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The Lawyer's Sphere of Higher
Usefulness

AN ADDRESS

IN THE

HUBBARD COURSE

ON

LEGAL ETHICS

Delivered before the Students

OF THE

ALBANY LAW SCHOOL

March 26, 1919

BY

Hon. IRA E. ROBINSON

Former member Supreme Court of Appeals of West Virginia

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THE LAWYER'S SPHERE OF HIGHER USEFULNESS.

There is a phase of legal ethics different from that usually dwelt upon in an address on the subject. It is the lawyer's professional relation and duty to the government, the laws of which he is chosen to administer. We may speak of it as The Lawyer's Sphere of Higher Usefulness.

The profession of the law in this country has been a ministry of good government. Lawyers — great lawyers — were the leaders in the founding of the nation. They indeed conceived and moulded that form of democratic government which has long been the pride of every loyal American and the admiration of the world. And that great government has, under the leadership of the men of the bar, been successfully defended against every assault and safely guided through every crisis. Lawyers have filled the important stations in the nation and State, and have ever proved true to the political faith of the fathers of the Constitution. They have been the helpers and leaders in every public cause. They have not hesitated to sacrifice themselves on the altar of their country. Devotion to the fundamental principles established by the founders — patriotism of the highest and truest type — has had its fountain head in the legal profession. The influence of the bar, with equity and justice virtually innate in it, has checked radicalism and injustice in impetuous times. The people have recognized in lawyers sound opinion, virtuous bearing, and correct grasp of governmental principles, and have reposed confidence in their ability safely to lead. This commanding position of the legal profession has made it indeed the great balance wheel in the wonderful machinery of American government. The higher usefulness of that profession has been — yea, we hope, still is — its leadership in affairs of community and State. Far above and beyond its usefulness in matters of ordinary business, is this sphere of leadership in the affairs of humanity. Exalted ministry! What lawyer does not look with pride and high resolution upon it?

De Tocqueville, writing in 1835, noticed the influence of the American bar in matters of citizenship and State. In "Democracy in America" he said: "In visiting the Americans and in studying their laws, we perceive that the authority they have intrusted to members of the legal profession, and the influence which these individuals exercise in the government, is the most powerful existing security against the excesses of democracy. * * * The more we reflect upon all that occurs in the United States, the more shall we be persuaded that the lawyers, as a body, form the most powerful, if not the only counterpoise to the democratic element. * * * When the American people is intoxicated by passion, or carried away by the impetuosity of its ideas, it is checked and stopped by the almost invisible influence of its legal counsellors." But another impartial foreigner, writing in recent years, Lord Bryce, in "The American Commonwealth," sounds a note that should arouse every member of the profession. Hear his words: "Taking a general survey of the facts of to-day as compared with those of the middle of the last century, it is clear that the Bar counts for less as a guiding and restraining power, tempering the credulity or haste of democracy by its attachment to rule or precedent, than it did then."

Is it true, as Mr. Bryce indicates, that the profession is losing its influence in public affairs? Can it be that it is assuming a mere commercial status instead of maintaining the honorable and proper place it once held: Shall not its former commanding position of influence be maintained? No lawyer of high ideals will say nay. The very honor of the profession, bent at all times on justice, moderation, virtue and the uplift of the race, speaks out an emphatic affirmative. No true lawyer is mercenary or selfish. The real minister of the law lives and works for higher and better things than mere monetary income or personal advancement. He lives on a high plane of citizenship. He means that the next generation shall have better ideals and happier lives by reason of his having lived in the present. He is imbued with the worth of his power for good. He chooses the better part, and, as occasion demands, meekly or courageously administers

his office in the interest, not of himself, but of truth and right. In this course, he is sustained and sanctified by the religion of his forebears, the memory of an ancestry noble for its uprightness, the traditions and history of his country, the honor of his God-given work, and the wise vision which his very legal spirituality gives him of the eternal fitness of law, order, and the establishment of justice. Thus he worships at the shrine of Truth. He realizes above all other men that,

“He’s true to God who’s true to man;
 Wherever wrong is done
 To the humblest or the greatest
 ’Neath the all beholding sun,
 That wrong is also done to us
 And they are slaves most base
 Whose love of right is for themselves
 And not for all the race.”

But the profession cannot maintain this higher usefulness unless its members keep true to its ideals. “The truth itself is not believed from one who often hath deceived.” Shall those who have a low conception of the profession be allowed to enter its sacred precincts or to remain therein? The value of a good name is as great whether it pertain to individual, professional, or national life. No good lawyer desires in his local bar the professional company of any man who does not reflect in his life that which is the ideal of the law itself — truth and righteousness. A mercenary, a prevaricator, a libertine, a stirrer-up of strife, a traitor to principle, has no regard for the law. Why should he be admitted to its stewardship? It cannot be preserved in his hands. Will you give money into the keeping of a thief? Will you have the Constitution supported by one who hesitates not to sacrifice its principles for his own selfish ends? To admit men of this class to the profession is a contradiction of its power and usefulness for good to the citizen and the State. The profession must be a marked embodiment of the honor, truth, and stability of the law itself if it is to maintain the respect heretofore bestowed on it. Only by high ideals and honorable, courageous action at all times can lawyers hope to be

the great influential factors in American life that the character of their profession demands that they be.

