured for a professional following. While dampening to the ardor of an ambitious young man who has looked forward to the independence and strenuousness of the court advocate, nevertheless as legal employe of a corporation his position may in time become enviable. It is to be remembered that his position from the start is unique; he is employed for his peculiar training and is in a great measure independent of any supervision, deciding for himself in his own department even from the start the proper disposition of the business intrusted to him, the employer looking simply for results. If those results are secured it may be a question whether, after a period of years, the lawyer of the corporation or the lawyer in individual practice occupies the better position before the community.

One of the elementary principles of legal ethics inculcates respect for the courts and their presiding officers. Judges occupy the most unique position of any class in the community. In public esteem they are the fountain of law, the perfection of morals and worthy of that respect about which the public entertains seldom any doubt. In the esteem of the lawyers, from whose ranks they have been recruited, they are regarded from various viewpoints. The best consensus of opinion is to concede to them the possession of courtesy and consideration which their position

demands of them. They are usually regarded as the lawyer's friend, for whom he entertains great respect as well as personal regard. This is not unnatural, for, added to the ordinary temperament which helped him to earn the judicial position, is the daily exercise of those amenities in the intercourse between bench and bar which so easily facilitates the discharge of duties often exceedingly difficult. A high-minded lawyer will recognize in the judge the same character of zeal and pride to ably perform a judicial function as the fealty displayed by counsel in the conduct of each side of a case. Again it can be seen how seriously the judge enters into the life of a lawyer when it is remembered to what extent counsel is dependent upon the court. In the most lucrative branch of legal practice, that of equity, in most instances the fees are fixed and allowed by the court, being paid out of funds or estates under the court's control and supervision. Then, if it is borne in mind that so many acts of counsel are susceptible of double construction, depending upon motives, and that the construction as ascertained by the court is usually final, even if erroneous, it can be seen how the exercise of a forbearing charity on the part of judges appeals to the esteem and regard of counsel.

With so vast a number of judges as are in this country, with as diversified characters, dispositions and temperaments as will be found in any set of men following any particular calling or profession, it is a wonder that they are so free from just criticism and censure. This can only be accounted for because they are usually educated men, selected for their recognized evenness of character and who perform their duties with a conscientious regard therefor and are fortified by a pecuniary provision usually sufficient for the ordinary requirements.

There is a vast amount of human nature, however, in a judge. It may be over-deep and need exceeding skillful treatment to secure manifestations from so tried a subject, but nevertheless the soil is fertile. I once knew a chancellor whose very appearance was suggestive of august integrity, whose manner of life and talk was of the puri-

fied character that suggested horror at the shortcomings and easy principles of the litigants before him. The public, the court public, was often edified with a dissertation on business morals upon an occasion when some wretched debtor was overhauled attempting to convey the remnants of his property from his defrauded creditor. And the dishonesty of the act, the inexcusable conduct of the debtor, his lack of principle were all displayed in language used by an idealist in morality.

The defense advanced by experienced counsel, such as ample remaining assets at the period of conveyancing, a valuable consideration bona fide and without notice, even the alleged fulfilling of a pre-existing nuptial promise, were all pretexts simple and pure in the mind of our good chancellor to aid the fraud, and no instinctive desire to provide with some modicum the helpless members of the debtor's family excused the moral delinquency of an effort to secrete from his creditor any portion of his assets. Now this judge in time ceased to fill the office he so long thus adorned, and in an alliance he formed for the practice of law there fell to his lot as partner a combination of an individual who possessed great skill and great frailty.

This partner, who was entitled to every advantage by birth, by training and by education, involved through his disastrous career numbers of his clients in appalling losses and himself in inextricable disgrace. Sad to say, our ex-chancellor and judge, who had so often been confronted with almost the identical situation in many a litigation before him, was now in the time of his present trial unable to recognize that he owed a greater debt to the creditors of his partner than to himsef and those near to him in his old age, and an extraordinary number of conveyances of all his possessions became evident about this time, all to every appearance legal and unimpeachable.

The autocratic command exercised judicially by our last-named friend while on the bench was calculated to excite wonder, if not regret. I often think in what state of mind he subsequently appeared before another judge upon whom he became as a practicing lawyer necessarily

dependent, in view of an incident affecting the two when their positions were reversed. This last judge, at that time a lawyer, was equally then, as now, of a quiet dignity, reserve and gentleness marked to a degree. As attorney he presented a petition to the judge addressed simply to the judge of the court.

As soon as the judge noted the mode of address he threw it on his desk, passed it back to the attorney, stating in a harsh, incisive manner that if he addressed it to him in his name he would consider it. The attorney, without the slightest change of expression, took it to the trial table, so addressed it and returned it to the judge. Upon another occasion this same judge publicly upbraided from the bench a lawyer who enjoyed himself the distinction of being a so-called ex-judge, but not in the best repute. Whether he deserved the outspoken, ill-tempered and undignified criticism no other person seemed to comprehend, but with singular unanimity the offense, whatever its nature, was deemed by all worthy, if it had justly excited such an outburst, of a response in a different and more serious form, a form not tending to lessen the dignity and grandeur of the court. One would know instinctively that this gentleman, however ambitious to continue his official tenure, would fall by the way at the first opportunity. Ill manners are unbecoming in any one; in a judge they are as unnecessary as they are repellant.

Not the least of human frailty possessed sometimes by judges is an indisposition to work. There is a constant outcry in every community against the slow grinding of the courts. The remedies of additional judges and additional courts do not remove the complaint. Very many judges are indefatigable workers, and many courts are worked to the limit; again, many judges who sometimes appear to take life easy have a capacity in dispatching business in a most satisfactory manner that far outdistances in results their more laborious companions. So to what extent there should be imposed upon the rapid working judge who is usually a highly nervous individual, sufficient work to keep him employed as long in time as his

more plodding brother is a litle difficult to answer. The individual judge will, perhaps, think if he performs a fair day's work in half the time he has discharged his obligation and the remaining time is his. And broad-minded lawyers, who understand the value of a rapid-working and efficient judge and understand the wear and tear incidental to such work will usually concede that it is quality of work and not the plodding measuring of time for which a judge is wanted.

A curious conception exists in the public mind in reference to the value of a judge who often is styled weak but honest, and this self-same honesty is eagerly advanced as a conclusive argument for the retention of such a judicial officer, notwithstanding his acknowledged weakness. No more dangerous judge exists than an honest weak one. A corrupt judge, something rarely existing, when discovered will soon cease to preside; an honest weak judge, however, something far less rarely existing, will continue to inefficiently and wrongfully administer justice in a most determinedly self-conceived honest manner, excused by public sentiment for his honest motives and upheld by the public press for his ruggedly honest principles, with no consolation, however, to the wretched suitor, the victim of an honest judicial mistake. But to honesty add ability, and happy is the community that possesses him and, having found him and proven him, it bears with impatience any suggestion that he be changed for a new experiment in this respect. But, assume there are sufficient judges, that the latter are diligent workers and have ability as well as honesty—a combination of conditions not unusually existing—and yet, nevertheless, the same usual complaint is found of the slowness of legal procedure. It never occurs to anyone that there must be a remedy. The complaint has always existed, remedies have always been sought, the complaint still remains and we are still as sanguine that a remedy exists. It seems to me that tiring delay is inherent in the situation. When a controversy arises and litigating sides secure counsel much of the sparring for a favorable position and a favorable conclusion consists in utilizing

time, pro and con, so that this peculiar discomfort is one of the features of litigation, just as paying counsel fees is another feature and the uncertain lottery-like result is still another feature. The rules of procedure, which have developed through experience of the past, are constantly being modified by new conditions, but these rules, however modified, if conducive to fairness to all and partiality to none, will almost surely work out so that those who on both sides seek quick results will get such, and those who on either side seek delays will get such, it being thus apparent that the trouble is not with the rules, but with the parties who are affected by them.

To illustrate: In Maryland a suit is commenced in equity and a summons issued for the respondent to appear. Why he is summoned to appear on the second Monday of the following month and is allowed 15 days grace thereafter to appear, instead of being summoned to appear within a few days and being allowed but a few days grace, may seem to be a rule devised to promote unnecessary delays. The situation admits of one of two courses, the defendant can appear without awaiting the return day or waiting of the days of grace and thus expedite results, or he may delay to the limit. But could the procedure have been arranged more fairly and impartially, having fair regard to public convenience and a not too lavish expenditure in administering justice? After the summons of the defendant the latter is, in natural justice, entitled to a period of grace to inform himself for what he is sued and to enable him, if he should wish, to advise with his friends, who usually are generous with their advice in aiding him to select counsel. For this purpose of investigating the complaint and employing counsel in an important and intricate litigation 15 days are not too long. One rule must stand for all, and to an unhappy defendant any litigation will warrant in charity that many days grace. When upon appearance by counsel, that the latter should have a reasonable time to investigate the facts and law of a case to enable him to make answer all must admit, and, furthermore, must admit that, consistent with the

performance of other professional engagements, 20 days, the time allowed, is not too long. Indeed, if it is borne in mind that every dispute has two sides—with the plaintiff represented by counsel who may be possessed of all the attainments to be found in the best-equipped lawyer, and with the defendant's counsel equally skillful—what can be expected of such opposing forces than a contest replete with every device and feature for a successful issue to each side. Inherent in such contest is a delay at various stages of the case, and which delay one side or the other may conceive to be unwarranted and a just cause of complaint, and with positions, perhaps, in this respect very likely reversed at other subsequent steps in the case. In this matter of delay in legal procedure there is no end of writing or discourses. The Appellate Court whose routine is discussed by a judge of an inferior court, himself a model of earnestness and courtesy, will feel satisfied with its own course, assured by the trials of past experience that the qualifications of its judges are as they should be, that its rules of procedure for hearings are perfectly satisfactory and that the limit of appeals to it as the court of final resort are neither too liberal nor too restricted. Whereas they will regard with astonishment the condition of the inferior courts, where dockets encumbered with cases reaching almost to a thousand, will dispose of scarcely a hundred in a year, leaving the remainder, some to be taken up in the course of time, some to be settled by the tired and disgusted litigants and others to be abandoned in despair at the helplessness of any disposition within reasonable limits.

