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CANADIAN BAR ASSOCIATION.

**New Year's Message of Sir James Aikins, K.C., Honorary Life
President, to the Members of the Association.**

The Editor of the CANADIAN BAR REVIEW is very ténacious in his attachments to old associates and so has asked me for a New Year's message to the Canadian Bar Association though I am no longer its President. Similar attachments influence me to comply; yet hesitatingly, for I cannot do it to the satisfaction of at least one of its members, as for the other members of the Association, well, they have at all times been so kind and generous to me that those qualities in them will excuse my deficiency, and flowing around the incompleteness of my message be its complement.

May it take the form of reflections arising out of my visit this month (December) to British Columbia and Alberta where I had the pleasure of meeting the Benchers of the Law Societies and the members of the Executive Council of the Association of those respective provinces. Since its formation the main effort of the Association has been to serve the Canadian people by advancing the science of jurisprudence, promoting the administration of justice, and uniformity of business legislation throughout Canada, and therein has had marked success; but in doing so it has incidentally only promoted the interests of the profession which at this time it should seriously set itself to do. Marcus Aurelius said:—"All things exist for the sake of rational beings but rational beings exist for one another." Law and the Nation are interdependent, one cannot be without the other. Law would become a dead letter if there were not lawyers on the Bench and in practice, to administer it. Why should not the country cherish the lawyers as well as the lawyer serves the country, and each strive for the betterment of the other? A few rich and powerful might for a time protect their person and

property, by means without the law; but the multitude generally do not seem to understand the fact that for their peace and safety and for the preservation to them of their property they are hourly dependent upon the law well applied. The underlying and governing principle of ordered society is to love one's neighbour as one's self, not better, but to take as the standard of measure one's own self regard. The first duty of the profession as a body is to itself, to make itself and be the best possible, proficient in law and its administration, strong in character and influence, dominated by a well developed *esprit de corps*, and useful. To be at its best and efficient its members, at all events its working worthy members, must have for a base a comfortable living, simple it may be, but consistent with the honour of the profession which the Association has undertaken to uphold. In its past doings the Association has been overlooking that fact, or perhaps rather keeping it in reserve. Such a living in normal times has always been assured to the lawyer, meritorious and of professional conduct, and will continue. But the flow of usual legal business and work to the profession may be checked or diverted if the law and its administration fails to keep step with the rapidly advancing and changing conditions of the times, or if in its application the lawyers cease to be faithful and serviceable, or if the confidence of the people in the lawyers is shaken by weak or untrustworthy ones, or if the profession is passive and allows other institutions or individuals, not qualified in legal matters but for their own gainful purposes, to encroach upon the proper and useful sphere of the activities of the qualified lawyer. Because of the law's essential nature and because the lawyers, its ministers, hold a trust for the people they, like any other public thing or persons, are ever open to criticism, and to attack if they are not good. Too often advantage has been taken of that criticism privilege for unjustifiable abuse or denunciation. We all know of Shakespeare's scornful reference to the law's delay, its fictions and technicalities and of the satire and gross exaggeration of Dickens in *Bleak House* and *Pickwick Papers*, and of Dr. Warren in "Ten Thousand a Year," and of others. Undoubtedly there were crudities and defects in the law and neglect in its application in the first half of the 19th century. These, however, were not corrected by the diatribes or intervention of such writers, but before such condemnatory literature appeared the situation had been improved and defects remedied by the lawyers themselves, led by strong men such as Sir Samuel Romilly, Lords Eldon, Lyndhurst, Cottenham, St. Leonards, Brougham, Sir George Turner and others. (See preface by Thomas Hare in XI

Hares' Reports). What they thus corrected the Canadian Bar Association is endeavouring to prevent, a work that will be as unending as the progress of Canada. As there was knocking of the profession then, so there is some now, and perhaps ever will be. As the words of Sir Walter Scott were gratifying to the lawyers of the last century, they are equally so to us:—

In a profession where unbounded trust is necessarily imposed, there is nothing surprising that fools should neglect it in their stupidity, and tricksters abuse it in their knavery. But it is more to the honour of those, and I will vouch for many, who unite integrity with skill and attention and walk honourably upright where there are so many pitfalls and stumbling blocks for those of a different character.

As there were stupid fools and tricksters in the profession then so some exist in it now, doing incalculable damage in many ways such as by unfair means taking business from their brethren of the profession "who walk honourably upright", or by disturbing public confidence in it cause retraction of legal business and give encouragement to others to encroach on the lawyer's proper sphere of activity. Canada has a vision and an ambition to be not the most populous or the wealthiest but the best among the nations. It and all the other occupations, callings and professions in it, issue to the learned profession, the profession of the law, a challenge to excellence and to leadership. Why not accept it? That means oneness in thought and concert in action by all its members, and the courage based upon a consciousness of unity. It means thoroughness in knowledge and practice of the law and in the character of its practitioners. It means vigilance and firm action by the governing bodies in all matters of qualification, discipline and regulation of the profession in each of the provinces. The Association depends on them to effectuate its highest purposes. The Conference of the Representatives of those Governing Bodies has made a good commencement. In 1927 it had a successful annual meeting. For 1928 strong committees have been appointed on phases of Legal Education, on Reciprocal Arrangements respecting Admission of Barristers and Solicitors, on Principles and Practice of Disciplining Members and on Encroachments on the Lawyers' Sphere of Activities by other Professions, i.e., Chartered Accountants, Notaries, Bankers and Trust Companies.

