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THE FRENCH BAR.

A few pages concerning the French Bar may not be unwelcome to the readers of the *Journal.* The history of the institution, at once venerable and virile, and of its influence upon legislation and jurisprudence, upon public opinion and national policy is replete with interest, and with lessons and worthy example to the profession in every country. The utmost that the writer of a brief article on so large a subject can hope for, is so to touch upon it that those who read will desire to know more and initiate further researches of their own.

The Bar in France is organized into what is known as the Order of Barristers (*Ordre des Avocats*). The union of its members was purely voluntary and due to their own initiative, for the purposes of mutual aid and encouragement. This resulted in the gradual formation of a body whose existence could not be ignored and whose solidarity secured to its action an influence universally acknowledged, so that in time its entity was recognized by the laws of the State and important rights and privileges were conceded to it. From early days the institution avoided and disclaimed the character of a guild or corporation acting under governmental license or sanction and Chancellor D'Aguesseau declared that Barristers did not constitute a body or corporation in the proper sense of those terms. They are held together, he said, solely by the exercise of a common duty; they are separate individuals severally devoted to the defense of litigants, rather than members of one body in the precise meaning of that term,—a Profession, or Order, is the word best expressing the status or situation of the Barristers. If there be a sort of discipline established among them, for the honor and repute of the

Order, it is rather the result of voluntary agreement than the work of public authority.

In France, from the earliest times, the Germanic principle prevailed which required that all litigants should appear in person to present their claims, but ignorant or unskilful pleaders were permitted the aid of a defender to speak for them, and the judge even appointed such a defender for widows, minors and paupers. This system was recognized as early as the Merovingians. Persons so aiding were not, however, designated as *"advocatus"*—but only as *"defensores, "clamatores,"* and the term *"advocatus"* was reserved for the representatives of those privileged ones who were exempted from personal appearance, and whose representation included the preparation of the pleadings or other judicial instruments, as well as the oral presentation of the case, thus cumulating the office of Solicitor and Barrister—or *"avocat* and *avoué."*

The *avocat* or barrister is he who has the right to appear before Courts of Justice and plead for the rights of others.

The *avoué* or solicitor (until the Revolution, known as a *"procureur"*) is he to whom is entrusted the initiation of judicial proceedings, and the preparation of such judicial writings as are required and is recognized as the direct representative of the parties in interest before the courts.

Under the influence of the rigid formalism of the feudal jurisdictions from the Ninth Century (to the Thirteenth), professional assistance became well-nigh indispensable. Declarations made in the judicial forum could not be withdrawn and the necessity for the most cautious formulation brought into requisition the aid of advisers, and then of skilful exponents well instructed in all the rules and phraseology of procedure. These men spoke in presence of their clients who were bound by what they said, unless at once disavowed. They were the "prolocutors," narrators—or serjeants.

Towards the end of the Twelfth Century, the study of law became more systematic and imperative. Ecclesiastical Courts were established by the Bishops under the Presidency of their Delegates. The procedure was regulated, being a modification,—by the canons of the Councils—of the Roman procedure, and about these courts there grew up a body of advocates that were made subject to regulation. They were required to give three years of study to the Canon and Civil law, and to acquiring a practical knowledge of procedure, and to take a professional oath, before being admitted to practice. These advocates not only pleaded, but also prepared the "libellus" or complaint and other papers, thus uniting, to this extent as we have seen, the functions of barrister and solicitor.

Clerics were only allowed to practice in cases for the Church and for the Poor—and without fee, while all others were allowed an *honorarium.*

Even after the separation of the functions of Barrister and Solicitor had been thoroughly established, it still remained the privilege of the Barrister to draw all pleadings, and this included complaints, answers, replies and counter-replies.

In 1274 for the first time, an Ordinance of *Philippe le Hardi,* subjected lawyers in the secular courts to regulation and discipline. They were required to renew their official oath each year, promising to take none but just causes and never to claim a fee in excess of thirty livres. Later Ordinances forbade the use of offensive language, and of injurious delays, and required an official roll on which lawyers were inscribed in the chronological order of their admission.

