

BROTHERS IN LAW AND LIBERTY*

Mr. President, Ladies and Gentlemen :

I have a friend in Canada who is sometimes received (as I have been tonight) with more cordiality than he thinks he deserves and is sometimes introduced with a promise that is greater than his performance. He has a habit of meeting that emergency by relating an experience which he says he once had. As I have heard recently of many other people who had the same experience I am forced to the conclusion that I have yet another friend who relies "upon his imagination for his facts and upon his memory for his wit". (*Laughter*). The experience to which he referred was this. He was once walking in the State of Virginia when he came to a coloured community where there was a little church. On the church there was a sign which said in large letters "Annual Strawberry Festival". Underneath in small letters was written, "On account of the depression, prunes will be served." (*Laughter*).

I need not labour the moral of that story nor tell you of the sinking and shrinking feeling of one who was introduced as though he were Michael Angelo but is deeply conscious of the fact that he is only Mickey Mouse. (*Laughter*).

I am very grateful for your courtesy in asking me to be your guest on this memorable occasion. I want to thank you also on behalf of the President of the Canadian Bar Association, Mr. D. L. McCarthy, whose presence at this head table fortifies me beyond measure. Some of you may be pleased to learn that Mr. McCarthy belongs to the Irish Macs. They are different from that other branch of the family, of whom it was once said by a bewildered gentleman, that he never really understood what was meant by "The meek shall inherit the earth" until he realized that "Meek" was the plural of "Mac". (*Laughter*).

Mr. McCarthy is here as a pattern of international goodwill and a paragon of political neutrality. He is really on a Bar President's holiday. In other words, he is engaged in knocking all the conventions out of somebody else's convention. He is doing it very successfully, and I am delighted to have him at this table with me.

* Address delivered by Leonard W. Brockington, K.C., delegate of the Canadian Bar Association, at the Annual Dinner of the American Bar Association held in Philadelphia on Thursday, September 12, 1940.

As Mr. Brockington spoke without manuscript the above text is a transcript from stenographic notes of his address.

It is very significant that at this time, in this place, in this country, two Canadians should be standing in this company. It is to me (and I hope to you) a grand comforting thought that two Canadian lawyers should meet with this great assembly of American lawyers for the re-affirmation of an old faith under the benediction of ancient charities. It is particularly fitting that we Canadians should be meeting with you in America, in this place, when the blasphemies of the world are daily growing louder and its miseries are being heaped heavier and higher. It is an inspiration to stand in this kindly City of Friends, in this sanctuary of liberty. For in this place wise men once resolutely determined that disciplined liberty should go forth into this land under the influence of the Sermon on the Mount, they knowing that if those things departed from them there would be an end of truth and mercy and of goodness. In this city they resolved that for them and their children's children freedom should not be a fugitive memory in the hearts of old men in the chimney corner, but the very life-blood of the youth of the land they loved. Here was born a great nation which Oliver Wendell Holmes says "Not by aggression but by the naked fact of its existence is an eternal danger and an unsleeping threat to every government that founds itself upon anything else than the consent of the governed." (*Applause*).

In this city to-night I am proudly happy because I believe that the day will come when your own Liberty Bell, with a tongue that yet speaks after its age-long silence, will join the peal of the Carillon at Ottawa, and the deep implacable tones of Big Ben, to ring the knell of tyranny. (*Loud applause*). Here I stand deep in the hope of mankind, and to-day "amid the heartbreak in the heart of things" I can hear across your river one of the grandest of all American voices, the voice of Walt Whitman, bidding the world remember when all life and all the souls of men and women are discharged from any part of the earth then only will the instinct of liberty go from that part of the earth. Exhorting his fellow countrymen to heed what he calls the faithful American lesson, he speaks in words triumphant, in accents unafraid, "Liberty relies upon itself, invites no one, promises nothing, sits in calmness and light, is positive and composed, and knows no discouragement — the battle rages with many a loud alarm and frequent advance and retreat; the enemy triumphs; the prison, the hand-cuff, the iron necklace, the anklet, the scaffold, the garotte do their work. The cause is asleep, the strong men's throats are choked with

their own blood, the young men drop their eyelashes toward the ground as they pass by. And has liberty gone out of that place? No, never! When liberty goes it is not the first thing to go, nor the second, nor the third. It waits for all the rest to go: it is the last." (*Applause*).

Ladies and Gentlemen, the echo of that voice resounds in many places other than Philadelphia.

