

May 2, 1934.

## The Law as a Mirror of our Lives.

It is perhaps pardonable that in casting <sup>about</sup> ~~around~~ for a subject for today I should <sup>draw</sup> ~~draw~~ <sup>finally</sup> upon my own profession — that of the law. And I am glad that I <sup>have</sup> ~~did~~, because it has given me an opportunity to cohere <sup>and more or less naturally</sup> ~~and~~ some more ~~or less~~ tentative thoughts I have had <sup>from time to time</sup> on what I consider to be ~~the~~ one of the most significant aspects of the law — the <sup>purely</sup> sociological aspects.

Most laymen are inclined to view the law as a highly artificial and technical subject — to view law books such as these (indicating) as a sort of compressed catacombs, wherein lie embalmed <sup>papers</sup> ~~the~~ <sup>or some, or many</sup> mass of profound "whereas's" and "provid-how-ever's" — and the rest of the legal clap-trap. And we poor lawyers! Popular fancy has <sup>a group of</sup> ~~us~~ hovering vultures that <sup>who</sup> ~~make~~ <sup>make</sup> occasional swoops into these books in search of some bit of dead legal driftwood with which to confound our opponents, and <sup>to</sup> ~~throw~~ the scales of justice into a tailspin. Those poor scales of justice! How often are they <sup>regarded to be</sup> ~~as~~ <sup>lead</sup> ~~and~~ <sup>into</sup> ~~as~~ <sup>lead</sup> as the scales of a Marwell street fish peddler. ~~is~~ <sup>Chicago</sup> If you have ever been to <sup>Chicago</sup> Marwell street I shall <sup>have</sup> ~~make~~ my point, dear.

Now, some of these <sup>popular</sup> reviews the lawyers have no one to blame but themselves. Any honest thinking lawyer is the first to admit that his legal house needs a thorough cleaning, if not <sup>an entire</sup> ~~a~~ wrecking and rebuilding. But that is another subject, and <sup>advice you may discuss it</sup> ~~would~~ bore you infinitely.

more than the one I have chosen — if you <sup>still</sup> believe that could be possible when I am done.

The average layman too often fails to see that the law is closely and inevitably bound up with ~~of~~ our lives — your lives and my life —; that the law did not spring up like Topsy, full blown and crawling for watermelon, but that it ~~of~~ represents a slow and painful growth <sup>sort of progressive stretching of</sup> ~~growth that~~ <sup>all humanity</sup> twists and turns with ~~our~~ <sup>reflects</sup> ~~our~~ <sup>our</sup> habits, our thoughts, or fashions, our <sup>new</sup> morals — or <sup>permanence</sup> ~~our~~ <sup>our</sup> want of morals. <sup>Kindly permit some an element of</sup> <sup>and perhaps point</sup> <sup>trample.</sup>

Law reflects life. <sup>Imagine, if you</sup> can, a group of adults transported to some <sup>distant</sup> island and miraculously deprived of any memory of what had gone before. <sup>mean made</sup> Then you would have no law. But life would go on — and soon the rumbling, growling vehicle of the law would follow — ~~after~~, never quite catching up, but following, always, <sup>as I shall try to show you</sup> Well, this group <sup>of adults</sup> would soon choose a chief — just as naturally as you have chosen officers for this organization. Men would find mates, and other men would covet them. I shall draw no more parallels. Families would come.

One Saturday night the savage <sup>Blowhoo</sup> would <sup>sway</sup> steal Bookhoo's wife from here <sup>and carry her to the hills</sup>. Bookhoo would run to the chief, Yawhoo, and a hubabaloo would ensue, as you <sup>readily</sup> can see.

Chief Yawhoo would <sup>and</sup> soon <sup>send his men to the hills and</sup> be brought back. Blowhoo and Bookhoo and Bookhoo's wife would be <sup>presented</sup> before him. <sup>like Blowhoo better than Bookhoo</sup> The chief would <sup>ask</sup> Bookhoo's wife if she <sup>wanted to</sup> — if short, if she wanted to go live with Blowhoo. If Mrs. Bookhoo <sup>liked to</sup> enjoyed her bathes <sup>better</sup> uninterrupted, she would probably <sup>for Bookhoo</sup> eschew Blowhoo. So then the chief would scratch reflectively at his beard,

You can imagine what a lather she would be in.

and gather some of his ~~backgammon~~ the wiser heads about him (you see <sup>here</sup> the incipient ~~stages~~ <sup>beginnings</sup> of the pig system), and <sup>finally</sup> emerge from this huddle to announce that Blowhoo ~~shall~~ henceforth no member of the tribe should steal the mate of another ~~tribe man~~. Blowhoo would of course be given some fiendishly appropriate punishment, and the tribe would <sup>again</sup> retire to its mating, and mewling — and bawling.