The Ordinance of 1277 prescribed regulations for the presentation of cases, condemning useless repetition and enjoining counsel not to "ravel and embroil" their statements but to make their allegations plain and direct. The same Ordinance made it the duty of the magistrate to listen "peaceably" to the arguments, which was what Ulpian had, centuries before, enjoined upon pro-consuls.

The apparent necessity for this latter provision is recalled by the distinguished advocate Philippe Dupin, the noted defender of Marshal Ney, tried and condemned under the Restoration for his return to the Napoleonic Standard.

Usage required counsel to address the court "bonneted" as palpable evidence of the freedom of speech allowed to counsel. One of the readings of Othello's lines, recalls this symbolism: "My demerits may speak, and bonneted, to as proud a fortune as this that I have reached." In like manner it was the privilege of the Spanish Grandee not to uncover in presence of the King. On the trial of Marshal Ney, before the House of Peers, Dupin was forced to uncover, not only, according to him, by the symbolic removal of his Barrister's Cap, but by the hindrance to the freedom of his defense. This may explain the fervor of his remarks on the deplorable habit of judicial impatience.

"If the profession of the law has its honors," says Dupin, "it has also its annoyances, and among these the most trying, against which lawyers in all times have most complained, and which on occasion has excited their resentment and animosity against the magistrates, is to be needlessly interrupted, and hectored without cause during the progress of an argument. Such interruptions are all the more regrettable that they are apt to bring on altercations

between court and counsel in which self-love plays so great a part that it is difficult for counsel to hold an even balance and avoid excess, while the court may well become at once judge and avenger."

As early as 1302, when the Court of Parliament ceased to make its circuits throughout the country and became permanently located at Paris, the nucleus of the Order which still subsists was formed by the Barristers, now for the first time brought together by a common residence.

In 1327 under Philippe de Valois, Letters Patent regulated the Bar of the Châtelet, which was the criminal jurisdiction of the Paris district.

This ordinance repeated the precision of the Ordinance of 1274 prescribing a Roll of Barristers, and barristers were required not only to take the oath but to be inscribed upon the roll. Here, too, is found the division of Barristers and Solicitors, as it contained a prohibition against the exercise of both functions by the same person. Counsel were not allowed to argue more than three cases at one sitting, and if counsel "prevaricated" he was to be excluded from the Bar of the Châtelet, and from all Royal offices.

Shortly after the Ordinance of 1327, a more formal association was organized, made up of both Barristers and Solicitors, *"Avocats"* and *"Procureurs,"* known as the Confraternity of Saint Nicolas. This, as its name implies, was mainly, if not wholly a religious association, and was evidenced by the attendance at Mass, and at various acts of public worship in common. From this sprang, about half a century later, what was known as the "Community of Barristers and Solicitors," the purpose of which was enlarged and included a supervision over the actions of its members in matters of judicial procedure, and the general protection of their privileges.

From this association the Barristers gradually withdrew, and in view of the special rights and privileges accorded to them, formed a separate organization which at the close of the Sixteenth Century took the name of Order of Barristers, electing their own head who was designated as "Bâtonnier," from the fact that in all public processions he bore the "bâton" or banner of the Order.

Prior to this time the discipline of lawyers was in the hands of Parliament or the Court of Parliament, as the Royal High Court was then designated, and Parliament established additional regulations not covered by the text of the Ordinances, such as the requirements of study, the length of probation, the costumes to be worn, the penalties for any infraction of professional duty, and also enforced punctual attendance of the lawyers to their duties, and regulated the recesses granted to them.

As early as 1662 owing to the increase in their numbers, they were divided into ten sections or "Columns," each of which appointed two delegates to represent it, and these twenty delegates constituted the "Council of the Order" as it still remains to-day,—charged with the regulation of the affairs of the Order, with the discipline of the members, and the guardianship of the Roll of Barristers.

The Order of Barristers was from time to time recognized by various Royal Ordinances, and these, with acknowledged customs, governed the admission of barristers, and their rights and duties.

