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Salesmanship for Lawyers

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ligious freedom; with the Declaration of Independence, the Federal Constitution and its Bill of Rights came political freedom; with the industrial revolution and the development of natural science came a degree of freedom, theretofore unknown, from the forces of nature, and the hard and unremitting toil to which the human race seemed to be heir.

The present struggle, world wide in extent, is for economic freedom. Unfortunately, in many countries the earlier forms of freedom attained by the toil and the blood of our ancestors have been sacrificed to the struggle for economic freedom.

The totalitarian state has been pointed to as the panacea for all of our economic ills. Reason, common sense and the virtue of individual effort seem to be in danger of being crushed between the upper and nether millstones of ignorance, intolerance and bigotry on the one hand, and the concepts of the totalitarian government on the other. As Judge Bunge has so aptly remarked, the man in the street seems to have lost a measure of confidence in his Government, particularly as to the executive and the legislative branches. The judicial branch still retains, I fervently believe, the confidence and respect of the great majority of the great American people.

It is to the credit of the Bar that we have such leaders as Judge Murphy, our distinguished guest, and Judge Medina, our guest of last year, who have never failed to realize the relation between law and liberty, between the independence of the courts and the maintenance of our Constitutional guarantees of individual freedom in the age long struggle for popular government. It is only if the American people stand supinely by, that they can lose their intellectual, their religious and their political freedom, and they will not lose it from any force from without, but because of their indifference to their heritage of one hundred and sixty-four years of Constitutional Government under law.

The Bar can render no greater service than to continue to lead in the column of progress toward a happier, more secure future for ourselves and our children's children.

SALESMANSHIP FOR LAWYERS

AN ADDRESS BY JUDGE WARD RONEY

You and I are very proud and happy to be members of the great and noble and ancient profession of law or else we would not be here,

and yet all of us have suffered constantly throughout our lives malignment upon the part of the public, castigated as liars and thieves and crooks and everything unworthy of the trust which we hold sacred to our practice of the profession. And it is very unjustifiably so, of course, as you know. But we as individuals are entirely responsible for that concept upon the part of the public.

In America we are a selling public. We are psychologically trained to sell things, as contrasted with the English, for instance. Those of you who have been in English countries know that when you walk into a store you have to buy a suit of clothes; whereas in America you walk into a store just to look around and you have been sold a suit of clothes before you can get out. On the other hand our traditions come down from that English concept I feel, and under the limitations to a degree of the canons of ethics, we never advocate or espouse or explain our purposes and worthwhile doings and deeds.

For instance, consider the field of legal aid. How many of our public know of the great and wonderful contribution and charitable service of time and energy and money which the bar associations of our jurisdiction give out to a needy public, and how many of you lawyers have time and again performed most valuable services without any charge or word or recompense, and indeed on many occasions have not only expended time, but have advanced money in worthwhile causes. Yet we fail to let the public know about those things; and again, just by way of illustration: You and I have heard many lawyers on occasion castigate another lawyer about some transaction that occurred to his client and tell about what a “* * * *” that other fellow is, that he shouldn't be permitted to practice law, that he's a crook and a thief and that you can't believe anything he says. Now, stop to think. Of course, this lawyer is in a way bolstering up his own unworthy causes when he resorts to that character of tactics, but think of the effect that has upon the lay listener.

I recall that as a child I heard such an oration and it carried through life with me to the point where I wondered whether I should ever want to become a lawyer if I had to be that kind of a character and individual.

Now, too much of that goes on. Again, I have heard lawyers walk out of a courtroom after a ruling has been made adversely to them upon some minor motion or demurrer or something of that kind, cursing and damning that dumb judge—you can't pound anything into

his head; he doesn't know any law; he's a friend of the counsel on the other side; the next time we'll file an affidavit against him; or something of that character.

Now, think again of the effect that has upon the listening public. That I feel is the great cause for the low place we occupy in the field of dignity and regard to which we are so justly entitled, and as I say, I hope that we will as a bar association, and as individual lawyers and judges, go out on a crusade and throw on the personality and the charm. Explain your acts and deeds.

By way of illustration, I might cite the matter of fees which have been presented when I presided in probate. Frequently your clients come back to chambers and ask for an interview. They can't understand why the fee has been so much. Well, you call for the file and you look it over and you sit down and take five or ten minutes of your time to explain why the fee is so much. You explain the time that the lawyer has had to put in in preparing the case and interviewing witnesses; even in simple probates, the time and money that he has expended in attaining his education, in preparing himself, his office overhead. . . . When they understand all of those things, they walk out satisfied.

