

HOUSTON BUSINESS & PROFESSIONAL MEN'S CLUB

Houston, Texas

November 28, 1962

Judson W. Robinson
President

Invocation	.	.	.	.	.	J. E. Robinson Chaplain
Luncheon	.	.	.	.	.
Minutes & Communications	.	.	.	.	.	J. Grant Richards Secretary
Committee Reports	.	.	.	.	.	Chairmen

P R O G R A M

Presented By

THE HOUSTON LAWYERS ASSOCIATION

Atty. Francis L. Williams
Presiding

Welcome to Guests	.	.	.	.	.	President Robinson
Introduction of Guest Speaker	.	.	.	.	.	Attorney Williams
Address	.	.	.	.	.	Kenneth S. Tollett Dean of the Law School Texas Southern University
Introduction of Guests	.	.	.	.	.
Announcements	.	.	.	.	.
Adjournment	.	.	.	.	.

THE LAWYER'S ROLE IN THE HOUSTON COMMUNITY

This is a very auspicious occasion. At last there is a cordial gathering of the Negro lawyers of this community with its business and professional men. Our purpose is to communicate with each other and improve our relations, dedicate our talents and energies to our common and the public good. The choice of me as speaker at this important occasion is, perhaps, unfortunate. It just so happens that presently I am president of the Houston Lawyers Association, and because of the fact that I am the president most of our members felt the president should be on the program. All realized there were more worthy members of our organization who could no doubt do a better job speaking, yet lawyers being respecters of protocol and form, reluctantly suggested that I speak on behalf of the Association. As I said, it is hoped that the relation between the Association members and you will be improved. However, by now I have become notorious in this community as a rather blunt and frank speaker. I do not have a talent for concealing my true thoughts, and people are not frequently won over with the blunt truth. I will say as many nice things as I can with good conscience, but I assure you, notwithstanding the purpose of this occasion, I will not stray from my habit of speaking frankly. I hope the Houston Lawyers Association and I do not come out of this encounter with a black eye as a young friend of mine did.

This fellow was to go to his first dance and his public relations conscious father gave him instructions on how to be a hit with all the girls. His father said girls just love compliments no matter what the circumstances. All he had to do was to compliment every girl he danced with. When the young man returned home early in the evening wearing a large black eye

received at the hands of a young lady, his father admonished him. Why did not you compliment the young lady who blacked your eye? "Yeah," the young man replied, "I did compliment her" The father asked him what did he say. The young man replied, "Well, we were dancing around and I complimented her by saying you sure do not sweat very much to be a fat girl."

Speaking my thoughts frankly has caused me some close shaves. Once I was in a restaurant and ordered a dinner. It seemed it took the waitress a life time to bring me my meal. When she finally came back with the meal I said, "Gee, you are the girl who took my order." She said, "Sure, why do you say that?" I replied, "Well, by golly, you don't look a day older."

You have not heard anything. When I was practicing law in Chicago, I had a personal injury case that required the testimony of a doctor friend of mine to properly prove up my case. Well, the fellow had gone out of town the very week I had told him the case was to be called and he did not show up. When the case was reset, after I eloquently pleaded with the judge to postpone it, the doctor friend took the stand and I started questioning him. I said, "Why weren't you here when this case was called last week, Doctor?" The doctor replied, "I just returned from a two weeks hunting trip in Canada." Sorely caught by his answer, I asked, "Did you kill anything?" The doctor replied, "Not one solitary thing." Being a brash outspoken lawyer, I said, "Doctor, you could have done much better than that by staying in your office and attending to your regular practice." You know, that doctor almost wrecked my proof of special damages.