Yes! I am proud to be in this company. But there is a vacant chair rarely before empty in your long and honourable history. I miss one man as you miss him, and as we in Canada would have missed him had we met in convention this year. I refer to the representative of the Bar of England. I don't know who he would have been: he may have been one of those strange Englishmen of whom a Frenchman once said, that the average Englishman is like a poker; he possesses all the poker's rigidity but lacks its occasional warmth. (*Laughter*). He probably would have been a Scotsman, but whoever he was, this we know about him: he would have been full of deep unspoken certainties, he would have been imperturbable, he would have probably cheered us up, and of all the children of the tempest he would have been the least shaken or the most unshaken.

Now, I don't know what the country he represents means to you. To some of you perhaps she may be an alien and sinister power. I hope she is not. To many of you who listen, she may bring back memories of the oppression and the injustice and the tyranny of her rulers (but never of her people) in the days that are gone. But whatever have been her failings, whatever her shortcomings, whatever her sins, whatever her iniquities if you like, they will be pardoned when her warfare is accomplished. To some of you, perhaps, she is the paradox of the poet and the adventurer, of the merchant and the crusader, of the eccentric and the formalist, of age and youth, of heresy and orthodoxy, of courage and of mercy. To some of you she may just be a memory of a lovely countryside where order stands rooted in green disorder, of meadows shining in the rain, of blue-bells in the woodland, of ancient Gothic churches standing out like truth itself against an English sky.

To me she is the mother of freedom and of free nations.

Freedom was not a North American invention. The patents were taken out years ago by resolute and strong-willed Englishmen. You made it fierce, untameable, and living. To-day in England I hear the echo of the praise of your own Emerson telling how in the turmoil and tribulation she has a pulse like

a cannon and always sees more clearly when the skies are dark. I see her burdened with the honour and honoured with the burden of "the stewardship of humanity" (*applause*), I marvel at the courage and the wistful optimism that are born of her fields, her lanes, her hills and her valleys. I wonder if you remember a lovely passage in Mary Webb's "Precious Bane". It speaks about an English yeoman. "Kester never said 'winter', he always said 'summer's sleeping'. He never said 'caterpillars', he always said, 'there's butterflies as is to be on my cabbages', and there was never a bud small enough nor sad-coloured enough that Kester did not see within it the beginning of the blow."

I see England to-day true to herself "While the loud blasts that tear the skies Serve but to root her native oak". I believe she knows, and will know, "neither age nor weariness nor defeat", and in this City of Liberty, will you permit me to salute her, not in my own words but on the lips of an American woman who wrote twenty-five years ago with prophetic vein, words that might have been written this very afternoon :

*Shatter her beauteous breast ye may;
The spirit of England none can slay!
Dash the bomb on the dome of Paul's—
Deem ye the fame of the Admiral falls?
Pry the stone from the chancel floor,—
Deem ye that Shakespeare shall live no more?
Where is the Giant shot that kills
Wordsworth walking the old green hills?
Trample the red rose on the ground,—
Keats is beauty, while earth spins round!
Bind her, grind her, burn her with fire,
Cast her ashes into the sea,—
She shall escape, she shall aspire,
She shall arise to make men free:
She shall arise in a sacred scorn,
Lighting the lives that are yet unborn;
Spirit supernal, Splendour eternal,
ENGLAND!*

(*Loud applause.*)

Ladies and Gentlemen, I shall be glad to take to the brotherhood to which I belong in Canada the message that this brotherhood in this city has so generously applauded the words of that American woman.

It is always an inspiration to be in a meeting of lawyers and to recall the great men of the past, the great statutes of the past, the great cases of the past and the great laws of the past, which have formed the very tapestry of our pattern of freedom. The Charter of liberty, the Magna Carta, the Habeas Corpus Act, the Bill of Rights, the Declaration of Independence; they are the milestones of human progress. The words of Erskine, of Lincoln, of Jefferson, of Alexander Hamilton,—they are the voices of human emancipation. For the Law in its majesty and its real grandeur is never on the side of oppression or of violence or of unfaith or murder. In its noblest moods it stands in compassion by the side of the Man with the Hoe, in the cell of the persecuted and by the funeral pyre of the martyr. It stands wherever a man holds his head erect and speaks the truth that is within him. It stands wherever great souls and minds fight against bigotry and darkness. For the law is the language of freedom and of free men. (*Applause*).

It is truism that your democracy and ours were built upon the harmony of the Greek concept of liberty and the Roman concept of law. That thing, wrought in primeval strength, is perhaps the greatest gift that the English-speaking peoples have given to the world; as long as we remember, always that without law there can be no liberty and without liberty there can be no law. That gift has been transmuted by the American people into the most sacred of all rights—and I think you have done it with an inspiration, a perseverance and a vision above all others—the rights of plain, ordinary simple men and women.