We have noticed that before the Ecclesiastical Courts, organized by the Bishops towards the end of the Twelfth Century, clerics were only allowed to practice in defense of the rights of the poor or of the rights of the Church, and gratuitously.

Later regulations, extending as far as the Sixteenth Century gave leave to secular clergy to plead before the courts and very many availed themselves of the privilege. Recent rules have, however, declared the condition or profession of an ecclesiastic incompatible with that of an advocate. Their absorption in their religious duties which must of necessity remove them from the real practice of the profession of the law, makes the two occupations incompatible, and to this objection has been added one which the recent laws of separation have removed, to wit, that the members of the clergy receive a salary from the State and are, therefore, dependent for that salary and the means of livelihood, upon the arbitrary law of the State.

A notable instance in which this question was decided was that of the distinguished Dominican, Father Lacordaire, who before becoming an ecclesiastic, had been a Barrister. He had left the Bar for the Church; in 1831 prosecutions were brought against him, Montalembert, Lamennais and others, for the offense of maintaining a School in contravention of the Napoleonic law of 1806, which provided that an Imperial University should be established and should have exclusive control of "all public teaching and education throughout the Empire." He applied for re-admission to the Bar, and his application was denied on the ground that the clerical office was incompatible with the profession of Barrister. He thereupon pleaded his own case in "*propria persona*" as a layman, without the cap and robes of the Barrister.

Once the attempt was made, by Chancellor Maupeou, in 1771, to make the position of the Barrister a purchasable office, and one hundred were appointed by Governmental decree, without examina-

tion, but upon the fall of the Maupeou Ministry in 1774, the decree was rescinded and the office suppressed.

The Order of Barristers was considered by the Revolution as a privileged corporation, and in its not unnatural distrust of every established and influential body, abolished and dissolved it by its Decree of September, 1790, thus extinguishing the authority and prestige which had attached to it through a long and honorable tradition.

The Constituent Assembly, however, acknowledged the right of litigants to have their cases presented by persons of their own selection and from that time until Napoleon's provisional Decree of 1804, litigants were advised and were represented in court by any person whom they might select, the only qualification being that he should be a citizen,—and the Bar, as a body, was eclipsed during that period.

Lawyers, it will be remembered, were not recognized by the sanguinary Tribunal of the Revolution (Decree 22nd of September, 1794). It was not until the Decree of 13th March, 1804, under Bonaparte as First Consul, that provision was made for the re-establishment of a Roll of Barristers, and the requirement renewed of a diploma as Bachelor of Laws, as a requisite to the practice of the profession. This Decree did not, however, resurrect the Order of Barristers which was finally done by the Decree of December, 1810. In the meantime, however, and almost immediately after the Revolutionary Decree, a voluntary association of Barristers had been formed, who made it their duty to hold together and preserve the traditions of their suspended Order, and admitted to their comradeship only men of recognized integrity and approved merit. Even in these troubled times, these high-minded men concerned themselves with recruiting an instructed Bar and established courses of study which were continued until the Order was revived. Among those who thus held together until the re-establishment of the Order, were de Sèze, the courageous defender of Louis XVI, the Elder Berryer, de la Malle, Bonnet, Bellart, Lanjuinais, Pigneau, and others of equal value. Somewhat earlier than 1804, however, under the Consulate in 1800, Solicitors were appointed before the Court of last resort (Court of Cassation), and in 1806, these Solicitors were declared by law to be Barristers with the exclusive privilege of pleading before the Court of Cassation and a like privilege was conferred the same year upon the Barristers who pleaded before the Council of State.

A later Ordinance of 1817 united these two bodies, giving each the privilege of appearing both before the Court of Cassation and

the Council of State, and limiting their number to sixty, a limit which has not since been extended.

It is no small tribute to the profession that Napoleon, as early as 1804, should have recognized the necessity of a trained Bar and have put an end to the condition existing since the Revolutionary Decree of 1790, which had done away with the Bar and permitted such judicial assistance as could be had to be furnished by anyone.

