



ADVANCE SHEET – August 16, 2024

President's Letter

We here reproduce a lecture by our founder, George William Brown, on the duties of the legal profession.

George W. Liebmann



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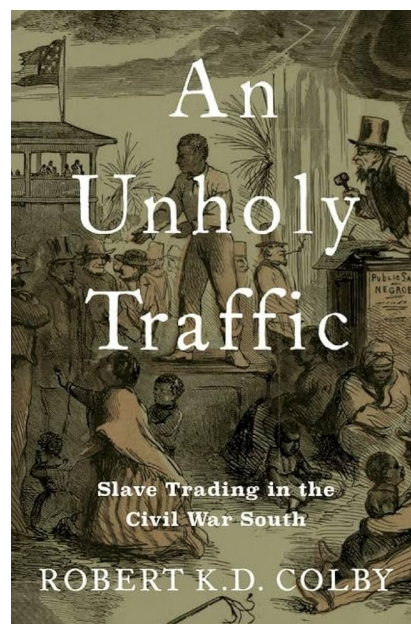
There's No Place Like Home

I was listening to the radio a few weeks ago when I heard a song by someone I was unfamiliar with named Laci Kaye Booth. The song is called "Used To You" and the lyric that caught my attention is "You're the road that I know, your name sounds like home." What a wonderful expression of love. I have always been a proponent of who over where, i.e., where you are is not nearly so important as who you are with. When you are with the right person, where you happen to be really means very little. A one bedroom apartment and a trip to the Jersey Shore for the day tops a palatial mansion and a trip to Maui for a month.

For over thirty years now my wife has been my home and in the words of Dorothy "There's no place like home." I am a most fortunate man in many ways, however, and a substantial part of it is that when I am away from home, I have a most splendid home away from home, the Baltimore Bar Library. It is that most wonderful of combinations of form and function. I could say that you would have to look a long time to find a library as elegant as the Bar Library, but the truth of the matter is that I am not sure that library exists. As far as what it has to offer other than the way it looks, there are collections from electronic to print, services from remote to in-person, events from lectures to movies, and as they say in those infomercials, there's much, much more. I suggest that you stop by and see for yourself. Do not make assumptions about what the Library is or what it has to offer. You would have never gotten to where you are in your life and career by doing that sort of thing.

I look forward to seeing you soon.

Joe Bennett



An Unholy Traffic

On October 22, 2020, Prof. Robert Colby, then of Christopher Newport University, now of the University of Mississippi, took part in the Bar Library Lecture series presenting “The Domestic Slave Trade During The American Civil War.” He has now published his account in a work entitled *An Unholy Traffic* (Oxford University Press available thru Amazon). The work has received many fine reviews including that of Prof. Richard Bell, author of *Stolen: Five Free Boys Kidnapped into Slavery and Their Astonishing Odyssey Home*—“Robert Colby's sparkling new history of Confederate slave trading during the Civil War shows us just how far some American enslavers would go to perpetuate their so-called right to hold property in people. It reveals, too, the central role of the Confederate state in enabling these wartime dealers in human flesh, as well as the undaunted courage of those they traded to try to free themselves any way they could. This is the book we've been waiting for!” (Prof. Bell spoke on his book here at the Library on February 28, 2023).

It's Movie Time - (Almost)

The Bar Library movie series will return in September (date to be determined) with the showing of ... I was thinking of two possibilities *Dr. Strangelove or: How I Learned to Stop Worrying and Love the Bomb* or, how is this for something completely opposite, *Marty*. What do all of you think? One or the other, or perhaps another film. I look forward to hearing from you and seeing you in September. Send me your thoughts at jwbennett@barlib.org.

Joe Bennett

"THE RELATION OF THE LEGAL PROFESSION TO SOCIETY."

A

LECTURE

DELIVERED BEFORE THE

MARYLAND INSTITUTE,

March 9th, 1868,

BY

GEO. WM. BROWN.

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1868.

A LECTURE.

NO one doubts the utility of the trade of the butcher or baker, because bread and meat are a daily want. No one is foolish enough to think that he does not require the services of the farmer, the sailor, the mechanic, the merchant and the manufacturer, because they all, in different ways, create or distribute the substantial commodities of life, which everybody needs and knows that he needs. And every civilized community appreciates the value of occupations which minister to other than merely physical wants. The teacher and preacher, the author and artist, are, and well deserve to be, honored members of society. And even those whose province it is chiefly to amuse and delight, though they are sometimes spoken against, and not seldom preached against, have generally been stoutly upheld by the instinctive good sense of mankind, who believe, and will continue to believe, that it is possible to be both merry and wise, and that, as the proverb saith, "a merry heart doeth good like a medicine."

