

The Lawyer

(Address of William Jennings Bryan at Bar Association Banquet, Miami, Florida, March 19, 1923.)

Allow me, first, to express my deep appreciation of the compliment which the Bar Association pays me in putting this dinner on the anniversary of my birth. It is sweet of you, as the ladies say, to gladden a birthday—a day so much more important to the individual immediately concerned than to the public generally.

I am not at all sensitive about these recurring anniversaries. John Allen used to tell a story which applies with special force to occasions like this. A man at Tupelo, Mississippi, was nominated for County Treasurer against an occupant of the office who had held it for two terms. The fight was made on the third term issue, the new candidate insisting that a change should be made in order that the books might be examined, etc.—you know the arguments. After he had held the office for two terms he decided to be a candidate for a third term but was embarrassed by the arguments he had made against his predecessor. Finally, it occurred to him that he should go around and explain the seeming inconsistency to the man whom he had defeated. He hunted him up and told him, that, never having held office himself and having heard objections made to Grant and others desiring a third term, he thought it must be a very serious matter, but that, after serving two terms himself, he could see very clearly that there was no valid objection to a third term, adding: "When I find I have made a mistake, I am just man enough to acknowledge it."

That expresses my feelings. When I was a young man, I thought that one sixty-three years old was an old man, but now that I have reached that age myself, I can see that a man of sixty-three is in the prime of life and, like the man in Allen's story, "when I find I have made a mistake, I am just man enough to acknowledge it."

I do not know where I could more appropriately celebrate this anniversary than at a bar banquet. I practised law in my younger days; and Mrs. Bryan is a member of the profession. Her admittance to the bar soon after we moved to Nebraska gave a Jacksonville (Illinois) friend and neighbor an opportunity to get off a bit of humor. He sent me a postal card congratulating me and saying, "I always thought there was room for one good lawyer in your family." The ambition to be a lawyer took possession of me before I was six years old. My father was a lawyer and for twelve years a judge; this fact probably accounts for my choice of the legal profession. This ambition guided me through my boyhood and youth, through college and law school. I practised for a while in Illinois and then went to Nebraska to practise law. All the reasons that took me there were professional reasons. That I did not go to Nebraska for political reasons you can easily believe when I tell you that, when I went there, the state was Republican, the district was Republican, the city was Republican, and the voting precinct in which I resided was Republican. I went into politics by accident and stand there by design. I was nominated for congress because they thought I could not be elected—if it had been a Democratic district, the honor would have gone to someone older and more deserving. My election to congress in 1890 was due to a landslide and my defeat for the United States Senate four years later was due to another landslide in the opposite direction. My first presidential campaign followed two years later and I became so deeply interested in the problems of government that I have never since that time felt justified in withdrawing from the study and discussion of these problems. After my second campaign I established *The Commoner* as a means of laying before the public the Democratic side of political issues.

But I digress. Having a lawyer for a father, and another for a wife, being trained for the law myself and having an only son in the profession, I am in position to appreciate the place that the lawyer occupies and the work that he does. I have no sympathy with the jokes that are perpetrated at the expense of the profession, although my love of humor makes me enjoy a good joke even when I protest against the injustice of it.

One of these jokes was perpetrated in Nebraska, back in the days when the Populists were powerful. They, it will be remembered, were strongly prejudiced against lawyers. The story illustrates this prejudice. A Populist was put in nomination for an office in a speech in which

he was referred to as a lawyer. His friends at once say that his connection with the profession was likely to injure him with the delegates. Another friend immediately arose and restored him to favor by explaining that he HAD BEEN a lawyer but had been disbarred.

The law is a very ancient and very honorable profession. Lawyers became necessary as soon as organized government was established among men. Laws must not only be interpreted to those who desire to obey them but they must be enforced against those who violate them. Law may be called the trunk of the tree out of which three branches have grown—the law-giver who writes the law, the lawyer who interprets the law for clients, and the judge who decides the legal questions raised and administers justice. While I have named the law-giver first, I shall leave the discussion of his work for the last and ask your attention first to the judge before speaking of the lawyer.

The judge is the most highly respected of the three characters that make up the trinity of the profession. He is selected because of his sense of justice, knowledge of the law, and incorruptibility. As the statesman regards the Presidency as the crowning reward of those who devote themselves to the science of government, so the office of chief-justice of the Supreme Court of the United States is the highest position to which the lawyer can aspire. The Presidency carries with it a larger relative influence in the moulding of government than the position of Chief-Justice does in the administration of justice, but the relative dignity of the positions is the same; they are the peak in the respective paths which they represent.

It is no reflection upon the integrity of the bench or upon the probity of the judge to point out four phases of the judge's work that deserve attention. First, the judge is human and is as liable as others to be unconsciously biased by his own personal interests. We have a recent illustration of that in a judge at West Palm Beach. He attempted to suppress criticism of himself on the ground that it was an interference with the administration of justice. The Supreme Court held that it was not so obvious an interference as would justify the punishment of the critics. This case is proof of the fact that an honest judge may go beyond his judicial rights in attempting to punish reflections upon his official acts. No judge is permitted to preside in a case in which he is pecuniarily interested.

