

December 2019

## Address

Harold J. Gallagher

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### Recommended Citation

Harold J. Gallagher, *Address*, 5 Wyo. L.J. 23 (1950)

Available at: <https://scholarship.law.uwyo.edu/wlj/vol5/iss1/3>

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favorable auspices, and may—who knows—still do for a rare soul who has the good fortune to possess and manifest them.

I close with one further comment. After writing this paper down to the end of the last preceding paragraph, I found myself prompted to read a comprehensive volume on Benjamin's life, entitled "Judah P. Benjamin, Confederate Statesman" published in 1943 and written by Professor Robert Douthat Meade. It is an orderly and scholarly biography in the modern method. It and a biography published in 1906 by Pierce Butler—not the judge, but a notable scholar of Irish descent bearing the same distinguished name—are, besides sundry articles in periodicals, the principal works devoted to his career. Of the two formal biographical studies, each has its peculiar merits. Butler's is notable for its literary style and its original research, and the Meade volume is altogether excellent and reflects a high measure of critical scholarship.

From our standpoint as lawyers, it is to be regretted that some competent legal scholar has not been prompted to prepare a biographical study of him with special emphasis on Benjamin the lawyer. Perhaps he may yet beckon to a Beveridge of a later generation; and if he does, I am sure that the result will repay the reading; and that will be doubly certain if the writer will only behold his subject in its true context, and not endeavor wholly to divorce the lawyer from the statesman, the politician, and the man.

## ADDRESS

HAROLD J. GALLAGHER\*

It is indeed a very great privilege, as President of the American Bar Association, to accept your kind invitation to address this fine gathering of Wyoming lawyers. It is a wonderful thing to have the members of a Bar Association meet and exchange fraternal greetings with each other, to the end that the administration of Justice, which is one of the most important things facing this country today, may be accomplished on an increasingly satisfactory basis.

I have been to the meetings of many Bar Associations during the course of the year. This is the last State Association which it will be my privilege to address during the year. I can assure you that it has been a wonderful pleasure and a great opportunity to come into such close contact with so many lawyers throughout the nation. One cannot travel over sixty or seventy thousand miles, visiting Bar Associations and meeting thousands of lawyers, without reinforcing his preconceived idea of the fine character and ability of the Bar.

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\* President of the American Bar Association.

A young boy came into the neighborhood for the first time, and visited his newly made friend. He was being shown around the friend's home. This room was shown to him, and that room, and finally the boy said, "Now this, John, is my father's den." With some surprise, the visitor said, "My goodness, has your father got a den? My father just growls all over the house." So I have been growling all over the country for the past twelve months.

I wish to discuss with you this afternoon some matters which, in this changing world, should challenge the attention of all lawyers in the nation, and you here in Wyoming, particularly.

I am sure the lawyers today are taking more seriously the work of the organized Bar than ever before. It is equally true that there has never been a time in the history of our nation when the responsibility for public service rested so greatly upon the lawyers; there has never been an opportunity for the lawyers to do more for the country; there has never been a time when the challenges facing the profession were so great.

Dean Pound, the distinguished former Dean of the Harvard Law School, has stated that the legal profession is essentially a group of men pursuing a common calling as a learned art, and as a public service. It is none the less a public service, because it may incidentally be a means of livelihood. He has pointed out that our profession has done the greatest public service when there has been an all inclusive organization with control over the lawyers' education, admission to the bar and training. He has said that the profession must be distinguished for its public services. A trade association exists for the purposes of trade; a bar association exists for the purpose of the improvement of the administration of justice according to law. We must never lose sight of the fact that public service is the distinguishing characteristic that separates the profession of the law, and the ministry and the practice of medicine, from other businesses or professions. We must never lose sight of the fact that the law is not a business, but that it is a profession, with noble traditions extending over the centuries. It is very hard, in this day and age, to resist the commercial aspects of the profession. We will retain our professional status only so long as we maintain and retain the traditional standards of public service which are so important and necessary.

The American Bar Association is in its seventy-third year of useful service to the bench and bar of this nation. Today it has over forty-two thousand members, the largest membership in its history. That is far from enough. Too few lawyers belong to the Association. Forty-two thousand members represent approximately twenty-five per cent of the practicing lawyers of this nation. All lawyers, as Mr. Kinsley has stated, should belong to the Association; they should also belong to their local bar association, and of course, to their state association. In states like

Wyoming and the twenty-four other states that have integrated bars, of course they are required to belong. But, often times when a lawyer is asked to join the American Bar Association, the answer is: Why should I join; what is there in it for me? I submit to you that this is far too commercial an attitude for lawyers to take who pride themselves in membership in a great profession. The question is not what can you get from the bar association, but rather, what can you give of yourself to the profession. Lord Bacon, the great Lord Chancellor of England, said "I hold every man a debtor to his profession. From that which he doth expect honor, he must be prepared to give thereunto something of himself."

