

May, 1939

**THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES**

**Annual Dinner of The Maritime Law Association of the
United States, Monday, May 8, 1939, University Club,
New York.**

REMARKS OF PRESIDENT CHARLES R. HICKOX.

Tonight we have come together to do honor to Judge Augustus N. Hand, who this year will be completing twenty-five years of service as District Judge and Circuit Judge of the United States. It is especially pleasing to us to do this for we are greeting one who presided over our meetings for several years.

Ordinarily we appear before Judge Hand. Tonight he appears before us. While he may not shiver and shake as many of us have done, yet he may have a momentary apprehension about what is going to be said about him.

A quarter of a century is a long span of life. It is ample to enable us to appraise the career of a judge who has been on the bench for so many years.

Perhaps it is appropriate to inquire what are the qualities a judge should have.

I suggest that first of all he should be a gentleman, for a gentleman means manners, and as manners make the man, all the more they make the judge. Manners mean consideration toward others, especially toward those over whom one may be placed in a position of casual superiority. I know of no more important quality.

Then a judge should have integrity, for integrity inspires confidence and without the confidence of the public, a judge cannot function.

He should also have knowledge. By that is meant a reasonable understanding of the principles of law that have been evolved through the experience of the years. An ignorant judge cannot be expected to dispense justice.

He should also have industry, for otherwise he cannot discharge promptly the heavy burden of work that rests on him. Delay often means a denial of justice.

Finally, I suggest that he should have judgment. That means the ability to apply his knowledge to the practical problems that are placed before him and to do it wisely and with the aid of that somewhat uncommon quality of common sense.

I dare say that other qualities may suggest themselves to you as desirable for a judge. I think, however, that I have mentioned the essentials. Anyone who possesses them builds upon a broad base.

All these things I think are applicable to Judge Hand. He can say, "I am a judge and a good judge, too." He has fulfilled the duties of his office with dignity, with fidelity, with honor, with entire satisfaction to the community and with the affectionate regard of those who know him well.

In these days of flux and flurry, the sense of security and serenity that comes from having a just judge is, perhaps, more important than ever before.

Judge Hand, we are very glad to welcome you here tonight. We hope you will be with us for a long time to come and we wish you well.

ADDRESS OF JUDGE AUGUSTUS N. HAND.

Judge Hand, after expressing his deep appreciation of the remarks of Mr. Hickox and of the kindness of the Maritime Law Association in arranging the dinner in his honor, spoke as follows :

The world is in revolution and we in this country, though in many cases living easy and sheltered lives, little affected by the storms without, feel secure in neither mind, body nor estate. We seem to be passing through a great social change and the end is not yet. The times are perilous; nevertheless, as in all periods of fundamental upheavals and violent mental oscillations, there comes

a "great awakening" which, in spite of its disturbing features, is inspiring to the young and (did I not abhor the word) is "challenging" even to those of riper years.

What can be said about these things for people like ourselves who have had a good education and hope to lead fruitful lives? The chief difficulty from which we all suffer is that of an immense disinclination to patient independent thinking. For a trained person or, indeed, for almost anyone to do "the daily round, the common task" is relatively easy. Any man can do this without great trouble provided certain assumptions may be taken for granted. But even where he attempts to blaze a new trail, whether as an executive or a lawyer, or a seeker after a Ph.D. degree, he may find a complacent and ready satisfaction in piling up data, getting up reports and surveys, thinking all the time that he is a great realist, though he may be merely accumulating rubbish. As President Conant once said to me, multitudes of men can do these things, college faculties are full of routine minds and of dictators of reports, but the creative thinkers are rare and generally resented by the majority because they trouble the waters and disturb the ordinary routine. Doubtless few of us have the mentality to become distinguished thinkers, but most of us are completely precluded because, whatever our capacity, we are unwilling to do hard thinking at all and prefer, because it is so easy, to run in the old grooves and to cast aside every unaccustomed thought as an alien enemy. In times like the present, when the world is fermenting with new ideas, this is particularly dangerous. Though 99% of the new ideas may be foolish they have powers of agglomeration even when only temporarily in vogue that can produce terrific and disorganizing results. It is surely our business to understand the new trends which may so vitally affect the lives of ourselves and our fellow-beings and to do much more than to stand aside in complacent detachment or bitterness, or just to scold or blindly resist.

The talk of the average conservative about the movements of the day is distressingly ignorant and can hardly be exceeded in intolerance or stupidity by that of the liberal who advocates everything that involves change and has the imprimatur of the "children of the dawn." A relative of mine whose offspring are all girls once said to me that he was reconciled to having no boys for he feared that any son he might have had would have been a "cheer leader." The great trouble in times like these is that the warring camps are composed of dogged resisters to change on the

one hand and "cheer leaders" on the other. It is a notorious fact that thousands of active members of labor unions know vastly more about economic questions than the complacent conservatives who sit back, think that no answer to contemporary problems is necessary, and feel that they are entitled to their present status because they belong to the old stock and are still more or less in the saddle.