But there is a learned profession which lives and flourishes in every civilized country, exerting a vast influence in social life and matters of business, filling a large space in the public eye, and exercising a lead-

ing control in public affairs, and yet its functions are understood by but few, and its usefulness is doubted by many.

If it were possible, I should like to know what is the private opinion of my unprofessional hearers on the subject of law and lawyers. Most of you occasionally pass by the court-house in this city, and cannot have failed to notice, in that vicinity, a number of small, black signs with gilt letters, fastened on wall, door and window-shutter of houses generally of an old fashioned and rather shabby aspect, announcing, to whom it may concern, that within is to be found the office of an Attorney at Law. Why Attorney at Law? There is something strange and mysterious, and different from other professions, in the very title. Why not simply lawyer, as we say carpenter, shoe-maker, teacher and preacher, or, if a more learned designation is desired, why not Doctor, as the practitioner of medicine is designated?

If curiosity or business should induce you to enter one of these offices, the interior will be found to be not much more inviting than the exterior. A few chairs, a table or two, a writing-desk, a paper-case filled with bundles of papers tied with red tape; but, chief and most conspicuous, shelves crowded with rows of octavo volumes, all nearly of the same size, and all bound alike, but like no other books, complete the useful part of the furniture. Of the ornamental, there is little or nothing except, perhaps, a few engravings of grim sages of the law, some with wigs and some without wigs, whose names and fame are known to lawyers only.

The books are described by Mr. Dickens as being of

an under-done-pie-crust-color ; but this is only the hue of youth, and gradually changes, with use and age, to a dark and dingy brown.

Another peculiarity of these books is, that no one but a lawyer ever reads them. All other books have readers outside the class for whom they are specially written ; and we have, accordingly, amateur men of science, amateur physicians, amateur artists, and even amateur theologians, but no one ever heard of an amateur lawyer. Nor is this surprising, for it must be confessed that acts of the Legislature and of Congress are not pleasant reading. An ordinary reader finds it difficult to get beyond the solemn "Be it enacted," with which they begin. And the great treatises, the classics of the law, such as Blackstone's Commentaries, Kent's Commentaries, and Coke upon Littleton, are hardly more attractive. Even the reports of cases, which form the great mass of a legal library, embracing, as they do, a world of patient labor and varied learning, and replete with exhibitions of the keenest logic and most ingenious argument of which the human intellect is capable, cannot be understood nor appreciated except by those who have been trained in the subtle dialectics of the law.

I am quite sure, then, that the knowledge which my unprofessional hearers have of the profession of the law, is not derived from the study of law books.

If I were now to ask you what, in your judgment, is the use of a lawyer, the replies would probably be various and generally, I fear, not very complimentary to the profession. Some would, perhaps, insinuate that a lawyer is a person whose business it is to get a man off who has committed a crime for which he is in dan-

ger of being sentenced to the penitentiary or the gallows. Others would suggest that when people quarrel, as they are not allowed to fight it out themselves, as they did in the old times, they get lawyers to fight the battle for them in court. Others would truly say that a lawyer is a useful person, who draws deeds and wills for a consideration, for people who are not able to write them for themselves.

And modern literature, if consulted, would hardly give a more elevated view of the profession, for it has always been a shining mark for the shafts of the wit and satirist. What a graceless scamp is the attorney of English comedy! And the celebrated novelist, who has recently been delighting us with his dramatic readings of his own works, has nothing better to give us, as the representative men of the profession, than such attorneys as Dodson and Fogg, and such a barrister as Sergeant Buzfuz.

Shakspeare, indeed, who knew a great deal about law, as he did about almost everything else, and who is supposed by many to have been, in early life, a lawyer's clerk, writes in a different spirit. He speaks "of the all-binding law," "of the voice of the recorded law," and holds up for our instruction the highest ideal of its pure administration. In the celebrated case of *Shylock vs. Antonio*, the Merchant of Venice, after the point that the bond by its terms was forfeited, had been ruled against the merchant, Bassanio, in an agony of apprehension for the fate of his friend, appeals to the court to resist the wicked demand of Shylock—

"I beseech you,
Wrest once the law to your authority;
To do a great right, do a little wrong,
And curb this cruel devil of his will."

To which Portia replies in the spirit of the profoundest wisdom :

" It must not be ; there is no power in Venice
Can alter a decree established ;
'Twill be recorded for a precedent ;
And many an error, by the same example,
Will rush into the State ; it cannot be."

