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HERBERT HADLEY AND LEGAL EDUCATION

BY TYRRELL WILLIAMS

I.

There are two kinds of courage. There is the courage of the stern face, the gritted teeth and the taut muscles. Then there is debonair courage, the courage that is so natural, so exuberant, so gracious, that the courage itself is almost disguised. Herbert Hadley's courage was debonair.

The last time I saw Herbert Hadley was in his bedroom at Chancellor's House. He had insisted on the interview. Persons outside the room had warned me that the visit should be short. The patient was propped up in bed. Physical weakness was apparent. It seemed as if death was not far away. But there was the same direct gaze, the same winsome smile, the same clarity of thought and of phrasing, the same distinct enunciation, the same humor, the same delightful mixing together of the important and the trivial,—all these, that had fascinated me twenty-five years before, about the time New York newspaper men were beginning to refer to the "young Lochinvar" of Missouri. When I got up to leave I said: "Governor, I'm sorry you're sick. But I'm glad you're comfortable." Off his guard for the moment, without a smile and quickly, he inquired: "Who said I'm comfortable?" I replied: "You certainly act as if you're comfortable." Came again the smile and came also this remark: "I suppose I am comfortable. Of course I'm comfortable. I'm always comfortable,—so long as people don't pity me."

Nobody ever pitied Herbert Hadley. But many persons have wondered what Herbert Hadley's life would have been if unhandicapped by poor health. Aaron Burr would have been President if he hadn't had a weakness of character. Herbert Hadley would have been President if he hadn't had a weakness of body.

The debonair quality of Herbert Hadley's courage was manifest in incidents far removed from considerations of sickness and health. When Attorney-General of Missouri, with a growing family and a salary about equal to what a journeyman plasterer can earn, he was prosecuting the most powerful corporation in the world for continuous and scornful violation of Missouri law. A suggestion came that he resign from public office and accept an annual retainer of \$50,000 from

the corporation. He declined. He won the law suit. The corporation reformed. And Herbert Hadley, when constrained to refer to the incident, treated it as a good joke on a stupid corporation.

Debonair courage is not solitary courage. It seeks its own kind. It belongs to those who have a genius for friendship. It thrives in congenial association. Once upon a time, when Herbert Hadley was Attorney-General, he came down from Jefferson City to St. Louis and called on Fred Lehmann, a former President of the American Bar Association and one of the half-dozen ablest lawyers of our generation. He said: "Mr. Lehmann, as official representative of the State of Missouri, I'm trying to teach some obstinate New York millionaires who conduct a vast business in Missouri that they must obey Missouri law and show respect for Missouri courts. I'll have to carry the fight into the New York courts. I want your help. I can't promise that you will ever receive financial compensation for your service. Will you help the State of Missouri?" The two men—up to that time comparative strangers and members of opposing political parties—looked at one another, and each understood. A devoted and joyous friendship sprang into existence which lasted until Herbert Hadley's death. Gladly Fred Lehmann helped the State of Missouri. The New York courts did as requested. And certain captains of industry learned a much needed lesson.

II.

Hadley's connection with legal education began when, as a Bachelor of Arts who had specialized in the classics, he attended Northwestern University School of Law. At that time John Wigmore was a young, forceful and industrious professor in the school. In later years, when fame had discovered both men, Hadley often mentioned his obligation to Wigmore and his admiration for the latter's useful scholarship and outspoken loyalty to conviction. In his student days, Hadley helped to organize the Northwestern Law Review which still exists as the Illinois Law Review.

As a practising lawyer and as Governor of Missouri, Hadley showed the effect of modern law school training, especially in his refusal to be baffled in a novel situation simply because there was no exact precedent to follow. While Governor, Hadley took more than a perfunctory interest in the University of Missouri and the welfare of its excellent College of Law of which John Lawson was then Dean.

In 1917, after two forced retirements from all activity on account of

health, Hadley became Professor of Law at the University of Colorado. He loved his new vocation and was a stimulating teacher. Among his former students and warm personal friends may be mentioned Bryant Smith, now Professor of Law at the University of Texas, and Wiley Rutledge, Jr., now Professor of Law at Washington University. In 1923, Hadley was inaugurated Chancellor at Washington University and became the official head of its School of Law. The utmost cordiality always existed between Hadley and Richard Goode, the scholarly, venerable and beloved Dean of the School of Law, who died on March 4, 1927.

During Hadley's official connection with American university work, he was profoundly interested in four problems, which were, and still are, wrapped up with "training for the public profession of the law" to use Alfred Reed's pregnant phrase. Here are the four problems: (1) The relation between jurisprudence and statemanship; (2) Coöperation between the teaching and the practising branches of the profession; (3) Higher standards for admission to the state and federal bars; (4) The problem of the self-supporting student of law.

