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THE UNALTERABLE LAW*

In one of the halls of the Louvre, in Paris, stands a great stele of black diorite carved, by the chisels of masons four thousand years dead, with the Laws of Hammurabi, who reigned in Babylon, while Abraham was still living in Ur of the Chaldees;—in Babylon: "The Gate of God". The laws stand there for us to read but Babylon is dead these many ages. In one of the great changes of history the "Gate of God" was trampled flat and even to-day the cry of rejoicing that went up from all the harried and terrorized little peoples of the earth, echoes in our ears as we read Isaiah: "Babylon is fallen! is fallen!" a requiem such as has been sung for no other city.

For centuries the little town of Hillah has nestled beside Tell Qasr, the great mound in the desert beneath which the ruins of that beautiful, and powerful and wicked city until recently lay buried; and looking on that desolation, a poet, whose name I cannot remember, wrote a song, the refrain of which runs:—

For there were men in Babylon, Babylon, Babylon,
That now are dust in Babylon
The wind blows to and fro.

The dust of the great conqueror and law-giver mingled with the dust of his city has been the sport of the vagrant winds of forty centuries; his laws may still be read, the laws which were intended to govern his great empire, and which were carved in imperishable stone so they might outlast the generations of men; but ages ago they lost their sanction and there is no man to enforce them.

Time and again this same thing has happened in the history of mankind: great law-givers have laboured, have committed their codes to the everlasting rock, to tablets of gold

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or bronze, to more perishable parchment, or to ephemeral paper, and the nations for whom they wrought have vanished from the face of the earth. And who can say that this will not happen again.

But, although these laws are spent, and those who owed obedience to them are gone, we can still read them; and we are impressed with the great and pregnant fact that behind all these rules for human life and conduct there stands the same great idea of the unalterable and unchanging law.

No matter what the race of the law-giver, no matter what the stage of civilization of his people, no matter how harshly or feebly expressed, the essence of each code is an ideal to which generation after generation has hopefully looked. Like all ideals it is as easy to express as it is difficult to achieve. The civilians with their gift of clear and concise statement, have described the ideal in the terms of rules of conduct as applicable to nations as to individuals; *honeste vivere*, to live honestly, *neminem laedere*, to injure no one, *suum cuique tribuere*, to render unto each his due; in which we recognize a more elaborate statement of the divine law, "Thou shalt love thy neighbour as thyself".

George Meredith in his "*Lucifer in Starlight*" tells how that Prince, "tired of his dark dominion" over the powers of Hell and the poor souls of the damned, in a "hot fit of pride", seeking new worlds to conquer, hovered over this planet and how :

He reached a middle height and at the stars,
Which are the brain of heaven, he looked, and sank,
Around the ancient track marched rank on rank,
The army of unalterable law.

Behind the laws has always stood and always will stand The Law, with all its sanctions, inevitable and remorseless. No nation can for long terrorize, and tyrannize over, smaller or weaker nations, and if it attempts to do so the drama of Babylon is again played out. No nation can for long permit a system of law to prevail under which any race, creed or group is not equal before the law, and live. Much of the world's history is the story of continuous attempts to do these very things and of the resulting failures.

Our laws, then, can operate only in so far as they are the expressions of the basic principles to which I have referred, and the history of law is the history of the attempts, usually

sporadic and sometimes feeble, to attain that goal. Democracies, particularly, seem to be able to progress only by a process of trial and error, building up, tearing down, changing, altering, experimenting, until it sometimes looks as if chaos had come again. I do not decry this : our laws are not the laws of the Medes and Persians which altered not — Medo-Persia might not have disappeared if its laws had been capable of alteration.

But the fundamental of our Law remains unchanged. Livy who wrote in the reign of Augustus (27-20 B.C.) said of the Law of the Ten Tables, the first and simple code of the Roman republic :

Even in the mass of legislation to-day, where laws are piled one upon another in a confused heap, they still form the source of all public and private jurisprudence.

