



The BAR as a PROFESSION.

By The
Lord Chief Justice
of ENGLAND.

learning put together. But," he adds, "it is not apt, except in those who are happily born, to open and liberalize the mind exactly in the same proportion."

The Bar does not indeed hold out promise of great wealth, but it has distinctions and adequate means in store for those who bring to its pursuit the necessary qualities of mind and of character. What are those qualities?

It is still to a large



SWIFT, the witty Dean of St. Patrick's, Dublin, has said that, in his day, every gentleman's son who was not good looking enough for the Army and not clever enough for the Bar was sent to the Church. It remained true long after the Dean's time to say that a gentleman's son who gave indications of talent was (in the absence of other controlling circumstances) generally sent to the Bar. In the days of which I speak, the absurd idea was prevalent that trade was hardly a fit pursuit for a gentleman of education, and there did not then exist those avenues to fame and fortune which are now open to educated youth in the world of applied science. The prejudice against trade has almost wholly disappeared, although it is said still to linger in some of the older and less populous cathedral cities, where a member of one of the so-called "learned" professions is rather inclined to look down upon his unlearned business neighbour. Nowadays it is no uncommon thing for men who have passed, and with distinction, through a University career to devote themselves to mercantile affairs, and from the successful members of this class the House of Commons, and the House of Lords also, are largely recruited.

The Bar still has, and must always continue to have, great attractions. "The law," said Edmund Burke, in his great speech on the taxation of America, "is, in my opinion, one of the first and noblest of human sciences; one which does more to quicken and invigorate the understanding than all the other kinds of

extent true to say that if a youth exhibits talent, and especially if that talent shows itself in smartness and facility of speech, such a youth is destined for the Bar. Herein grievous mistakes are often made. All talent is not necessarily talent adapted for success at the Bar, nor is glibness of speech any guarantee of success at it. No more common mistake is made than to confound facility of speech with capacity to speak. The world is full of men who have nothing to say and say it with ease and even with grace, and even with what, sometimes, passes for eloquence; but I have never known any man who had something to say which was worth saying who, whatever his difficulties of utterance or natural poverty of language may have been, has not been able to say that something forcibly and well. After all, the desirable thing is to have something to say, and as to the manner of saying it, Daniel Webster spoke truly in his celebrated oration in honour of John Adams when he said, "Clearness, force, and earnestness are the qualities which produce conviction."

The result of the errors to which I have adverted is that there is at the Bar, as I know it, a greater amount of talent unfitted for that profession than in any other calling of life. I have known—I know now—at the Bar men who would probably, under different circumstances, have made their mark in journalism, in music, in science, in business, who have been lamentable failures at the Bar. On the other hand, I have never known a man with suitable natural gifts accompanied by industrious patience who has not had his opportunity at the Bar and his success. He may,

indeed, have to wait, but he will not wait in vain.

What, then, are the considerations which ought to determine the choice of the Bar as a profession? I answer, the love of it in the first place. If a man has not the love of the profession for its own sake, he will find it hard to bear up during the years—the necessary years—of watching and waiting—years dreary and drudging. Success is rarely, and still more rarely safely, reached at a bound, and it requires no mean effort of will to continue (year after year, it may be) striving to store up knowledge and acquire experience for the use of which no immediate or proximate opportunity seems to present itself. I name, then, love of the profession as the first consideration. I name physical health and energy as the second. No man of weak health ought to be advised to go to the Bar. Its pursuit involves long hours of close confinement, often under unhealthy conditions; and the instances of long-continued success at the Bar, and of lengthened usefulness on the Bench in the case of men of weak physique, are few and far between.

The only two men of weak physique within my own experience (extending considerably beyond a quarter of a century) who achieved marked success, were the late Sir George Mellish and the late Lord Cairns. Both were exceptionally able men, but each laboured under the disadvantage of a weak constitution; and premature death in the case of both of them deprived the world of the prolonged advantage of two minds of the highest judicial character. In Follet's case, amongst many, early disease cut short, when he was yet a young man, a career which promised to be one of the most brilliant the Bar of England had ever known.