Since I have been away on this trip, there was forwarded to me a letter from the President of the Kentucky State Bar Association, which I visited in April. He had asked me to send him some lawyers who could visit with him and the other officers and commissioners of the various district bar associations in Kentucky. I sent Harold Bredell, the Treasurer of the Association, and the former past President, Mr. Jacob M. Lashley, of St. Louis. Each of them spent three days, attending each day a separate district bar association meeting. It was a fine thing. The President of the Kentucky Bar Association sent me a letter from one of those who attended such a meeting. He said, "I have devoted a great deal of my life to attending Rotary conventions, civic groups, and chambers of commerce, and have devoted myself with great effort and contribution of time, but I have given little time to the bar association. I wonder how I have lived so long in the profession without having recognized the need of giving something of myself to my profession. I am in the future going to give more time to such activities, even at the expense of giving less time to some other organizations." I sometimes wonder whether lawyers who are so busy in their daily lives, take the time to consider what they owe to their profession. If it were not for the fact that many people, such as the officers and those active in your association and other like associations throughout the country, give so much of their time and effort, the profession of the law would be nothing more than the carpenters' or plumbers' union.

And therefore, I appeal to you, to take more seriously the work of the bar association on a national, state and local level. During the past year, one of the main objectives I have sought to accomplish, was to activate the local bars throughout this nation. There is so much talent available on the local level. We must, on the national level, be in a position to give aid to the lawyers at the grass roots, and to receive aid from those lawyers. Wendell Willkie used to say that there was not a city in this country of over five thousand population, or even less, that did not include a lawyer fully competent to serve on the Supreme Court of the United States. I am sure that is true, because I have seen so many, both in my own practice and in my travels, whom you would be proud to have associated with you in any capacity. Their breadth, ability and

talent, spread far beyond the centers of a small town. And it is these men who we must impress with the responsibility of taking over more work in their own community, to the end that the bar may achieve the objectives of the profession. With a united profession aggressively pressing the program of the national or the state group, we would find their action irresistible.

I believe that we have made some progress during this past year in bringing such a unity and coordination about. Your own state bar association appointed a committee on coordination of effort and activities of the national and state bar associations. The purpose is to see, if possible, that every state association will appoint committees paralleling those operating in the sections and committees of the American Bar Association, so that they may study the same problems, and having studied them, proceed to act together upon them. If they find the program merits their approval, they should adopt it, and having adopted it, they should work in a coordinated effort with the national association to see that it is carried into effect.

We have in the American Bar Association twenty-two standing committees, sixteen sections and many special committees. Let me refer to you a few of those committees: The committee on jurisprudence and law reform, which studies all federal legislation, proposed procedure and improvements therein; the law lists committee, which approve the law lists; the legal aid, professional ethics and grievances, public relations, and unauthorized practices committees. Unauthorized practice is a field which requires the utmost scrutiny. The profession is entitled to be free from competition of those who are unqualified to practice law, and, more important than this, the public is entitled to be protected from such service. Lawyers are skilled in the practice of law, laymen are not. Those who rely on the advice of laymen naturally do so at their own peril and their own risk. The American Bar Association, together with the New York County Lawyers Association, prosecuted an injunction proceedings in New York in the so-called Bercu case last year, and an injunction was obtained restraining the accountants from practicing law. Now as was said by your President, the lawyers must equip themselves to advise on tax matters as a technical field, and unless the lawyers can give advice, and the accountants are willing to give it, naturally the business of a legal nature involving tax questions will go to the accountants.

In the State of Iowa, they have a tax institute every year. Nine hundred to a thousand lawyers attend and pay a \$10 registration fee. As a result of that service, the income of the Iowa lawyers in tax business is increased more than a million dollars. That is an evidence of what the bar can do when it determines to master a subject. Those men have become experts in the field of taxation, as a result of the regular attendance at those tax institutes.

The Association has a section on taxation. That section has promoted many amendments to the tax law. The section was largely responsible for drafting the provision providing for the split income, to give to those in all the states, the advantages theretofore enjoyed under the community property laws of a few states. Last year, they proposed thirty-two amendments to the tax law, and they have taken a prominent part in the drafting of the new tax law. The material that this taxation section presents to the membership is invaluable. It would be difficult to obtain such information anywhere else. The studies of experts working on matters that would cost a client thousands of dollars, if he obtained an opinion in such matters, are given to the members of the tax section for their own education and enlightenment for a very small charge of \$6 a year, as a member of the tax section.