Now as to the remedy. Some will suggest more courts, more judges and more juries. But the same troubles exist in all large communities, and in some of these there are as many courts, judges and juries as are conceded by public sentiment to be requisite. The truth is that here again the trouble is inherent in the situation. Probably half of the cases brought are with little or no merit, each case, good or bad, taking its turn on the calendar until tried, if it ever is, and no one can pronounce on its merits.

Vast numbers of them will fall by the wayside and never be tried. If some meritorious cases fall with them it is one of the inherent troubles of litigation. Given a reasonable number of courts, judges and juries, no one would advocate doubling these at large public expense to dispose of twice the number of cases now disposed of just to clear up a docket which is possibly about half filled with fake cases. Some will exclaim the trouble rests with the lawyers who bring such cases. But how can this be when the lawyers, as is most usually the case, are sincere in thus asserting a client's rights—so sincere that, should the case be tried, it will look by its method of handling as a most meritorious case, worthy of the best attention of a legal tribunal. And the very case that will thus look so worthy on a quick opportunity for trial would likely be one of those that would have fallen by the wayside by lapse of time, the fate of probably two-thirds of all damage cases brought. The trouble is not with courts or with counsel; it is with the litigants themselves; it belongs to the category of "human nature." Man, who is a fighting animal by nature, has left to him in the society he has devised only the forum of the courts for his individual contests. And many are as quick to fight over small matters as large, for some minds, even not otherwise ungenerous, magnify small matters of self-interest into most vital issues, but as time passes and the true proportions are more justly realized, the combative disposition becomes so modified even to the point of retiring. So that on the whole I think we are very well satisfied with the existing conditions.

Another ethical principle impresses the obligation absolutely on litigants and counsel to refrain from intercourse with the members of the jury during the period of a trial.

A matter which above all others appeals to the conscientious judge is the composition of the jury in the court over which he presides. He can select his bailiffs, can supervise the actions of his clerks, is expected to observe the demeanor of counsel and subject them to control, if need be, but a jury as ordinarily selected he must take as

presented to him, conscious that certain elements affecting such jury renders a miscarriage of justice not unlikely and yet completely beyond his control. I mean by "certain elements" not the mental traits and instinctive tendencies to be found in twelve men from divers walks and occupations which often lead them to a common conclusion, often curious and eccentric, but something decidedly more serious. This common conclusion of twelve such men, reached in an unbiased way, may in most instances be exceedingly right, but how often no bias and no improper influence exists in any prominent case is worth most careful consideration. To secure honest results in the constitution of a jury has been the constant efforts of the courts, the lawyers and the legislatures; with what success is best evidenced by the continual efforts to find better methods. That the present method of selecting a jury is imperfect scarcely needs demonstration to the comprehending reader when it is remembered that in a city like that of Baltimore, Maryland, for instance, they come from a list of five hundred names drawn by ballot from a receptacle of seven hundred, the latter of whom are selected by the judges largely from the list furnished by the Tax Collector. That the judges are in a position to exercise discrimination in selecting seven hundred names annually attributes to them powers of personal popularity with their fellow-citizens that would make them most excellent politicians. The result is as must be expected—that this selection is almost exclusively clerical and pro forma. As the Tax Collector furnishes the lists, so the names go into the box, with a few scattering assortments furnished by the judges or through them by others who may be more or less interested in getting certain persons on the jury. It is not to be supposed that the Tax Collector himself makes up the lists, and it is to be borne in mind that in making up a list from the tax books, containing the names of men and women, residents and non-residents, those over 70 and under 25, as well as between those two ages, who alone are jury eligibles, the clerk who prepares the list must exercise judgment and discrimination to prepare a list of names that

can be utilized for jury material. So that we thus have as the fountain of supply for juries some subordinate official in the tax office who has devolving upon him obligations in this position in complete disproportion to his modest office and who must have the sterling character of a Spartan to withstand all influences liable to affect the jury stream. The result is as might be expected—that the large corporations, who are constantly in court over damage cases, each have a particular department which investigates juries. And in such damage suits, if the other side has not through counsel something equivalent to this department, woe is their result. Often the ramifications in this respect of specialists in damage cases lay away over the corporations, for the agent of the corporation who works for a salary lacks the incentive of the private agent, who usually works for a contingent result. I can best make all this more plain by an illustration: A case I knew of involved prominent persons, a large amount and occupied much time and labor in the trial. Counsel on both sides, appalled at the work and time to be consumed, earnestly maneuvered in advance for a compromise. The plaintiff's counsel, who had been markedly solicitous to settle, was, when the trial commenced, oblivious to any issue save the certainty of a verdict for his side, his expression of perfect confidence being in marked contrast with his previous desire to settle, and being based on no new development in testimony, as the latter rather favored the defense. Now, this lawyer was a gentleman of that unimpeachable integrity that not the slightest suggestion would occur in his mind, or in the mind of any other, that any unusual influence was known to him to affect the jury or some of its members toward his side. As the trial progressed the defendant's counsel received a visit from a legal gentleman of modest attainments, who has since retired from the practice of his profession and who was known to the writer only by sight and, indeed, so slightly that he would be unable to now give either his name or association, who announced the astonishing desire to assist in the trial of this case. This aid, as was quickly told,

was to take a peculiar form; he announced that there were three members of the jury who, as he expressed it, could be reached, and he desired to know if the defense wished to engage his services in preventing the other side from reaching them. It was difficult to ascertain the meaning of an individual who worked in such devious ways, and, answering him in the same implied way, he was told that the counsel on the other side were men of too high character to lend themselves for a moment to such an act, and that if there was observed the slightest evidence that the jury had been in the slightest degree tampered with there would be no let-up until there was brought to justice the person guilty of such, whoever he might be, even the closest friend.

The result of the trial, terminating in a disagreement, convinced defendant's counsel that subjecting the jurymen to a further strain of personal inconvenience and suffering by holding them together must result to the defendant's disadvantage, so it earnestly contended with the judge for their discharge; this the other side as earnestly opposed. The judge, whose perfect impartiality, high sense of justice and keen knowledge of human nature was universally recognized, acceded to the request and discharged the jury, whereupon it was learned that the disagreement was caused by three men who from start to finish never varied in their undeviating espousal of the plaintiff's cause and who had expressed a willingness to hold out until eternity. Now, to show how insidious is the influence that can affect a jury under the system now in vogue, it must be said that I cannot aver that any improper influence, improper in any sense, was at work on this jury. Indeed, I thought not then and I am entirely convinced now that such was not the case. Nor could I say that the three men who were such ardent champions for the plaintiff were aware that they were doing otherwise than showing a high moral sense of obligation; such is human nature. I further do not know that these three were those my needy visitor referred to, and his statements may have been pure romance, for I thought then, as I do now,

that his scheme was a poor attempt to extract money, but I can say that such a jury system permits the introduction of jurors who by the very nature of their selection, from one cause or another, in ways entirely past finding out, are committed in advance to a particular side, and often without consciousness on their part of the influence operating on them, and furnish excellent opportunities for just such pretentions as needy and unscrupulous schemers advance in an effort to extract money from those who may be weak enough to listen to their suggestions. To say that counsel and judge are not fully aware of these conditions affecting a jury is to attribute to them a lack of discernment and lack of comprehension that they do not possess. In some localities resort is had to a jury commissioner as the panacea for securing good and impartial juries, with what success, however, is but illustrated by the critical analysis to which any jury is subjected in every important case. The impossibility of securing perfection in human affairs is no better illustrated than in the jury system. Although recognized by its devoted advocates as the best method of trial ever devised, it is yet, nevertheless, conceded by its same friends to be so uncertain in results as to resolve any close contest to the category of pure speculation. Now, in view of all these conditions it is unnecessary to demonstrate that litigants and counsel owe strict allegiance to the ethical rule that forbids any further intercourse between them and the jury than needful to the trial of the matter in litigation.

