

## IS THE LEGAL PROFESSION PREPARED TO ACCEPT THE CHALLENGE OF THE TIMES?

"Wherever there is liberty, there must be law, for freedom unrestrained descends to license. The lawyer is the medium through which the law reaches the people, and the highest honour and integrity must mark the calling which deals with the rights, privileges, and liberties of the people. — The precepts of the civil law are these: to live honourably, to injure nobody, to render every one his due. Upon us as ministers of the law falls the duty of keeping its foundations pure and undefiled."

The purpose of this article is to consider—First: Has our profession as a whole measured up to the high precepts and ethics which are the foundation of its existence? Second: Is our profession losing its position of prime importance and with it the confidence of the people which is essential to its survival?

With respect to our first question, I believe that the consensus is that the Canadian lawyer has, generally speaking, jealously guarded and adhered to the ethics and precepts of his calling. He has conducted his professional life, both in and out of Court, with credit. He has done much towards a practical application of those ethics and precepts wherever, in his sphere of influence, he has had the opportunity to cope with public problems.

Wherein, then—you ask—has he failed? The answer I submit to that question is two-fold:

(a) The lawyer has failed miserably in interpreting himself and the quality of his actions to the people;

(b) The lawyer has unnecessarily limited his sphere of activity and influence.

Regarding (a)—how often we hear the actions and attitude of lawyers deprecated by persons both of the mass and in high position. Typical of these deprecations is the statement that a lawyer will espouse a cause for his client regardless of its merit or whether his client be guilty or not. This, of course, is not only a modern attitude. Was it not Junius who said:

As to lawyers, their profession is supported by the indiscriminate defence of right and wrong?

What utter calumny! Yet who can be blamed for such misunderstanding but our own profession, who apparently alone appreciate the loftiness of the maxims that guide us but have done little if anything to interpret those maxims to the people. Such misunderstandings form the basis for the loss of respect of the public which rightfully should be ours.

It is not by casual effort that we can ever hope to interpret to the people the precepts which guide our course of action, precepts which are based on a philosophy towards man's rights which can be summed up in the words "Justice based on Truth."

How little understood is that word "justice." Of it Justinian said:

Justice is the constant desire and effort to render to every man his due.

If the general public could only realize the importance to them of a profession whose members generally strive to undertake a client's cause with an impersonal attitude of mind, yet coupled with a vigorous desire to advance that cause to the fullest extent of their abilities! Perhaps there is no more essential quality to a lawyer than that of being impersonal. The very essence of Divine judgment is its impersonal quality. Yet that very quality, as exemplified by the lawyer, is the basis for much adverse criticism from the public.

Would it not be a worthwhile task that by concerted action we undertake and interpret our profession to the public? Or are we to continue to sit back complacently and tolerate a situation which I think is as harmful to the public generally as it is to us?

Before entering into consideration of a solution, let us consider the other phase I have mentioned regarding the lawyer's sphere of activity and influence. From its inception down through the centuries our profession, by its very nature, has enjoyed a position in the affairs of men which to a large extent has permitted us to direct the destinies of mankind. The lawyer "supplanting might with right, has laid the foundation of civil society in place of military rule; formulated civil regulations; and has ever since been their expounder and administrator."

Perhaps we have the right to enjoy the thought of these matters with some pride. But have we made the most of our position? Are we now playing the vital part we should be in the affairs of mankind? I doubt if even the most complacent among us would wish to accept the affirmative on that question. True, we have made efforts in that direction. Active members of our Bar Associations have laboured with sincere effort to accomplish much in the interests of the public with the hope of safeguarding the rights of individuals during a period in our history when much for which we fought during centuries of bloodshed is threatened with extinction. But, earnest and labourious as have been our efforts, much of what we hold most dear pertaining to our rights and freedom have already been lost.

We, as guardians of the rights and liberties of the people, have not retained the confidence of the people, and with it has gone their support. We have lost that confidence because we have failed to maintain a contact sufficiently intimate and comprehensive with those we seek to lead. Our activities as a profession have been within ourselves. That sphere of activity must be broadened by coming out into the open in an effort to lead public thought. Otherwise we will fail to hold what waning vestige of influence we still have.

Let us be realistic. The time has come when we must throw away some of the outmoded ideas that have shackled our efforts and thwarted our opportunities for influence. We owe it to the public. We owe it to ourselves, else we have no longer any right to hope that our profession will continue to play the part in history that is its right and duty.

There was a time when lawyers of necessity played an integral part in the affairs of the state. Their influence was always felt. Today, with ever-increasing new media of influence, the lawyer must conceive a way in which his profession can effectively reach the people and guide their thinking so that the demagogue will cease to be a threat to our way of life.

It is suggested that we should approach this problem with the realization that our objective can only be reached by adequate means—advertising and publicity. (Two very ugly words to our profession!) The merits of other professions today are well publicized—for example the clergy and the medical fraternity. And why shouldn't they be? Most of all, why shouldn't our profession be properly explained and revealed to the public?

I know of no profession which possesses better qualities for interesting discussion, and could supply greater material for delightful as well as dramatic anecdote than ours. The lawyer's life is filled with worthwhile experiences involving all classes of human beings. Almost every experience provides a moral. To tell these stories to the public would enable the lawyer to explain his handling of the people's problems and to interpret to them the principles which ever guide his conduct in his duties to his clients. In the ideal sense it is submitted that no sphere of human conduct affords a truer example of Christian virtue than that of the lawyer who is faithful to the higher precepts of his profession.