Love of the profession and health to follow it are, then, the first two considerations. What are the mental qualities to be considered? I answer in a word: clear-headed common sense. I place this far above grace of imagination, humour, subtlety, even commanding power of expression, although these have their due value. This is essentially a business, a practical, age; eloquence in its proper place always commands a high premium, but the occasions for its use do not occur every day; and the taste of this age (like the taste for dry rather than for sweet champagne) is not for florid declamation, but for clear, terse, pointed, and practical speech.

Common sense and clear-headedness must be the foundation, and upon these may safely be reared a superstructure where

imagination and eloquence may fitly play their part. In fine, business qualities, added to competent legal knowledge, form the best foundation of an enduring legal fame. The circumstances of the age—the circumstances, social and political—the “environment,” as it is called, largely affect men in all callings, and in none more than in that of Law. When great political and constitutional questions are being agitated and are unsolved, these find their way at times into the legal forum, and the world then becomes the richer by the impassioned speech of an Erskine or a Brougham, a Curran or an O'Connell, a Berryer or a Gambetta.

But in these Islands few of these great questions are unsettled, and as, according to the British Constitution, the will of Parliament is supreme, there is but little opportunity in these days for discussing the constitutional problems which necessarily recur, for example, in the United States, governed as they are by a written Constitution where the judicial power is called upon to interpret, and if necessary to control, the acts of legislatures. It is largely to this fact that we owe the masterly judgments of, amongst others, the great Chief Justice of the United States (Chief Justice Marshall) and the granite-like arguments of Daniel Webster, perhaps the greatest forensic figure the world has ever seen.

There remains only one of the main considerations to be taken into account in the choice of the Bar as a profession, namely, ability to wait. Unless a man has the means to maintain himself living frugally for some years, or the means of earning enough to maintain himself in this fashion, say, by his pen or otherwise, he ought to hesitate before resolving to go to the Bar. I have already said success, even moderate success, rarely comes at once, and indeed the youthful wearer of the forensic toga may consider himself fairly lucky if after three or four years at the Bar he is making enough to keep body and soul decently together. Sometimes it happens that men meet with immediate and brilliant success, as in the case of Erskine, who, having abandoned his early career in the Navy, speedily became eminent at the Bar, and ultimately sat on the Woolsack; such cases are indeed rare. On the other hand, I have known more than one instance of melancholy failure in the case of men of fair mental gifts who, feeling the pinch of poverty, have got involved in debt and difficulty early in their career, from which, in some instances, they have never emerged.

But I do not desire to take too gloomy a view. If a man really has the love of his work in his heart, and has the spirit of a worthy ambition within him, he will find it possible to live on little during his years of waiting and watching, and will find it possible to acquire that little by the exercise, in some direction, of his energy and ability—be it by tuition, by reporting, by leader-writing, or in some cognate fashion. It is well known that Lord Eldon, after a romantic runaway marriage, was many years at the Bar before his opportunity came; but come it did, in a celebrated and highly technical case, involving the doctrine of “equitable conversion,” and, as the world knows, he, in the end, achieved a great reputation, and was, for many years, Lord High Chancellor of Great Britain.

I myself recollect, when I was a struggling junior of four years’ standing on the Northern Circuit, dining in frugal fashion as the guest of two able young men of my own age, members of my Circuit, in one of our assize towns. They were almost in the depths of despair, and one of them was seriously considering the question of migration to the Straits Settlements; the other was thinking of going to the Indian Bar. Where are they now? One of them, as I write, fills, and for the second time, the highest

judicial office in the land; the other is the leader of his Circuit, and may any day don the ermine of the judicial Bench.*

To sum up, therefore, love of the profession for its own sake, physical health to endure its trials, clear-headed common sense, and ability to wait, are the main considerations to be taken into account in determining the choice of the Bar as a profession. If the youthful aspirant possesses these, success is, humanly speaking, certain.

Having then considered what ought to determine the choice of the Bar as a profession, something may now usefully be said as to the

necessary preparation for the Bar. In considering the character of such preparation, regard ought, I think, to be had to the legitimate outcome of success, viz., a career in Parliament and on the Bench. All who can ought to have University training and a University degree, and those who are not able to obtain these advantages will find the want of them in a greater or less degree throughout their public lives.

