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The Spirit of the Bar

The following address was given by R. L. Maitland, K. C., of Vancouver, B. C., at the meeting of the Washington State Bar Association at Spokane, July 22, 1939, which association voted to print the following address in this journal. Mr. Maitland is a distinguished member of the Canadian bar and was selected by the Canadian Bar Association to represent Canada at the American Bar Association meeting held this year just prior to the meeting of the Washington Bar Association.

In speaking to you this morning I am also speaking over the air, and that being so, I have changed my subject somewhat because I want to speak both to the lawyer and the layman. I want to try and emphasize what the bar has meant down through the ages in service to mankind, and to development, progress and security of nations, as time has marched on.

The bar is a very, very old institution. You may go back, if you like, to the far-off days of the Crusades. You will, of course, remember the brave work of the Crusaders, and that when they came back from the Crusades they were met with the applause of the populace; but, like many men who have compliments and cheers paid to them, their heads were turned a bit; they waxed a bit fat, and the time to reform even the Crusaders came about. Their power had been too great, and in those early days they were the lawyers, both in spiritual and secular matters. They were the ones who advised the people, and the time finally came when they were required to make a choice. That choice was to carry on the spiritual or the secular work. From those who chose to take on the secular work came the lawyers. If you go over to Old England today, and go to Lincoln's Inn or the Middle Temple, there you will find the story of lawyers carried on down through the ages as a great profession that has served humanity and served it well.

From thence comes the Bar of today; and with the Bench you have that great combination—the Bar with its courage, its ability and its ethics, and the Bench with its men who have dedicated their lives to giving justice to the country—both working hand in hand, developing and maintaining for us that fundamental thing we call the law.

And so I speak not only to you today, but I speak to you, Mr. Business man, and you, Mr. Citizen. I ask you to stop and realize what law has done; what the lawyers have done; what the judges have done, down through the ages, in order to give us what we are proud to call the democracies of the world—those democracies which mean liberty to the people.

I rather agree with Mr. Hogan that the man on the street is in-

clined to emphasize the wrong things at times. There may be causes that justify that, but I do think there are other things that should be emphasized, not only on behalf of the legal profession, but in order that the man on the street might realize that it is a good thing for the community to protect and build up the profession of the law as long as that profession adheres to the old principles and ethics which have always guided its leaders in the past.

The public does not realize the contribution that lawyers have made to history, but they are rather inclined to know something about lawyers who have not contributed in the past. You can go back to a very great lawyer in days gone by—the great Bacon, the brilliant man, the brilliant judge, the brilliant lawyer, who, in high judicial office, disgraced that office. The reason that it is remembered is because the history of the law is that that sort of thing very rarely happens in our profession.

You may go back and read the work of Charles Dickens, and he will tell you about Mr. Buz Fuz, or about Uriah Heep; but, Mr. Business Man, I want you to ask yourself whether you realize what lawyers have contributed to your life, to your happiness, liberty and peace of mind. I would like you to know something about men like Blackstone, and Coke, and Mansfield, Marshall and Storey. These men, by the making of great precedents, have built up that body of law which gives men peace of mind, liberty and confidence. Down through the ages, that judge, with his wig and gown; that lawyer standing before him, have steadily but slowly been building these principles, these things we call maxims when we quote them, and from these things, Mr. Business Man, you have your security today.

I ask you now, "Where did you get it?" You have your peace of mind in business today. Where did you get it? You have the confidence to carry on in new building and developing, the confidence to dream dreams and to enter into great adventures. Where did you get the faith to carry on in a free country, with the knowledge that you would have a right to carry on, a right to develop your individuality and produce those things which you are capable of creating and producing?

Mr. Citizen, you have got it from the protection the law has given you as it has been developed down through the ages to the present day. You may toss and turn in your bed, your mind may be worried, you may wonder whether you have lost everything because of having entered into an agreement with a man who is dishonest, and a man who you feel will not live up to the terms of that agreement; but somebody steps in, in this country, and says, "A fair contract is a solemn thing, and that thing will have to be performed."

Where did that come from? It came from the law. It came from the lawyers, the thing you depend on, and that entitles you, when you enter into an agreement, to know that that agreement will have to be carried out.

And then, Mr. Business Man, I see your neighbor, who has been

a respected citizen in the neighborhood for a long time. That neighbor is in trouble. He is an honest, decent fellow, but has had a criminal charge laid against him, and he wonders and wonders, although in fact he is a decent man, with a good reputation, if that other man, a man below respectable standards, will go into court and swear away his name, his reputation and his livelihood, and perhaps his liberty. But he learns in this country that the presumption is that all men are innocent until they are proven guilty; he learns that all men are entitled to the benefit of a reasonable doubt; he learns that whoever the man may be, and whatever the charge may be, the State must prove its case.

Now where did that come from? It came from the work of the legal minds who have worked these things out in order that you might have freedom and liberty.

Then I go further down the street and I see the widow. I find that she was going through life happy in the thought that she had a perfect family and a husband to take care of them; and then suddenly, without warning, through the negligence of a man driving a truck, she becomes a widow. The breadwinner has gone. Along comes the employer of that man who is guilty of negligence and he says, "Yes, it is true my employee killed your husband, but, after all, we did not direct him, or hire him to do that. We did not authorize him to commit negligence, and, therefore, we are not going to pay you."