Somebody told me a story on Attorney ^{Francis Williams,} ~~Henry Boyle,~~ I do not know whether it is true, but it points out he can be blunt too. Attorney ^{Williams} ~~Boyle~~

had finally won a hard-fought personal injury case for a client who had fallen into a hole. The client complained to Attorney ~~Doyle~~^{Williams}, "I think the contingent fee is too much." Attorney ~~Doyle~~^{Williams} replied, "I don't see why. Any damn fool can fall in a hole, but it takes a right smart lawyer to make the owner of the property pay the fool for it."

I think this is a good time to talk on my subject, "The Lawyer's Role in the Houston Community." I know all of you are either business or professional men and you do not have time for me to waste your time with stories. Furthermore, I am not very good at telling stories. We are all too busy for that, although no one is too busy to talk about how busy he is. Do not get me wrong, busyness like business is a good thing. Business in our country will continue to boom as long as we don't quit buying after we have bought everything we can afford. We have a genius for business. There is hardly anything in the world that some man cannot make a little worse and sell a little cheaper. Seriously, I now intend to get down to the business of this gathering.

There are two major points I should like to make in connection with the lawyer's role in this community. The first applies to all thriving business and professional communities and the second applies more specifically to this community, its Negro lawyers, business, and professional men. First, one cannot seriously engage in any kind of business worthy of the name, without constant advice and consultation of a lawyer. Second, the members of the Houston Lawyers Association deserve a bigger share of the legal business in this community. Now to the first point.

Businessmen are frequently impatient with the legal restrictions on their activities. Further, they often think technical points of law obstruct the smooth operation of their businesses instead of aiding them. Yet it is perfectly clear that business is completely dependent upon law and could not function without it. Law secures our person and property. One way or another all businesses and their transactions depend upon contracts. If the law did not require businessmen and their customers to keep their promises, there would be complete chaos. Without laws, economic activity grinds to a halt, since no one is willing to take business risks when anarchy has supplanted law. Law is a restraining force against chaos, however, business needs law as a positive force of freedom and all that freedom implies.

The competitive market depends upon the freedom of every individual to choose his own course of action within the framework of the law. Freedom is not only important in the economic realm. There must be the free flow of ideas. No man really becomes a fool until he stops asking questions. "A really vital economy cannot function as part of a unanimity; it requires diversity, and diversity requires freedom under law."

There must be some ground rules for the operation of a business just as there must be rules for any game, competitive or otherwise. I think it is clear that our entire society, including business, is better served by imperfect ground rules than by none at all. We may improve these rules from the experience we gain from their operation.

Law is the repository of the standards and norms which we feel must be obeyed or followed in order for a viable social order to endure. Naturally, law must be responsive to the needs and aspirations of business just as it must be to the general community. "The basic problem for the

law, of course, lies in shaping and reshaping standards and principles to facilitate business activity and growth, while at the same time protecting the interests of our society as a whole. Thus, there should be no hostility between law or lawyers and business.

Lawyers and businessmen have much in common. We are both essentially problem solvers and pragmatists. We both seek answers to demanding problems. Neither of us is especially impressed with high sounding theory. The question we both are constantly asking, "Does it work?" "The lawyer, and particularly the judge, is interested in ~~the~~ theory, but only insofar as it bears sufficient relation to experience to be of value in solving problems. Likewise, the businessman, who must sell his products or services, pay his employees and earn enough money to pay dividends to his stockholders, is understandably interested in results." This pragmatic approach to business is reflected in the case method approach to instruction in the leading business schools of our country. Lawyers have been trained by the case method in our law schools for over a half century now. Businessmen, like lawyers, are being trained in close ^{fact} analysis, for which the flexible, open mind is essential."

Businessmen and lawyers are accustomed to making up their minds, for decisions have to be made, right or wrong. None of us can be completely confident that he has made the right decision in any particular case.