Such is the discord of the world we live in. In the midst of the irrational confusion, I often return with satisfaction to the saying of old Erasmus that if a man wished to jump into the ranks of the prophets he would not have him as an ally. Santayana in his essay on Shelley states the case against the revolutionist more philosophically when he says:

"The life of reason is a heritage and exists only through tradition; half of it is an art, an adjustment to an alien reality which only a long experience can teach; and the other half, the inward inspiration and ideal of reason must be also a common inheritance in the race, if people are to work together or so much as to understand one another. Now, the misfortune of revolutionists is that they are disinherited and their folly is that they wish to be disinherited even more than they are. Hence, in the midst of their passionate and even heroic idealisms, there is commonly a strange poverty in their lives and an ostentatious vileness in their manners. They wish to be the leaders of mankind but they are wretched representatives of humanity. In the concert of nature it is hard to keep in tune with oneself if one is out of tune with everything."

The Simon pure reformers are often so wedded to a favorite idea that they think the "root and branch" method the only way of progress, count the cost but little, when compared with the glory of the end in view, and like Shelley hold that if the world:

" * * * must be
 A wreck, yet shall its fragments reassemble
 and build themselves impregnable
 In a diviner clime,
 To amphionic music on some cape sublime,
 Which frowns above the idle foam of time."

But the difficulty is that the "fragments" do not "build themselves impregnable," that the old tyrannies are succeeded by others, that the nerves of the new organisms are shattered, their actions con-

fused and inarticulate and to abuses inherent in every system are added the maladjustments of an untried and unfamiliar mechanism. It is often true of the reformer, as Santayana says, that "while he redoubles his effort he neglects his aim," and of reforms, as Emerson remarked, that they "have their higher origin in an ideal justice, but they do not retain the purity of an idea, their work is done profanely, not piously, by management, by tactics and by clamor."

One who believes in peace and order, as indispensable to civilization, is not readily convinced that violent cataclysms—such as the overthrow of the Roman Empire by the barbarians, the disorders and suffering accompanying the Protestant Reformation, the French Revolution, our own Civil War, the Great War, or the present disorganization in Europe, have been apt means to attain desirable ends. Each has produced acute demoralization and each has involved a contest of lasting bitterness, racial intolerance and sectional rancor, in which the good of mankind, even if genuinely sought, has scarcely been attained. It is hard to see why a house must be burnt down in order to exterminate the rats.

Yet what can we do in a world such as this to restore order, and I mean by that, not *any* order, but one that will be durable and good—the best that the time and not our mere imagination may afford? It is a commonplace to say that lawyers can do nothing and want to do nothing, that they have narrow immobile minds wedded to technicalities and to their clients' interests; and it is true that this last characteristic is often found and is always a subtle danger. Nevertheless, I strongly doubt whether any profession contains more upright, intelligent and able men than that of the law. Indeed, the better members of it seem to me to have standards that few other classes have even an appreciation of. It is natural to members of the bar to face realities, to determine issues by argument and reason rather than by force and really to understand what Shakespeare meant when he said, in *Troilus and Cressida*, "Right and wrong, between whose endless jar justice resides." It was largely the lawyers who worked out the American system of government after the Revolution and it will be men like yourselves, who if only you keep alert, disinterested and independent of the control of your clients, will be found best prepared to mould the future in a way that will adapt changes to reasonable, practicable possibilities. I for one have no patience with promiscuous denunciation of our guild

and whatever the future may have in store for us I am glad to have belonged to it and to have had the interesting opportunities that it has afforded. If civilization collapses the fault cannot fairly be laid to the lawyers. The best of them, and they are numerous, belong to that small group which appeals continuously to reason and only such a group can be counted as the "saving remnant" in times of passion and irrationality. If that appeal of disciplined intelligence shall fail nothing will remain but "Chaos and old Night." We believe that the appeal will in the end not be in vain.

Here is the heartening song of *Goethe* which Thomas Carlyle translated in "The Past and the Present"—a song of faith and courage:

"The future hides in it
Gladness and sorrow.
We press still thorow,
Nought that abides in it
Daunting us,—onward.
And solemn before us,
Veiled the dark Portal
Goal of all mortal :—
Stars silent rest o'er us,
Graves under us silent !

While earnest thou gazest
Comes boding of terror,
Comes phantasm and error
Perplexes the bravest
With doubt and misgiving.

But heard are the Voices,—
Heard are the Sages
The Worlds and the Ages :
'Choose well, your choice is
Brief and yet endless :
Here eyes do regard you
In Eternity's stillness ;
Here is all fulness,
Ye brave to reward you ;
Work, and despair not.' "

Can anyone who has this picture before him of the great upward striving of the race fail to cherish the past, gird his loins for the present and have confidence in the future?