

one. It consists in seeking every legitimate advantage for one's own client, no matter how the claims of others may be affected thereby. The most usual instance of this is the obtaining of priority, for instance in cases of insolvency. A man who becomes financially embarrassed has naturally quite a number of creditors, all of whom have an equal right to be paid their demands in full. Now to the unthinking it seems manifestly unfair that because one of those creditors is thoughtful enough to immediately secure the services of a lawyer who gets him a judgment whilst the other creditors are hazily speculating on what they will do, his claim is, unless an assignment intervenes, paid in full, or as far as the assets will allow, whilst the others get nothing. Such a thing could not occur in England because of the bankruptcy law in force there, but as we have no such law in Canada it can, and does not unfrequently occur here. If there is any injustice, therefore, it is in the law not in the lawyer. But is there any injustice? I maintain not. Each one of these men has a right to have his claim paid in full. The amount is, it is assumed, justly due him. Now if by superior diligence and business foresight, he obtains the whole of it, even if he thereby precludes others from receiving any part of theirs, has he committed any wrong? He has merely secured what was his own and by legitimate means. I know of no principle of natural justice which maintains that a man should not employ all legitimate means to obtain his own, even when by so doing he may prevent others from receiving their equally just claims. His rights are totally unconnected with theirs, and as long as no morally censurable course is pursued to enforce them, no one, I take it, will contend that, in the absence of positive law on the subject, natural justice will compel him to forego them in favor of theirs.

This is one instance only, but it will serve as an exemplification of what is meant by legitimate sharp practice, if I may be permitted to coin a phrase, and the reasoning in this case is likewise applicable to all others. Of course, if there is any fraud in such a transaction it is worthy of the strongest reprobation, and this such practice always receives

from the true lawyer as distinguished from the pettifogger. To put this argument into the form of a philosophical principle; a man is entitled to enforce the rights acquired by natural law by every just means, even if by so doing the rights of others wholly unconnected with his own are rendered incapable of enforcement. Or, to put it in the language of popular philosophy; the early bird is entitled to the worm.

To deal now with the third objection, viz: that a lawyer will take any case good, bad, or indifferent, I must begin by denying the truth of this statement as it stands. No lawyer worthy of the name will undertake a civil case which he knows to be morally wrong. I venture to say that there are not ten law offices in Canada in which clients are not almost daily informed that there case is not good; that it cannot be won. And this when there is no suspicion of moral wrong; but when the impossibility of winning the case appears from the client's story, and it very rarely does, for most clients believe what they do not tell will never be found out, no true lawyer would think of staining his professional honor by attempting to substantiate it in court. Why then, I hear some one ask, are there any civil suits? One side must be right and the other wrong? If what you say is true, why is not the party who is in the wrong not immediately so informed and an end put to all further litigation? Softly, my good friend; there may be and in fact are excellent reasons why this should not be the case. Many civil rights are but the creation of positive law, and circumstances may arise in which one positive law may conflict with another. Which, then, is to be obeyed? This is a question which only a competent court, after learned argument can decide. To take a simple case; suppose a man owning a large estate dies after executing a will in favor of some person other than his lawful heir. Now further, suppose that owing to the non-fulfilment of some of the legal requisites for executing a will there is reason to believe that this last testament is not legally valid. The heir by law comes to a lawyer and requests him to contest the will. Is it wrong for him to do so? Admitting the right of the individual to acquire property—and no one is more