Another most serious weakness exists in the formation of the juries, for the law provides that the sheriff shall summon the parties whose names are drawn as fully as he can and that the first twenty summoned by him shall constitute the jury of the ——— Court, the next twenty of the ——— Court, and so on through the respective ——— courts. Now, if the sheriff, either for motives of his own or to gratify certain interests or persons, wishes the jury of a certain court to consist, as far as possible, of certain men whose names have gotten into the jury box in the way above alluded to and several of them

have been drawn, all he need do is to mark "non est" the names in between until he is enabled to bunch together for some particular court the names he wishes; thus, by the statutory provisions of designating in advance the particular names for the particular court, practically putting in the power of the sheriff to assign to a certain extent the juries to a court.

A most important ethical principle forbids counsel from indulging in discourtesy or ill-will toward each other. The harmonious relation appearing to exist among lawyers in their personal intercourse is a matter of ordinary comment and is often referred to by that kindred profession, the medical, whose esprit "de corps" is in sad contrast with the legal fraternity. The causes in each case is not difficult to discover. A lawyer's work is mostly with other lawyers. This may be facilitated by a spirit of accommodation in matters not essential to the merits or results, but saving greatly of personal labor and annoyances. Not only is this reciprocal in the particular case, but also in future cases. It may consist of small matters, non-obstructive and personal courtesies, or it may enter into the public relations of a trial, coloring the intercourse and language of opposing counsel. It may often reach deeper, affecting the allowance of fees to counsel and the amounts of such. It will not be denied that this ethical conduct of the profession is founded on a recognition of the policy of self-interest, and that self-interest is the factor securing such conduct. While there is thus in every case as to lawyers a mutual dependence, such a condition does not extend to physicians, and as the intense rivalry of lawyers makes them the more watchful not to antagonize an opponent to the point of enmity and thereby discourtesy or disobliging, so the rivalry of the physicians, who in their professional work are usually independent of each other, affords them no stimulus of self-interest to carefully guard as to their professional brethren. The same condition exists in the relation between the bench and the bar. No man except him who has experienced the ordeals of a judge can write an account of his tribulations.

He may appear to occupy a unique position of authority and independence, and yet he can narrate a chapter full of the troublous experiences in the daily performance of his judicial office. He is in touch with a small army of lawyers, any of whom at one time or another will use every fair art, and sometimes unfair, to secure from him a result that some other with equal art is trying to prevent, and with an issue, perhaps, that may probably be reviewed with disaster and discomfort by an Appellate Court. In a large part of his work he is obliged to rely for his action and judgment upon the statement of counsel, the latter, however honorable, influenced by a desire to secure results for a client; and any mistake of the judge, while not subjecting him to pecuniary liability, may be more disastrous in the criticism, public or private, affecting his good name and reputation for ability, as well as fairness—criticism the no less hurtful because it may be guarded.

The ideal judge will be zealous for a reputation for learning in his profession, will desire to be conceded as impartial in his relations to those before him, will know that he is regarded as courteous in his official intercourse and will feel a pride in an earnest performance of his work in a judicial manner.

Lawyers are by reason of their peculiar relations fond of indulging in a certain character of gossip about one another. By reason of their intimate relations with each other in the conduct of their business they quickly acquire an intimate knowledge of each other's personal traits, and as among themselves any conversation in reference to the traits or peculiarities of another is keenly comprehended; it is not unnatural that such conversation should partake of the character of gossip, scarcely ever unamiable, but almost always entertaining, and often intensely amusing. A few illustrations will not be amiss. A judge to whom everything in life was a hard problem and who decided each case on some principle or line of reasoning with which he was familiar and to whom all other arguments were as attacks on a battlement encased in ignorance, was one day complaining of the assurance dis-

played by young lawyers in appearing before him to argue a case to which they had either not given sufficient study in preparation or which, on the other hand, they presented with such minuteness over A, B, C principles as to render the trial a stupid performance. He said they reminded him of a young gentleman who in essaying his first effort before the Court of Appeals was courteously reminded by the chief judge that it was unnecessary to dilate so minutely upon simple elementary principles and that he must assume that the court was entirely familiar with such, to which reply was made by the young advocate, who said that assuming such was precisely the mistakes he had made in the court below.

The ethical rules affecting the charges of a lawyer are necessarily general in their character, but soon become pretty well known to counsel early in his professional life. There is no more difficult question submitted to a lawyer than the fixing of a fee. To say this must be determined by the extent and character of the work, the length of time consumed and the amount or issues involved is a very simple statement, but involving in its practical application serious problems, and in the solution of which few greater are submitted to the lawyer's conscience. If a client could actually observe all the work done by counsel in some given matter he would usually better comprehend the propriety of a charge. But as a great part of this work consists in the studious reflection over the questions involved, the consideration of authorities and the preparation of notes and papers, the client usually regards the consultations and court arguments—the only two features of the work he sees—as a pleasant, easy method of daily toil for which any great charge is a shock to his sense of propriety. He usually thinks a very great fee goes with a very great reputation, and if his affair in court is greatly magnified in his mind, as it often is, a fairly large fee will look to him more in proportion than a fairly small one. Hence it is evident how this matter must be solved by the lawyer's conscience.

Very few persons, even the most skillful business men,

have a just conception of a fair fee for a lawyer's services. A very well-known business man and one prominent politically employed a lawyer to represent him in the prosecution of a case in court involving a very large claim, in which another party had an interest and by which party the lawyer had originally been employed. By agreement the fee was to be 10 per cent. of the recovery. A successful result was achieved with much less labor than anticipated, but with sufficient to make the lawyer feel he had well earned the stipulated fee. This was willingly paid by one of the parties, but the other, the politician, scheming like, wished some specific advantage and appealed to the lawyer therefor; the latter, in his eagerness to satisfy, said he would give him the advantage of 2½ per cent., whereupon the politician, mistaking the intention and very well satisfied with the supposed concession, said: "Then you will charge me 7½ per cent.," and the lawyer, who knew he had earned the 10 per cent. and was entitled to it by his express contract, gratifyingly acquiesced in the 7½ per cent., thereby receiving this amount instead of 2½ per cent., as he had intended, namely, 5 per cent. more than he had been willing to lose to gratify his political client. Although the difference was nearly a thousand dollars, yet a thousand more or less did not affect in the client's mind the fairness or justice of the fee; so he got a concession from a standard that had been willingly acquiesced in by him as well as by his colitigant and was the factor that made the matter entirely satisfactory to him. And the lawyer was prevented from making a sacrifice of himself in order to keep a client in good humor.

In naming one's fee tact suggests a procedure whereby the mind of the client is furnished a standard familiar to him. Where the legal service involves a recovery and the payment of money the familiar per cent. is judicially employed. An example will illustrate: A lawyer collected for a lady a mortgage debt of some thirteen hundred dollars and charged twenty-five dollars. Upon remitting the collection, less the fee, the client was quite indignant at the charge, saying she would willingly have paid 10 per cent.,

as she had inquired from friends and found this was the usual charge, and she thought that her legal correspondent should, therefore, return to her the remainder of the charge beyond thirteen dollars. Upon his calling attention to the fact that 10 per cent. would have been more than five times what he had in reality charged, she was content to say no more, although in admitting his right to charge 10 per cent. she had wanted him, in naming thirteen dollars, to take only 1 per cent., and he had in fact taken not quite 2 per cent.

In cases, however, where no money passes through an attorney's hands each character of cases furnishes certain features that point out the way to a reasonable charge and which will be acceded to ordinarily by clients as guides in fixing a fee. In an ordinary piece of work if the services of an attorney are needed outside of a court case the ordinary business man has a keen appreciation of the value of his own time, and he is reluctant to concede that an attorney whom he employs is to be higher rated than himself. A court case, however, such business man recognizes out of his sphere, and he is apt to consider such from the standpoint alone of how important it is to him as affecting his pecuniary business or social status, and he will very cheerfully pay a good-size fee on a happy result and as reluctantly pay a very small fee on a disastrous result. With him results alone count, very justly, because he is no doubt convinced he is in the right. It is no derogation to say the other side equally believes he is in the right. It is a peculiarity of legal actions that each side is firmly convinced of the righteousness of his own cause. This is natural, for if it is a legal question involved lawyers will legitimately differ in its solution; if it is a question of fact, it will often require the learning of Solomon to decide justly. There is nothing more difficult than to solve a legitimate difference between two practical men of affairs. Well-informed, intelligent business men usually arrange their differences between themselves. This may require straightforward conferences and mutual concessions.

If after this no conclusion is reached and the matter drifts into litigation, it may be conceived how difficult of solution is the problem; here can be seen the value of a skilled attorney, for with two sides each evenly poised, that will win which is represented most skillfully, and hence the keen appreciation of such services by the litigant and his willingness to suitably recognize such services in the commensurate fee. Also, conversely exists the pique and disgust of the losing side in bearing with ill grace the call for recompense for services in such a case.

It is rather curious in our present day to hear an elaborate discussion as to the rectitude displayed by counsel in undertaking an unjust cause.

The difficulties of a case leave slight room for the almost universal criticism of a lawyer who is supposed to espouse an unjust cause; to a lawyer his side is seldom unjust. If there is a legitimate difference to be decided the justice of the decision is a matter with which he has no concern—that is, for the judge or jury; his duty is fulfilled in extending to his side every aid of law or fact that will enable this judge or jury to see it in the most favorable light. With each side so represented a just result can in no better way be assured.