It will be the object of this Lecture to present for your consideration the true relation which the legal profession bears to society, and to show that it is not an excrescence or unwholesome growth on the body politic, but that it is of indispensable necessity, and performs most useful and important functions, in which the whole community is interested.

The supreme interest in a State is, that it should have for its government wise and just laws, and that these laws should be wisely and justly administered. If any one supposes that this is a matter easy to be accomplished, he is greatly mistaken. In fact, nothing is so difficult. Reflect for a moment. The State is, after all, only the aggregate of all the individuals who compose it, and cannot be wiser and better than the average wisdom and worth of the individuals themselves. Is self-government easy for the individual, even in those matters in which the State leaves him entirely at liberty? Can the wisest man say that he does not often, very often, sometimes consciously and sometimes unconsciously, offend against the fundamental laws of health, of conduct, and of morals? How is it with him who is not wise, and with him who is positively foolish? How much misery is created, how many estates are ruined, and how many lives destroyed because individuals are incapable of self-gov-

ernment! Nor is the government of one individual by another at all more easy.

Extend the view from the individual to the family, and from the family to the community, and from the community to the nation, and the difficulty increases in fearful ratio as the circle enlarges.

And no form of government, which has been devised by human wisdom, can be relied on as a guarantee for the enactment of wise laws or for the wise enforcement of laws which have been enacted.

Consider some of the difficulties which surround this matter. While there is a general resemblance in the fundamental principles of law of different countries, yet every people must have its own peculiar system. A code which may be admirably adapted for one nation would be an intolerable burden if imposed on another. A complicated system, however excellent in the abstract it might be, could not be carried out in practice by an illiterate or semi-barbarous people. The laws must grow with the nation, and be adapted to their climate, their industry and pursuits, their habits, ideas, traditions, and even their prejudices. The wisest statesman is incapable of making a code for a people unless it is founded on their previous laws and institutions. Whenever the experiment has been tried, it has proved a failure. Shaftesbury, who, according to Bancroft, was the ablest statesman of his time, and Locke, the greatest philosopher of England, prepared the fundamental laws for the colony of South Carolina, but they proved wholly impracticable, and the colonists were compelled to make a code for themselves. Lord Baltimore, the liberal and judicious founder of the colony of Maryland, is supposed to

have prepared the charter which Charles the First granted for its government. He designed to create a sort of England in miniature. The Lord Proprietary stood in the place of the king, and a colonial nobility, with new-fangled titles, were to form an aristocracy, while the people were to perform the functions of the Commons of England; but the whole fanciful system fell to the ground, and indeed never had an existence except on paper. The time, the country and the people were adapted only for a popular government, and such, in spite of all obstacles, it steadily grew to be, and such, I hope and believe, it will continue to be.

But laws must be made and must provide, wisely or otherwise, for every human interest. The exercise of religion, public morality, education, the fine arts, literature and science, the public defence, public order, private rights, agriculture, commerce, manufactures, and the mechanic arts, indeed every branch of industry, must be under the constant and protecting care of the law. We cannot walk in safety by day, or rest in security at night, except under the all-pervading guardianship of the law.

Nor can a system of laws be made, and then be allowed to take care of itself, without further care for its alteration and improvement. Reforms and changes, from time to time, are absolutely necessary; but so inveterate are the prejudices of men, and so powerful are long established habits and traditional ideas, that even those alterations and improvements which are most essential, generally encounter a storm of opposition, and are defeated again and again before they are adopted.

The legislative difficulties interposed in England to

prevent the establishment of railroads in that country, furnish a striking illustration of the sort of opposition to which I refer. Railroads are changing the face of the world. Every city which is a great railroad centre, outstrips its competitors and advances with rapid strides in wealth and population. Every country which is judiciously intersected by railroads, develops its material resources, and rapidly increases in power and riches. But this was not understood in 1825, when application was made to Parliament for the charter of a railroad to be built between Liverpool and Manchester. George Stephenson,* the celebrated engineer and the inventor of the locomotive, was engaged heart and soul in the enterprise. He confidently stated to Mr. William Brougham, the counsel of the promoters of the road, who was to conduct their case before the Parliamentary committee, his expectation of being able to impel his locomotive at the rate of twenty miles an hour, but Mr. Brougham frankly told him that if he did not moderate his views, and bring his engine within a *reasonable* speed, he would "inevitably damn the whole thing, and be himself regarded as a maniac fit for Bedlam." Accordingly, when Stephenson came to give his testimony before the Parliamentary committee, he had to moderate the speed of his engine as much as possible, lest, as he says, he "should put a cross upon the concern." And he adds: "It was not an easy task for me to keep the engine down to ten miles an hour, but it must be done, and I did my best." "Suppose," said a member of the committee to Stephenson, "one of

