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| HARVARD LAW REVIEW |
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## A LEGAL TRIPTYCH

*Felix Frankfurter* \*

*Young men considering careers in the law have often asked Mr. Justice Frankfurter what experiences they may expect and what services they may perform in the legal profession. In partial fulfillment of those requests he offers these brief portraits of three of his friends and associates whose careers exemplify three of the varied courses a lawyer's life may take.*

CHARLES CULP BURLINGHAM †

When informed that the Association of the Bar of the City of New York planned to award him its medal for "exceptional contributions to the honor and standing of the bar in this community," C. C. Burlingham advised its president, Whitney North Seymour, that he must decline the honor. "I have done nothing exceptional," he wrote, "and when I evoke the shades of our founders and their successors and recall their contributions, I am confirmed in my conviction that I should not permit myself to be singled out from among my brethren. Though I am not shy, it would embarrass me." Among the shades thus evoked were doubtless Samuel J. Tilden, William M. Evarts, James C. Carter, Joseph H. Choate and Elihu Root. C. C. B. was conspicuously lacking in exaggerated self-evaluation, singularly devoid of self-deception. Giving the phrase "exceptional contributions" a specific, narrow content, it is not at all surprising that C. C. B. found himself not measuring up to these early giants of the bar. He doubtless felt he lacked their magnitude. In addition to pre-eminence at the bar, all but Carter attained national and even international distinction in public affairs, and Carter was a scholar

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† Reprinted from Memorial Book, 1960, of the Association of the Bar of the City of New York.

**MONTE M. LEMANN** †

In the changing circumstances under which law is practiced in our day, particularly the diminishing significance of spectacular forensic exhibitions, national recognition even within the profession comes to few lawyers. It did to Monte Lemann. This is all the more remarkable since his virtues were unostentatious, his considerable endowments modestly applied, his strong will gently exerted. His thorough and lifelong professional training, joined to practical sagacity, made him a much-sought counsellor of large and varied interests; his scholarly bent enabled him to be an effective force in the life of the two universities of his allegiance, Tulane and Harvard; his grasp of the functions of history, theory and the felt needs of the time in shaping law weightily contributed to the work of the American Law Institute; his instinctive straightforwardness saved him from subordinating clear understanding to the claims of shortsighted expediency, when he had to deal, as a member of the Wickersham Commission, with the grave moral and political problems raised by the Eighteenth Amendment.

Monte Lemann (his full name was Montefiore Mordecai Lemann) was born on April 3, 1884, at Donaldsonville, Louisiana, the son of Jewish parents, Bernard and Harriet Friedheim Lemann. His forbears had been settled in Louisiana for generations. After the preliminary public school education, he received the Bachelor of Arts degree from Tulane in 1902 and from Harvard in 1903. He proceeded to the Harvard Law School, where he graduated with honors in 1906, continuing his theoretical legal education as a member of the Tulane Law Faculty from 1909 until his appointment to the Wickersham Commission (National Commission on Law Observance and Enforcement) in 1929. Duly admitted to the Louisiana bar, he began practice in New Orleans with the firm of Saunders and Gurley, successor to White and Saunders, of which Edward Douglass White, the future Chief Justice of the United States, had been a member. Upon the appointment of Mr. Saunders to the United States District Court and the death of Hughes Gurley, the practice of the firm and its associates were taken over by the firm of Hall and Monroe, composed of Harry H. Hall and J. Blanc Monroe. Lemann became a

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partner in 1909, when its name was changed to Hall, Monroe and Lemann. This it remained, following Hall's death in 1911, until the retirement of Chief Justice Frank Adair Monroe (father of J. Blanc Monroe) from the Supreme Court of Louisiana in 1922 and his association with this firm as counsel, at which time the name Monroe and Lemann was adopted. Lemann remained its active member until his death September 13, 1959, happily joined in recent years by his two sons, Thomas B. and Stephen B.

Monte Lemann was an all-around lawyer with an extensive practice. Only patents and criminal law were outside its range. He was equally effective in counselling a variety of clients engaged in diverse enterprises, local and far-flung, as a trial lawyer, and before the Supreme Court of the United States, even as he proved himself a notable government lawyer when he served as assistant chief counsel of the United States Shipping Board during the First World War.

Among the busiest of lawyers, his conscience enabled him to generate the necessary energy to be able to pay the debt which, we have been admonished, every lawyer owes to his profession. Several agencies for needed law reform drew on his copious talents and wide experience. In addition to his significant role as a member of the Council of the American Law Institute, he was one of the moving spirits of the Louisiana State Law Institute, a powerful engine for modernizing particularly the procedural law of that State. Legal aid was a special concern of his. He fathered it in his part of the country and was a Director of both the New Orleans and the National Legal Aid Societies.

His qualities and capacities and services were gratifyingly recognized by bar and bench. He was president of both the New Orleans Bar Association and the Louisiana State Bar Association; the National Legal Aid Society gave him the Reginald Heber Smith Award for service to legal aid. He was an obvious selection as a member of the strong Supreme Court's Advisory Committee on the Rules of Civil Procedure under the chairmanship of former Attorney General William D. Mitchell, and as such he did yeoman service from its inception on June 3, 1935, to its discharge on October 1, 1956.

Twice the Supreme Court, *tempore* Hughes, C. J., utilized him as Special Master in complicated and important controversies between States.<sup>19</sup> In both cases Master Lemann's findings and

<sup>19</sup> See *Arkansas v. Tennessee*, 301 U.S. 666 (1937); 310 U.S. 563 (1940);

conclusion were in all respects confirmed by the Court. His combination of learning, balanced judgment, convictions with tolerance, a strong sense of fair play, power of comprehensive analysis and capacity for dispatching business, admirably equipped him to be a judge. When President Roosevelt offered him a seat on the Court of Appeals for the Fifth Circuit personal circumstances precluded acceptance.

Though law in all its aspects and attractions was the mainstay of his life, the lawyer in him did not displace the citizen. He served his city, state, region, and nation in their educational, charitable, and social endeavors. In his quietly effective way, as trustee of Dillard University, a local Negro institution, he promoted healthier race relations, long before its issues were dramatized, through the key medium of education. It was characteristic of him that he, the youngest and in his own mind the least important of the eleven members of the Wickersham Commission, did not flinch from the courage of his wisdom that there was "no alternative but repeal of the [Eighteenth] Amendment."<sup>20</sup> It was characteristic of him that his greatest reluctance in avowing this conclusion was his sense of modesty in dissociating himself from the contrary view of his ten associates.

Indeed, when one contemplates the self-deprecatory qualities of Monte Lemann and the extent to which clients, his brethren at the bar, courts from the lowest to the highest, institutions both governmental and private, promoters of causes indispensable to the country's well-being, sought his counsel, relied on his guidance, and drew on his strength, Monte Lemann becomes comfortingly striking proof of Emerson's homely wisdom that men somehow or other find their way to the maker of the best mouse trap.

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Wisconsin v. Illinois, 309 U.S. 569 (1940); 311 U.S. 107 (1940); 313 U.S. 547 (1941).

<sup>20</sup> 1 NAT'L COMM'N ON LAW OBSERVANCE & ENFORCEMENT REP. 139, 148 (1931).