One who understands the subject can never tire of discussing the uncertainties of litigation. Any litigated matter is usually pretty evenly balanced as to law and as to fact. Hence the closely applied study of the advocate will usually secure a favorable presentation of his side, unless his opponent shall have evidenced closer and more intelligent application. Consequently, which side makes the better showing will often depend upon the respective lawyers selected, and when selected upon their respective industry in the litigation. Thus exists the first elements of uncertainty. Then the judge who passes upon the questions of law presented by the respective lawyers will constitute a particular type of human disposition of which the many types are as greatly varied as our intercourse with one another teaches us, so that here again is presented the opportunity for the industrious and versatile

advocate with a keen insight into human nature and furnishing to the decision the second element of uncertainty. Then the jury of twelve men, who come from all walks of life and who, if the whole or any of them are not swayed by self-interest, even remotely, should only be swayed by appeals to that sense of right and of justice, but often are swayed by appeals or suggestions arousing their sympathies, and sometimes by such arousing their passions. So that the favorable disposition of the jury depends to a great extent upon the skill of the advocate who adds to his legal knowledge, his industry and his understanding of human nature that additional quality of address comprising courteousness of manners and mental versatility that induces the jury of twelve men to "wish for the success" of his side; and thus thereby constitutes the third element of uncertainty. It is not, therefore, surprising that the older a lawyer becomes in experience the greater he is inclined to adjust, if possible, his client's differences rather than subject such to all the uncertainties of a varied litigation.

So that we can with pleasing thoughts now consider some of the features of that no mean art inculcated by every code of legal ethics, the art of avoiding litigation by settling cases out of court. If great learning in law, great industry in work, great tact in dealing with human nature usually bespeak success in the trial of a case, no less are these same qualities evident in obtaining a happy solution out of court. Such a settlement means much to client and to counsel. A man who has never tasted the "sweets" of litigation will be quick to fly to law for justice; he regards this as his shield and protection against imposition and wrong. An experience, however, in this line will arouse misgivings as to what extent the uncertainties and the delays and the vexations of litigation secure this justice he seeks. And he will usually in time come to welcome the quiet, satisfactory result achieved by the resourceful attorney who can get results outside of court.

In most instances a controversy reaches counsel before

it reaches court, and it may be confidently stated that more cases are settled out of court than reach court, and again it may be stated with equal confidence that many of the cases in court should never have reached there, but should have been previously adjusted by settlement. As a settlement must be made with the full assent of a client, it will often follow that each side, being satisfied, will accept the result as a signal victory to each respectively, with a commensurate reward both in fee and reputation to counsel, one of whom otherwise in the lottery of a trial would have added to his misfortune in losing not only the labor of the trial, but also the odium of the unfavorable issue.

If a lawyer in deliberating over his case finally decides just what he believed his legal rights, he has secured the basis of the claim he will advance whether in or out of court.

The accuracy with which the cause is presented to opposing counsel will go far toward securing a settlement. The point is, without reference to how valuable or discursive may be his reply, to state your case in such a way that your opponent is convinced in his heart, so that he prefers to settle and not to try it in court. To effectively win a satisfactory settlement requires almost as much preparation as for trial. Thus only will a case be effectively presented to your opponent. The qualities of a successful advocate are here in evidence almost as much as in court. Your courtesy will secure that favorable regard of your opponent that will go far toward making the settlement go in your favor.

IN THE PREPARATION OF A CASE FOR TRIAL

The first requisite is to ascertain all the facts bearing upon the controversy in every minute detail—not only because small matters often influence results, but also because a knowledge of every detail will alone furnish to the mind the true preparation of a case.

The labor needed may appear pure drudgery, but in truth no more attractive work exists for the lawyer. He

at once engages in an analysis which separates the true from the apparent false, the basis of his judgment thereon being his own experience, his logical deductions, his ascertainment of motives and generally his knowledge of human nature. If he can obtain by such a process an accurate and complete knowledge of the facts and can support the truth of his conclusions by an array of his facts in such a way as to force conviction upon the mind of another, whether judge or jury, then his labor is rewarded by a commensurate result.

The next requisite is to be certain that he understands every principle of law bearing upon the controversy, that he has the principle accurately and the correct application of it to the peculiar facts.

When the facts and the law are thus ascertained one is ready to do what any lawyer should engage in as preliminary to the trial of a case, namely, make a book or brief of his case.

This brief should be other than its name implies—elaborate in detail. Nothing should be allowed to escape, and every feature of the trial should be anticipated and put down in his book. The more labor spent upon this, the more thoroughly will the case be tried on your side, the less apt are surprises to be sprung by any development in the case and the more assured is one of a satisfactory result for his side. The statement which is to be made to the jury of the nature of the controversy is the first subject matter to be recited in the brief. This statement requires great nicety to be made effective. It should furnish in a simple, unaffected manner the nature of the controversy, told in such a way as not to be partial or unfair, but so as to enable the case to be seen from the standpoint of the narrator, and stating the contention of the opponent in such a way as the contrast, while not in his favor, should still be so true that it cannot be bettered when the contra statement is made. This character of statement can only be arrived at by the thorough knowledge, before mentioned, of every minute detail of a case.

The reader enough interested to follow this narrative

so far will now appreciate the one method highest in success for securing advancement in the practice of the law. This method, so simple in theory, to most will appear in practice difficult of attainment. In theory it is to attract new business by one's conduct of the business in hand, to attract cases by the trial of cases. When a case is so conducted that counsel's capacity is unquestioned a success is the forerunner of further briefs. The performer must possess every needed attribute, thorough familiarity with each detail, critical analysis of every element, the closest application, untiring labor, and an address and presence pleasing and attractive in the highest degree.

In a trial your audience is the judge, jury, the parties to the case and the witnesses, counsel in opposition and the few spectators that attend from interest or curiosity. To secure some subsequent case from the opposite side, either from counsel or client, is not unusual to the successful advocate, who in his conduct of the trial has ingratiated himself into the affections of his audience. Unfailing courtesy, tender consideration for the respect due each person, added to the thorough preparation for trial, will go far to secure this pleasing result.

So, would the advocate ordinarily well equipped as a lawyer gain his case, the special requisites are: 1. Accurate knowledge of its facts and details. 2. Accurate knowledge of the law applicable to it. 3. An address and an adaptability to secure the favor of judge and jury. The favor of the judge is gained by nothing more quickly than fairness and frankness in the treatment of every feature of the case, for such qualities inspire confidence, and to secure judicial confidence is a long step toward a happy issue. Equipped with the confidence of one's hearers readily clears the approach to the heart and mind, and the facts of a case can be so arranged as to assuredly either prejudice or commend, as may be desired. A lawyer in his intercourse with his associates at the bar is lucky if he possess a leading principle, namely, honest frankness, for recognition of this trait secures from all a tender consideration for its possessor. Able lawyers are disposed,

whether in or out of court, to be scrupulously exact in the observance of such principle. This is essential, whether stating a fact or a legal theory, for the simple reason that the statement is made to a competent critic. If of fact to critically be examined with reference to the known conditions usually affecting such fact, if of law to be tested by the well-defined legal attributes controlling such. A variance, therefore, as to law or as to fact is readily discoverable, to the confusion and disappointment of him who practices thus and to the damage of his character and reputation. Whereas an adherence to the simple rule alluded to carries for its possessor the directly contrary result that will secure for him the regard to which each believes himself entitled.

The qualities required for the practice of the law are such as will secure business and dispatch it in or out of court.

Those that secure business are qualities that attract friendship and confidence; friendship is attracted by courtesy, tender consideration for the feelings and interests of another, and the possession of these qualities of heart and mind voiced in sentiments and expressions as render the individual attractive.

One likes in another honor, truth, frankness, rectitude, as well as to be well informed, intelligent.

Again, confidence is attracted by dignity of character, by courteous consideration, by breadth of mental conception, by accuracy of reasoning and by exactness and repose of expression of language.

Business is dispatched successfully in or out of court by reason of a thorough understanding of the principles of law and by reason of a close analysis and comprehension of the elements of the matter in controversy and a thoroughly prepared readiness in handling the matter before the proper forum.

If a lawyer has a good general education and has also acquired a good legal education, the most valuable quality for him to cultivate is retentiveness of memory, for he will constantly be required to draw upon this for ready refer-

ence to legal principles as also to carry along complication of facts that must be quickly arrayed to secure results. If memory reinforces good judgment, accuracy in which is also secured by training, a result in any given matter is ordinarily assured.

In the intercourse with other lawyers one will have curious experiences. In a large city of several hundred thousand persons all the differences that arise sufficiently serious to produce a conflict gravitate toward the lawyer, and the whole body of lawyers in any community constitutes a corps for the adjustment and settlement of all such conflicts. An exceedingly small proportion get into court; the others are settled without that ordeal. The lawyer, therefore, as the representative of the community in such a phase of it, is of all sorts and descriptions. An intimate acquaintance with them, however, will disclose the almost unexceptionable possession of two marked characteristics—one perfect fealty to the interests committed to his care, and the other an unusually intelligent treatment and disposition of such interests. This fealty, though often not the conception of many of the public, is a natural attribute; for, as the employment involves personal trust, only by this trust being justified, namely, by fealty in the performance of the trust, will the lawyer continue to acquire his business. And for exactly the same reason will the subject usually receive intelligent treatment at his hands. If it did not he would soon be bereft of business about which to treat.