* Smile's Life of Stephenson, 224.

these engines to be going along a railroad at the rate of nine or ten miles an hour, and that a cow were to stray upon the line and get in the way of the engine, would not that, think you, be a very awkward circumstance?" "Yes," replied the witness, with a twinkle in his eye, and in his north-country dialect, "*varry* awkward indeed—for the coo."

It was contended that the locomotive would scare the horses on highways and fields, and would be the cause of terrible accidents to passengers, that it would bend and break the rails, that it could not get round curves, that a moss or marsh could not be crossed unless it was dug out to the entire depth of the marshy soil, that the locomotives would be so affected by the weather that it would be impossible to start them in a gale of wind, and that the value of the land and houses on the line of the road would be deteriorated, and, in some cases, destroyed. Finally, the promoters of the bill, finding that defeat was inevitable, withdrew their application. Wiser counsels, however, subsequently prevailed, and on the next application to Parliament, the bill was passed. This occurred in 1825; but at the end of 1866, it is computed that 95,727 miles of railway had been built in the world.*

If I had time, it would be easy for me to give you striking illustrations from the history of our own State, of the great difficulty encountered in passing the most reasonable and necessary measures, and of the comparative ease with which foolish and pernicious laws are sometimes hurried through the Legislature.

* North American Review, Jan. '68, p. 45.

I shall refer, however, only to a single instance. The laws against usury undertake to fix the rate at which money shall be loaned, that is the value of money, although they might just as well attempt to control the rise and fall of the tides. No principle of political economy is better settled than that the value of all commodities is regulated by the law of supply and demand, and that as money is the representative of values and the medium of exchanges, its value must rise or fall according to the same general law. All attempts to reduce its price by legislation, so far as they are not wholly futile, tend to enhance it, because they drive money from the State to other places where it is allowed to find its own level without interference, and make the act of lending at a higher rate than the one prescribed dangerous, and to some extent odious, for the reason that it is illegal. But in Maryland we are deaf to reason and defy political economy on this subject. Our new Constitution solemnly declares that no more than six per cent. shall be the rate, unless the Legislature shall otherwise by law provide. But the Legislature refuses so to provide, and future Legislatures will probably continue to refuse until at last public opinion shall become sufficiently enlightened to demand the necessary reform.

Now, to whom are the community mainly to look for wise legislation adapted to meet all its various and changing wants? Not to those who are immersed in trade or business, for they have not time, nor inclination, nor any special fitness for the work, and the mere fact of their engaging in it is almost fatal to success in their respective callings. It is seldom that the successful merchant or tradesman and the successful

statesman are combined in the same person. The business element is, however, an important one in every legislative body, and it is a misfortune that that interest is not more generally and more ably represented. Literary and scientific men are usually not sufficiently practical to be valuable legislators. The agricultural interest is always influential in legislative affairs, and ought always to be so, but those whose constant occupation is to till the soil and bring to perfection the fruits of the earth, seldom have that expanded knowledge of human wants in all their variety and extent, which alone can make wise and safe legislators. The profession of the law furnishes the only class who are, by the very necessity of their position, students not only of the great principles of reason and justice which lie at the foundation of all law, but of the laws themselves as they apply to the pursuits and business of men. The lawyer is, as I have said, "an attorney-at-law," that is, he takes the place or turn of another as the word implies; it is his business to represent in the law the business of his client, whatever it may be. It is a relation of agency of peculiar delicacy, requiring absolute confidence between the agent and his principal. Thus the lawyer, in the course of a large practice, comes to be acquainted with the principles and many of the details of every kind of business and occupation. Questions of theology, of medicine, of anatomy, of mechanics, of trade, of the fine arts, of literature, of science and art, of personal rights of every description, in short, questions about everything in which human beings feel an interest and about which they can differ, come before him, and he is obliged to study them

carefully in order to understand the merits of the controversy. The amount of knowledge which he thus acquires of special subjects is often very considerable.

