

## REMARKS BY DAVID GLICK, ESQUIRE

[Incoming President of The Allegheny County Bar Association, at Annual Meeting, December 7, 1960, in Penn-Sheraton Hotel, Pittsburgh, Pa.]

Gentleman of the Allegheny County Bar Association:

I thank you for both the privilege and honor of serving as the President of the Allegheny County Bar Association for the coming year and I accept the honor as an accolade; a pledge to serve the Bar to the utmost of my ability. Justice Holmes in one of his short but always sparkling addresses, made this observation: At every banquet of the learned, it is well to have a ghost, somewhat like Banquo in Macbeth; a ghost that prods, questions and doubts. At a feast as this one, the question uppermost should be what is the purpose and function of law? We could survive without law if all men and women were saints; but alas, that is still a far-off dream. Had God, after creating Adam, just rested, there would have been no need for law. Adam, alone in the world, was free to do as he pleased; no restrictions, no duties, no responsibilities—but Eve came upon the scene, followed by Cain and Abel, and from that moment, law was necessary, for there arose immediately the problem of relations between human beings. The authority behind the law at that day was the Creator Himself. He judged and handed down history's first verdict against Cain for the murder of Abel. Four people in all the wide, wide world and law that we refer to as Divine Law or Natural Law, was required and enforced.

Presently there are more than four people in the world—we are fast approaching the two and one-half billion mark. How much greater the need and necessity for law. A society without law is inconceivable. The earliest books of the Bible, sacred both to Christian and Jew, deal with law, a code commonly referred to as the Mosaic Code. From the very beginning, emphasis was placed on the fact that we cannot have any collective social life as a human family unless we learn to discipline ourselves so that the self can live with other selves, so that the individual can live with the state, so that the state can live with the nation, and we have finally arrived at the hopeful point in history when law is prepared to see to it that nation can live with nation under the rule of law so that "world peace under law" will blot out the curse of war with its lasting hatreds, its brutalities, its atrocities, and put an end to needless pain and suffering inflicted upon millions of people and innocent victims.

It is the purpose of law to enlarge freedom, for where there is no law, there is no freedom and people perish from the perversion of power. Where there is no law, the rule of terror follows. It is law that shields us against unbridled cruelty and tyranny. I can attest to that from personal observation and experience after living in a completely totalitarian state under an absolute dictator for two years from 1936 to 1938.

Our system of law is at bottom based on the idea that there is something sacred about the individual—a spark of the Divine in the individual. This noblest conception of man is not a philosophical idea resolved by the ancient Greek philosophers, nor a 13th century theological idea revealed by St. Thomas Aquinas, nor an 18th century political idea discovered by Thomas Jefferson, as set forth in the Declaration of Independence. Whence then comes this idea? It is basically a religious idea, for we reach back to the opening chapter of the Book of Genesis and read that God, not Aristotle, not St. Thomas Aquinas, not Thomas Jefferson, but God, said, "Let Us make man in Our image, in the image of God created He him". There speaking was the Supreme Au-

thority, and therein, I repeat, do we find the noblest conception of man, which the Common Law adopted.

While eminent lawyers and law professors and statesmen are at work on international law, you and I in our daily task are hard at work representing the individual, not only protecting his property rights, but in these solemn and serious times, we must be ready to defend his civil and personal rights when under attack. The authorities ruling one-half the population of the world living behind the Iron Curtain are scornful of the idea of civil rights for the individual, and scoff at the belief of sacredness of personality. The individual is an insignificant cog in the vast machinery of the totalitarian state, for the state is sacred and the individual must genuflect and worship the state. The civil rights referred to in the Declaration of Independence as the "unalienable rights of life, liberty and pursuit of happiness" and the rights of "life, liberty and property" guaranteed by our Constitution are unknown in the Iron Curtain countries.

It is the glory of our profession that at all times and ages, courageous lawyers have arisen to defend the individual in what we refer to as "unpopular causes" that involve these inalienable rights.