The fault to be assigned to counsel is, hence, not lack of fealty, but sometimes a distorted conception of such, namely, in the use of those expedients in furthering the success of a cause as are open to criticism; for it must be remembered that in legal as in all other contests there are rules conceded to be applicable thereto, the disregard of which brings only condemnation. These rules may be generalized under the definition of such that enables a case or a law matter to be conducted throughout in that orderly manner that will secure a just result. No imposition of any sort is permissible, but only perfectly fair and

honorable dealings, not only with the court and the jury, but with your opponent. No better guide to all this exists than a well-trained conscience, and it must be left to this—man's best possession—to settle myriads of questions that no formulated rules can otherwise decide.

Notwithstanding the various sorts and descriptions of lawyers, each endeavors to present a good appearance and work a good impression, and of two men equally presentable one may be in affluence and the other in poverty, and the gradations each way from these extremes may be almost infinite in variety and number, and yet all, from their appearance, will receive equal consideration from the courts and their associates, there being little or no inquiry into the pecuniary status of counsel. Unlike a merchant, his prosperity as a counselor does not depend on pecuniary worth, and his capital in his occupation does not consist of material wealth.

The lawyers are recruits from all walks of society. An eminent lawyer is as liable to have had for his father a mechanic, a laborer, or an ignorant emigrant with an infinite line of like ancestry. The lawyer may be the son of a German, or of an Italian, or of a Frenchman, or he may be English or Irish. There is likely to be representatives of almost all nationalties and there will be a number of Hebrews and there will also be some persons of African descent. Of all the distinct type of lawyers the Jew deserves special notice, His instinct for success makes him peculiarly susceptible to those principles commonly recognized in the profession of law as contributing to this result, with this distinction however, that without exception he is quick to resent an imaginary reflection and is rigidly exacting of the respect and consideration he conceives his due. This sensitiveness of the Jew verging sometimes on morbidness is so marked that it must be due to some common cause. It may be partly owing to his environment, but keeping this peculiarity in mind one's relations with the lawyer of this race may become not only pleasant and profitable but friendships will be formed sincere and earnest that will last indefinitely.

No more agreeable occupation can be pursued by an intellectual man than the practice of the law. In the preparation and study of a case every faculty of the mind can be employed, memory is depended upon to recall the ramification of legal principles involved with all their distinctions and qualifications, the reason is engaged in applying such principles, with explicit exactness to the facts of the case, as also in deciding what are the facts material and relevant culled from the great mass of matter in which a complicated case is usually involved. Our senses will furnish us with true conceptions of such and our reasoning powers are reinforced by our imagination, that enables one to apply analogies in so happy, striking and pleasing manner as to captivate the mind of the listener. The most agreeable result a lawyer can attain in the construction of an argument is to convert every dark feature into an engaging one. Furthermore as the judicial mind is usually so well balanced as to abhor pure appeals to the sensibilities any dark feature developed on the other side may be utilized by assigning to it a coloring which by its nature it can bear for good and at the same time intensifying the conclusions enforced by it in your favor. You need not impute bad motive to your opponent—this is ordinarily not over attractive—but as conduct is susceptible of various constructions depending on the motives, bad or good, a fertility in discovering the latter coupled with a result indicated in your favor is much more conducive to your peace of mind, to securing the good will of your opponent and enlisting the amiable consideration of your hearers.

The rewards of the practice of the law are as bountiful of happiness and comforts as any profession or occupation. But with this single qualification however—it depends upon aspirations. If one's idea in life is simply to accumulate wealth this may be secured better by trading, furnished through the career of a merchant or banker or promoter. If one seeks ease and lack of responsibility an employees position with stated salary and fixed hours of labor will more nearly secure this than any other oc-

cupation in this uncertain world. If one is ambitious for political honor and historical renown law may well furnish the introductory schooling, but the need to elect will early arise whether to leave the law for politics.

If one would engage in an intellectual pursuit of a high order to which he will devote unremitting labor, and in which he will earn more than ample competency, the ideal profession will be that of law. His field for usefulness is only limited by his capacity for labor. He can often bring greater relief to the broken spirit of a distressed litigant, whether man or women, than will flow from all the gentle ministration of the confessional and no healing will be so quickly responsive as by the favorable issue of a complicated litigation involving one's life, liberty and fortune. His resourcefulness will enable him through the myriad intricacies of legal principles to practice if he choose the asceticism of a monk for truth, honor and promptness and in his grasp of the facts that pertain to the various activities of life with their analogies consequently he need never feel obliged to indulge in any sentiment except such as is thoroughly consistent with his own rectitude and the true welfare of others.

If he exhibits qualities of a high order, intellectual qualities that evidence a cultured, well informed and thoughtful mind, moral qualities that evidence an accurate conception of right of justice and good judgment and posess a personality that is agreeable it can be safely concluded that as the community becomes aware of a lawyer of this character, business will flow to him in ample degree, both as to quality and quantity.

There is one feature of a lawyer's life that presents a curious anomaly. His living and the support of those dependant upon him flow exclusively from fees in the absence of any other income, and yet professional opinion subordinates the matter of fees to that extent, that should a lawyer admit he was practicing law exclusively for the purpose of making fees, had adopted law as a medium for accumulating he would be frowned upon by those accepted as the better members of the profession; and

should his admissions in this respect acquire for him a reputation, such would not likely conduce to his happiness or well being. The reason of this is very plain; any one in any profession or occupation who acquries the distinction of accumalating more than his colaborer will naturally excite criticism. This criticism will often revolve around the ways and methods of accumulation. Now when it is borne in mind that the lawyer undertakes, with his superior skill and learning the cause of another and is the repository of such confidence, that the law does not sanction the disclosure of what is confided to him, it will be seen that his morality and fidelity to his trust, leaves to him no opportunity for gain in the transaction save his fee for his services. And that his confidental relation requires this fee to be fixed with a due regard to the interest and the welfare of his client. So that seeking to engage in this profession, he by reason of the nature of the employment, must studiously advance the interests of his clients in compliance with his undertaking, and subordinate his own to that extent that such is not admissable to be considered, if it should affect the result to his client, and should not be considered, until that of his clients is settled.

Again rectitude of conduct, moral probity and mental accuracy are sought to that degree by the young lawyer, that it assumes often the appearance of affectation and in the case of the old lawyer it often assumes such a degree of self sufficiency that one fain believes it merits the deference due unswerving feality to such ideals. But if it is remembered that a lawyer's labor in life consists of an appeals to a judge and to a jury supposedly without bias and without prejudice or favor and that consequently such appeal, the more accurate in fact, the more just in conception, the more sincere and truthful in treatment so the more apt to prevail; then remembering this, we understand how one who must voice such sentiments must also be effected by them and by their influence in giving voice to their principles.

An ingenious and interesting problem is propounded

when it is suggested that a lawyer's occupation is one of high ideals and eminent usefulness in his espousing the cause of a helpless litigant, who looks to him for succour in time of great distress and threatened loss; but likewise it is suggested, that this litigant has an opponent in exactly like situation, whose cause also is espoused by a legal representative, who likewise is engaged for such client in what he conceives an equally meritorious labor.

Where on such an array is the value to humanity of the lawyer's talents and labors, whichever of these litigants succeeds is the loss of the other. Distress and sorrow must surely come to one, elation and pleasure to the other. As great damage appears to be done in the one case as benefits in the other. Do not the opposing labors of counsel leave the situation so far as the general good to humanity is concerned precisely at the termination of their labors, at cross purposes as at the commencement of such labors. This often propounded problem is a plausible, but entirely misleading conception of the labors of a lawyer, and for a simple reason: In all the experience of mankind past and present no nobler and more elevated character appears than that of the just judge. The judge is just as he renders a just decision and the decision can only be just as it comprehensively, intelligently and accurately disposes of the matter to be decided. No more thorough, complete and positive information can be conveyed to him of the facts and arguments for each side respectively, than that furnished by the trained advocate for each side, so that with an earnest presentation from the standpoint of each litigant, the arbiter of their rights is in a position to decide in such a way as appeals in the highest degree to the sense of justice of the disinterested man, who as judge between the parties seeks the truth and decides the right.

The prejudices of a lawyer are markedly peculiar in one respect most men will voice their prejudices unre-

strainedly, but will ordinarily not permit such to influence them in their business relations, if conflicting with their interest. The lawyer, however, assumes a position of sharp contrast in that he will be exceedingly chary of expressing his prejudices, but nevertheless will undeviatingly regard such in his attitude to others.

As prejudices are ordinarily founded on some reason, these will be voiced or not as one is careful of the favorable regard of the community.

Now men usually in their business advancement are not affected by the opinion entertained of their personal sentiments by the public, provided such sentiments be not of that character to exclude them. The lawyer, however, depends for his acquisition of work in the regard entertained for him by others and so will exercise care to refrain from those expressions which will impair this regard, or will be governed in his conduct by that course which will indicate no compromise with principle, nor concede convictions to the occasion—with a result that prudence will suggest to him as well to repress the voicing of his prejudices as also to govern his conduct by a strict adherence to the recognized standard of right or wrong, these two principles with reference to which prejudices usually pertain. Such course leaves less opportunity to subject him to adverse criticism, so hurtful to his reputation and prosperity.