Perhaps a more interesting approach to this matter would be to analyze the tremendous scope and opportunity open to our profession to serve the public by analytical and explanatory commentaries on all forms of proposed legislation which may be

before either Dominion or Provincial Parliament. Consider what tremendous, far-reaching and constructive influence this would have on the trend of legislation, most of which up to now becomes law before the electors realize what is going on. Individual and property rights disappear over-night and before public opinion has had any opportunity of being heard, all because the public is completely incapable of properly comprehending the necessary implications of the legislation in question until it is too late.

Our profession is singularly equipped to discuss these matters in a non-partisan but enlightening manner, and to analyze and explain in simple language that can be understood by the mass, who would then be given an opportunity to communicate with their parliamentary representative. How much of the legislation which is now law and did not properly represent the will of the people would have been successfully blocked had the electors fully understood what was happening before it was concluded!

Has the profession not up until now missed a wonderful opportunity to be of great service to the people?

If the conclusions which I have offered are well founded and the premises are sound, the problem which then presents itself is what practical means can be adopted to accomplish the required objectives.

In the first place I would say that the matter warrants the consideration of our national body, the Canadian Bar Association, which would be in a position to define the principles which would guide the general course of action, and then it would be a matter for each province, through its own committee, to work out the details according to its own local situation.

The Canadian Bar Association already has constituted what is known as a Public Relations Committee and it would seem that this subject naturally falls within the jurisdiction of a committee bearing that name. It is proposed that there be a national committee and a committee to represent each province, the purpose of the national committee to be to coordinate the efforts of the provincial committees. Having regard to the suggestions which are hereinafter made, the chief responsibility for results would be largely, if not entirely, dependent upon the provincial committees who would be obliged to receive the support and co-operation of the Law Societies of the respective provinces.

I mention the support of the Law Societies of the respective provinces because it must be realized at the outset that to make any worthwhile progress in this project it will be necessary to

spend reasonably substantial sums of money. The provincial Law Societies are of course the custodians of the funds derived from the profession and are responsible for all expenditures made on behalf of the profession.

It is suggested that a capable lawyer be appointed, if necessary on a full-time basis, by each provincial committee, to whom he would be responsible, and that his salary would be paid out of the Law Society funds. His duties generally would be to obtain from the Dominion and Provincial Governments copies of all Public Bills before they are voted on by Parliament, and to prepare an analysis of each Bill in a form which could be presented to the public over the radio or through the medium of the press, or both. The provincial committee would then choose one or more speakers from our profession who would explain to the public over the radio the full meaning and implications of the proposed legislation. The speaker, of course, would deal with the legislation under review in a completely non-partisan manner, the object being to fully inform an otherwise unsuspecting public of what was going on while the public still had an opportunity of expressing either its approval or disapproval.

It seems to me that in such a case the speaker could be introduced by pointing out that, as custodians of the rights of the people, the lawyers were, at their own expense, rendering this public service.

It is submitted that, from the standpoint of expense, the investment is sound, for the returns to our profession, directly or indirectly, would unquestionably be great.

It can readily be seen that many difficulties would present themselves in mapping out such a program, but these difficulties, I submit, could be overcome. For instance, there would be the problem of obtaining the cooperation of the Dominion Government and the Provincial Government in question with respect to being furnished with copies of proposed bills in ample time to deal with them in the manner suggested. I am quite sure that any Government in power would welcome an opportunity of getting some insight into public opinion on proposed legislation before it becomes law. Obviously a Government does not intentionally pass legislation which it knows will meet with public disapproval.

There are admittedly many difficulties, technical and otherwise, which would have to be overcome. I do believe, however, that a committee composed of earnest, energetic lawyers would attain the desired results. *The importance of choosing the right*

*men on such a committee would, of course, be vital and on that would depend success or failure.*

There is then the other matter that I touched upon in the early part of this article, having to do with interpreting "the lawyer and the quality of his actions to the people." This could be accomplished in many ways, and for that reason it is difficult to attempt to be too specific or dogmatic as to what means should be adopted to this end.

I have previously suggested that there is much which could be gained from the experiences of our daily professional life which would supply material for dramatic anecdote which could be presented over the radio in the form of short plays or in story form by an able speaker.

It is realized that the proposals which I have made are somewhat vague and indefinite. Undoubtedly better proposals can be offered for dealing with this situation. However, in defence may I say that it has only been my purpose to bring about a realization that our profession has utterly failed to take full advantage of its opportunities and that there is much to be done, not only if we are to progress with the times, but if we ever hope to hold the position which is our profession's birth-right in the affairs of mankind.

I believe that our sphere of influence properly directed is boundless! As a body, why should we not join with the legal professions of other countries in a powerful league that would play an important part in international problems. The many vital international questions facing the world today are matters in which the legal professions of the world should play a leading part. Here are problems which necessarily require an impersonal approach and an appreciation that divergent views can and must be reconciled. Why should the profession so singularly endowed with the requisite qualities stay on the side-lines when we should be in there leading in thought and action!

Law is essentially the basis for the control of all human conduct. Nothing of account can be accomplished with regard to the conduct of nations in their relation to each other until a sound and practical system of law with the force of law is devised.

Can there be any doubt as to where our responsibility lies?

R. ROY McMURTRY.

Toronto