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A Lawyer Paints His Picture

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The August Journal of the American Bar Association has a very exhaustive review of the Supreme Court decision, which should be studied as well as read.

Several criticisms that we have seen are of a most virulent type, transgressing the limits of legitimate discussion, we believe.

In view of the fact that the Court stood five to four on the subject, it may be acknowledged that there is ample justification for a difference of opinion among laymen as well as lawyers. That difference of opinion, we feel, may even take the form of argumentation, bordering on contention. That it should take the form of bitter, vitriolic, captious, carping criticism in certain religious and quasi-religious journals does not speak well for the tolerance of Christian practice as compared with its teaching. Hard as it may be, at times, we should try to remain sane in our critical analyses.

We quote two paragraphs from *The Christian Century* (June 10, 1931):

"We refuse to accept the Constitution as interpreted by this decision of the Supreme Court. Our conscience is not for sale. We give to no government the power to conscript our religion. We refuse to bow down and worship the State. We refuse to bear arms or to aid in any way a war which we believe contrary to the will of God.

"This may be treason—it is not for us to say. But if it be treason, let the defenders of tyranny make the most of it!"

RED FLAG STATUTES

In *Stromberg vs. California*, 51 *Sup. Ct. Rep.* 532, the Supreme Court of the United States construed the California "red flag" statute, under which it is made a felony to display a red flag "as a sign, symbol or emblem of opposition to organized government" or "as an invitation or stimulus to anarchistic action" or "as an aid to propaganda of a seditious character." The first clause was held invalid under the 14th Amendment to the Constitution, and conviction "which may have rested upon that clause exclusively, must be set aside." It appears, therefore, from the decision that no matter what the known designs and purposes of anarchists and communists may be, nor what effect the display of a red flag may have upon those who know the designs and purposes of these groups, peaceful and orderly opposition to government by legal means is not to be suppressed in this country. While the opinion of the Chief Justice makes a sound and sensible distinction, it will require an increase of vigilance on the part of patriotic citizens to counteract the bad effects that are bound to result from the decision. The true doctrine of the "red flag" party is still "the indispensability of a desperate, bloody, destructive war as the immediate task," and the show of peaceful, legal opposition is contradicted by many known facts and factors.

A LAWYER PAINTS HIS PICTURE

In the *Law Society Journal* for November, 1930, and February, 1931, we find an interesting word picture of the legal profession, painted by a practitioner. At the risk of making his artistry look like mere "daubs" we reproduce portions of the picture here.

"It is fair to say that there is neither rhyme nor reason in the usual lawyer's bill and that the public is justified in screaming stridently because though the figures may be right the demonstration is almost

always wrong. Yet the average lawyer is not a robber, for despite his financial contortions he barely manages by attending his office all day and ruining his nervous system to earn a decent living. His income is about the same as a physician's and much less regular. He seldom saves anything and in his early fifties almost invariably suffers a mental and nervous collapse from which he may or may not recover. He has no sabbatical year to look forward to, as the teacher and the minister have, and no regular vacation, nor does he, like the doctor or scientist, have the compensation of loving his work, for the man who enjoys spending his life wandering in and out of the blind alleys of the law, plus fighting for unreasonable and unappreciative litigants, plus being driven by overworked judges, plus being accused of pocket-picking is a rare and not quite rational person."

The painter, Mr. William M. Blatt, recommends a flat fee of \$10 per hour, and continues:

"Overhead comes out of income certainly. One-fifth at least of the gross goes to that and a greater proportion for a smaller income. Wasted time, waiting, work for non-payers, general preparation, review, and the other empty hours enumerated *supra* account for half of the worker's hours, but let us say conservatively forty per cent. There are divisions of profit, commissions, presents, tokens of appreciation or whatever you like to call them. They should not be, they are, undignified, perverse—and they cut terribly into the net—but one must figure them at ten to thirty per cent of the total.

"And so, counting free work at twenty, overhead twenty more, presents twenty more, waiting for courts and clients forty, and we have eighty per cent of our two thousand hours to deduct as unproductive, leaving four hundred hours of profit, or \$4,000 at ten dollars an hour. . . . The majority of lawyers do not earn ten dollars an hour nor its equivalent. The average is more like \$1,500. But a margin must be left for just those forms of wastage which have been named and which are inevitable, and for the beginner, who, however good his qualifications, will spend many a weary hour for many a weary year awaiting for clients.

"As to the clients' objections to a flat hour rate, they would be mostly included in the popular indignation at a lawyer being paid at all, which contention may have something in it but which we shall not at this time consider. The only other criticism would be the size of the rate and that can be demonstrated to the satisfaction or substantial satisfaction of the typical litigant, meaning by substantial that he can be argued down to a point where he is convinced that it doesn't pay to resist. That is about all we can hope for.

"The ten dollar per hour rate should be a minimum. Special skill should be specially paid, as it is in all other lines. Clients should be educated to the idea that a lawyer's time must be paid for no matter what the nature of the work is and no matter what the results. A form showing the accounting system should appear on bills and bar associations should adopt minimum charge rules and should be quoted. Lawyers should be pledged to make the charges or to do free work, but not to compromise.

"All this sounds very sordid, very sordid. But although the lawyer should—ahem!—be a vibrant knight in the army of altruists and should bear in mind the high ideals of true, swift, and efficient justice—ahem!—he should also support himself and his family, and in this aspect the law is simply a method of making a living."