Lawyers are now being trained in more than just the technicalities of the law. Their powers for analysis, fact finding, and problem solving have made them very able counsels of business, even outside the sheer technical questions of law they might be asked. For many years, our law school, as most

throughout the country, require^y all our students to take Legal Accounting. Business factors are frequently emphasized in our instruction of commercial law courses. "Business needs lawyers who quickly grasp the dynamic nature of our economy and can visualize their role in reconciling business needs and social demands." Nevertheless, our vision of any given problem necessarily cannot be solely colored by the business hue of the picture. I think this is the greatest source of friction between lawyers and businessmen. When I was practicing law in Chicago, I was frequently told by real estate men that they did not like to bother with lawyers because they frequently blocked deals with their concern for detail, form, and maximum protection of client. Lawyers sometime replied that real estate men just wanted to close a deal and get a commission, no matter what the future consequences, economic and legal, the transaction might have on the parties involved. There may be ^a little truth on both sides, but there can be mutual cooperation which redounds to the benefit of all involved, including society. I never blocked a real estate deal in my life, although I participated in many in the capacity of a lawyer. Except in a case that appeared to me to be approaching fraud, I never took it to be my responsibility to raise serious questions regarding the price or desirability of buying or selling a piece of property. This was a matter primarily the concern of the broker, seller, and buyer, However, I always insisted upon the basic protection a person deserves in such a deal. Indeed, it came to develop ~~develop~~ that many brokers especially wanted me or other

lawyers involved in such a deal, for the broker frequently used lawyers as a selling point by urging clients to consult their lawyers so they should have no doubt about the legality or propriety of a deal. A broker who has nothing to hide really should welcome a lawyer in a deal, and thus stop engaging in the unauthorized practice of law by drawing up contracts, deeds, notes, et cetera. The court reports are full of such deals that have ended up in much grief for all parties involved. I wonder how brokers would feel if lawyers, not licensed to sell real estate, started spending much of their time selling real estate. I am sure the average lawyer lacks almost as much important knowledge about real estate from the standpoint of how to sell it et cetera as the average real estate broker lacks knowledge about law, even real estate law.

There was a time when Negroes had so little property or business that they could afford to muddle through without the services of lawyers. But that time is quickly drawing to a close. We must come of age. The average laymen may know that you can become married to a woman by simply moving in and living with her, but such a marriage cannot be dissolved by the simple expedient of moving out. This misinformation is beginning to haunt many Negro estates and real estate deals. A little legal knowledge can be a very dangerous thing. What I have said makes me think of one of those colored jokes, which I hate. Slick asked Sly, "Did you remarry after your divorce." Slick answered, "No, I did not. While I bought first, I am leasing now."

To indicate how genuine business enterprises value the services of lawyers, Martindale-Hubbell shows that between 1955 and 1958 the number

of salaried lawyers in industry rose from 15,000 to almost 19,000⁰⁰ an increase of about 25 per cent. Almost every business transaction or deal has tax law consequences. Regulatory agencies affect, in a legal way, almost all business enterprises. If you are really engaged in a substantial business, the chances are barbershop and poolroom law won't fully serve your needs. We do not like for a special brand of justice to be meted out to Negroes who kill other Negroes. This means we want to be a part of the mainstream of this great country. Likewise, if we get into the mainstream of business affairs, we are going to find the law will demand more of us and thus it will be mandatory that we properly follow the requirements of the law.

With the new bank coming to our community, business opportunities will open up like they have never before. / No bank is going to lend money to a business venture if it is not soundly counselled from a legal standpoint.

The Houston Lawyers Association, aware of the new opportunities and challenges the Riverside National Bank will bring, has, through its professional enhancement committee under the chairmanship of Attorney Doyle, planned some special programs for the continual education of its members so they will be fully equipped to meet this expanding need for legal counsel in business. So much for laws and lawyers' relation to business. I could say much more, but I do want to say something on my second point.

Have you ever reflected upon the fact that almost all our major civil rights cases have been won by Negro lawyers, cases which were most ably resisted by the so called best and largest white firms in the country in courts that were generally hostile to the claims of the Negro attorneys. Is not it obvious that in non-civil rights cases, there would be least hostility to the Negro lawyer or his client, and thus, in a sense, you should have less fears in hiring a Negro lawyer in a regular civil or criminal case than in a civil rights case. I am discussing something now that makes my blood boil.