Hadley's views on the first three of these four problems were frequently expressed and can be found as set forth by him in the printed pages of our law reviews and the reports of bar associations and other professional organizations. The fourth problem, the problem of the self-supporting student of law, was the problem in which Hadley was most interested during the last two years of his life. His attitude toward this problem was misunderstood by some influential persons from whom more sympathy and comprehension might have been expected. In Hadley's opinion, the good faith of the American Bar Association is pledged to the following proposition, phrased by Draper Lewis and first officially announced by Elihu Root in 1921, namely: "The principle of opportunity for all applies peculiarly to admission to the legal profession. The physicians may properly exclude all who do not measure up to the strictest requirements of a technical standard. If this results in practically confining the right to practise medicine to men in comfortable circumstances, the public will not complain, for the public must at all costs have highly skilled physicians. But to confine the right to practice law to one economic group would be to deny to other economic groups their just participation in the making and declaring of law. Such a restriction would properly be resented by the public." Hadley did not regard this as bunk.

At the time of his death, Hadley had entered upon negotiations with

some of the labor unions of the country looking toward a feasible plan for establishing scholarships to be maintained by labor unions in the leading law schools of the country. This was one, but only one, of several avenues of approach that were being explored by Hadley when fatal illness overcame him. Under the able administration of Silas Strawn, the American Bar Association has found itself in cordial cooperation with the American Federation of Labor in studying the question of industrial arbitration. This indicates a broad social vision on the part of both these influential organizations. It is to be hoped the American Bar Association will not forget that its good faith is still pledged to maintaining the essential democracy of the American bar. One thing is certain. The American people will never stand for an aristocratic and class-conscious bar like the one in England.

III.

For many faithful years, Miss Grace Denison has held the position of Secretary to the Chancellor of Washington University. She has prepared a list of addresses on legal topics and articles on legal topics written by Hadley while Chancellor of the University. Miss Denison's list is as follows: October 18, 1923, Address at the Bar Banquet, Statler Hotel, St. Louis, *ST. LOUIS GLOBE-DEMOCRAT*, October 19, 1923; October 18, 1923, Remarks at Dedication of Grace Vallé January Hall (Washington University School of Law), *UNIVERSITY RECORD*, Vol. 19, No. 2; December 15, 1923, "Legal Education and the Restatement of the Law by the American Law Institute," before Missouri State Bar Association, *PROCEEDINGS MISSOURI STATE BAR ASSOCIATION*, 1923, *ST. LOUIS LAW REVIEW*, Vol. 9, No. 2, *UNIVERSITY OF MISSOURI BAR BULLETIN*, Vol. 25, No. 3; February 22, 1924, Commemoration Day Address, Johns Hopkins University, *JOHNS HOPKINS ALUMNI MAGAZINE*, June, 1924; April, 1924, "Why Criminals Escape Justice," *ST. LOUIS POST-DISPATCH*, Sundays, April 6, April 13 and April 20, 1924, also *POST-DISPATCH REPRINT*; September 4, 1924, "The Improvement of our Law," *MICHIGAN STATE BAR JOURNAL*, December, 1924; September 20, 1924, "The 137th Anniversary of the Adoption of the Constitution," Municipal Theatre, St. Louis, *ST. LOUIS GLOBE-DEMOCRAT*, September 21, 1924; February 10, 1925, "The Administration of Criminal Justice," Missouri Association for Criminal Justice, St. Louis, *ST. LOUIS GLOBE-DEMOCRAT*, February 11, 1925; April, 1925, Report of the Committee on a Survey and Statement of the Defects in Criminal Justice, 3 *PROCEEDINGS AMERICAN LAW INSTITUTE*, 441; April 13,

1925, "Present Conditions of Criminal Justice in America Historically Considered," before the Bar Association of St. Louis, *AMERICAN BAR ASSOCIATION JOURNAL*, October, 1925; September 1, 1925, "Our Criminal Procedure Historically Considered," before American Bar Association, 50 *REPORTS AMERICAN BAR ASSOCIATION*, 689; October 23, 1925, "The Permanent Court of International Justice," before St. Louis League of Women Voters, *ST. LOUIS LAW REVIEW*, Vol. 11, No. 1; November 20, 1925, Carnegie Day Address at the Carnegie Institute of Technology, Pittsburgh; January, 1926, "De Tocqueville's Conception of Representative Government and the Influence of the Legal Profession" (for a new edition of De Tocqueville's work, "Democracy in America"); January 12, 1926, "The Reform of our Criminal Procedure," before the Missouri Association for Criminal Justice, Jefferson City, *ST. LOUIS GLOBE-DEMOCRAT*, January 13, 1926; June 14, 1926, Commencement Day Address, Iowa State College; October 2, 1926, "Work of the Association for Criminal Justice," before the Missouri State Bar Association, *PROCEEDINGS MISSOURI STATE BAR ASSOCIATION*, 1926; October 4, 1926, Address before the Bar Association of St. Louis, *ST. LOUIS GLOBE-DEMOCRAT*, October 5, 1926; October 29, 1926, "Movements to Check Crime," *AMERICAN YEAR BOOK*, 1926, pages 622-625; October, 1926, Introduction to Report and (in association with others) Report of the Committee on Criminal Procedure and Judicial Administration of the National Crime Commission, *AMERICAN BAR ASSOCIATION JOURNAL*, October, 1926, pages 690-694; November, 1926, "Necessary Changes in Criminal Procedure," *MISSOURI CRIME SURVEY*, pages 349-374.

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