

FOR RELEASE
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THE RIGHT ARM OF STATESMANSHIP

AN ADDRESS

by

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C. C.

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10:00 P. M.

Mr. Toastmaster, President Bastian, Members of the Judiciary, Distinguished Guests, and my friends of the Bar Association of the District of Columbia:

The Annual Dinner of this Association is an event of unfailing interest. I am grateful for the courtesy that draws me here. While recent happenings in the national field have left us a bit breathless, nevertheless, the period of excitement having passed, we may now consider more objectively the common problems of the bar. Perhaps we are a bit more relaxed, possibly somewhat more disposed to take counsel together and, it is to be hoped, considerably wiser. Excessive fears no longer haunt us. Democratic processes have again demonstrated their resiliency and, let me add, the Constitution still stands.

True, there remain, as there have existed from the beginning, vital questions of interpretation. These, no doubt, will be resolved in accordance with the American Constitutional method - a process of adaptation and growth, following its course to the essentials of justice through the orderly ways of discussion and education.

Surely we must recognize that it is rather childish to assume that all our problems have been worked out for us by our forefathers. Each generation must determine its own destiny in its own way, dealing of necessity with the actual conditions which it confronts. If I may resort to physics for an illustration, I would say that the law is fluid, not solid. It moves; it flows; it passes on.

Many centuries ago Heraclitus asserted that life is always in a state of flux like a river. The law, in like fashion, flows on. At

times it fills the course of our common life to its banks, occupies the crevices and surges forward, a full-breasted tide. And, again, it drops back into eddies and seems for a while to lose current and vitality. Nevertheless the great movement is as inevitable as life itself for law is but an aspect of life and, as Emerson once wisely remarked "Life is more important than anything that can be said about it."

These observations bring me more intimately to the thought that is in my mind as I address you here tonight. As events move on and the great future widens before us, what part is the legal profession to assume?

Economic and social problems, the consideration of which was postponed by the World War, have now recurred with fresh insistence. Ideas are loose in the world. We may run from them, but they will hunt us down. The American people have not abated an iota of their faith in our institutions, but they are in a mood to demand something more substantial than thin political gruel. They are not content with the languid reaffirmation of undisputed things. They want results. They are entitled to results. It is not strange, therefore, that they should prefer a conception of progress that places its accent on human rights rather than on property rights; and they are entitled to have this choice respected.

Manifestly they think as a nation and in terms of a nation.

It is idle, therefore, to assure them that agriculture is a state matter or a question for the farmers alone. They know that nature has decreed it otherwise. The winds and the dust and the drought do

not heed state lines. They have unmistakable jurisdictions of their own.

Likewise it is futile to assert that unemployment is merely a state or local affair. It has arisen to the dignity of a national problem of the first order. Mr. Harry L. Hopkins, the very able Works Progress Administrator, referring to the large gains already made, nevertheless took recent occasion to remark that while we shall in all probability reach the production level of 1929 in the relatively near future, there will still be six or seven million jobless people in the United States. Technological displacement, increasing population, and the new workers who have entered the labor market, have been decisive factors in creating this disturbing situation.

Mr. Hopkins believes that "with wisdom and foresight, the problem can be solved in a way that will hurt no one and will bring to the people as a whole the greatest era of health and prosperity and happiness ever attained in any nation, but it can be done only if the Government works with business and business works with Government toward a common end."

The great South African statesman and soldier, General Jan Smuts, sometime back, took occasion to warn the people of all nations that the depression which had affected so many countries was not merely cyclical, but disclosed a complete change of world economy. Since that utterance was made, many of the governments of the old world have gone forward with their absorption of private industry, under conditions of absolutism and tyranny which a lover of American liberty contemplates with extreme distaste. Herein lies a warning for us.

We are a great creative nation. We have enormous accumulations of capital and, fortunately, we are coming to have a more enlightened

view as to the trusteeship involved in the ownership and control of property. Power must not be employed to destroy the human beings it should serve. The products of child-labor and the sweatshops must not be used to displace the toil of fathers of families endeavoring to live according to American standards. An evolutionary process is going forward. It is idle to stand in its way or to proclaim that it does not exist.