The solid core of our laws is still The Law. And we of the legal profession have pledged ourselves to serve that law. If we substitute for the word "republic" the word "democracy" we can to-day fully accept De Tocqueville's statement made many years ago :

I cannot believe that a republic could subsist at the present time if the influence of lawyers in public business did not increase in proportion to the power of the people.

More than two hundred and fifty years ago Stair wrote that "no man can be a knowing lawyer in any nation who hath not well pondered and digested in his mind the common law of the world". To follow Stair's rule would alone seem to be sufficient to task the energies and capacities of any man to the utmost — and yet for some lawyers their days of "pondering" and "digesting" seem to end when the door of the law school closes behind them for the last time.

But we are now required to be more than "knowing lawyers" — we must be capable of taking a useful part in public business. Dr. Johnson had the wider vision when he said : "The law is the last result of human understanding, acting upon human experience for the benefit of the public." To Gibbon writing of the days of Octai, son of Zingis Khan, it was "a whimsical thought" that "the orders of a Mogul Khan, who reigned on the borders of China should have lowered the price of herrings in the English Market". To-day we know that the price of wheat in Canada is instantaneously affected by events any place in the world.

The lawyer to-day must not only be trained in his own "mystery" but must qualify himself to be a capable adviser in many other fields than law. The race-memory of mankind is remarkably retentive of ancient wrongs suffered; it shews an equally remarkable inability to preserve the record of the mistakes and errors of judgment of the past. Periodically, and never more so than just at present, old theories which have been tried and which have failed, political, economic or social, are again presented to the world and acclaimed, always by some and too often by many, as the one panacea for all the ills of the State.

Our profession should be represented by a figure like Janus, the double-headed god of the Romans, who looked back on the past and forward to the future. We should know what has failed in the past as well as what has succeeded, so that we may caution and advise.

When, attracted by the sound of shouting and the noise of tub-thumping, we look about and see the numerous self-appointed captains who beg to be permitted to sail our ships of State to the Haven of Happy Repose, when we study the ancient or imaginative charts by which they propose to sail, we are reminded of the captain of the famous barque which was to set out on the Hunting of the Snark. Let Lewis Carroll tell it :

He had brought a large map representing the sea,
Without the least vestige of land,
And the crew were much pleased when they found it to be
A map they could all understand.

It should be part of our functions to place before our fellow-citizens charts, clearly shewing the dangers to navigation marked by the experienced navigators who have gone before, designating the rocks, and shoals, the islands and reefs, mapping each Scylla and Charybdis and the island of the Sirens upon which lie bleaching the bones of foolish men.

We have always borne no small part in the making of our laws, as well as their administration and enforcement, and no other profession has a prouder record of service in the interests of the community. Year by year leading members of our profession are rendering valuable services, not the less valuable because voluntary, towards the simplification, clarification and improvement of our laws, serving on committees of various city and provincial Bar Associations, and of the Canadian Bar

Association, and on the Conference of Commissioners on Uniformity of Legislation. Members of the Bar of this Province have always done their full share in this important work and have made no small contribution.

But this is not enough; the obligation upon us is greater, as the need is greater, than ever before. If we are to wield the influence of which De Tocqueville spoke, we must first of all be qualified to do our work. The sum of human knowledge is to-day greater than in the past, the field of our endeavour has been immeasurably extended, desultory and haphazard reading will no longer permit the practitioner even to keep abreast of his own profession. We may well consider whether we should not make available to the members of our profession yearly courses of post-graduate study not only in law but in economics, political science and kindred subjects.

Bar Association meetings furnish some opportunity to do this but I have in mind something in the nature of a series of fifteen or twenty lectures each winter, given at night so the busy practitioner may take advantage of them, by the best men available in their respective fields.