And his training makes him conservative. The first thing he learns is to respect precedent. That which has been decided, he follows, because it has been decided. It is the voice of "the recorded law." It has been settled by judges, after consideration and upon argument, and he soon learns to distrust his individual opinion when it comes in conflict with the judgment of those who have ample means of information, and to whose decision he is compelled to submit. Thus, he is seldom disposed to yield to the untried theories of visionary reformers, whose speculations have not been brought to the test of experiment and actual practice.

It is supposed by many that laws are made unnecessarily intricate and obscure by lawyers for their own purposes, and that if they could only be drawn by unprofessional persons of good common sense, they would be much more easily understood and administered, but there could not be a greater mistake. If any one imagines that it is an easy thing to prepare a law, let him try the experiment, and he will soon be undeceived. The difficulty of legislation arises from many causes. Laws must be general, and thousands of unforeseen cases arise in which the general law may work a particular hardship. This is so, we know, even with the divinely ordained laws which govern the universe. Beneficent as they are, the innocent individual often suffers under their inexorable sway. And human language is an imperfect instrument, vari-

ously understood by different minds, however guardedly and skilfully chosen, and changing its meaning with time and use. The laws too are designed to rule the stormy passions of men, to punish their crimes, to circumvent their cunning, which is forever bent on evasions and subterfuges, and to provide for the endless contingencies which arise in the complicated transactions of life, so that the plainest provisions become the subjects of doubt and controversy.

Take for an illustration the Constitution of the United States, the work of as illustrious a body of men as ever sat together on this earth. How brief, yet how clear, are its provisions, how carefully guarded is its language, and how explicit is the declaration of the main purpose for which it was framed. Then we have the contemporaneous exposition of its meaning in the *Federalist*, by its great advocates, Hamilton, Madison and Jay. We have also the practice of the Government from the beginning, and a continuous series of wise decisions of the Supreme Court—a tribunal founded expressly for the purpose of determining all questions arising under the Constitution and laws of the United States where the rights of person or property are involved. And yet, to-day, what questions under the Constitution can be said to be settled? Rights which by one party are declared to be as plain as the sun at noon-day, are utterly denied by another. Questions which were debated when the Constitution was adopted, are debated with increased fierceness and acrimony now.

On a fair consideration, then, it will appear that the difficulty in framing and construing laws consists not in the craft or artful designs of lawyers, but in the

intrinsic difficulty of the matter itself, and in the conflicting passions and interests of men.

At one time prejudice against the legal profession was carried so far in England that no member of it was permitted to sit for a county in Parliament. "But," says Blackstone (vol. 1, p. 176), "it was an unconstitutional prohibition, which was grounded on an ordinance of the House of Lords, and inserted in the king's writs for the Parliament holden at Coventry (6 Henry IV.), that no apprentice (that is barrister) or other man of the law should be elected a knight of the shire therein; in return for which our law books and historians have branded this Parliament with the name of *parliamentum indoctum*, or the lack-learning Parliament; and Sir Ed. Coke observes, with some spleen, that there was never a good law made thereat."

This prejudice, though it still exists, even in this country, to some extent, does not prevent men of the law from being selected by the good sense of the people to perform the most important duties, not only in making laws, but also in carrying them out in the executive branch of the government. Lawyers compose an important part, numerically, of every State Legislature, of every Congress and every Constitutional Convention, and the leading and influential members of these bodies are almost always lawyers. Out of one hundred and eighteen members constituting the late Constitutional Convention in this State, forty-five were lawyers; and the chief men in the Convention which formed the Constitution of the United States were lawyers. The greatest names in the legislative history of this country are those of lawyers. I need only mention Hamilton, Jefferson, Madison, Edward

Livingston, Clay, Calhoun, and Webster. Of the seventeen Presidents of the United States, all, except three, General Washington, General Harrison and General Taylor, received a legal education, and most of them were practising lawyers.

With your permission, I will read some extracts confirmatory of my views, from the celebrated work on "Democracy in America," written by a Frenchman, Mons. De Tocqueville, who is admitted to be the most philosophical and acute of all the writers on the institutions of this country :

"In visiting the Americans and studying their laws," he says, "we perceive that the authority they have entrusted to members of the legal profession, and the influence which these members exercise in the government, is the most powerful existing security against the excesses of democracy."

"Men who have made a special study of the laws derive from this occupation certain habits of order, a taste for formalities, and a kind of instinctive regard for the regular connection of ideas, which naturally render them very hostile to the revolutionary spirit, and the unreflecting passions of the multitude."