And now I recur to the theme that is implicit in these observations, addressed as they are to a company of lawyers. The growth of great aggregations of capital; the corporate structures that have been built up to serve them; the rich rewards that are open to all those engaged, professionally or otherwise, in these enterprises have, unless we are very careful, a tendency to blunt our perception of public need. We are absorbed in personal or narrowly professional matters. Our time is intensively taken. Client relations serve to accentuate the stress laid upon private as opposed to public interests. If business finds itself meeting these unaccustomed problems with an eye primarily directed toward personal profit, it is not perhaps strange. I dare say, also, that it is equally difficult for the practicing lawyer to forget the habits of a strictly individualistic age and attune himself to the fresher outlook which he must ultimately take if he is to survive as a wise counsellor and friend.

We are not merely the advisers of those who would preserve the status quo at all hazards. We are servants of society, accredited representatives of a judicial system which has for its ultimate purpose the administration of justice in its highest sense. In these great areas of

change and progress, would we not be better citizens, better patriots, aye, and better lawyers, if we were a little less concerned with the technicalities which have served so well in many a strategic contest and a little more given to a broader view of that movement of society which seeks to stake out a more advanced frontier of justice?

The fault is not all on one side and the exigencies of modern life have much to answer for, but the fact remains that many of our learned brethern have given less and less attention not only to public service, but even to a public way of thinking while in private practice. In the meantime statesmanship has shattered the bonds of precedent and is seeking ways to fulfill the just hopes of our people. It is something of an anomaly that in the face of great problems we turn our affairs over to public servants who strive to supply the means to answer the public need, while at that very moment many of the most gifted members of our profession exercise their ingenuity and their experience to break down the structure thus created.

I am sure that you will not think I exaggerate when you reflect upon the fact that in many quarters there has been a growing distaste for tactics of obstruction and for the ingenious devices which have been invoked to thwart or circumvent the processes by which Government seeks to attain its legitimate ends. I confess to a feeling of uneasiness when I reflect upon this state of the public mind. The public is conscious that that which was unplanned or selfishly guided in the past must take its place in an orderly governmental process and that a great cleansing and rebuilding program must go forward. It is impatient with artificial

restraints and becomes irritated by those refinements of logic which are calculated to render attempts at social reconstruction sterile or abortive.

One of the unfortunate by-products of this changing point of view is a tendency upon the part of many of our people to be restive under the slow processes of the law and to cease to look upon the structure of our society as the basis of security and prosperity. This is not a wholesome situation and we must make shift to amend it. [Lawyers cannot abdicate their great function as statesmen without a tragic loss to America.] They must not lose their position as the friends of progress. They must not permit prejudices to accumulate against the profession. They must seek earnestly to determine how they may regain that lost prestige which was so admittedly theirs in the larger and more spacious days when America was in the making.

Questions of vast significance are moving to their solution. I doubt if there has ever been a period in our history when there was a greater need of lawyers capable and willing to give their great ability to the wise solution of our insistent problems. We not only need men of this sort in the legislatures, in the Congress, and in executive and judicial positions, but we need them in private practice where, with generous wisdom, they may advise helpfully in those processes of accommodation which are so pathetically essential in these modern days. The nation as a whole needs the service of the profession as a whole. The inward unity of America is a precious thing, and no element of our national life can afford to forget it or neglect to serve it.

Let it not be forgotten that social progress, and indeed all measures of governmental readjustment must take on a legal form. When one considers the intricacies of modern business and the unexpected fashion in which a measure, apparently well conceived, may produce undesired collateral results, the difficulties of legislation are readily apparent. The program should not be merely the product of an administration at which the profession is entitled to take "pot-shots" after it has been formulated; it should be a program of America in which the administration, business, labor, agriculture and the legal profession generously collaborate.

I am proud of the great traditions of our profession. With rare exceptions the vital documents of liberty that mark the progress of human kind have been formulated by lawyers. The charters of our colonies, the Constitutions and statutes of our States, the Federal Statutes, the Declaration of Independence and the Federal Constitution, without which America as we know it would not exist, have, to our imperishable fame, been the products of our labors. All through our history, great leaders of the bar have spoken movingly in the cause of human rights and in every era have fashioned some form of enactment to make certain of each popular advance.

Is it not appropriate that we should once more take stock of ourselves and consider again the heights to which our brethren of earlier days carried the standards of our profession? How better can this be done than by reflecting upon our duty to those innumerable, unnamed, unknown, and sometimes forgotten clients - the people of America.

I am conscious that our profession has been thoughtlessly relinquishing some of its highest prerogatives. I am jealous of its reputation, and realizing the mighty influence it is capable of exerting, I am apprehensive lest it forego that opportunity. [To criticize, to debate, to litigate, all these things are very well, but the profession must not surrender its role of leadership, it must not forget that the law is the right arm of statesmanship.]