



3-1-1937

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## Recommended Citation

John I. O'Phelan, *Judge and Lawyers: Their Duties*, 12 Notre Dame L. Rev. 242 (1937).

Available at: <http://scholarship.law.nd.edu/ndlr/vol12/iss3/2>

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## THE JUDGE AND LAWYERS: THEIR DUTIES\*

I assume this station with timidity and humility because the responsibility is overgreat. The court, bar and bench, stands between order and chaos, between organized government and anarchy, between ruthless power and helplessness. Without it, man defends his rights by strength alone; man protects his property by power alone; man saves his life by the sword. In court man asserts his right, defends his property, protects his life by virtue of judicial pronouncements.

Since lawyers assume an essential part in judicial decisions, it is desirable to ascertain their qualifications for the part thus contributed. In stating the fitness of lawyers thus to participate I quote the journal of a leading law school:

“The vast majority of the legal profession is composed of men of unquestioned honesty, and people daily entrust them with their most important affairs, never doubting or having reason to doubt, that they will receive skilled, competent, and solicitous care. These are the lawyers who are doing ninety per cent of the legal business of this country.”

But members of the bar and bench should not consider themselves supreme nor indeed exalted. The trust which is reposed in them is so sacred that it should conjure up sentiments of humility rather than conceptions of pride. Within their keeping are reposed property and personal rights. That they realize this responsibility each one takes his oath in the name of God, the Supreme Judge.

In the words of a renowned pulpit orator, the lawyer, by employing himself, enters into a contract which gives his client the right to able, honest and diligent representation. He may not accept a case which is admittedly unjust. He

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\*An address delivered by Mr. John I. O'Phelan on the occasion of his inauguration as Judge of the Superior Court of Pacific and Wahkiakum counties, State of Washington, on January 11, 1937.

must abstain from all fraud, falsehood, dissimulation, deceit, and everything that may offend against honesty and justice. However, by constitutional guarantee every person accused of crime is presumed to be innocent until his guilt is proved beyond a reasonable doubt. Therefore, the lawyer may and certainly should undertake the legitimate defense of those charged with crime and use all just and honest means to accomplish the welfare of his client. He may and should lend his efforts in justifiable civil cases as well.

In the words of the same eminent speaker, a judge must know the law and procedure. His judgments must rise above personal considerations, passions, and prejudices. He must fulfill his duties with courtesy and diligence, respecting alike statutory and divine laws. If through malice, negligence, or culpable ignorance, his decisions inflict unjust damages, he must make restitution to the person injured.

The influence of the court is extensive and should reflect the highest ideals. Each person cooperating in the solution of a cause, witness, advocate, and judge, is committed to the exposition of truth and justice in the name and with the help of God. Therefore, all within must be imbued with the sacred duty of disclosing the truth and making just pronouncements in accordance therewith.

While justice is a natural virtue, it is also a social virtue. In the administration of justice, therefore, lawyers and judges must believe in, subscribe to, understand, and sustain the institutions of government and must oppose any person or ideal inconsistent with those principles. Moreover, they must be constantly watchful, persuasively active, and personally courageous in the defense of those tenets and must ever be intellectually, morally, and physically resolute in opposing any encroachment upon those institutions, and the extension of any fallacy which would tend to impair or destroy them.

The chief bulwark of these institutions is the home which must be preserved in its entirety. The lessons taught there are the foundation upon which is builded the civil, moral and religious concept of the future citizen. The home may not be needlessly destroyed nor its influence recklessly dissipated. Members of the court, lawyers and judges, therefore, will be prudent and cautious when considering any attack on the home or limitation of its vital groundwork for the safety and security of the State.

The eminent Chief Justice of the Supreme Court has just administered the oath to a judge, has burdened the judge's conscience with the responsibilities of that high office and has exhorted him, with the help of God, to perform the serious duties of that trust. The judge assumes his position humbly, subscribing and seriously obligating himself to enunciate the laws of the land and to comply with the mandates of his God.

With these thoughts in mind and actuated by the considerations expressed, I reluctantly ascend the bench as Judge of the Superior Court of the State of Washington for Pacific and Wahkiakum Counties. I shall need much help and pray that God may inspire me to fulfill the obligations of that position and may grant me fortitude so that I shall perform the duties righteously and justly.

While confidently relying upon His infinite help, I shall need the assistance of the bar to learn the law applicable and to ascertain accurately the facts in all cases to which the principles of law must be applied. That you will aid is evidenced by your praiseworthy conduct before my many illustrious predecessors.

I assure the bar and the people that, to the best of my ability, I shall consider all cases carefully, study them prudently and adjudge them justly. I shall have no favorites before the court—either lawyer or litigant.

Gentlemen of the bar, I humbly ask your aid, assistance, encouragement, and support. In exchange, I tender you honesty, fair dealing, probity, and justice.

*John I. O'Phelan.*

Raymond, Washington.