"The profession of the law is the only aristocratic element which can be amalgamated without violence with the natural elements of democracy, and be advantageously and permanently combined with them. I am not ignorant of the defects inherent in the character of this body of men, but without this admixture of lawyer-like sobriety with the democratic principle, I question whether democratic institutions could long be maintained ; and I cannot believe that a republic could hope to exist at the present time, if the influence

of lawyers in public business did not increase in proportion to the power of the people."

"In America there are no nobles or literary men, and the people are apt to mistrust the wealthy; lawyers consequently form the highest political class, and the most cultivated portion of society."

"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. In that country, we easily perceive how the legal profession is qualified by its attributes, and even by its faults, to neutralize the vices inherent in popular government. When the American people are intoxicated by passion, or carried away by the impetuosity of their ideas, they are checked and stopped by the almost invisible influence of their legal counsellors. These secretly oppose their aristocratic propensities to the nation's democratic instincts, their superstitious attachment to what is old to its love of novelty, their narrow views to its immense designs, and their habitual procrastination to its ardent impatience."

"The influence of legal habits extends beyond the precise limits I have pointed out. Scarcely any political question arises in the United States, which is not resolved sooner or later into a judicial question. Hence, all parties are obliged to borrow, in their daily controversies, the ideas and even the language peculiar to judicial proceedings. As most public men are, or have been, legal practitioners, they introduce the customs and technicalities of their profession into the management of public affairs. The jury extends the habitude to all classes. The language of the law thus

becomes, in some measure, a vulgar tongue ; the spirit of the law, which is produced in the schools and courts of justice, gradually penetrates beyond their walls into the bosom of society, when it descends to the lowest classes, so that at last the whole people contract the habits and the tastes of the judicial magistrate. The lawyers of the United States form a party which is but little feared and scarcely perceived, which has no badge peculiar to itself, which adapts itself with great flexibility to the exigencies of the time, and accommodates itself without resistance to all the movements of the social body. But this party extends over the whole community, and penetrates into all the classes which compose it ; it acts upon the country imperceptibly, but finally fashions it to suit its own purposes."

These quotations from De Tocqueville are, perhaps, too extended for a lecture, but they are so appropriate to the subject and are so valuable as expressing the opinions of an enlightened foreigner, whose character was formed and whose life was passed under political and social institutions entirely different from our own, that I cannot resist the temptation of presenting them for your consideration.

I have thus far spoken of the influence exercised by lawyers in the business of legislation and in filling important executive offices, but, important as that influence is, it is to be considered only as incidental to the profession and not the main purpose for which it exists. Most lawyers are neither statesmen nor active politicians, and take little interest in public affairs beyond expressing their individual opinions and giving a silent vote at elections. They are engaged in an

engrossing occupation which requires all their time, ability and energy, and, like the members of other professions, if their labor is faithfully and honestly performed, they serve the public while they benefit themselves.

The business of their lives is to see that justice is administered according to law—a work of extreme difficulty and of the last importance. Anything may be neglected rather than that. A community may sometimes thrive even under bad laws, for such is the power of adaptation in an industrious and intelligent people that they can accommodate themselves to almost any system. England has flourished in spite of oppressive taxes contracted in the prosecution of unnecessary wars, and in spite of the law of primogeniture and a most unequal distribution of property. She grew rich under a prohibitory tariff and still richer under free trade. In this country almost every system of trade and of finance has been tried by turns by one or another of the various parties that have ruled it, and it has hitherto prospered under them all. But no State can thrive unless substantial justice is done to all. Whatever else is done or left undone, unless justice in its broadest sense, is dealt alike to rich and poor, strong and weak, wise and foolish, good and bad, there cannot be life and health in the body politic. The prosperity of a State depends on the welfare of the toiling masses, those who work with hands, or brains, or both; but the masses will not work cheerfully and efficiently unless their persons are protected while they toil, and the fruits of their labor are secured to them when they are earned. If my neighbor or the State itself, may, with impunity, seize

my crop when it is garnered in my barn, I will raise no crop beyond what will suffice to feed myself and my family, and when it is raised I will hide it out of sight in some secure corner where the oppressor cannot reach it. Labor demands, and must have, above all things, security, protection from wrong, that is justice. It does not require or ask for patrons or patronage. With a fair field and no favor, it can earn for itself, with its active brain and strong right arm, those good things which adorn as well as sustain life, making it happy and beautiful as well as comfortable, and which were designed to be not the exceptional blessings of a few, but the rich heritage of the many.