From that Decree to the measure of 1810 was another large step, which we may be sure only a sense of necessity induced Napoleon to make, for in answer to the pleading and pressure exercised by Cambacérès for the re-establishment of the Order of the Barristers, Napoleon wrote: "As long as I wear a sword by my side, I shall not sign such a decree, I want to be at liberty to cut out the tongue of the lawyer who uses it against the Government."

We may, therefore, not be surprised that the Emperor's decree, re-establishing the Order of Barristers, should not have permitted them the ancient liberties and influences which they had so long enjoyed. Domination was essential to him and this Decree deprived the Order of the privilege of nominating their own head and their Council of discipline. Both of these were to be selected by the Solicitor General, the leading law officer of the Empire, as he still is of the Republic. Nor could this Council of discipline be called together nor act without the consent of the Solicitor General, nor could any lawyer plead outside of the circumscription of the court where he was inscribed, except upon authorization of the Minister of Justice.

Other evidences of Napoleon's estimate of the lawyers and his intention to hold them in repression are found in those sections of the law which provide for various unusual possibilities of misconduct, with severest repressions. But the Order was gotten together and with the nucleus which had been kept up by de Sèze, Berryer and the others in the interim, they slowly recovered much of their prestige in the assertion of their rights, so that upon the fall of the Empire, they procured a modification of the Decree concerning them, as early as 1822, although it was far from satisfactory, the monarchy being apparently willing to accept from Napoleon's régime, the legacy of power over the Bar. But finally, in 1830, when the King of France became the "King of the French," further modifications were made, which virtually restored to the Order of Barristers all its former authority, and the ancient traditions in reference to its powers stood formally acknowledged.

Under Louis Napoleon in 1852, there was a slight retrogression, but in 1870 the full privileges of the Order with reference to the election of its Council and its Bâtonnier, were restored.

The law requires as the first requisite for admission to the Bar, a diploma of "Licencié" of Laws, granted by a recognized French Faculty. This is submitted to the investigation of the Solicitor General of the Republic (Procureur Général) and upon his satisfactory report the applicant is turned over to the "Order of Barristers." If he passes the ordeal of the investigation by the Order, he is presented to the Court by the "Bâtonnier" or Presiding Officer of the Order or by a member of its Council, and his oath of office is received. The candidate must then apply to the Order for leave to be permitted to enter upon the next stage of preparation, which is a novitiate of not less than three years. The petition is referred to the Council and a Reporter is appointed to look into the facts and report. The candidate makes a formal call upon the Reporter to whom he submits his papers; these must attest his Degree, his official oath, his honorable character, and the dignity and independence which are considered essential to the proper exercise of the profession. The call of the candidate is returned by the Reporter, mutual confidence and the most courteous relations are at once established and a thorough investigation is expected and courted.

Probity is the basis upon which rests the honor of the profession. Independence of all other ties than those of the profession is required and no subservience to any other interest is allowable; any office requiring obedience to a superior, any salaried employment, any business occupation or agency, everything that can tend to impair the allegiance of the lawyer to his client and to the Bar, are held incompatible with the profession, and this extends to the existence of debts and financial obligations. For the same reason, the candidate must have his own domicile, an established residence under his personal control so that clients may at all times have ready access to him. This need not be an independent household and may be in his parents' household, but must not be dependent upon it, so that it may cause any interference with his freedom of consultation with those who are in need of his advice.

Upon the report made to the Council of the Order, discussion is had and a majority vote determines the acceptance or the rejection of the petition. Its acceptance gives the candidate the right to practice his profession, but the right is provisional, as he will not be placed upon the Roll of Barristers until his period of probation has been satisfactorily passed and the sufficiency of his experience definitely established. It is his duty in the meanwhile to be assiduous in his attendance upon the court and at the Bar consultations of the Order. He is a Barrister on probation, and may advise clients, consult with his brethren, appear before the courts, but is

debarred from many privileges only accorded to those who are inscribed upon the Roll of Barristers.

The course of the postulant during the years of probation is under the surveillance of the Council of the Order.