Now, the responsibility there, ladies and gentlemen, is the practitioner's. He should explain to his client. After all it is their case and it is their money you are taking. If the client understands, as so frequently I find he does not, the time and energy that has been consumed by the lawyer in looking after his interests, the high degree of trust, the fine work which has been done, he will feel entirely different about it.

Too, I am thoroughly apprehensive of the responsibility that courts have along this line. Whenever a court stoops to make some castigating remark in open court about the way some attorney has handled a matter, it's most degrading of course to the individual, but it is a reflection upon the bar, because after all, as long as a man or woman carries a license to practice law, he is entitled to the dignity and respect of that position in our profession. If an individual does not measure up to those standards, it is the responsibility of the court to call him in and privately discuss it with him, or report it to the Grievance Committee where it will be taken care of; and such a person should be eliminated from the practice of law. But let's don't wash our linen in public. That is my principal appeal to you.

We all, of course, do things in different ways. But I am confident there will be a great improvement in attitudes if you will take the time to explain to your clients and let them know what you are doing. Incidentally, in that connection, in pretrial work the question comes up as to whether it's advisable to have the client present at a pretrial conference. I say emphatically yes. Of course, it is going to take his time and possibly some expense to have him come in and attend the pretrial conference, but you are demonstrating to him the fact that it is taking your time, and if there are admissions to be made and your client is there, you will probably save him time in the long run anyway. I would also have clients over to hear arguments on motions and demurrers.

I think we strive too hard on the economy side of our clients to our own prejudice and detriment. Now, by way of illustration: I have a very dear friend who is suffering from a cancer. I called on her to visit the other day. She was doubled over and she had her treatments and one thing and another, and a recurrence, and so I said to her, "Well, what does your doctor say?" She said, "That's the trouble, he doesn't tell me anything."

Well, now, I recognize that in medical science perhaps there are individuals who should not have explained to them the full scope of the effects of their malady or disease, but I know that particular person so well. I know that if the doctor could take the time to sit down and explain and diagram this thing out in simple terms to her she would be in peace of mind and would suffer a great deal less than she does when she doesn't know. That applies equally to the relationship of lawyer and client. They don't know and they go out and hear remarks—those side remarks, "Oh, have you got that fellow for a lawyer? He'll steal you blind," and after a while they get jittery. You haven't called them into your office. You haven't wanted to take their time and explain these things to them, and, of course, at a little cost of your own time and energy. That is where we fail, and I appeal to you to turn on the charm and personality and take a little time to explain these things to your clients and let them know the good work that has been done.

Of course, you can't, I understand and appreciate, under the canons of ethics go out and brag about what a fine lawyer you are and all of that, but you can explain to them what has been done and what is being done and what your hopes and aspirations are. Let's get away from

this thing of castigating our brother lawyers and the bench, and work to the end of elevating the profession in the public mind. We don't need it for ourselves because we think well of ourselves and if we don't think well of ourselves, who is going to. But let us take the time in the interest of our own welfare and the welfare of the future bar particularly. The oldtimers, of course, have survived notwithstanding.

The medical association as we all know the world over is in the throes of a terrible tragedy and we of the legal profession are failing also. We are going to have to face it, and the only way we can overcome it in the American Public is through salesmanship. We have got to do it. They won't come to us and ask us about these things. We've got to tell them.

SOME REFLECTIONS ON THE TRIAL OF A LAWSUIT

AN ADDRESS BY JUDGE THOMAS F. MURPHY,

UNITED STATES DISTRICT COURT, NEW YORK

It is true I am following Judge Medina. Judge Medina told me that I should accept your kind invitation because he never enjoyed himself more than at the table of your hospitality, and he urged me to follow suit.

The fact that I follow Judge Medina has only two points in common with the Judge. Judge Medina has a moustache, and Judge Medina comes from New York, and I can assure you that that's where the similarity ends.

Judge Medina wrote to me when I was nominated with him by the President. He told me how happy he was that I was going to follow him and I wrote back and told him that in 1930 when I took his course, I had no idea that our lives would even come in close contact, and it has been a source of great pride to me that I am now in some small way connected with Judge Medina, although he is now my boss. But I'm very proud to be your guest here this afternoon, and fully appreciate your kind invitation to permit me to speak to such a group of men and women, these sons and daughters of pioneer Americans. It has given me an opportunity to see your great Northwest and I say it in passing and I assure you that it is of only minor importance, but I have had the pleasure of doing it at your expense.

I didn't know when I received your invitation what subject would be most interesting to talk about. I have come to the conclusion that