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THE AMERICAN BAR AND THE WAR

EDMUND RUFFIN BECKWITH*

A good deal has been said here about winning this war, and about what it is that we think we shall have won when we do win it. I believe we would all agree that what we mean by winning this war is simply to make sure that it is possible for a free people to live freely again in the world.

That is all there is, and we must be sure, not only that we are free as respects the rest of the world, free to come and go, to trade, to travel, to live our own lives and make our own private decisions, free of regimentation, free of rationing, free of being mobilized in camps, but also that inside the country we maintain our free institutions for whose preservation we now give up all else.

And it is precisely there that the importance of the profession of law and of its organization becomes apparent, because there is just one distinction between a free country and any other. The best and the worst governments in the world are all alike in this one way, that every one of them maintains itself externally by force. And it is because we forgot that fact that we face the situation of today.

It is just as true of us as it is of the most outrageous tyranny that ever existed that we will maintain our borders inviolate against attack from outside only by force. But the thing that distinguishes a free government from any other government is that the autocrat and the despot and the dictator also maintains himself internally by force, whereas a free people maintain themselves and their freedom by the wholly unarmed power of justice under law.

That is what we fight for, and it is precisely at that point that the significance of the legal profession and its organization becomes so obvious. Stop and look at this thing you call law and justice. Inquire, "Who is its minister and who is its servant?" You find the lawyer and you look at him and you see there are three aspects of him.

In the first place, he is an individual admitted to the bar. Whether or not he succeeds in his practice, whether

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he makes money, whether he is distinguished, whether he is an outstanding leader of the bar or master of the law, is largely a matter of original endowments and application and diligence or skill, or it may even be largely a matter of luck. He is still an individual and as all of us know, he insists on acting like one most of the time.

Then the second aspect is that he is a member of society trained in the disciplines of the law. What he does in that respect is very largely a matter of his social aptitude. He may or may not engage in charitable work, he may or may not be an administrator of his church or the Red Cross, he may or may not be given to making speeches on many occasions or participation in matters of public interest. He is in that respect still an individual but a social animal, using for social purposes his discipline and training and capacity for administration. And that depends largely upon his aptitudes, his bent, his disposition, or even on sex, color or religion.

Then you come to his third position—the position of the lawyer as a member of the *corps* of his organization, his position as a member of the organized bar, and you find that his action there is almost wholly independent of the things that affect him in his other capacities.

It doesn't matter when you speak of the bar, whether its members are men or women, or what their color, race, creed, their position in society, their economic resource or anything else. For as American citizens when we speak of the organized bar, we speak of the one unique agency which acts in an organic capacity, trusted, trained, articulate, and which holds a monopoly of the privilege and the duty to maintain that justice under law which is the only measure of our freedom. And that is the one subject that must obsess us from this time forward.

Someone says those are fine words and what do they mean? As the unbeliever put it to the old prophet, "Oh, yes, that is the vision, but what is the interpretation thereof?" What can the bar do? Well, in general, there seem to be three fields in which the bar may operate, and roughly we have been calling them to organize, to do the thing that is right in front of us, and to explore and prepare to do the thing that may be ahead of us.

About twenty months ago a resolution to create the

committee now called the Committee on War Work of the American Bar Association was introduced at Philadelphia. It was opposed by a number of the ablest and most public-spirited members of the association. They said, "We don't want anything like that. That is another empty gesture. That means a resolution. It probably means a letter to the White House and after that, silence." But the resolution passed, and a group of as fine fellows as there are in the country went to work.

After twenty months it is possible to say that comparable to the local organization which you have in this state under Mr. Cadick, there is a committee in every state, and in the District of Columbia.

Every state is divided into local districts or county chairmanships, according to its local pattern. There are fourteen hundred such local chairmen and sub-chairmen throughout the country, and it is possible today for a message to the bar connected with the war work of the bar, with the national security, with the administration of a legal measure or with a call for duty of any kind, to reach every cross-road in this country within something like a day or two.

There has never been anything like it. The bar today is organized as it never was, and it is ready to discharge its responsibilities in a way that no one ever dreamed it could.

