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Book Review

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BOOK REVIEW

Woe Unto You, Lawyers! By Fred Rodell. New York: Reynal & Hitchcock. 1939. Pp. xi, 274. \$2.50.

The author in his preface says that this book was not written for lawyers; that its purpose is to plant in the head of the average man a seed of skepticism about the whole legal profession. If that is really his intention the book is admittedly a work of supererogation for, from the days of the Biblical quotation on its flyleaf¹ straight through William Shakespeare² to Ferdinand Lundberg,³ the average man has uninterruptedly regarded lawyers with a fear and distrust which needs no stimulation.

If, however, the intention of this book is to deflate the ego of legal lights "intoxicated with the exuberance of their own verbosity" (as Disraeli said of Gladstone) one can say that Mr. Rodell has been quite as humorously successful and entertaining as those news correspondents who annually harass bigwigs at their gridiron banquet. If such a banquet were being prepared for lawyers the toastmaster would find in this book the answer to his prayer for it abounds with pat phrases and barbed witticisms—both original and borrowed. For instance: "The law is the killy-loo bird of the sciences. The killy-loo, of course, was the bird that insisted on flying backwards because it didn't care where it was going but was mighty interested in where it had been." Mr. Rodell offers excellent material for an after-dinner skit based on the chapter on The Lady and The Law in which he has the lady govern her activities during the day by applying general principles of law to rationalize her decisions after they are made!

But the author is really taking himself seriously. With fuel for only a gridiron dinner he is out to start a conflagration in which he would not only consume all the lawyers but also the law itself. Every lawyer, he says, is just the same as every other lawyer: they are all engaged in a high-class racket built entirely on words—words which cannot be pinned down to a precise meaning.

Now most people, including those gangsters, the lawyers, will readily agree that the involved sentences and bad language, the "sacred abracadabra" and the interminable *wherefores*, *aforesaids*, and *provided always* of the lawyers and judges have long been due for an overhauling. Stuart

¹ "Woe unto you, lawyers! for ye have taken away the key of knowledge: Ye entered not in yourselves, and them that were entering in ye kindred." Luke XI, 52.

² "The first thing we do, let's kill all the lawyers." Henry VI, Part XI.

³ "The Legal Profession" & "The Priesthood of the Law" by Ferdinand Lundberg in the December, 1938, and April, 1939, issue of *Harper's Magazine*.

Chase in his book, *The Tyranny of Words*, has pointed out the necessity of applying "semantic discipline" to the use of all abstract words, whether included in the vocabulary of the law, politics, economics, or religion, if we are ever to make language really a vehicle for communicating ideas.

But when Mr. Rodell calls the law "a big balloon", "a lot of noxious nonsense", "wholesale flimflam", "pile of polysyllabic abstractions", "messianic mutterings of a judge" and other assorted epithets too numerous to mention and says that judges have put a "smoke screen of legal language" around the law, he does nothing to clarify the situation or to bring the science of communication, semantics, any nearer its goal of fixing absolute meanings. Indeed, the reader might be pardoned for thinking that Mr. Rodell had added some further "ambiguous abstractions" to the sum total of loose language about the law.

As a panacea Mr. Rodell proposes "to get rid of the lawyers and throw out the law" by making it a crime to practice law for remuneration and by rewriting the Constitution and statutes without benefit of lawyers. His courts would be boards of "experts in different fields of practical knowledge". They would not be bound by any precedent because "certainty and consistency or any close approximation to them" is utterly impossible in the supervision of men's affairs.

Before the boards litigants would have to tell their own stories and produce their own proof. "Companies would have to send to court a responsible official to talk facts and not law." Should the Standard Oil Company, for example, become involved in a dispute with a farmer over a filling-station lease, it does not require much imagination to see that under this arrangement the corporation would be represented by able counsel (call him what you will) and the farmer would be deprived of all representation whatsoever. It would merely be another instance for the complaint Mr. Rodell makes that "law is bought by hiring the services and advice of the smartest lawyers."

If pinned down, not even Mr. Rodell, one assumes, would say that all our present laws are bad or ambiguous. He admits that some parts of the Constitution are too plain even for judges to confuse as when it prohibits the granting of titles of nobility. His objections, boiled down, seem to be that the Supreme Court which interprets the laws is composed of nine fallible men. "We are under a constitution," he gleefully quotes Justice Hughes, "but the constitution is what the judges say it is."

Under Mr. Rodell's system the only change would be that the law would be what the experts said it was. But, who are experts? Who would decide who are experts? Are experts any less human or less liable to err than judges? It has been said that people are very much

like people, especially some people! Relieving any man or board of experts with judicial functions of all necessity for any semblance of certainty or consistency smacks too much of arbitrary power and dictatorship. One never knows when a Mayor Hague or a Huey Long might for a time take charge of the experts. Compared with this possibility, the doctrine of *stare decisis et non quieta movere* does not seem so discouraging. Indeed, rather than confront a bench of experts of whom no consistency is required one prefers to continue the attempt to pierce through the phrases of legal bombast to the facts.

As an attack upon the language and circumlocution of lawyers and judges the book is well directed and in point, but as a remedy for The Law it is apparent that the doctor has not thoroughly diagnosed the case.

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