Now, there can be no justice in a community without the constant intervention of a trained and educated body of men, whose interest and business it is to see that justice is done. No thanks to them for it. They are paid for their labor as they ought to be; for every one who works, and he only, should be paid. But their work is laborious and difficult, affording scope for the exercise of the highest moral and intellectual qualities, and requiring a special education and ample learning, and should be paid accordingly. And, in the main, it is well done, for the profession does not admit of quackery. It is a saying among lawyers, that "a man who is his own lawyer has a fool for his client;" but there are very few fools of that description in the world. Sometimes a man, who is not a lawyer, ventures to write his own will; and when he does, unless the provisions are very few and simple, he generally makes a nice piece of work for the lawyers, and a very bad one for his devisees. But I never knew one bold enough to examine for himself

a title to real estate which he wanted to buy, and remember only one who was rash enough to try his own case in court. I have known many people who would listen to any quack in medicine, and swallow almost any prescription, but never one who, when he found himself involved in a legal difficulty, did not desire the advice of a legal practitioner and the best too whose services he could command. A man who is positive and dogmatical with his physician, or his clergyman, is apt to be submissive to his lawyer, for the reason that when he meddles with the law he knows that he is trifling with edged tools which may cut deep when he least expects it. "What are you going to do next?" said a client to an astute old lawyer in a neighboring city. "I am going, said the lawyer, to file a demurrer." "A demurrer, and what is that?" "A demurrer is what your Maker never intended that you should understand!"

There is no place where ignorance and pretence are so certain to be exposed as in the contests of the bar, and therefore it is that no one can achieve a high reputation in that arena without deserving it. A lawyer must be a logician, because he can only convince by reason and argument, and he must also be a moralist, for the question what is lawful, in many cases resolves itself into the broad question what is right.

The main object of the profession of the law then, is to educate a body of men whose business it is to represent the legal rights of individuals, and to take care of and protect those rights. Unprofessional persons cannot do this for themselves, because they do not know what their legal rights are, and still less do they

know how to protect them. Without the aid of such a class, the weak would be at the mercy of the strong and the ignorant and incautious of the designing and crafty. The chief occupation of the lawyer is not to try causes, but so to advise his clients and manage their business that trials shall not be necessary. When controversies do arise which cannot be settled except by a trial, then, through the assistance of lawyers, the litigants are placed on an equality and each has a fair hearing. In this way only can justice be done, for there is no test of truth equal to an examination and cross examination of witnesses by able counsel, and an argument in open court. "*Audi alteram partem.*" "Hear both sides." "Do not decide without a fair trial." These are universal maxims of jurisprudence, but they can only be carried into practice by means of an educated bar.

Often prejudice runs so strongly against a man, or a cause, that juries, and even courts, are carried away by it, and it is almost impossible to get a fair hearing. On such occasions, the only hope for the obnoxious cause must rest on able and intrepid counsel, and it is well, for the sake of justice, that he can be relied on. He may not be a good man; he may not care much about justice in the abstract, nor about the party in particular whom he represents, but he is a trained soldier, engaged to do battle in a cause, and he is ready and prepared to maintain it to the extent of his ability. The prejudices of the day are a small matter to him, for he has encountered them before, and knows how little they are worth, and how soon their power to harm will pass away.

You will say, perhaps, that a good man cannot

undertake, indiscriminately, any cause that may be offered to him, and throw his whole ability and energy into its support, regardless of considerations of right and wrong ; and this I freely admit. It is, doubtless, one of the dangers of the profession, that a lawyer is often tempted to do this, and thus become an instrument of wrong. Because he is the agent of another, he is not exempted from the obligations of the moral law, and may not do for his client what he could not honestly do for himself. I am not here to attempt to defend any of the indefensible practices of lawyers, nor to deny the temptations to which they are exposed. Every profession has its own peculiar temptations, and the law has its full share of them. There are many dishonest men in the world, and there is, therefore, a large demand for unscrupulous lawyers to represent dishonest causes, and in this matter, as in other matters, the supply is generally equal to the demand. The fraudulent principal knows where to find an equally fraudulent agent. But most of the controversies which arise, and especially those which come into court, are not of this description. Often the question in dispute is merely a question of legal construction, and not at all one of morals. Generally, each of the opposing parties is, or professes to be, firmly convinced of the absolute justice of his own cause, and of the unmitigated iniquity of that of his antagonist ; and the lawyer who does not see the matter in the same light, is suspected of being cold-hearted, or incompetent, or perhaps worse. Frequently there is so much wrong, or so little right on either side, that it is very difficult to say on which the right or wrong preponderates.