These words of reminder as to the high calling of the profession, and of admonition as to its province of higher usefulness, seem fitting in these times of commercial rapidity — these times when extravagance of thought is surely keeping pace with laxity and waste along many lines. It is the laxity of the age in material, physical, intellectual and spiritual things that has brought to the American people the ills of which they complain.

We are living in an impetuous day. The habit of our people in personally living too rapidly is causing them to think too lightly of governmental affairs, is making them abnormally progressive. The counterpoise to this is the steady-
ing thought and guidance of lawyers of the character of those De Tocqueville described as gracing the American Bar. There never has been a time in the history of the United States when the call was louder to the lawyer to intervene and check, by studious thought and cautious action, the trend toward neglectful disregard of the underlying tenets of our government. It is peculiarly his sphere to maintain law, to preserve the system of government founded by men whose genius and inspiration should not be forgotten, to save from wreck and ruin the great constitutional system of our country. If the tide that is carrying us from representative government, as founded by the Constitution, as explained so ably in the Federalist, and as practiced so devotedly by us until recently, can be stemmed at all, it must come about by the guidance of lawyers — by the people's faith in their guardianship of governmental affairs. That tide toward pure democracy, toward too much governmental interference by the mass, must be speedily checked.

It has arisen largely out of the demagoguery of the politician in teaching the people that they are the rulers themselves instead of their duly elected representatives. Political party expediency has had in recent years much baneful influence in our national and State affairs. There is a want of the old time dignity, reserve and fearlessness in our

political life which makes it fall much below the mark of statesmanship. There has grown up a mental dishonesty in so-called leaders, yea, unfortunately, in duly elected representatives, that will, if longer allowed, bring us to disaster. Anything for popularity has been the watchword of the politician. Such a dishonest and unstatesmanlike course will no longer be tolerated if the lawyers of our country measure up to their high calling. It is of the very ethics of their profession that they respond in condemnation of mere popular, thoughtless rule, and assume a leadership that will again bring the people to a proper understanding that, while ours is a government of the people, by the people and for the people, it is such a government through the election of wise representatives charged with the keeping of great constitutional provisions, and that it is not a government by the mass, who may lightly and ignorantly overthrow the great tenets that mean so much more than those unskilled in government can appreciate.

In this critical time when bolshevism barks at all that which we have so long held sacred, the only safeguard is the legal profession—in its members appreciating their higher usefulness and fulfilling that sphere. The lawyers must hasten to exert themselves, as teachers of our form of government, what it has cost, what it means, what its overthrow would entail. The people of this Republic should be made to recall that the greatest crimes ever perpetrated have been perpetrated in the name of liberty and popular rule. Washington, Hamilton and Jefferson, and all the fathers, had before them the history of the struggle for human liberty, and with the light of that history before them, they gave the American people a charter of liberty in the American Constitution. That Constitution guarantees life, liberty and the pursuit of happiness to the humblest citizen who claims its protection. It guarantees the right of the individual, not only as against encroachments of other individuals, but as against the government itself. And yet a radicalism, wholly at variance with these great constitutional guaranties, is being countenanced by those who know better, merely because the doing so tends to popularity and the largest number of votes.

A little more laxity in political thought in America, a little more departure from our anchorage to the fundamentals so well conceived by the founders, and the red flag of Socialism will be flaunted. Already have we tinkered too much with our heritage of a great form of government. Too nearly have we sold our birthright for a mess of potage. It is time for lawyers, out of professional duty, to arise at the signs of the times and to resolve that, come what may, American constitutional government shall be preserved.

It seems that the American people will have to be educated over again in the lesson of liberty regulated by law — that they will have to be taught again the real value of the guaranties and restraints of the Constitution under which they enjoy their security. How prone we are, after we have enjoyed a thing of great value, to forget its value; to forget that it needs preservation in order that it should have value; to forget the danger that someone may steal it from us.

It is not my purpose in this address to discuss in detail serious problems of government confronting us. My aim is simply to impress on that great profession whose duty it is to lead, that the members of it can not shirk that duty without violating an obligation of the profession. A transition is on. There is jar in the world, felt strongly even here in the homeland. Shall this transition lead us too far astray from the liberties and restraints guaranteed to us by the inspiration of the fathers, or shall it be so directed as to preserve to us those liberties and restraints, fitting them to the larger day in which we live? Lawyers, as students of government, as skilled experts in that line, must now exert their influence as never before. Let us hope that the majority of the people still have faith in the leadership of the members of the legal profession, and let us, as such members, work out the salvation of our country with fear and trembling.

LORD GOD OF HOSTS! BE WITH US YET! LEST WE FORGET!
LEST WE FORGET!