The corporation section prepares material each year of the most important character for the education of the members of the Bar. The section is, at the present time, drafting a model corporation act. Those of you who have attended the meetings of the American Bar Association will know that the corporation section, the tax section, the real estate and probate sections, and the insurance section are among the most popular there. I do not see how any lawyer that has anything to do with insurance, for example, could afford not to be familiar with the annotations which the insurance section prepares on the construction of policies of insurance. You could not possibly get that information anywhere else. I refer to these as services which the American Bar Association is rendering to the bar of the country as a public service, for the advancement of the public good, and the advancement of the professional good. Therefore, I hope that any of you who are not now members of the Association, will join, and lend your aid, your influences, your talent to the work of the Association. And may you, in addition, go home determined to see to it that you have a local organization which is active and militant.

In Texas recently, I was told about the Brazos County Bar Association's activities. It was awarded the Texas medal for distinguished service for bar associations in counties of less than fifty thousand people. As the young men came back from the war, they were determined that their local bar association was to become more active than the moribund one which their fathers had belonged to, and they started to do something about it. They set up groups of lawyers to analyze the questions that were to be submitted to the voters at the polls. They did this on a non-partisan basis. They objectively analyzed each issue; they proposed no views of their own. They also offered to make available to schools and institutions, men to judge debates. They are also active in cases for indigent folk who need legal service. As a result, the membership of the bar in Brazos County is convinced that they have attained a new status in public good will in that county. I commend such a program to you in your county.

One of the things that the American Bar Association has been doing this year, is to bring home to the lawyers that they owe a duty to see to it that legal services are provided for everyone who needs such services, irrespective of their economic status. The lawyers have an exclusive right to practice law. They have a monopoly; but it is only a privilege; it is a license which is revocable. We should not forget that. Our Constitution provides that all persons shall be entitled to equal protection of the law, but it is a mockery to suggest that everyone has that equal protection if he is denied justice because of his inability to pay for it. In many places, particularly in the large places, legal aid societies have been created by the lawyers for the purpose of seeing to it that such indigent people have legal services.

Perhaps in such a community as Wyoming, there is not much need for that on any great scale. But I am sure, as a matter of improving public relations, that it would be most advantageous if you would set up some kind of an informal legal aid society in places that are not sufficiently large to maintain a legal aid office. I think that public relations essentially are a matter of how much public service the lawyers perform.

There is no question but that the public relations of the bar have suffered. The lawyers in every state are concerned about it. Surveys have been made in some localities, which have indicated that the legal profession has sunk to a low level in public esteem. It is difficult for us to realize it, or to realize why. Individually there is no group of men in this country, perhaps outside of the ministry or the doctors, that are given so many personal confidences as the lawyer. And the lawyers uniformly respect those confidences. Why is it then, that collectively, there seems to be, in many cases, a feeling of distrust with the legal profession? I do not know the answer, but I am convinced that if the lawyers would more publicize the good works that they do do, it would help. They do much public service; so many things to which they devote their time, which get no public recognition or notice. The continuing legal education system, which the American Bar Association and the American Law Institute are sponsoring throughout the country, is doing a fine service in improving the competence of the bar. The law schools are doing much by reason of the fine training that they give to their students, to improve the quality of the bar.

A field in which action is necessary to improve public relationships is the field of professional ethics and grievances. Ninety-nine lawyers out of every hundred may be completely worthy of trust, but if there is one among them who is guilty of violating the trust, or who engages in unethical, illegal or improper practices, the rest of the bar should deal relentlessly with him. Sentiment or friendship cannot interfere. If it is known by the public and by the bar, that the ethics committee will, at any time, move in on any lawyer who is unworthy, it will not be long

before bad practices are discontinued. In a recent issue of the American Bar Association Journal I have referred to the manner in which the bar of Passaic County, New Jersey, has handled the situation, with the result that for ten years there has been no disbarments, and no reason for disbarments, and the public confidence in that bar has returned.