These committees will report at the Regina meeting next fall. There is every reason why the lawyer should be cheerful. The outlook is bright for the profession. Let us constantly bear in mind that only through law can function sovereign authority, whether

of King or people, for the safety of the State and the liberty of its citizens. Parliaments and legislatures might without serious detriment suspend some of their sessions, executive government might lessen staffs and diminish its work and expenditures without markedly interfering with the progress of the country, but to maintain peace, order and good government in Canada the stream of justice must be kept by its ministers, the Judges and the Bar, clear and pure and strong and ceaselessly flowing.

New Year's Message of the Honourable Chief Justice Martin, the President, to the Members of the Association.

I have been reminded by the Editor of the *CANADIAN BAR REVIEW* that it is customary for the President to send a New Year's message to the Association.

The idea of forming a Bar Association for all the Provinces of Canada resulted from a meeting of the American Bar Association in Montreal in 1913. Up to that time there was not in Canada any central organization of the Judges and lawyers of the different Provinces. Each Province had its own local organization.

The idea was crystallized into form by the untiring energy and splendid optimism of Sir James Aikins, and if it had not been for his boundless enthusiasm and financial support, the Canadian Bar Association would not have been a success.

By Article I of the Constitution of the Association, it is said:

Its objects shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout Canada so far as consistent with the preservation of the basic systems of law in the respective Provinces, uphold the honour of the Profession of Law, and encourage cordial intercourse among the members of the Canadian Bar.

The late Sir Horace Archambault, Chief Justice of Quebec, at the First Annual Meeting of the Association, said:—

La mission que vous avez entreprise est, sans doute, parsemée d'obstacles. Dans un pays habité par une population d'origines différentes, de religions diverses, de langues variées, de mentalité dissemblable dont les intérêts matériels sont souvent opposés, l'uniformité de législation ne saurait être obtenue sans une lutte longue et vigoureuse.

There was much criticism in the early days of the Association from some members of the Bar of the Province of Quebec, of the Association and its objects, and fear was expressed that it might tend to interfere with the basic system of Civil Law of this Province,

but no one connected with the Association had any such thought or desire, and even if having such desire, would have had any means of carrying the same into effect.

Uniformity of law in the different Provinces in criminal matters and in certain branches of commercial law exclusively assigned to the jurisdiction of Federal Parliament under the terms of the British North America Act, was admittedly desirable, but no interference with the Quebec Civil Code was ever conceived, and those fears have gradually come to be considered groundless.

Senator N. K. Laflamme, then Bâtonnier of the Bar of Montreal, at the Annual Meeting of the Association in Winnipeg, two years ago, in part said:—

When the Honourable the Minister of Justice, a few days ago, asked me to represent him at this gathering, I at once made introspective examination of my past views in respect to the Canadian Bar Association, and I came to the conclusion that I ought to make, on this occasion, a full and public confession of my utter lack of faith not only in the usefulness but also in the life prospects of the Association, in the early days of its existence.

Indeed, I was then among a group of none too modest and sceptical bystanders who frowned upon its cradle and predicted for its parents hopes disappointed, labour in vain and early sorrow.

Nor shall I conceal the reasons for these fears if only to palliate the offence, and, in terms of 'assizes', justify a suspended sentence. We were vaguely apprehensive of a gentle and mild-mannered invasion, which, in due course of time and by degrees almost imperceptible, might offer a sacrifice of our magnificent system of codified Civil Laws upon the altar of uniform legislation.

But I hasten to proclaim it; these fears were unfounded and they have long ago vanished. Today, the most distinguished Judges on the Bench and the leaders of our Bar, in a Province which you know to have been traditional by necessity and conservative in the real sense by instinct, have become the ardent missionaries, as well as the enthusiastic collaborators, of those who formed and organized the Association, and who by constant endeavour and at great sacrifice to themselves, have not only maintained the Association to a mature life, but, with that inspiration which always comes to broadminded and patriotic men, enlarged its action far beyond and above the range of our ordinary professional pursuits.

The Association was born of a generous and truly Canadian idea. It will live; time will only add to its influence for the profession of law and to its importance throughout the country at large.

The Association has a great future of public usefulness.

The Honourable Ernest Lapointe, K.C., Minister of Justice, at the Annual Meeting of the Association in Toronto last summer, said:—

I am sure that I am correct in saying that the Canadian Bar Association has become one of the greatest forces in our national life.

It promotes *esprit de corps*, and tends to create a true national spirit and obliterate provincial boundaries and sectional differences. We meet each other and learn to know each other better. There should be no east or west. We should all strive to unite as Canadians.

Many valuable contributions to the science of jurisprudence have been made by leading members of the Bench and Bar of England, France the United States and Canada.

Space will not permit me to specifically enumerate the Associations' activities. In all civilized countries, the lawyer has always played an important part in the public life of his country, and the Bar of Canada has well maintained this tradition.

Many deplore the fact that we have not enough people in Canada. That is a truism which every schoolboy knows. If some of the wise ones would devise a practical scheme for improving this situation, it would be very welcome and worth while.

Canada has been blessed with bountiful harvests; its people are, for the most part, contented, prosperous and happy, at peace with the world. Long may this condition continue, and we should all strive to make this Canada of ours a better place to live in.

I send to the members of the Canadian Bar Association a message of friendship and good-will as cordial and sincere as pen can frame or tongue express for a prosperous and happy New Year.