The lawyer, of course, listens to the client's story of his griefs and, notwithstanding his professional caution, is more or less influenced by it, and generally believes as he would like to believe. Then again, the fairest-seeming case does not always turn out to be the most honest in the end—and one which is tainted with suspicion at the beginning, sometimes vindicates itself triumphantly. A lawyer is not a judge, and should not attempt to decide the cases brought to him as if he were. He is an advocate, and has duties to perform as such; but, in engaging in the exciting and severe contests of the forum, he should not knowingly make himself an instrument of fraud or oppression, and should have an honest purpose to aid in the administration of justice according to law. In so doing, he is performing his part in a great system matured by the wisdom of ages, whereby alone substantial justice can be done between man and man, and between the State and the citizen.

Lawyers are officers of the court, and are as indispensable to the court, as the court is to them. Cases cannot be properly prepared or presented without the aid of lawyers. Judges do not venture to decide questions of difficulty or importance except on the argument of counsel. Decisions made without argument, although they may settle particular controversies, are of no value as authority when similar cases subsequently arise. Thus intimate is the connection between the Bench and Bar, and thus necessary are they to each other.

Whenever the regular administration of justice in a State is suspended, some irregular method is resorted to in its place, perhaps a revolutionary tribunal, or per-

haps a military court. Which is worse, it is difficult to say; but it is in vain to hope for justice in either, and in either case, a thousand evils rush into the State. Life, liberty and property are unsafe, spies and informers abound, and arrests without warrant, and imprisonments and confiscations without a trial, become the order of the day. If there is a trial, it is a mockery. But even then the voice of the Bar is heard in defence of the accused, and is the last that is stifled. When the eloquent advocate Deséze defended Louis XVI. before the French National Convention, which first arraigned and then tried the prisoner, he said, with a boldness that awed even that fierce assembly into absolute silence: "I have sought everywhere for judges and have found none but accusers."

And whenever the liberty of the citizen is to be assailed, it is first necessary to silence the Bar. In the remarkable correspondence of Napoleon I., which has lately been published under the authority of the French Government, and which is very damaging to the reputation of that great man, a letter from him appears which illustrates this better than anything I could say. Napoleon, on the 7th of October, 1804, wrote to Cambacérès, Arch-Chancellor of the Empire: "My Cousin—I have received a project of a law in relation to advocates. There is nothing in it which gives to the superior judge the means of restraining them. I prefer rather to do nothing than to deprive myself of the means of taking measures against this class of babblers, artisans of revolutions, who are almost universally inspired by crime and corruption. As long as I have a sword by my side, I will never sign a law so absurd. I wish that the tongue of an

advocate might be cut out if he should use it against the Government."

To cut out the tongue of an advocate, is certainly an effectual mode of preventing its being used against the government, and there are those in every country who, like Napoleon, would resort to it if they dared, for there is no power which tyrants so dread as the tongue of an eloquent and fearless advocate. The speeches of Demosthenes against Philip, of Cicero against Cataline, of Patrick Henry in defence of American liberty, and of Daniel Webster in support of the Constitution of the United States, though the tongues of the speakers have long been cold, still sound like a trumpet-call in our ears, and, to-day, when there is around us a political atmosphere which is "dark and lowering and ominous of change," how do we miss the words of counsel and wisdom which, in the better days of the Republic, and in the hour of public danger, were bravely uttered by great American statesmen learned in their country's laws, explaining to the people their rights and illustrating the path they should pursue! It is a great misfortune that the brightest ornaments of the bar have, in the public councils, given place to time-serving politicians. Both the people and the profession are to blame in this matter; but the healthful influence of the bar is not altogether lost. While it embraces among its numbers dangerous demagogues—the most dangerous in the community—its influence on the whole is on the side of law and order, of good government and public morality. It cherishes and respects the traditions of the past, distrusts rash innovations, protects private rights, and stands forth in

advance of all other professions in defence of public liberty.

Such are the chief functions of the profession of the law. You may think that, with the natural partiality which one may be permitted to feel for the calling of his choice, I have, in some respects, magnified its usefulness and importance; but you will, I hope, at least agree that I have vindicated its right to an honorable place among the useful occupations of life, and have shown that it is part of the comprehensive and beautiful plan by which men, seemingly voluntarily and yet constrained by an overruling necessity, are divided into trades, callings and professions each essential to the others and serving the other while it promotes its own good, and all combined in a grand and organized whole constituting civil society which, slowly yet surely, in spite of frequent checks and partial failures and many hindrances, pursues its majestic march upward and onward, gradually accomplishing the high destiny for which it was designed by the benevolent and all-wise Creator.



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