But here a word of warning. A University career is not an end, but a means only to an end. It is but the beginning of the struggle of life. It is not the battle of life, but only the equipment for it. The young man who will, as the phrase runs, “go far,” must have a wide perspective, and while he must not neglect, but on the contrary must make good use of, his University opportunities, he ought never to be allowed to regard success at the University as the *summum bonum*—as the end of all things.

I have known many men of brilliant careers at their University who came to the Bar pumped out, and who, having been too lavish of their energy in earlier years, have not had enough left to insure success in the life-struggle of their profession. It is true they were, for the most part, men not endowed with robust constitutions. But while throughout the whole

period of education and preparation special regard ought to be had to the intended career of the student, it is to be observed that the profession of the law has one peculiarity in which it differs from all others. It is this: That there is no such thing as knowledge which is useless in this profession. A man may not be a better engineer because he is a good classic, or a more successful merchant because he is a good mathematician; but, at the Bar, the wider the field of knowledge the better. There is there no such thing as knowledge going to waste. Indeed, I undertake to say that it rarely or never happens that a barrister does not find useful to his hand information which he has stored up



LORD RUSSELL OF KILLOWEN.
From a Photo. by Elliott & Fry.

* Of these, one is Lord Herschell, now an ex-Lord Chancellor, and the other the Speaker, Mr. W. C. Gully, Q.C.

even upon subjects wholly remote from a knowledge of the law itself.

What is called the special training for the Bar usually begins when the University career has ended, and although we have not in these Islands any school of jurisprudence (a thing much to be desired), yet both by the Universities and by the Inns of Court, means of strictly legal education, by lectures and by examinations, are placed within the reach of those who desire to avail themselves of them. But the real work of education in law, as, indeed, in other fields of knowledge, is the work of self-education, pursued conscientiously and laboriously by the man who endeavours to get at the principles of law and who does not content himself merely with skimming the surface. *Melius est petere fontes quam sectari rivulos.*

Reading in the chambers of a barrister is most desirable, even in these days, in which simplicity of statement has happily supplanted the bygone perplexities and absurdities of the system which formerly prevailed, known as "special pleading." In the United States, the distinction between solicitor and barrister is, of course, unknown, and I do not propose to discuss here whether that distinction and division do or do not work for utility; but it is a notable feature of recent years in the career of students for the Bar in England, that a year spent in a solicitor's office, during which they may acquire an intimate knowledge of the practical work of legal procedure, is now considered almost indispensable, and it is certainly most useful.

One special subject in reading for the Bar I would name, because, in my experience, I have found it invaluable, and that is: a study of the "Corpus Juris," or the body of the Civil Law. I had the signal advantage of being a student in the days when the late Sir Henry Maine was Professor of Civil Law to the Inns of Court, and under him, as in University classrooms, we read no inconsiderable part of the Civil Law. After all, a great body of our law finds its source in the

Roman law; and in the "Corpus Juris" law is systematized in a way for which our English law has no parallel. Its reading gives to the attentive student a knowledge and a grasp of principle, hardly otherwise attainable, which he will always find useful throughout his life.

Here, then, I may leave the youthful barrister. We have considered together the conditions which ought to determine his choice, and he has chosen. We have talked with him over his career at the University, and he has left the University with honour and advantage, if not with the highest distinction. He has worked hard to acquire an adequate knowledge of his profession, at lectures, in chambers, and, above all, in the silence of his own rooms, and now he puts on the gown of the barrister, and stands upon the threshold of what may be a great and useful career.

Beyond this I do not propose to follow him. He has joined a profession which has given many noble men to the world—men who have done noble work for the world. He has to maintain the great traditions of that profession. He has to bear himself worthily, that no dishonour shall come upon him or upon his profession by him. He has to recollect that he belongs to a profession which, beyond any other, has given to the world not merely great advocates and great judges, but great statesmen, great writers, and distinguished legislators. He has to remember that, while he is fighting for the interests of his client, there are greater interests even than these: the interests of truth and of honour; and he must never forget, as Sir Alexander Cockburn well expressed it, that in the battle his weapon must always be the sword of the soldier and never the dagger of the assassin. Lastly, he must remember that he is engaged in a profession which may well engage the noblest faculties of heart and of mind—that he is engaged in the practical administration of that law whose voice is the "Harmony of the World."