9. The first Law had been made. Humans' interests had conflicted on one of ~~the~~ <sup>their</sup> oldest and profoundest fronts. A decision had to be made, and was made. Henceforth when the tribal Blowhoo's ~~kicked over~~ <sup>the first legal</sup> PRECEDENT HAD BEEN ESTABLISHED!

But wait!

But that <sup>stubborn</sup> ~~only~~ dog, Blowhoo — what did he do? <sup>stubborn</sup> One Saturday night <sup>the young</sup> Bookoo and his cronies ~~who~~ were indulging a little poker down at the local bar (they <sup>of course</sup> would have re-discovered the secret of ~~ferrous~~ alcohol the 2nd. day on the island!) <sup>stubborn</sup> Blowhoo <sup>again</sup> visited Bookoo's wife descended upon Bookoo's home and <sup>again</sup> he carried away <sup>but and all, this time they were taking the wife, the dog,</sup> Bookoo's wife. <sup>stubborn</sup> This time he carried her <sup>so far</sup> far away into the remote fastness of the hills ~~and~~ <sup>so far</sup> that it took Chief Yawhoo's men two weeks to find them.

Again the tribe assembled. Again the questions. Again the Chief asks Mrs. Bookoo what she thought about it. And <sup>again</sup> ~~more~~ <sup>more</sup> ~~stare~~.  
Lo! <sup>the yell-washed</sup> Mrs. Bookoo cast down her eyes and sidled over to the wily Blowhoo, as bitter as you please. Again the chief goes into a huddle. And again some new law. "Henceforth," says the chief, "it is no offense for a man to steal his neighbor's mate if she prefers <sup>to live with</sup> the man who <sup>steals her</sup>."

But enough of <sup>the love life of</sup> Blotchoo and Bochoo.  
Here, crude and fantastic as my  
example has been, <sup>should at least</sup> you see in clear relief  
<sup>the way law grows</sup> how the law is inextricably bound up with  
our lives. And it is <sup>desirable</sup> necessary that you <sup>should clearly</sup> see this.

Law follows life. ~~All that law is~~  
~~amounts to~~ In the final analysis, <sup>all law is</sup> but  
a group of rules for the orderly conduct of our  
human relations, one with the other, when  
human interests clash, under new and unique  
circumstances, the resultant <sup>decision</sup> law is a mixture  
of old precedent, <sup>new ideas</sup> common sense, and perhaps  
a flip of the coin, if the case is hard one. But  
law <sup>does and can but</sup> merely reflects the ethical and social  
temper of the <sup>particular</sup> people whom it affects. The laws  
of a <sup>barbaric</sup> tribe of Dyak head-hunters are probably  
laughable to us. But it is almost to laugh, if  
you will, only after you realize that their laws  
are <sup>so</sup> peculiarly appropriate to their state of their  
ethics, their <sup>particular</sup> habits, <sup>their government</sup> their temperaments, as our laws

seem to us.

Law does not draw its sanction from  
God or Gandhi, or <sup>from</sup> the whiskers of Charles  
Evans Hughes. Laws are merely the <sup>man-made</sup> rules of  
the game — <sup>the rules of</sup> the game of life. The more complex the  
game, the more complex the rules.

Let us get back to these heavy law  
books. A little while ago I compared them  
to a sort of catacombs of dead hopes <sup>as dead books of</sup> technical  
jargon. I shall probably startle you when  
I say that <sup>in my</sup> <sup>humble</sup> opinion there is more life-  
intense, pulsing, vibrant life in one of  
these volumes than in <sup>the average</sup> a novel of the  
heroic proportions of *E* — let us say — the

much read Anthony Adverse. <sup>not longer</sup>

INSERT A

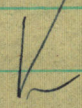
I shall attempt to show you  
what I mean by generalizations. I shall READ

and all the <sup>other</sup> things <sup>that</sup> <sup>more</sup> <sup>claim</sup> <sup>for</sup> <sup>itself</sup>.  
its peculiar province.

### Insert

The Law books teem with life.

Life in all its phases - joy, sorrow, <sup>passion,</sup>  
love, hate, <sup>each case with truly true</sup> <sup>and</sup> <sup>passion,</sup>  
avarice, greed, sacrifice. And  
humor. I have <sup>made</sup> a collection of humorous cases  
that are <sup>really</sup> humorous. I mean the kind of  
humor through which <sup>runs</sup> the thread of pathos - <sup>really</sup>  
after all <sup>perhaps</sup> the only <sup>genuine</sup> humor. I had half ~~thought of~~  
considered presenting some of these cases to you, <sup>today</sup>  
but, with <sup>my</sup> limited time, I chose ~~the~~ my present  
topic as being <sup>one</sup> more significant <sup>even</sup> if less entertaining.