Well, who protected the widow? The law stepped in and said: "That man was working for you, Mr. Employer, in the course of his employment, for your good and your gain, and part of your responsibility is taking care of widows who lose their husbands through the negligence of your employees while carrying out their work for you and on your behalf, and for that negligence you must pay."

Mr. Citizen, where does that come from? It comes from the law; from the work of those men who established these fundamental principles.

When a man in straitened circumstances borrows money—it may be an ignorant man—he may give a deed to secure the loan on property more valuable than the loan itself, and when he comes to redeem or repay, the other man says, "I have got a deed, and I do not propose to take payment. I will keep the property." But the law steps in and says, "We are going to protect you. That deed was intended as a mortgage. Once a mortgage, always a mortgage."

Mr. Citizen, that is what the law has done for you in this respect, and for everyone in the community in which you live.

What I am trying to show you this morning is the contribution that law has meant, and what the maintenance of it means to every one of you throughout your life. I would like to emphasize how necessary it is to preserve the old faith, the great maxims that have told the story of Justice to the people for so many years.

You no doubt have read many books. I know that well. You have,

from time to time, read passages that have gripped you, and expressions that have so impressed you that you will carry them all through your life. But, Mr. Citizen, did you ever read anything finer than this: "He who seeks equity must do equity?" Did you ever find a more fair, or reasonable, or better proposition than that? Whether in your office or in the law courts; whether in the field of sport, or anywhere in the activities of human life, where can you set any fairer standard to govern the matter than that which was made by these old lawyers? "He who seeks equity must do equity." Think what that principle means. Search your mind or your conscience and your memory, and all you have learned, and I ask you, Mr. Citizen, can you find anything better?

And where did that come from? It came from the law. It came from the old Crusaders, always making, creating and developing principles to safeguard you in your daily tasks. And that peace of mind that you have today, that confidence and courage to carry on, all come from the great minds of the lawyers of the ages who have studied and studied the problems and the difficulties of mankind, and for your protection have evolved this thing we call law. Benefiting by experiences of the past, meeting changing conditions for the future in a systematic, logical way, they have steadily maintained that great fundamental thing of life—Law.

Why do I feel today I should come and talk to you about the contribution that the lawyer makes to the community and to civilization; about his importance and his service in the community; about the necessity of his being a trained man, with a knowledge and a grasp of these true principles that must be understood by every lawyer? Someone has said that legislation was proposed in Washington whereby a man, being a member of the legislature for three sessions, should, upon passing examinations, be automatically admitted to the bar. Why, all the years of training that a lawyer today must have before he can enter the profession is in order that he can be trained before he renders service to the community, and in order that he may give you better protection. That being so, can you see what legislation such as this would lead to? To go from the trained to the untrained; from the experienced to the inexperienced; from those permanent, orderly things to chaos, dumping overboard the training, the knowledge, the logic and the experience of lawyers altogether, and substituting a synthetic thing called a lawyer, by act of parliament.

This cannot happen if you realize what the lawyer does for his community and realize what training is necessary before he can do that. I know what the man on the street sometimes thinks. I know that at the meeting of the American Bar Association one of the most brilliant minds in the United States suggested that, if the law was not made cheaper by the lawyer for the business man, you would have State law, and the government would take over the practice of law in your community. Well, brilliant and sincere as that man was, he was emphasizing the wrong thing. After practicing law for twenty-five years, as I have, I know the poor man is being taken care of by the members of the profession, many times without any contribution whatever. Show me, if you can, a reputable lawyer—and if the lawyer

is not reputable, he should be ruthlessly read out of the profession—who, upon being brought a case that has merit; and I will show you a man who will gladly take that case to see that justice is done. I have never known a reputable lawyer who would not help persons under these circumstances, and who would not get a thrill out of doing it. My knowledge of the honor of the bar is great enough to know that there is not the slightest justification for changes of this kind.

And so this morning I leave the case to you. We have our work to do. We go on through life belonging to a great profession. Carry on its old traditions in building up, and add to the precedents of days gone by, and the added duty to see that the citizen knows what it means to have the protection of the law; to have the trained mind of the lawyer; to have in his community one who, having that trained mind, is the man who keeps the ship on an even keel, and a man who, during those days of chaos and those days of false gods, and those days of hysteria and broken hearts, stood stemming that tide of radicalism in every city, town and community of this country—the lawyer. The lawyer, who, by his training and his knowledge of what the profession teaches him, stood on guard for that fundamental thing we call law.

It is not only necessary for lawyers to maintain the high standards for their own good; it is necessary for you, Mr. Citizen, as well. Look around the world and see some other countries today. You will realize that the sweetest thing in the world that men have is the spiritual, the intellectual and the physical freedom that you enjoy under your Constitution. It belongs to a democracy, and our profession has been dedicated to maintaining and strengthening these things; to maintaining the ways and means of securing them to posterity, in the country in which we live. The spirit of the bar of the United States, in old England, and in Canada, as well as the spirit of a great race of men and women, dedicating their lives to a noble profession, happy in the thought that the principles and the traditions of that profession are being maintained. If we do our part in this task as we should do it, then, when we come to the end of life's long trail, we can well say: "I have served my fellow man well in my day and generation. I have tried to be a builder."