Mr. Lloyd George said the other day that the freedom for which we fight was the right of the Czech to dance around his maypole and the right of every Welshman with a song on his lips or in his heart, to awaken the echoes of his native valley. That is a simple truth and I believe its acceptance can be interpreted as your divine gift to mankind.

John Buchan, Lord Tweedsmuir, Governor-General of Canada, much loving and much loved, in a chapter of his autobiography just published, which he calls "My America" and which he dedicates with a remarkable insight and deep affection to your nation, says these words: "The American civilization has two main characteristics. The first is that the ordinary man believes in himself and in his ability, along with his fellows, to govern his country. It is when a people loses its self-confidence that it surrenders its soul to a dictator or oligarchy. In Mr. Walter Lippman's tremendous metaphor, it welcomes manacles to prevent its hands shaking."

"The second is the belief, which is fundamental also in Christianity of the worth of every human soul,—the worth not the equality,—and this partly honest emotion and partly a reasoned principle that something can be made out of anybody if you look for it, or in canonical words, that ultimately there is nothing common or unclean."

Ladies and Gentlemen, I rejoice to be a Canadian speaking to Americans to-day. There is so much that I would like to tell you and so much for which my fellow citizens would like me to thank you. In Canada we have built much as you have built. We have raised our nation, as you have raised yours, as a living and eternal protest against the abominable doctrine of racialism. We have fashioned a democracy where everybody can contribute to the common good. We have believed in giving, as far as we can, an opportunity to every man to find some of the beauty "behind the dross and the darkness". We have gloried too in the exaltation of little things.

*"I come in the little things
Saith the Lord
Not in the rush of morning wings
Of majesty. But I have set my feet
Amidst the delicate and bladed wheat
That springs triumphant in the furrowed sod."*

Our romantic history has been almost without blemish or stain. We have never been guilty of aggression. We cherish no hates, we seek no revenges, we pursue no aggrandizement. We have worked for peace and we have sacrificed for peace. When we have had to fight to defend our liberties, we have marched forward with loyalty and courage, enduring to the end. In this war we have never spoken to the United States officially or semi-officially, directly or indirectly, any word that would ask you to say or do anything in this crisis other than what you of your own untrammelled will wish to do or say. The people of Canada have neither dishonoured your democracy nor our good neighbourhood. (*Loud applause*).

We feel, of course, that we speak the same eternal verities as you do, with the same accents. We passionately desire your goodwill because you are the keepers of the world's conscience; and if we had not your goodwill we would think there was something wrong about our own conduct. We have believed, perhaps, that the crash of events speaks more loudly than any cataract of words however brilliant they may be, from however

high a place they may fall. But last and in the secret place of our own hearts, we have always known that true liberty needs no lobby in the United States of America. (*Loud applause*). That is really why we have never spoken to you.

A few weeks ago the idealism of our two peoples met the realism of our two governments. They met in a pact between your country and mine by which you agree to defend us in certain eventualities and we agree to defend you. We came not as a suppliant but as a partner. To that marriage of realism and idealism we bring, with the approval of every class of our citizens, all the strength and responsibility which we have, a strength and responsibility perhaps beyond our numbers. We do not think that your Declaration of Independence will be weakened by this Declaration of Inter-dependence between us and you. We do not think that the British North America Act or the Statute of Westminster, or what our Prime Minister calls our "tried and traditional loyalties" will be impaired by the Ogdensburg agreement. But we know one thing. Living side by side together, in friendship and respect, we have reaped what we have sown; for we have sown and we have reaped in a land that has been tilled by goodwill and watered by the rains of conciliation and reconciliation. (*Applause*).

My American friends! Through the darkness there will some day shine a great light. Soon "the brute and boisterous force of violent men" will be broken and a new world will arise on the ruins of this troubled earth which savagery has made hideous. It will be our duty and yours to help to remould it. When that bright day dawns I trust that your land and our land will both speak in the words of the unknown prophet of that race which has borne more than its share of human suffering.

*"Bind up the broken-hearted,
Proclaim liberty to the captives,
Open the prison to them that are bound."*

Deep in hope, a humble citizen of the land of your neighbours, I wish you farewell in this shrine of liberty. As your guest I thank my most cordial and gracious hosts. As a lawyer I salute you, my brothers, the moulders of liberty, its eloquent spokesmen, its untiring defenders. As a Canadian, I thank you for the generosity of your American hearts. As a man, I bid you to join with me in the exultation of a great Englishman who, knowing you for what you are, reverently thanked God that Liberty is still an Eagle whose Glory is gazing at the Sun. (*Loud and sustained applause*).