The acquisition of wealth is the dream of those who are not seasoned to its trials. In one or two isolated localities and in a few isolated instances certain distinguished gentlemen have attained that happy state untouched by slander or calumny, but ordinarily to enjoy the fame of wealth a lawyer must expect a severe strain on his good name.

Big fees are so few and far between and the work they require so burdensome and absorbing that no great opportunity offers in the field of acquisition. And should one in the pursuit of his profession reach this condition he will also possess that esteem of his professional brethren of questionable comfort and pleasure. If he should not excite envy, he will be lucky to escape criticism, just or unjust, and for faults or acts imaginary or real, and however just the criticism and however real the faults, he is not less a shining mark by his distinction of wealth. So that philosophy and prudence will dictate so unobtrusive a career of money making on the part of one eager in this respect that he will refrain from confiding to his legal brethren the pecuniary prosperity he may enjoy. With large wealth his case will be so isolated in character, that he need entertain no surprise at the public sentiment of the profession being arrayed in the direction of where most of its members stand in this respect. Do not decide in consequence that lawyers are more unamiable than the balance of the community. As a class the reverse is so. Their obligation to and dependence upon one another is not calculated to lessen amiability. But the instinctive feeling of merit possessed by each person, whatever his pursuits, and the inability of conceding to a rival the justice of a superior reward will be as apt to reach the weak spot in a lawyer as in any and all other professions and occupations.

If a gentleman wishes to recommend himself to the suffragists of the community for a judicial office, he usually begins to consider whether his armor is vulnerable to attack from his colleagues in the profession. If in his own estimation he passes proof in this, he next considers what endorsements he can secure as to

his legal eminence and attainment. He calculates that some six or more good names, with age, respectability and prominence back of them, will secure a sufficient following in numbers to furnish to the public the necessary impression. There will be no very insuperable difficulty in procuring these six or more good names, and the gentlemen so contributing their respectability to advancing the cause of the judicial aspirant will not usually regard their conscience as involved in such endorsements.

It will not be too rash to say that any respectable and fairly well informed lawyer can, through his own efforts and the efforts of a few friends, procure these initiatory endorsements, knowing that with such obtained the remainder follows as of course. The certificate or address and the innumerable signatures thereto portrayed in public print constitute usually the first intimation to the public of the great merit possessed by the gentleman who asks for its support. This, with the backing of the political party whose principles he espoused, is all the judicial seeker usually deems necessary for his campaign for office.

Anything further he has been taught to think derogates from the dignity that should attach to him who seeks this office. It must need be said that this constitutes quite a respectable method of political campaign. If he be elected he will be at once clothed in public esteem with the sanctity, learning and ability that fall upon his shoulders with the judicial mantle, and from that time he, who with due deference and modesty may have theretofore advanced his opinions, has been now relegated to the seat to decide on the contending views of earnest and determined advocates.

The customary opinions possessed by a certain por-

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tion of the public is that a lawyer is contentious, without public spirit, possessed of no fixed principles, untruthful, ready to barter his talents for pay to the first comer, without reference to right, justice or conscience —and he who has the special reputation for cunning, shrewdness and sharpness is usually accepted as the ideal type—but yet when one of the public has occasion to employ a lawyer he does so upon the principle that he must select a man he can trust as to his integrity and fealty, and possessed of the finest ability and learning to advocate successfully his cause and he would shrink with horror from placing himself and his rights in the keeping of the sharp practitioner. So that this is one of those instances where expressed views are not carried out in practice. A critical analysis of such views will develop a misconception of the duties of counsel. An earnest advocate arguing a cause with an opponent of like character, will suggest a situation in which one side must be right and the other wrong, and yet the wrong side is contended for as determinedly, without reference of the effect on the public—sustained by an appeal to principle, and supported by an array of truths—all in consequence of counsel having accepted services for that side for the fee he receives.

Now the right and wrong of a case is for the decision of a Judge or a jury; an advocate's duty consists in presenting his side in its most effective lights to the tribunal charged with its decision. The more effective each side is thus presented, the more information possessed by the deciding factor and the better position he occupies for deciding rightfully. Within the bounds of law and legal ethics the more earnest, industrious and devoted to his cause, the more accurately does the advocate justly perform his functions as counsel for his clients, and thereby whether he has represented the successful or unsuccessful side does he by his learning, his close analysis of his case and its forceful presentation contribute to that full information and clear conception that must be possessed by Judge or Jury to efficiently dispense justice.

Bar Associations, that modern form of combination among lawyers, is often regarded by the public as a sort of adult debating society, where the lawyers talk a great deal and accomplish nothing, and the public looks upon societies of this character whether of doctors, lawyers or any other occupation or profession as a co-operative method for entertainment, and conservative of self-interest. The activities of the Bar Associations may not fully reflect the high expectations raised on persual of its constitution and by-laws or code of ethics, and the last feature will likely impress a disinterested observer looking for results as a great protection to all who indulge in devious methods, in that it will deter honorable men who subscribe to such code and leave the field clear to others willing to risk reputation in their acquisition and conduct of business by methods condemned by such code.

The latent power of such an association usually is, however, with great accuracy comprehended by the fraternity, and whether Judge or Lawyer in or out of such association, great respect is entertained for such.

No influence in the community furnishes to the lawyer a more powerful deterrent to wrong or a greater incentive to correct practices.

The art of advertising is practiced by a certain class of legal gentlemen, often with great skill and often with scant regard for truth. The scenic effect of a picturesque narrative will open to the public an interesting recital of domestic sorrows or of business trials, or of personal frailities or shortcomings that only an expert will discern through the casual and incidental connection of eminent counsel named, that to this last feature was due alone the skillfully written and richly enjoyed narrative. It is no matter of wonder that any code of legal ethics will pointedly condemn such self-seeking and it is also no wonder that this art of proclaiming the marvelous merit of counsel has attained such skill in portrayal in public print that it is past the reach of any disciplin for violation of legal ethics. It will be so condemned because it is self-seeking in a profession in which real merit alone

should recommend, and not the plaudits of self-adulation. And it is past disciplining because past finding out the person guilty of such manouvering for trade. Since the usual violator of this ethicial rule has attained such skill that his intensely interesting production bears in every feature the marks of the tried journalist and only a legal opponent equally skilled in this art of public laudation will with his intimate knowledge of the merits of a legal controversy recognize the production so as to assign to it its true origin. It is no unusual experience for the daily journals to quote some favorite in this line on every subject of public moment, where a lawyer's voice carries weight, until finally the varied connection in which newspaper notoriety portrays some particular individual, impresses on the public mind the conviction that our self-seeking friend is universally recognized as a leader in his profession, and justly entitled to the distinction which the newspapers seem to accord him, and it will be only the few wise ones that recognize the source of these interesting accounts and who are also aware of the obligation under which the newspapers lay for so much interesting reading matter, furnished to them in a form to be at once turned into print without effort or expense, and it will excite no wonder that one who engages the aid of a "press agent" of skill, descretion and discernment will achieve some of the fruits of legal advancement, that a mere plodding and more able man will likely long for in vain. But the adherence to ones principals will more than compensate for any apparent disparity in the career of him who fails to conform to ethical rules and in the fate of him who regards alone the present supposed advantage by the violation of such rules. One compensation will be the respect and esteem of cotemporaries, who will in course of time learn to accept one at his true value, and who will assign no higher merit than to him who tenaciously adheres to principle. Another compensation will appear in that in course of time the man who thus adheres correctly to just principle will in any contest with an antagonist of more easy virtue have con-

ceded to him the concurrence of those upon whom rest the decision of such contest.

The critical observer will marvel at the status a persistent advertiser enjoys. The ordinary public readily accepts what appears in the news columns of the daily journals as usually reliable. With the esteem he thereby acquires an advertising attorney will also receive a certain character of deference from the more critical portions of the community, a deference which exists usually from a desire not to manifest personal antagonism, for the latter suggestive so often of mere jealousy, is too unattractive to thoughtful men. But however artistically the career of such a self-seeker may have been worked up in public print, yet in course of time, professional contempories will recognize the situation, so that his position as one of exclusion attaches to it such discomfort that if wise he will either cease to any longer advertise his cases, or if not wise he will cease to have had any longer any cases to advertise. For of all adverse conditions a lawyer can least submit to a spirit of exclusion, his dependance as heretofore adverted to on other lawyers, and on the judge and court officers, is the direct counter-part of exclusion, and if he does not extinguish such a condition in his career he will discover that the public to whom he looked for his business, not getting the results they anticipate, have left him without opportunity to further seek in public print the favors they deny him.