Another method of giving legal services to people who need such services, is the lawyers reference plan. There are millions of people in America today who need legal services who are not getting them. Such is the finding of the survey of the legal profession now in progress. To meet that need, the American Bar Association, this past year, following up action of the House of Delegates several years ago, has sought to influence the creation in every city of over thirty thousand people, of a lawyers reference office. The plan is a simple one; a lawyer is designated, who will interview those who need legal services. If he discovers that the matter is one that cannot be adequately dealt with at the first interview informally, the client will be referred to a lawyer on a list of lawyers which has been prepared by the bar association sponsoring the program. For three to five dollars at the first conference, the legal advice necessary is given. Many times, one conference is sufficient. If further services are needed, an agreement is made as to the fee. If there is any dispute as to the fee, the bar association resolves it. As a practical matter, in the city of New York, in five thousand cases, there have been three disputes in three years. In Los Angeles, in thirteen years, there have been two disputes, both disposed of satisfactorily.

The survey's findings show that eighty per cent of those who consult with lawyers reference plan have never before been to a lawyer. If all who need legal services, obtain them, there would hardly be enough lawyers in this country to provide the services. Mr. Justice Jackson, of the Supreme Court, has described the plan as one that brings a briefless barrister and a lawyerless client together, to their mutual advantage. The New York Herald Tribune, in commenting recently on the plan, said, "It shows that a great profession can adjust itself with wisdom and intelligence to the changing needs. It places the law where it ought to be—at the service of the citizens."

And soon, even though Wyoming is small in population, you may find it desirable to consider the institution of lawyers reference offices in some of your communities. I am sure many lawyers in your communities give a great deal of time without charge to those who need services. If you had an organized plan, it might be that this work would be spread out more equitably.

The lawyers reference plan is an opportunity for a great public service. It is one which I believe is necessary to avoid a demand for socialization of the bar in this country. Recent experiences have demonstrated that, whenever there is a service which is needed which private



enterprise does not provide, there will be a demand for government service to supply that need. Socialization of the bar would destroy the independence of the profession. We must prevent any such demand and any such result.

During the past year, as Mr. Kinsley said, a conference of bar association presidents was organized. I hope that your president and your past presidents will be in attendance at the meeting in Washington of the bar conference September 16. There is no better way of exchanging ideas than to have all the presidents of the different bar associations meet together, to exchange ideas and information as to what other bar associations are doing, and to learn at first hand what the American Bar Association is doing. All past presidents of any local or state bar association are eligible as members of that conference.

We have, in the American Bar Association, a committee on American citizenship. I hope that the Wyoming State Bar will authorize the appointment of an American citizenship committee in this state. We are living to day in a world which is torn more than ever before by conflicting ideals and ideologies. Our whole western civilization is threatened as never before. The lawyers are in a better position, by reason of their training and experience, to teach citizenship and to teach the fundamentals of our government. The privileges and duties of citizenship have not been adequately taught in the past. We have failed in our duty to the school children. A recent survey conducted by the New York Times showed that only sixteen per cent of the college students of this country were studying American history last spring. Only thirty-four per cent of the colleges required American history as a condition to graduation. How can we expect the youth to know anything about our form of government when they do not know the history of the United States?

We have taken our liberties for granted. We forget how they were won. If we are to retain our freedom, we must understand it. We must want to retain it. We must be willing to make the sacrifices that are necessary to retain it. We must understand the processes which are necessary for the perpetuation of liberty. It is not something that can be taken as a commonplace; it is not something that can be held without effort.

That is what the American Bar Association is trying to make our people understand through its Committee on American Citizenship. It is making material available to all state bar associations, so that in turn, the state association may, through its own committee on citizenship, send out its lawyers to teach what it means to be an American.

Our faith in our institutions and in our destiny is being tried as never before. The socialistic union of Russian States stands for the principle that man is a servant of the state. That means the slave of the state,

without rights but only with duties. In this country we have the contrary philosophy that man receives his rights from God and not from the state; that he has certain unalienable rights supreme and above state interference, which are his because of his God given dignity. We must have a resurgence of this spiritual understanding in this country if we are to preserve our liberty. There is nothing so precious in life as freedom. It does not exist in the totalitarian state. Communism is now plainly recognized everywhere as a powerful, ruthless conspiracy determined to destroy our democratic form of government and the very liberties we cherish. We know that Communism is a temporary illusion. We know that it is bound to fail because, as has been said, its roots are born in chaos and not in order. Its rule is not of freedom but of fear and ignorance. Let us then, in America, recreate the heroic spirit of the founders of the Republic, and of those who have made it great. If the light of freedom should ever go out in this country, it would go out over all the world, and it is doubtful when, if ever, it would return. Let us determine to keep that light shining brilliantly, and in its light let us have an abiding love for liberty and mankind. I thank you.