In England just prior to the American Revolution, that magnificent lawyer, John Erskine, defended Horne Tooke, who was accused of being a traitor to England because he supported the cause of the colonists against the mother country. There were other lawyers in England such as Hampton, Eliot and Pym, who risked prison defending the individual in his right to worship as he deemed his right. In France, Chretien Malesherbes had the courage to demand a trial for Louis XVI when mob rule governed during the French Revolution. Malesherbes defended Louis XVI. He lost his case, he lost his king and he lost his own head under the guillotine. Let us not forget our own John Adams, who risked his reputation in 1770 when he successfully defended the British soldiers in Boston against the aroused colonists in what is known as the Boston Massacre. And more recently, William G. Thompson, and Arthur D. Hill, two eminent and prominent lawyers of Boston, in the face of an emotionally charged community, freely gave of their ability and talents in the final stages of the Sacco-Vanzetti case.

Within the past year (362 U. S. 199 1960), one Sam Thompson of Louisville, Kentucky, was in the Liberty End Cafe waiting for a bus to take him home. While waiting, he was quietly and without disturbing anyone, tapping his feet to the tune of a jukebox. Two officers entered on their regular routine and arrested Sam for loitering. He was escorted to the street, where he asked, "Why am I arrested?"; they charged him with a second offense, namely, disorderly conduct. He was fined \$10 or ten days in jail for each offense. Fines under \$20 are not appealable in Kentucky. He sought out counsel and Louis Luskey, a graduate of Columbia Law School who had been a clerk to Chief Justice Stone, requested the Police Court to stay judgment in order to apply for Certiorari to the Supreme Court of the United States on the ground that "Shufflin' Sam Thompson" was deprived of due process. The Police Court granted a stay of 24 hours. Luskey then appealed to the Kentucky Circuit Court, which granted a longer stay. The City of Louisville then appealed to the Kentucky Court of Appeals on the ground that the Circuit Court lacked the power to stay the judgment. The Court of Appeals affirmed the Circuit Court. Luskey (attorney for petitioner) then applied for Certiorari to the Supreme Court of the United States. Certiorari was granted and in an unanimous opinion, the judgment of the Police Court of Louisville was reversed and remanded. A case like this makes one proud that he lives in a country where the highest court in the land will protect the humblest citizen in a

modest Police Court and that an attorney will give liberally of his time and great talent as an exercise of the public profession of the law.

The acid test of a good society is its respect for the rights of the individual.

Today we live in an age in which two systems of society and two systems of ethics confront each other, with the outcome still in doubt in many parts of the world. A pagan materialism takes issue with the great ethical doctrines that developed long ago in ancient Palestine and Greece, but we firmly believe that Democracy has the capacity to overcome and surmount any task that lies ahead. Democracy is at its best when fighting against odds. Our purpose and our destiny was stated by Ralph Waldo Emerson in five words—"Our destiny is to liberate." It is to help set men free, to liberate men from domination, to assist in establishing governments under law and government by the consent of the governed.

A belligerent bully has boasted that Communism will bury Democracy as we understand that ideal. We hurl that challenge back into his teeth. Democracy buried Mussolini's Fascism, Hitler's Nazism, and will bury Lenin's Communism.

Two forces have always been at work all through history, "moral force and law" on the one hand, "physical force and tyranny" on the other. You and I as lawyers and as Americans, subscribed under the banner of moral force and law, when we took the solemn oath upon admission to the Bar. It is our responsibility as lawyers to hold that banner high and untouchable for that oath is still valid. We enlisted under the banner of moral force and law because we believe that moral force and law are irresistible and in the long run, unconquerable.

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## FIRST AID FOR THE ARBITRATOR — WHAT HE WANTS FROM YOU

By **B. MEREDITH REID,\*** Attorney and Arbitrator,  
Pittsburgh, Pennsylvania

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Justice is depicted as a tall, sometimes brooding, often broad-beamed, majestic woman draped in a white robe. Justice, the concept, not the woman, has been the concern of my professional life, as it has of every lawyer's. She is no stranger to Arbitrators or arbitration.

Not too long ago, men of vision, brave men in free enterprise, set up a forum for swift and substantial justice. They parted with precious powers — the companies with some jealously guarded management rights—the unions with the basic right of people to strike. Thus was born the Arbitration Clause, which wisely provided there was no "sine qua non" for lawyers—like Scotch, you could take 'em or leave 'em—just as you did your arbiters.

I start with my Award—for don't you always read it first? The issue is: "What does an Arbitrator want from the parties?"

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\*[FOOTNOTE BY EDITOR OF PERSONNEL JOURNAL: One of the country's best-known men in his field, the author gives some valuable pointers on how both parties to a dispute can help the arbitrator of their choice to render an award that is not only just, but one that both parties can "live with."]