The young lawyer will not be long in the engagement of his professional experience without learning of an opinion entertained by a certain part of the litigant community, namely that in the moral obliquity, they in general assign to lawyers one trait in particular they dwell upon, and that is that in a contest the losing side has sold out to the other. This opinion is voiced sufficiently to impress one with curious emotions; indignation is aroused, but one feels helpless in the face of the ignorance and stupidity that would reach the conclusion that one side has sold out to the other. That the lawyers on each side should be rogues, he who is imputed the

buyer as well as he who is the seller, that the successful client is in the same category, paying his money to his adversary's counsel all assume such a dense ignorance of elementary human nature that one feels helpless in any effort to refute such. The successful litigant quite content to confine his payments to his own cause, is usually aware that any illegal contributions to a rogue is the forerunner of many repetitions, destructive of peace of mind as well as pocket, and placing the subject not only in the class of criminals, but causing a breach in moral integrity, incapable of repair. Then the surprising turpitude that would suggest to counsel a payment to his roguish adversary, leaving the buyer's agent without a legal victory and without its reward, assumes such distinguished unselfishness coupled with such moral weakness that one instinctively concludes that this is an opinion not worth the attempt at refutation.

The friendships of the Bar formed by mutual intercourse over professional matters are usually alone personal and do not extend to one's family or associations outside, with the result that not based on any mutual interests other than professional, lawyers very quickly discover the good and bad points of a colleague or antagonist, and these qualities that attract, such as gentleness and amiability, coupled with mental strength and sound judgment obtain familiar friends, while on the other hand those qualities that indicate brusqueness of manner and irritation of mind repel. A clear conception of another's qualities, good or bad, will afford us material for our peace of discourse, and if we would enjoy the attractive virtues of the good we will soon quickly learn to distinguish in our intercourse with others, so as to assign to each what is in reality due. Another result of friendships formed in this way is that while based alone on a conception of the personal qualities of another and not on any tie of mutual interest, either family, property or social, they last so long as professional intercourse continues and are as strong as professional opportunity affords further cultivation, resolving them-

selves usually as a consequence into intimicies of acquaintances rather than intimacies of friends.

After years of struggle the lawyer who has become seared with age and experience will begin to think with a life overflowing with professional activity that each one of his days passed like its counter-part of many previous days without any particular distinguishing marks, except that the anticipation of the coming day had the interest of the unknown and the unexpected in store. Whereas, now past, it was not to be recalled, save as one of a series of legal days which simply grow into weeks and into months and years, until it was a marvel how a long stretch of years had passed to be recalled to the mind as to any event or experience more readily than the occurrence of the morrow.

A past event being merely a matter of memory, an impression upon the mind, without reference to the future at the time of its occurrence, when recalled is unassociated with the lapse of time. Hence he will contemplate all in the past as of a day in duration, although stretching into years, whereas the days yet to arrive with their events yet to occur possess for his mind an interest coupled with an anticipation of the unknown ad measured by the lapse of what is to come.

One day in the future is therefore more to him than years in the past, yet when the future has arrived, which has been looked forward to as far distant, and shall have passed, then retrospectively it will have appeared as nothing in time. He will learn to regard with great complacency the future event to effect his happiness for ill or well for previously long after this event was due its possible non-materialization was looked back to with wonder that so great either unconcern on the one hand or uneasiness on the other should have been entertained at the ill that forbode, or so great joy and satisfaction at the great happiness that was in anticipation.

So that when he should have passed the period that has inspired the youthful heart with a continuously new incentive to renewed energy, he will be able in the experi-

ence of the past to contemplate with an even mind the occurrences of the future, and accept all with an equal acknowledgment to the fate that conferred all.

AMERICAN BAR ASSOCIATION.
CANONS OF PROFESSIONAL ETHICS.

I.

"There is certainly, without any exception, no profession in which so many temptations beset the path to swerve from the line of strict integrity, in which so many delicate and difficult questions of duty are continually arising. There are pitfalls and mantraps at every step, and the mere youth, at the very outset of his career, needs often the prudence and self-denial, as well as the moral courage, which belong commonly to riper years. High moral principle is the only safe guide, the only torch to light his way amidst darkness and obstruction."—*George Sharswood.*

"Craft is the vice, not the spirit, of the profession. Trick is professional prostitution. Falsehood is professional apostasy. The strength of a lawyer is in thorough knowledge of legal truth, in thorough devotion to legal right. Truth and integrity can do more in the profession than the subtlest and wiliest devices. The power of integrity is the rule; the power of fraud is the exception. Emulation and zeal lead lawyers astray; but the general law of the profession is duty, not success. In it, as elsewhere in human life, the judgment of success is but the verdict of little minds. Professional duty, faithfully and well performed, is the lawyer's glory. This is equally true of the Bench and of the Bar."—*Ryan, of Wisconsin.*

"Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser—in fees, expenses and waste of time. As a peacemaker, the lawyer has a superior opportunity of being a good man. Never

stir up litigation. A worse man can scarcely be found than one who does this. Who can be more nearly a fiend than he who habitually overhauls the register of deeds in search of defects in titles, whereupon to stir up strife and put money in his pocket? A moral tone ought to be enforced in the profession which would drive such men out of it."—*Abraham Lincoln.*

I. Preamble.

In America, where the stability of Courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for establishing and dispensing Justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the Republic, to a great extent, depends upon our maintenance of Justice, pure and unsullied. It cannot be so maintained unless the conduct and the motives of the members of our profession are such as to merit the approval of all just men.

II.

The Canon of Ethics.

No code or set of rules can be framed, which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life. The following canons of ethics are adopted by the American Bar Association as a general guide, yet the enumeration of particular duties should not be construed as a denial of the existence of others equally imperative, though not specifically mentioned:

1. *Duties of Lawyers to Courts and Judical Officers.* The law enjoins respect for Courts and for judicial officers for the sake of the office, and not for the sake of the individual who for the time being administers its func-

tions. A bad opinion of the incumbent, however well founded, cannot justify withholding from him the deference due the office while he is administering it. The proprieties of the judicial station limit the ability of Judges to defend themselves, and in the discharge of their duties, Courts and judicial officers always should receive the support and countenance of the Bar against unjust criticism and popular clamor.

2. *The Selection of Judges.* It is the duty of the Bar to endeavor to prevent political considerations from outweighing judicial fitness in the selection of Judges. It should protest earnestly and actively against the appointment or election of those who are unsuitable for the Bench; and it should strive to have elevated thereto only those willing to forego other employments, whether of a business, political or other character, which may embarrass their free and fair consideration of questions before them for decision. The aspiration of lawyers for judicial position should be governed by an impartial estimate of their ability to add honor to the office and not by a desire for the distinction the position may bring to themselves.

3. *Attempts to Exert Personal Influence on the Court.* Marked attention and unusual hospitality on the part of a lawyer to a Judge, uncalled for by the personal relations of the parties, subject both the Judge and the lawyer to misconstructions of motive and should be avoided. A lawyer should not communicate or argue privately with the Judge as to the merits of a pending cause, and he deserves rebuke and denunciation for any device or attempt to gain from a Judge special personal consideration or favor. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due the Judge's station, is the only proper foundation for cordial personal and official relations between Bench and Bar.

4. *When Counsel for an Indigent Prisoner.* A lawyer assigned as counsel for an indigent prisoner ought not to ask to be excused for any trivial reason, and should al-

ways exert his best efforts in his behalf.

5. *Defending One Whom Advocate Believes to be Guilty.* A lawyer may undertake with propriety the defense of a person accused of a crime, although he knows or believes him guilty, and having undertaken it, he is bound by all fair and honorable means to present such defenses as the law of the land permits, to the end that no person may be deprived of life or liberty but by due process of law.

6. *Adverse Influences and Conflicting Interests.* It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests in the same suit or transaction, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

7. *Professional Colleagues and Conflicts of Opinion.* A client's proffer of assistance of additional counsel should not be regarded as evidence of want of confidence, but the matter should be left to the determination of the client after frank advice from counsel. A lawyer should decline association as colleague if it is objectionable to the original counsel. If the lawyer first retained is relieved, another may come into the case, but efforts, direct or indirect, in any way to encroach upon the business of another lawyer are unprofessional.

When lawyers jointly associated in a cause cannot

agree as to any matter vital to the interest of the client, the conflict of opinion should be frankly stated to him for his final determination as to the course to be pursued. His decision should be accepted unless the nature of the difference makes it impracticable for the lawyer whose judgment has been overruled to co-operate effectively. In this event it is his duty to ask the client to relieve him.

8. *Advising Upon the Merits of a Client's Cause.* A lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon, and he is bound to give a candid opinion of the merits and probable result of pending or contemplated litigation. The miscarriages to which at times justice is subject, by reason of surprises and disappointments in evidence and witnesses, and through mistakes of jurors and errors of Courts, even though only occasional, admonish lawyers to beware of bold and confident assurances to clients, especially where the employment may depend upon such assurance. Whenever the controversy will admit of fair adjustment, the client should be advised to avoid or to end the litigation.

9. *Negotiations with Opposite Party.* A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel; much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel. It is incumbent upon the lawyer most particularly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.

10. *Business Dealings with Clients.* Lawyers should avoid becoming either borrowers or creditors of their clients; and they should scrupulously refrain from bargaining about the subject matter of their litigation.

11. *Dealing with Trust Property.* Money of the client or other trust property coming into the possession of the lawyer should be reported promptly, and except with the client's knowledge and consent should not be commingled with his private property or be used by him.