It is indeed lamentable and pathetic that Negroes have so little confidence in each other from a professional standpoint. Gulf gasoline sold in a Negro owned filling station is really no different from that sold in a white station. Drugs sold in a Negro drugstore are not different from those sold in a white drugstore. My brother teaches surgery in a white medical school. Do you think that any and all of his students, fresh out of school, are more competent to perform surgery than he simply because they are white? No doubt, if Negroes could go to white bars or taverns, they would think that sweet mellow Jax was not so sweet or mellow in a Negro bar as it would be in a white bar or tavern. I really get tired of how Negroes belittle the learning, ability, and products of other Negroes.

I heard a Negro woman say that when she has a cold or minor illness, she goes to her Negro doctor, but if she is really sick, she goes in the back door and sits in the janitor's closet to be waited on by her white doctor. Idiots and fools like her almost make me wonder whether we are really ready for first class citizenship. I am not saying there are not white specialists who can better handle special cases than there are no Negro specialists in. But these special cases are more unusual than you think. By the way, there are quite a number of Negro medical specialists here in Houston.

When I practiced law in Chicago, for some time I was trial counsel for a white firm that represented several finance houses and banks dealing in consumer paper or notes. Many of the people we brought suits against were Negroes who had defaulted upon their car or house repair notes. Almost invariably these Negroes would come to court with a white counsel, no doubt feeling it was necessary to obtain such to defend them against these big white money institutions. I often observed with somewhat a satanic smile their bewilderment and amazement to find that these big white money institutions were actually represented by not only a very young, but also a colored lawyer. They were obviously confused and puzzled. I might add ^{all} in ⁱⁿ modesty that nine cases out of ten their white lawyers, just as the few who hired Negro lawyers, lost their cases.

There are all kinds of myths and illusions or misinformation regarding Negro lawyers. Last winter I spoke on the Chamber of Commerce radio program on behalf of the Houston Lawyers Association. I stated that all Negro lawyers had to pass the same bar white lawyers had to pass, thus, necessarily they were certified to have the skills required for the practice of law. Do you know a Negro woman told me she was sure glad to hear that program because she did not know Negro lawyers had to pass the bar in order to practice law. She probably got this misconception from hearing Amos 'n Andy's Aljonquin J. Calhoun.

I am not saying we or you should patronize Negro lawyers just because they are Negroes, anymore than I would say this should be the primary consideration in buying other services or products. But I am unequivocally saying that you should not refuse to consult Negro lawyers ^Psimply because they are colored. So long as you believe Negro lawyers do not know as much as whites or cannot represent you as well, you are admitting that the Negro is really a~~n~~ inferior being and you really have no right to demand equal treatment and opportunities.

I have hardly begun to say what I want to say on this subject. I was told to talk between fifteen and twenty minutes. [I try to follow instructions. I sure would like to relate to you some of the experiences that members of the Houston Lawyers Association have related to me.] I am not saying our members are the best lawyers in Houston, but certainly they are not the worst. Most legal problems can be solved by sufficient research and study no matter how novel or unfamiliar they may be to a particular lawyer. If you give them the proper support and compensation, most, if not all, of our members can give you more than adequate service and advice. You must remember all of them had to pass strenuous and difficult tests in order to obtain licenses. Except for the other professions, you who are only businessmen have not been required to pass any kind of certifying tests. If you do not think members of the Houston Lawyers Association are qualified or able to render you proper service, then it is damn certain those of you who engage in businesses that require no such certification or testing deserve even less support than the members of the Houston Lawyers Association.

My eyes may deserve blackening, but surely the eyes of the members of the Association do not. Rather, they deserve a pat on the back and your support.