I shall not longer attempt to show  
you what I mean by generalizations.  
I Shall READ

you what I mean, right from <sup>the</sup> ~~these~~ <sup>of the same so-called</sup> "dull catacombs."

I shall ~~read~~ <sup>test</sup> you the simple and unadorned narrative of the ~~life~~ <sup>lives</sup> of what ~~was~~ perhaps the most important and crucial stage in the lives of two dwellers ~~of~~ in our <sup>restless,</sup> modern, rapidly changing United States. <sup>It is just another device card -</sup> When I am done I shall make no further comment on this case. I will have either succeeded or failed in supporting my thesis, just as you view it:

Read Fonger vs Fonger.

~~This case~~ <sup>lays</sup> ~~is not peculiar or unusual~~ <sup>the books teem with cases</sup> ~~thought that should not be afraid to wager that I could~~ <sup>full of life joys and sorrows.</sup> ~~find a case~~ <sup>R</sup> And humor, I have a collection of humorous cases that - actual cases - that

but I believe that there is implicit in this case some of the most profound social ~~fluct~~ changes of our nation in these last years. ~~It is not a nice story.~~

And now, Heaven forbid that I have made lawyers out of all of you! I thank you.  
- END -

## THE LAW AS A MIRROR OF OUR LIVES

It is perhaps pardonable that in casting about for a subject for today I should have finally drawn upon my own profession -- that of the law. And I am glad that I have, because it has given me an opportunity to cohere and more or less rationalize some tentative thoughts I have had from time to time on what I consider to be one of the most significant aspects of the law -- the purely sociological aspects.

Most laymen are inclined to view the law as a highly artificial and technical subject <sup>(with many respects it is)</sup> to view law books such as these as a sort of compressed catacombs wherein lie embalmed the <sup>vain</sup> hopes of forgotten generations, smothered <sup>in</sup> technical language of "whereas" and "provided-how-overs" and all the rest of the <sup>legal</sup> clap-trap. And we poor lawyers! Popular fancy has <sup>us</sup> a group of hovering vultures <sup>make</sup> who occasionally ~~make~~ ghoulish swoops into these <sup>same</sup> books in search of some bit of <sup>mouldy</sup> legal driftwood with which to confound our opponents, and throw the scales of justice into a tailspin.

Now for some of these popular views the lawyers have no one to blame but themselves. Any honest thinking lawyer is the first to admit that his legal house needs a thorough cleansing, if not an entire wrecking and re-building. But that is another subject, and I assure you that a discussion of it would bore you infinitely more than the one I have chosen -- if, <sup>when I am done,</sup> you still believe that <sup>could</sup> be possible, ~~when I am done.~~

~~The average layman~~

Most laymen too often fail to recognize that the law is closely and inevitably bound up with our lives -- your lives and my life --; that the law did not spring up like Topsy, full blown and craving for watermelon, but that it represents a slow and painful growth; a sort of progressive etching of all humanity, reflecting ~~of~~ the changing current of our habits, our thoughts, our fashions, our morals -- or perchance our want of morals.

Law reflects life! Kindly permit me an extravagantly elementary example of the growth of law; <sup>— an example of</sup> how it FOLLOWS humanity. Imagine if you can a group of adults transported to some distant island and miraculously deprived of any memory of what had gone before (<sup>mercifully, we shall</sup> not omitting the market crash of '29). Then you would have a society without any man-made law. But life would go on, -- and soon the rumbling, whining vehicle of the law would follow -- never quite catching up, but following -- always. >

Well, this group of adults would soon choose a chief -- just as naturally as you have chosen officers for this organization. Men would find mates, and other men would covet them. I <sup>guess I</sup> shall draw no <sup>further</sup> ~~more~~ parallels!

One Saturday night the savages Blowhoo would steal Boohoo's handsome wife from her bath, and carry her away to the hills. (You can imagine what a lather she would be in!) Boohoo would run to the chief, Yawhoo, and a hullabaloo would ensue, as you may readily <sup>see.</sup> ~~imagine~~. Chief Yawhoo would hie his men to the hills, and soon Blowhoo and Boohoo and Boohoo's wife, and the entire tribe, would <sup>be</sup> gather <sup>ed</sup> around their chief. The chief would carefully question ~~all~~ the parties, and would finally ask Boohoo's wife if she preferred hill-billy Blowhoo to her own Boohoo. If Mrs. Boohoo enjoyed her bathes better uninterrupted, she would probably eschew Blowhoo for Boohoo. Whereupon the chief would go into a conference with the village wise men (see the early jury growth), and finally emerge from his huddle to announce that henceforth ~~no~~ member of the tribe should steal the mate of another. Blowhoo would of course be given some fiendishly appropriate punishment, and the tribe would again retire to its mating ~~and hating~~ -- and bathing.