But, no matter how we may fit ourselves for the task that still lies before us, the final test must be in the manner of its performance. In order to be of the greatest service to the people of Canada we must have their confidence and trust. As individuals most lawyers deserve, and have, the confidence of the individuals with whom they come in contact. As a class there was a time, perhaps not so long ago, when we were not regarded with any particular affection or respect. In the Middle Ages we acquired — how I do not know — a patron saint, Yves of Brittany, the advocate of the poor, of whom it was said or probably sung: "*Advocatus, sed non latro, res miranda populo,*" — "An advocate, yet not a thief; a thing well nigh beyond belief." There will always be jibes at our profession, even somewhat malicious ones at times, but so long as we can measure up to the high standards we set for ourselves, we can afford to join in the laugh.

All lawyers worthy of the name, and they are the great majority, in their own practices place the legitimate interests of the client above all other considerations; the client is faithfully served regardless of the fee. They are astute to see that justice is administered so that all men may see.

But, when acting for a client, the lawyer must necessarily be the advocate, a fair and intelligent advocate, but an

advocate nevertheless. When he enters upon the discharge of public business, he must, as I see it, be less of an advocate and more of a counsellor. With his knowledge and training he can be a great force for good and an equally great force for evil. I visualize the members of the profession who sit in our Legislatures or in Parliament, regardless of the party to which they belong, as a body of men who more than any other are capable of putting behind them all thoughts of personal aggrandisement or party advantage and bringing to the solution of the great questions with which they have to deal their combined learning and experience, their trained powers of thought and judgment, for the benefit of the people whom they aspire to serve. If they cannot do it, no one can. I believe the tendency is that way and that it is accelerating. As soon as our people get that conception of the lawyer in public life our capacity for public service is immeasurably increased.

There is a sundial in Brick Court, Middle Temple, famous for its many sundials, which warns that "Time and Tide tarry for no man". This "took the place (1704) of one that bore the motto, 'Begone about your business' of which the story goes that it was a Benchers' curt dismissal of a mason who asked him for the motto to be engraved thereon".

I think I prefer the older version and it is not a bad injunction for us to bear in mind—"Begone about your business".

There is as much to be done as ever before, the present is one of the crucial periods in the history of the world, it requires all the courage, all the knowledge, all the effort of which we are capable, it presents a great challenge to a great profession.

The history of the world from earliest times down to the present has been that of the birth, the growth and the death of civilizations. Shall our civilization also die? Oswald Spengler the German philosopher of history, in his monumental work "*Das Untergang des Abendlandes*", literally "The Going-Under of the Evening (Western) Lands", prophesies its speedy dissolution.

Baghdad, the City of the Arabian Nights, stands not far from the Mound of Babylon, and, it is not surprising that we find in the Tales such sentences as:

Here was a people whom after their works thou shalt see wept over for their lost dominion : and in this palace is the last information respecting lords collected in the dust.

Kipling placed this sentence at the head of his great poem, "*The City of Brass*", and renders it thus :

In a land that the sand overlays — the ways to her
gates are untrod—
A multitude ended their days whose fates were
made splendid by God,
Till they grew drunk and were smitten with madness
and went to their fall,
And of these is a story written; but Allah alone
knoweth all!

Our civilization will live just so long as it is worthy to live and no longer : so long as it lives by The Law it cannot die : my own and firm belief is that it will not die. And I believe that our profession must and will play a greater and greater part in the everlasting struggle for the exalting of the Truth and the abasing of the Lie.

Over one hundred years ago William Blake wrote his beautiful, "*A New Jerusalem*", part of his poem "*Milton*". Although written by an Englishman and addressed to England, it is as applicable to us. You remember it begins :

And did those feet in ancient time
Walk upon England's mountains green?
And was the Holy Lamb of God
On England's pleasant pastures seen?

And did the countenance divine
Shine forth upon our clouded hills?
And was Jerusalem builded here
Among these dark satanic mills?

This poem, set to most stirring music, is now sung in many churches; it is in the new Hymn Book of the Church of England and, I believe, in those of other Churches, and it ends on a note of courage, a challenge and a vow. Shall it be Babylon or Jerusalem?

I shall not cease from mental fight,
Nor shall my sword sleep in my hand,
Till we have built Jerusalem
In England's green and pleasant land.

E. K. WILLIAMS.

Winnipeg.