12. *Fixing the Amount of the Fee.* In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

In determining the amount of the fee, the following elements should be considered: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other business while employed in the particular case or antagonisms with other clients; (3) the customary charges of the Bar for similar services: (4) the amount involved in the controversy and the benefits resulting to the client from the services: (5) the contingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

13. *Contingent Fees.* Contingent fees where sanctioned by law should be under the supervision of the Court in order that clients may be protected from unjust charges.

14. *Suing a Client for a Fee.* Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for

his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

15. *How Far a Lawyer May Go in Supporting a Client's Cause.* Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties than does the false claim, often set up by the unscrupulous in defense of questionable transactions, that it is the duty of the lawyer to do whatever may enable him to succeed in winning his client's cause.

A lawyer "owes entire devotion to the interest of his client, warm zeal in the maintenance and defense of his cause and the exertion of the utmost skill and ability," to the end that nothing may be taken or withheld from him, save by the rules of law, legally applied. Nevertheless, it is steadfastly to be borne in mind that the great trust is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand for any client, violation of law or any manner of fraud or chicanery. No lawyer is justified in substituting another's conscience for his own. A lawyer should not do for a client what his sense of honor would forbid him to do for himself.

16. *Restraining Clients from Improprieties.* A lawyer should use his best efforts to restrain and to prevent his clients from doing those things which the lawyer himself ought not to do, particularly with reference to their conduct towards Courts, judicial officers, jurors, witnesses and suitors. If a client persists in wrongdoing to the detriment of the administration of justice, the lawyer should terminate their relation.

17. *Ill-feeling and Personalities Between Advocates.* Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to involve counsel in their conduct and demeanor toward each other or toward suitors in the case. All personalities between counsel should be scrupulously avoided. In the trial of a cause it is indecent to allude to

the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side. Personal colloquies between counsel which cause delay and promote unseemly wrangling should also be carefully avoided.

18. *Treatment of Witnesses and Litigants.* A lawyer should always treat adverse witnesses and suitors with fairness and due consideration, and he should never minister to the malevolence or prejudices of a client in the trial or conduct of a cause. The client cannot be made the keeper of the lawyer's conscience in professional matters. He cannot demand as of right that his counsel shall abuse the opposite party or indulge in offensive personalities. Improper speech is not excusable on the ground that it is what the client would say if speaking in his own behalf.

19. *Appearance of Lawyer as Witness for His Client.* When a lawyer is a witness for his client, except as to merely formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the case to other counsel. Except when essential to the ends of justice, a lawyer should avoid testifying in Court in behalf of his client. Similarly it is improper for a lawyer to assert in argument his personal belief in his client's innocence or the justice of his cause.

20. *Newspaper discussion of Pending Litigation.* Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the Courts and otherwise prejudice the due administration of justice. Generally they are to be condemned. If the extreme circumstances of a particular case justify a statement to the public, it is unprofessional to make it anonymously. An *ex parte* reference to the facts should not go beyond quotation from the records and papers on file in the Court; but even in extreme cases it is better to avoid any *ex parte* statement.

21. *Punctuality and Expedition.* Lawyers owe it to the Courts and to the public, whose business the Courts transact, as well as to their clients, to be punctual in attendance, and to be concise and direct in the trial or dis-

position of their causes. They should try their cases on the merits, and should not resort to any legal technicalities not necessary to establish the merits.

22. *Candor and Fairness.* The conduct of the lawyer before the Court and with other lawyers should be characterized by candor and fairness.

It is not candid or fair for the lawyer in opening his case, to mislead his opponent by concealing or withholding positions upon which he then intends finally to rely; or in argument to assert as a fact that which has not been proved; or knowingly to mis-quote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, or the language of a decision or a text-book; or with knowledge of its invalidity, to cite as authority a decision that has been overruled, or a statute that has been repealed.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A lawyer should not offer evidence, which he knows the Court should reject, in order to get the same before the jury by argument for its admissibility, nor should he address to the Judge arguments upon any point not properly calling for determination by him. Neither should he introduce into an argument, suitably addressed to the Court, remarks or statements intended to influence the jury or by-standers.

These and all kindred practices, appropriately termed "pettifoggery," are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administration of justice.

23. *Attitude Toward Jury.* All attempts to curry favor with juries by fawning, flattery or pretended solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors, and propositions to dispense with argument, should be made to the Court out of the jury's hearing. A lawyer must never converse privately with jurors about

the case; and both before and during the trial he should avoid communicating with them, even as to matters foreign to the cause.

24. *Right of Lawyer to Control the Incidents of the Trial.* As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite lawyer to trial when he is under affliction or bereavement; forcing the trial on a particular day to the injury of the opposite lawyer when no harm will result from a trial at a different time; agreeing to an extension of time for signing a bill of exceptions, cross interrogatories and the like, the lawyer must be allowed to judge. In such matters no client has a right to demand that his counsel shall be illiberal, or that he do anything therein repugnant to his own sense of honor and propriety.

25. *Taking Technical Advantage of Opposite Counsel; Agreements With Him.* A lawyer should not ignore known customs or practice of the Bar or of a particular Court, even when the law permits, without giving timely notice to the opposing counsel. As far as possible, important agreements, affecting the rights of clients, should be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made because it is not reduced to writing, as required by rules of Court.

26. *Professional Advocacy Other Than Before Courts.* A lawyer openly, and in his true character may render professional services before legislative or other bodies, regarding proposed legislation and in advocacy of claims before departments of the government, upon the same principles of ethics which justify his appearance before the Courts; but it is unprofessional for a lawyer so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason and understanding to influence action.

27. *Advertising, Direct or Indirect.* The most worthy and effective advertisement possible, even for a young lawyer, and especially with his brother lawyers, is the

establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not *per se* improper. But solicitation of business by circulars or advertisements, or by personal communications or interviews, not warranted by personal relations, is unprofessional. It is equally unprofessional to procure business by indirection through touters of any kind, whether allied real estate firms or trust companies advertising to secure the drawing of deeds or wills or offering retainers in exchange for executorships or trusteeships to be influenced by the lawyer. Indirect advertisement for business by furnishing or inspiring newspaper comments concerning causes in which the lawyer has been or is engaged, or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's positions, and all other like self-laudation, defy the traditions and lower the tone of our high calling, and are intolerable.

28. *Stirring Up Litigation, Directly or Through Agents.* It is unprofessional for a lawyer to volunteer advice to bring a law suit, except in rare cases where ties of blood relationship or trust make it his duty to do so. Not only is stirring up strife and litigation unprofessional, but it is disreputable in morals, contrary to public policy and indictable at common law. No one should be permitted to remain in the profession who hunts up defects in titles or other causes of action and informs thereof in order to be employed to bring suit, or who breeds litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or who employs agents or runners for like purposes, or who pays or rewards, directly or indirectly, those who bring or influence the bringing of such cases to his office, or who remunerates policemen, Court or prison officials, physicians, hospital *at-*

taches or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the Bar, having knowledge of such practices upon the part of any practitioner, immediately to inform thereof to the end that the offender may be disbarred.

29. *Upholding the Honor of the Profession.* Lawyers should expose without fear or favor before the proper tribunals corrupt or dishonest conduct in the profession, and should accept without hesitation employment against a member of the Bar who has wronged his client. The counsel upon the trial of a cause in which perjury has been committed owe it to the profession and to the public to bring the matter to the knowledge of the prosecuting authorities. A lawyer should aid in guarding the Bar against the admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice.

30. *Justifiable and Unjustifiable Litigations.* A lawyer must decline to conduct a civil cause or to make a defense when convinced that the purpose is merely to harass or injure the opposite party, or to work oppression and wrong.

He may counsel and maintain only such actions and proceedings as appear to him just. His appearance in Court should be deemed equivalent to an assertion, on his honor, that in his opinion his client is justly entitled to some measure of relief refused by his adversary. Upon that measure he may insist, though he disapprove his client's character.

31. *Responsibility for Litigation.* No lawyer is obliged to act either as adviser or advocate for any person who may wish to become his client. He has the right to refuse retainers. Every lawyer must decide what busi-

ness he will accept as counsellor, what causes he will bring into Court for plaintiffs, what cases he will contest in Court for defendants. The responsibility for advising questionable transactions, for bringing questionable suits, for urging questionable defenses, is the lawyer's responsibility. He cannot escape it by urging as an excuse that he is only following his client's instructions.

32. *The Lawyer's Duty in Its Last Analysis.* No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive, nor should any lawyer render, any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer lays aside his robe of office, and in his own person invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

III.

Oath of Admission.

The general principles which should ever control the lawyer in the practice of his profession are clearly set forth in the following Oath of Admission to the Bar,

formulated upon that in use in the State of Washington, and which conforms in its main outlines to the "duties" of lawyers as defined by statutory enactments in that and many other states of the Union—duties which they are sworn on admission to obey and for the wilful violation of which disbarment is provided:

I DO SOLEMNLY SWEAR:

I will support the Constitution of the United States and the Constitution of the State of _____;

I will maintain the respect due to Courts of Justice and judicial officers;

I will counsel and maintain only such actions, proceedings and defenses as appear to me legally debatable and just, except the defense of a person charged with a public offense;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the Judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval;

I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice.

SO HELP ME GOD.