

The Profession of Law and Commercialism

Wisconsin Supreme Court

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THE PROFESSION OF LAW AND COMMERCIALISM*

THERE are not wanting signs that the taint of commercialism which has reached other professions has likewise laid its blighting hand upon the profession of the law. In a time when the emphasis in our national life is upon production and distribution, it is perhaps not strange that men should enter the legal profession who regard it merely as a trade or means of livelihood or of accumulating a fortune. It is not necessary to descant upon the glories of the legal profession, but any lawyer who has no other ideal than that of making money in the practice of his profession is almost certain to go wrong.

Confidence in the courts is a necessary and indispensable factor in our national life. Those who administer the courts are drawn from the legal profession, and it is imperative that that profession maintain its ideals. If the profession is to become a mere band of traders with no other thought than merchandising legal training and ability, our institutions cannot long maintain their present level. It is, however, proper to say that there are comparatively few men engaged in the practice of law who do not adhere with scrupulous exactness to the high standards and the fine ideals of the legal profession, and in this connection we quote the words of the late Mr. Chief Justice Winslow, who did as much perhaps as any other one man has ever done in this state in building up professional ideals. He said:

It is one thing to enter a business with the idea of gaining a livelihood or acquiring wealth thereby; this is perfectly honest and legitimate, but it is in no sense ennobling. It is quite another thing to enter a profession with the conviction that it is charged with the great public duty of administering justice, and that its leaders in the past have swayed the minds of their fellow citizens in the greatest affairs of life and led democracy's battle wherever waged; this thought is inspiring, it involves a consecration to duty, a conception of the lawyer's work not as mere money getting but as service of the highest order, not as a mere occupation, but as a ministry.

* Justice Rosenberry, for the Wisconsin Supreme Court, in 185 Wis. 350.

Mr. Chief Justice Ryan said:

This is the true ambition of a lawyer: To obey God in the service of society; to fulfill His law in the order of society; to promote His order in the subordination of society to its own law, adopted under His authority; to minister to His justice, by the nearest approach to it, under the municipal law, which human intelligence and conscience can accomplish. To serve man, by diligent study and true counsel of the municipal law; to aid in solving the questions and guiding the business of society, according to the law; to fulfill his allotted part in protecting society and its members against wrong, in enforcing all rights and redressing all wrongs; and to answer, before God and man, according to the scope of his office and duty for the true and just administration of the municipal law.

Daniel Webster said:

Justice is the greatest interest of man on earth. It is the ligature which holds civilized beings and civilized nations together. Wherever its temple stands, and so long as it is honored, there is a foundation for social security, general happiness and the improvement and progress of our race. And whoever labors upon this edifice with usefulness and distinction, whoever clears its foundations, strengthens its pillars, adorns its entablatures, or contributes to raise its august dome still higher to the skies, links himself in name, fame and character with that which is, and must be, as durable as the frame of human society.

These are high ideals and noble sentiments. There are not wanting, in these times of unrest and change, many cynics who are willing to scoff at what they deem to be unrealities and who ignore, if they do not despise, spiritual values. However, it must not be forgotten that the foundations of our government were laid by men who were devoted to principles and ideals and that upon these principles and ideals our national success has been builded. If we are to maintain ourselves we must maintain our ideals. No nation has ever become great through material things, alone. It is when people have been willing to sacrifice unstintingly for their principles and their ideals that nations have experienced their greatest advance, and a particular and peculiar responsibility rests upon the Bar and the Bench of this country, and any conduct which tends to lower the standards and corrupt the ideals of the Bar or to destroy the confidence of the public in the legal profession should meet with the most emphatic disapproval and reprimand from all right-thinking members of the profession, and particularly from the courts.

The members of the legal profession are not alone in their appreciation of the necessity for maintaining its high standards. In 1909 the legislature, by chapter 179, required that every person admitted to practice law in this state should take an oath in open courts. It is as follows:

Section 2586a. Each person admitted to practice as a member of the bar of any court of this state shall subscribe the roll of attorneys to be kept by the clerk and shall in open court take an oath or affirmation of the tenor following, to wit:

I do solemnly swear:

I will support the constitution of the United States and the constitution of the state of Wisconsin;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense, except such as I believe to be honestly debatable under the law of the land;

I will employ, for the purpose of maintaining the causes confided to me, such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law.

I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with his business except from him or with his knowledge and approval.

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. So help me God.

The substance of the oath relates to the relations of an attorney to the United States, to the state of Wisconsin, to the courts, and to his clients, and itself lays down ethical precepts of the highest order. While attorneys are not public officers, they are, as Mr. Chief Justice Ryan said in *In re Mosness*, 39 Wis. 509, "quasi-officers of the state, whose justice is administered by the court."