

The Devil's Advocate

One occasionally gets the feeling that psychiatrists view lawyers as uneducable, hostile amateurs who are always spoiling for a fight. The stereotype is apt to hold even though some of the therapists' best friends (or patients) are lawyers. Of course, there are lawyers and lawyers, and they come in a wide assortment of sizes, and only a negligible percentage are what we call "trial lawyers." The rest of us are primarily counselors, draftsmen, negotiators, and planners.

It may be of interest to examine the agenda at the recent annual meeting of the American Bar Association's Family Law Section in New York City last August 6th to 9th in order to see what family lawyers are concerned about. The following are among the items on the program.

On August 6th there was a committee meeting of the FLS's Committee on Mental Retardation and the Handicapped.

On August 7th there was a showing of a videotaped one-act play written by Shirley Burgoyne of Ann Arbor, which was about people involved in divorce and how they relate emotionally to custody and property division, the communication between lawyer and client, and the growth stages related to the divorce process.

On August 8th there was a panel on "How Not to Try a Matrimonial Case" which utilized a forensic psychiatrist as the witness in a mock trial which was presided over by a judge who regularly heard matrimonial cases. Family law lawyers examined and cross-examined the expert witness.

Also on August 8th there was a panel on "Representing Families with Mentally Ill Members," moderated by Sandra G. Nye, Director, Child and Family Law and Psychiatry Institute for Juvenile Research, Chicago. The same day the luncheon speaker was Dr. Margaret Mead, who spoke on "The Changing Form of the Family." And in the afternoon there was a panel from Princeton on the topic of "Sexual Dysfunction: the Hidden Agenda." Simultaneously, in another room, there was a panel on "Law and the Child Bearing Function: What are the Needs?"

August 9th was the final day of the annual meeting, and the featured program in the morning was "New Psychiatric and Legal Approaches to Custody Decision Making." Three of the five panelists were Dr. Andrew Watson, Dr. Richard A. Gardner, and Dr. Lee Salk. Another program that morning was on "Litigation and Legislative Developments Affecting the Legal Rights of Handicapped Persons."

Thus, not only was the major share of the agenda devoted to matters of mutual concern to psychiatry and law, but psychiatrists were commandeered to participate in the program. It is probable that this one section of the ABA had more psychiatrists and mental health experts participating than there have been lawyers at any one psychiatric or mental health meeting. The

membership of the FLS is 6,300, and about 350 showed up for the annual meeting. The panels mentioned above played to SRO crowds and the program was greeted with enthusiasm.

The channels of interprofessional communication are functioning, at least at one end. Your Devil's Advocate, however, who has attended some medical and psychiatric meetings, often has felt he was the Lone Ranger or a "token" representative from the legal profession. The underrepresentation of lawyers is not limited to meetings of doctors or psychiatrists. Most learned societies and groups at best tolerate the inclusion of law-trained persons. And this often is true even though the topic under consideration has legal implications or is predominantly a law problem involving legislation or court decisions.

Since almost any medical problem or issue eventually may become the subject matter of litigation or constitutional challenge, disdain for the law and lawyers is a luxury few can afford. There is preventive law as well as preventive medicine, and it performs the same function but in a different dimension.

Of course, the intellectual and sometimes actual boycott of law men has one source in the politics of academia. Law professors traditionally are paid more than professors of anthropology, philosophy, or Romance languages, and some supplement their incomes by legal consultations. Only the medics or athletic coaches have a higher pay scale at the typical university. Moreover, law professors tend to be clannish and have their own jargon. Alienation is easy to achieve given the dynamics of the academic community.

As long as this country maintains the political theory of judicial supremacy and the doctrine of separation of powers, however, lawyers and law simply will not go away. Current social and political values, such as the right to privacy and the legal protection of the consumer, inevitably produce more litigation if not more legislation. One may rebel against the practice of defensive medicine, the high cost of malpractice insurance, and the indignity of being sued, but such are the costs and side effects of the social evolution of our democratic society that is becoming more and more individual and consumer oriented and that rejects out of hand the paternalistic philosophy that either father or doctor knows best.

If non-lawyers, including those in high office, have an aversion for the legal profession in general and particular lawyers in particular, it may be understandable, but nonetheless it is also futile and even foolhardy. The aversion may be ameliorated, if not overcome, by studying and learning a little more about law and the legal profession. As often pointed out, Sir William Blackstone wrote his commentaries not for lawyers but for young students at Oxford at a time when a knowledge of law was the mark of an educated person. Law and lawyers have had an input from psychiatry, and it is time that psychiatry and psychiatrists reciprocated. *Tout comprendre c'est tout pardonner.*

HENRY H. FOSTER, Esq.