I can give you an illustration or two—it's a story of which I am very fond. On the Thursday after Pearl Harbor, the Attorney-General of the United States called the office of the American Bar Association in Washington, and said, "We have set up an alien enemy hearing board in every federal district. We have just discovered that that is not nearly enough. In some districts there are so many aliens that if we don't have a good many more boards we are going to do some injustice by keeping a lot of men locked up that are really loyal and ought to be turned loose. How soon can you give us names of lawyers, of outstanding ability and reputation, who are willing to serve on these boards until we clean up this alien problem?"

That was Thursday evening about 8:00 o'clock. The first of the lists were in the Department of Justice on Monday morning and four hundred names in more than twenty districts had been sent there by Wednesday noon.

And there is the story you have seen written under your own eyes, the thing that has come very close to the lives of the people, the work of selective service. Not only did the bar have a principal part in the selection of the personnel of the advisory boards, of the appeal agents and the contributions of lawyers to the appeal boards—not only has the bar maintained that personnel throughout the country at a high level of competence—but in the work of the advisory boards and the work of the bar committees in behalf of registrants and men in the armed forces and their families, it is possible to say this: We have no figures, it is impossible to get reports, most lawyers are too busy doing the kind of work that is involved to report on it, but we do know that it has run to tens of thousands of cases.

Those cases involving the legal problems of men in the forces have come from the farthest reaches of the Aleutians, from the Canal Zone, from Iceland and Trinidad, from Hawaii, from naval vessels in all oceans, from our great cities and from the farthest back corners of the country; and while there may have been a complaint, I can say that out of those tens of thousands of cases not one single complaint for delay or for mishandling or for any other cause has come to our attention.

I like to quote those things as proof that the bar has met the first two of its public problems. It has organized and it has done what lay in front of it to do quickly.

Then we come to the much more difficult, but to my mind much more important question, of what remains for the bar to do. And, again, there are some practical applications. Most of you have seen the pamphlet called "A Manual of Law for Use by Advisory Boards for Registrants." Our committee had the privilege of writing that, as a simple way of getting together for the Boards the current statutes and some practical suggestions about them.

A second edition is coming out. I hope it goes to the printer within the week. It will be a good deal more elaborate and a better work. It leads to a number of considerations like this: People say that the Soldiers' and Sailors' Civil Relief Act is a mere moratorium statute, a standstill arrangement for the men in the armed forces and their dependents, and yet it takes only a very little reflection to see that that is not true.

There are reliable figures indicating that the Act affects today about forty million people, and as the senior men are drafted, or otherwise enter the armed forces, men who are old enough to have more complex financial relationships, it is altogether probable that standstill legislation of that kind will affect everybody in the country, not alone because they have present contracts subsisting but because such legislation works directly upon the credit mechanism.

There is now in contact with the committees of the House and Senate a joint group of the bar, representing experts in each field of commerce, real estate, taxation, insurance, and others affected by that kind of legislation.

The law librarians of the country have begun to assemble check lists, work sheets, ready reference materials concerned with emergency legislation, with administrative orders, with executive edicts, and the machinery is being set up to distribute that kind of material to the bar. We hope that will work out so that the type of thing that we are now just beginning to do in the civil relief field will spread into the other emergency fields.

I don't know how much in this part of the country you are concerned about the legal bases of the O.C.D. Along the seaboard where we are somewhat exercised about such things, it is a matter of the gravest concern. I have yet to find anybody who knows the power of an air raid warden. We don't know in the East whether a city policeman has jurisdiction over the air raid warden or *vice versa* in the event of a bomb raid. We haven't the least idea whether the air raid warden will stop the fire truck or the other way 'round. In the event that there is some arrangement for taking over private property by contract for an air raid shelter, we don't know whether it will be under a valid lease for compensation or under one which the land-owner might revoke just before the raid, and we don't know who has explored those questions.

While that may sound to you to be a little overdrawn, it may also indicate a part of the work of the bar as it affects the orderly administration of the lives of a free people.

There are more serious illustrations that will readily occur to you. There are problems in the field of labor on which the bar has a job to do, which the individual lawyer

will not ever be able to do but which the voice of the profession of the law can speak to, and the brains and public spirit of the bar can dispose of.

And so, we shall go along with that third great and final job of the organized profession of the law, the slow exploration, the painstaking discovery, the organization, and finally the expert and patriotic solution of those matters that lie at the heart of the preservation of the freedom of the people, and the perpetuation of the only government the world has ever seen—and the last great chance of humanity to see it—in which justice under law and freedom without force may be preserved.