The postulants are divided into columns, presided over by a member of the Council, who instructs them from time to time as to their customs, regulations, duties and rights of the profession, inquires into their observance of the requirements, and records their failures to attend. Weekly meetings are held for study, discussion and consultation, attendance at which is strictly obligatory. These are presided over by the President (Bâtonnier) of the Order, and that the discussions may be serious, a careful statement of the questions to be debated is prepared in writing by the Secretary and printed two weeks in advance.

At the end of the term of probation, if the Report as to the progress of the postulant in gathering the requisite experience of his profession is not satisfactory, or if he has failed to reach the high standard of conduct and to maintain the dignity and independence deemed essential to practice at the Bar, the Council of the Order of Barristers may decline to enroll him, or may require another year of probation.

If the assiduity and the progress of the inchoate lawyer have been satisfactory, if his conduct has been such as to attest the moral standard, the dignity and independence of character essential to the exercise of a liberal profession, his name is inscribed upon the Roll and he becomes a member of the Order of Barristers, an upholder of the strict discipline to which he willingly remains subject.

The French law does not take the same view of a counsel's sole duty to his client which Lord Brougham passionately enunciated in the course of his defense of Queen Caroline,—and it is a part of a Barrister's oath of office that "he will never as counsel or advocate, say or publish anything contrary to the laws or regulations against morals, or against the safety of the State or of the public peace."

In the view of the French, the lawyer remains a citizen and is not relieved of his primary duties as such by being invested with the privilege of representing his fellow-citizens in the enforcement of their legal rights. Their theory was expressed by one of their distinguished "Bâtonniers," Mr. Rousse, when he said to the assembled postulants for admission to the Roll:

"It is well for you to be reminded that in order to become good lawyers, you must first be good men and good citizens."

Among other requirements of the Barrister's oath is that "he will not fail in the respect due to the courts and to the public authorities."

Freedom of criticism as to judicial proceedings and the decisions of courts is not hampered by this oath; such freedom is held to be vital to the independence of the Bar, but the absolute right of dissent and criticism does not permit denunciation or the imputation of unworthy motives. It is the privilege and the self-imposed duty of the Order of Barristers to see that the Barrister whose name has with its sanction been placed upon the Roll shall demean himself in accordance with the high obligations imposed upon him. For any infraction the order imposes punishment by reprimand, by suspension or by striking the name of the offender from the Roll.

What modifications have been made in later years curtailing the complete powers of the Order over all its members, has been the work of jurisprudence, and it is not uninteresting to trace, in the land of Codification, the power of modification still exercised by the courts.

It was claimed from the outset by the Order of Barristers that the Order had uncontrolled jurisdiction over its roll of membership, in other words, over the Roll of Barristers. That it, and it alone could determine what Bachelors of Laws should be admitted to probation, and which of them after probation, should be placed upon the Roll of Barristers, and that no appeal lay from the decision of the order. This claim was upheld by numerous decisions and Solicitor General Dupin, the distinguished Advocate already mentioned, insisted that to permit any appeal from the decision of the Council of the order, would be destructive of the very purpose of their jurisdiction; that the Council was a Grand Jury where each was judged by his peers, the purpose and effect of which was to constitute an absolutely independent body where each man was on a par with every other. Such was the ancient jurisprudence of the Court of Parliament, and the modern Decree of 1822 had formally declared that all the ancient customs and usages of the Bar should remain in full force, and permitted an appeal only from an order of disbarment or suspension; but the courts gradually extended this right of appeal and began by applying it to a case where a Barrister asked for reinstatement after resignation and to cases where lawyers abandoned the Bar of one Department to take up practice at the Bar of another. In all these cases the court held that a refusal to reinstate or the refusal to admit in one Department, a lawyer coming from another, was an interference with an acquired and vested right and in that respect on a par with disbarment. Going further, the Court of Cassation in 1867 declared that the decisions of the Council declining to inscribe the probationer upon the Rolls at the end of his probation, was likewise an interference

with a vested right,—that the probationer was in fact a Barrister entitled to be put upon the Roll when he had passed his probation.