The first LAW had been made. Human passion had flared <sup>and profoundest</sup> on one of the oldest/fronts. A decision had to be made, and was made. The first legal precedent had been established!



But the sly Blowhoo was not to be undone. "Laws are made to be broken," he pondered -- a philosophy which you may recognize *as* <sup>having</sup> ~~has~~ a considerable vogue even in our enlightened age. Anyway, Blowhoo watched his chances, and lo! one Saturday night ~~he~~ again stole away Boohoo's wife -- tub and all, this time. He carried his slippery burden into the farthest reaches of the hills ~~this~~ <sup>time</sup> -- so far <sup>in the lead,</sup> that it took Chief Yawhoo's men two weeks to find them.

Again the tribe assembled. Again the questions. Again the chief finally asked Mrs. Boohoo what she thought of it all. With eloquent pantomime the well-washed Mrs. Boohoo cast down ~~her~~ eyes and sidled over to the wily Blowhoo, as kittenish as you please. "Oh! fickle woman," wailed Boohoo. Again the chief goes into a huddle. And again some new law. "Henceforth," quoth the chief, "it is no offense for a man to take away his neighbor's mate if she should prefer that man to her mate." <sup>Here was the first legal refinement.</sup> <sup>The first exception. And so the <sup>wide</sup> ~~great~~ tapestry of the law goes down the ages.</sup> <sup>our</sup> Persistent Blowhoo, you see, had been the occasion of some vast strides in the law of domestic relations.

But enough of the love life of Blowhoo and Boohoo.

Crude and fantastic as my example has been, you should at least see in clear relief the way law grows----- . How the law is inextricably bound up with our lives. And it is desirable that you should clearly see this.

Law follows life. In the final analysis, all <sup>that</sup> law <sup>is</sup> but a group of rules for the orderly conduct of our human relations, one with the other. <sup>When we reach a legal case where</sup> ~~When~~ human interests clash, under new and unique circumstances, the resultant <sup>legal</sup> decision is a mixture of old precedent, new ideas, <sup>some</sup> common sense, and perhaps a flip of the coin, if the case is hard one. But law does and can but merely reflect the <sup>current of the</sup> ethical and social temper of the particular people whom it affects. The laws of a savage tribe of Dyak head-hunters are probably laughable to us. But it is alright to laugh, if you will, only after you realize that their laws are as peculiarly appropriate to the state of their <sup>current</sup> ethics, their past and present habits, their environment, their temperaments, as our laws seem to us.

Law does not draw its sanction from God or Ghandi, or from the whiskers of Charles Evans Hughes. Laws are merely the man-made rules of the game----the rules of the game of life. The more complex the game, the more complex the rules.

Let us get back to these heavy law books. A little while ago I compared them to a sort of catacombs of dead hopes--as hand-books of technical jargon. I shall probably startle you when I say that <sup>in</sup> my humble opinion there is <sup>often</sup> more LIFE----intense, pulsing, vibrant life--in one of these volumes than in the average novel---the heroic proportions of-- let us say--the much <sup>discussed, if little</sup> read Anthony Adverse.

Law books teem with life---Life in all its phases <sup>and</sup> joy, sorrow, passion, love, hate, avarice, greed, sacrifice. <sup>Like the True Story magazines, these books run the gamut of the emotions</sup> Each case is a truly true story. ~~And all the other things that each new movie claims for its peculiar province.~~ And Humor. I have made a collection of cases that are really humorous. I mean the kind of humor through which <sup>ever</sup> runs the thread of pathos---after all perhaps the only genuine humor. I had half considered presenting some of these cases to you, today, but, with my limited time, I chose my present topic as being one more significant even if less entertaining. I shall not longer attempt to show you what I mean by generalizations.

I shall READ you what I mean right from one of these same so-called dull catacombs.

I shall read you the simple and unadorned narrative of ~~the~~ what was perhaps the most important and crucial stage in the lives of two dwellers in our modern, restless, rapidly changing United States. It is just another divorce case, <sup>chosen by me more or less at random —</sup> but I believe that there is implicit in this case ~~some~~ <sup>more</sup> of the ~~most~~ profound social changes of our nation in these last years. When I am done I shall make no further comment on this case. I will have either succeeded or failed in supporting my thesis, just as you view it.

(Read Fonger vs Fonger, 154 Atl 443)

And now, Heaven forbid that I have made lawyers out of all of you! I thank you.