Second, the judge is a citizen and, as a citizen, has a political bias which may unconsciously influence him in the deciding of partizan questions. This finds illustration in the action of the electoral commission of 1876. The five Supreme Court judges of longest service, appointed on the commission, decided the questions vitally affecting the election contest three to two, just as they would have voted if they had been marking their own ballots as individuals.

Third, judges may be unconsciously influenced by class bias, a fact frequently illustrated by judicial decisions—the most conspicuous of which was the decision on the income tax law in 1895.

Fourth, the Constitutional right of a majority of the Supreme Court to nullify, as unconstitutional, a law passed by congress and signed by the President, or a law passed by a state legislature and signed by a governor. Such decisions have sometimes been rendered by a majority of one; this gives to the one judge whose vote decides the question (the rest of the court being equally divided) the power to override the opinion of all those who participated in passing the law. The justice and public policy of vesting such power in one judge is being more and more called in question and I venture to predict that it is only a question of time when our Constitutions, state and national, will be so changed as to require the concurrence of more than a bare majority to declare a law unconstitutional. The constitution of Ohio requires two-thirds.

And now a word as to the lawyer; his profession, always respectable, increases in importance with the growth of popular government. He is broadened by the study and investigation forced upon him by the questions which he must discuss. Since he must deal with every phase of human life and every line of human activity, no other work is quite so educational. All avenues are open to the lawyer and many are led away from the general practise into some special line of work. So many lawyers go into business, banking, manufacturing, and developing that the study of the law has come to be regarded as a valuable preparatory course even though one does not intend to practise.

The lawyer's work is in the open—there is a lawyer on the other side to answer him and to

disclose any wrong doing. This may explain, in part, the high standard of honesty, honor and fair dealing among lawyers.

Oratory is the special field of the lawyer. The greatest orators in history began their speech-making in the presentation of the cases of their clients. Demosthenes and Cicero, who have been followed as models during all the centuries since they lived, advanced from the practise of the law to the unique position of teachers of the art of public speaking.

Patrick Henry, the orator of the Revolution, and Webster, Calhoun, and Clay, the great triumvirate whose eloquence charmed the generation that lived just before the Civil War, were lawyers. In the public life of the United States, the lawyer has played a very conspicuous part. Most of the leaders of the Senate and House were first lawyers, though not always as prominent at the bar as in the political arena. Disraeli went so far as to say that the young lawyer must choose between the two careers because of the different qualities that these careers required and developed.

The law, more than any other line of work, has been the stepping-stone to the Presidency. Of the four Presidents who are classed among the immortals, only one, Washington, was not a lawyer; he owed his election to his military service rather than to engineering, his profession. Two of the others, Jefferson and Lincoln, were indebted to their legal training for the ability in debate that won their leadership, while Jackson combined military prestige with experience at the bar. Two of our most recent presidents advanced from the bar to other lines of work. President Taft became a judge before he became president and went from the White House to the Supreme Court where he will end his career in the office which has been his dream from the time he became a member of the bar. President Wilson found the work of a scholar more fascinating than the routine of the practitioner and was the first representative of higher education to reach the executive office.

I have reserved for the last the honorable work of the law-maker. He begins with the study of law as it IS and with the application of the existing laws to the facts in each case. If he becomes a judge, his field is enlarged and he may play an important part in so-called judicial legislation, viz., the establishment of legal principles by court precedent. But the work that appeals most powerfully to the lawyer is the framing of statutes that give expression to the people's will. Instead of discussing laws that ARE, he drafts the laws that SHOULD BE; he brings law up to date by applying old principles to new conditions. As a lawyer he finds the weak points in existing laws and is able to suggest improvements. He enters his profession as the servant of clients who pay him, often large sums, for looking after their individual interests; he concludes as the servant of the public, working for the benefit of the multitude. His salary, usually small in dollars, is supplemented by a satisfaction which the mere making of money cannot furnish.

I congratulate the lawyers of Florida upon the excellent reputation they enjoy and the opportunities which their profession offers them in this state, just entering upon a period of great development. I am glad to count myself one of them, even though I do not find time to engage in the practise. I am sure that those who, as lawyers, have taken an oath to assist in the administration of justice, will put the interests of the whole state first and use their legal knowledge and their personal influence for the improvement of the statutes, the simplification of the pleadings, the enforcement of the laws; and the perfection of the courts.

A lot of trouble was caused by the prayer of the chaplain of the Colorado house in which he affirmed that God had been expelled from the churches, that the courts are corrupt and that people are going to the dogs with tremendous rapidity. Judging from his prayer the chaplain must have confined his observation and reading entirely to Colorado.

The price of gasoline is again on the ascent. Nobody, however, has been able to determine to their own satisfaction whether it is because the Standard Oil has that poor feeling after getting rid of that huge stock dividend or whether John D. is about to endow another foundation.

An Iowa senator has introduced a bill providing for a steel roof over all of the federal highways in that state so that roads may be usable all the year round. The Iowa legislature also was convened for the purpose of reducing taxes.