Again the courts stretched the doctrine still further and granted a right of appeal to Bachelors of Laws, who having taken the oath have been refused admission as probationer, arguing that the diploma of Bachelor of Laws procured after years of study gave to its holder a vested right to the next step for admission to the Bar, the probation or "stage." This left to the Order nothing but the right of disciplining the Barrister for misconduct, and finally even upon this question, appeals are allowed upon the theory that the right of appeal is a common law right and that if the courts could not exercise a right of review over the action of the Order of Barristers, it would constitute a monopoly of the profession contrary to public policy, which requires that the profession should be free to all who fulfill the conditions established by the law, and that as the Order of Barristers has no right to add to the requirements of the law, it has not the right to reject applicants who comply with the conditions imposed by the law.

The legal right of the lawyer to his *honorarium* has passed through several phases. In the thirteenth and fourteenth centuries, a maximum of thirty livres had been fixed, but lawyers were allowed to bring suit for the recovery of the fee if it was not paid and their claims were preferred; the court, however, reserved the right to reduce the *honorarium* demanded, if it was deemed excessive. The maximum fixed by the Ordinances was not often respected.

As early as 1345 the purchase of claims or rights in litigation was forbidden, as well as fees contingent upon recovery, or compensation by share in the recovery.

In more modern times the *honorarium* was considered as purely gratuitous and suit could not be brought for its enforcement nor was it permitted to make payment in advance a condition of service. This latter prohibition has been relaxed as there was reason to believe that it was frequently, if not generally disregarded, although there are not wanting very numerous instances where lawyers give their services absolutely in the spirit of the requirement.

Although the courts now recognize a lawyer's right of recovery at law, he is not permitted by the ethics of the Order to send a bill for professional services, nor is he permitted to give a receipt or release for an *honorarium* paid him, for that would imply an obligation and its discharge. This was not always so. In former centuries, it was the practice of lawyers to give their clients receipts for the fees paid, but the practice was gradually abandoned. Ill-

disposed persons suggested that it was abandoned because the lawyers who were habitually too exacting, did not care to have their exactions attested by written receipts, and finally an Ordinance of 1579 prescribed, under penalties, an obligation to give written receipts for fees received. This Ordinance was not observed, and in 1602 a Decree of the Parliament of Paris was issued to compel its enforcement. Three hundred lawyers joined in protesting against such a Decree and rather than submit to it, asked that their names be stricken from the Rolls. This professional "strike" was the cause of much confusion and alarm, for the cause of justice was interrupted. The King was appealed to and Henry IV with that genius for accommodation which was one of his titles to popularity, upheld the principle of the Decree, but restored the lawyers involved to the Roll and permitted them to continue the exercise of their profession without condition.

By the ethics of the Order, again the lawyer is bound to give his advice and his services gratuitously to all who have recourse to him and who are too poor to remunerate him.

In France the Bar looks with the utmost disfavor upon any attempt on the part of a Barrister to enforce a claim for his *honorarium,* and although as we have said the law recognizes such a claim and the courts will enforce it if appealed to, the Order of Barristers considers its assertion as an infraction of the dignity of the profession and reprobates it to the extent of declaring such a course on the part of any lawyer as improper, and the offender liable to reprimand, which at the French Bar is still considered a dishonor.

The custom of yearly employment of counsel, so widely spread in these modern days of corporate activity and embracery is not of as recent origin as one might suppose. As early as the Sixteenth Century it was customary for the King and for Towns and Communities, for the nobility and for wealthy merchants, to retain one or several lawyers by the year.

Indeed the practice, which has been known sometimes to prevail in recent years, was introduced of retaining on occasion all the distinguished lawyers within a given circumscription, leaving the adversary barren of equal opportunities in selecting a defender. This practice was, however, early recognized as reprehensible and an Ordinance of Francis I of 1536, required the courts to distribute counsel according to the demand of the party who had been prevented from a proper selection. Indeed, this relief was recognized in practice as early as 1369 when Simon De Lafontaine, himself a distinguished lawyer before the Parliament of Paris, having litigation with the Religious of St. Denis, demanded that one Jean Pas-

tourel should be assigned to take his case against the Religious, he having refused De Lafontaine's application to him on the ground that he was a Vassal of the Religious and could not plead against them.

The reason successfully assigned by De Lafontaine for his request was that his opponents had engaged as counsel Nicolas Romain and that Pastourel and Romain were acknowledged as the two leading lawyers on feudal questions, and that the question before the court was one of feudal rights, and that if the Religious were allowed to retain Romain and silence Pastourel, there would be great inequality between the litigants.

Some of the requirements of the professional standard may contribute to give us an idea of the honor in which the profession is held and which it in turn upholds.

No solicitation of clientage is permitted—no sign outside of his office—no name upon his letter-heads, no indication of his profession, nor of office hours—the only thing permitted on letter-heads is the address. His only recommendation must be the care, the study, the labor, the knowledge devoted to the cases in his charge.

Counsel are bound to communicate to each other the originals of all documents making up their respective cases—their briefs, memoranda and findings. Nothing must be held back—there must be no concealment, no surprises.

Counsel is free in the choice of his methods. He is not bound to follow the instructions of his client, whom on the contrary it is his duty to instruct. The Barrister is not merely the organ or representative of his client, he is first to be his judge; it is his duty to examine into his client's case with as keen a conscince as he would look into his own, and his conscience will forbid him to aid in the success of an unjust cause.

When during the trial the facts developed are such as to preclude a defence in accord with the truth, counsel must not therefore abandon the accused; he may still assist the culprit upon questions of law and of procedure.

The lawyer, said Dupin, early in the Nineteenth Century, is not a public functionary, but a private citizen, who, devoting his time to the vast study of the law, takes upon himself to enlighten other men upon their rights, defend their property against fraud, their liberties against the encroachment of power, their persons against the snares of hate and the perils of oppression.

D'Aguesseau had already in the previous century described him as one standing for the public weal between the storm of public pas-

sions and the throne of justice, and laying at the foot of that throne the petitions and the claims of the people.

Never take pride in having clouded the truth; more sensitive to the interests of justice than to the desire for an idle reputation, seek rather to bring out the righteousness of your cause than the brilliancy of your intellect—was the advice of D'Aguesseau in 1698.

The character of the lawyer, as understood in France, is perhaps best summed up in the language of Camus—"to devote one's self and all one's faculties, to the good of others; to give one's self up to long study in order to resolve the doubts which a great number of our laws engender; to become an orator in order to assure the triumph of oppressed innocence, to consider the privilege of holding out a helping hand to the poor as a reward to be preferred to the most expressive gratitude from the great and the rich; to defend the poor from duty and the rich from interest. These are the traits which should characterize the lawyer."

Under the old régime the general influence of the profession in political history and in the literary and judicial annals of the country was great, in spite of the fact that the virtually autocratic form of monarchical government was not favorable to the influence of the lawyer, whose power is so largely dependent upon freedom of speech and the free discussions of deliberative assemblies. Nevertheless, it was not possible for the members of a profession, really learned and liberal, to be kept in the background. Their independence and their influence was shown in many great trials where momentous questions, exciting the animosities of powerful interests, were met without evasion and discussed without restriction. They were not infrequently called into the Councils of the nation and faithful to the training and the traditions of the profession, neither fear nor favor swayed their judgments. An instance of this is the conduct of D'Aguesseau when Solicitor General during the last year of Louis XIV. In defense of what he considered the good of the State he opposed the will of that redoubtable sovereign with reference to the Pope's Bull, Unigenitus in condemnation of Quesnel's Jansenism, and even when summoned to a personal audience persisted in his resistance.

It was this Chancellor who proudly said that "the profession of the law is as ancient as magistracy and as necessary as justice." As much to-day as at any time the powerful influence of the profession upon the even and equal distribution of justice makes of it an essential element in the preservation of social order.

Paul Fuller.