

**TALKS ABOUT LAW: WHEREIN SUCH
LEGAL PRINCIPLES AS TOUCH THE
DAILY BUSINESS OF THE PEOPLE
ARE TREATED IN A MANNER WITHIN
THE REACH OF THE AVERAGE MIND**

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Talks about Law: Wherein Such Legal Principles as Touch the Daily Business of the People Are Treated in a Manner within the Reach of the Average Mind by Robert W. Winston

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ROBERT W. WINSTON

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TALKS ABOUT LAW

WHEREIN

SUCH LEGAL PRINCIPLES AS TOUCH THE DAILY
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IN A MANNER WITHIN THE REACH
OF THE AVERAGE MIND.

BY

ROBERT W. WINSTON,

A JUDGE OF THE SUPERIOR COURTS OF NORTH CAROLINA.

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ERRATA.

- Page 41, line 18, for "settles" write "settle."
Page 58, line 13, for "becomes" write "comes."
Page 64, line 7, after "mean," insert "the unwritten law existing."
Page 88, line 18, for "recovery" write "reconvey."
Page 93, line 2, strike out "notes and" wherever occurring. Write "bond" for "note" on this page.
Page 93, line 6, for "three" write "ten."
Page 120, line 11, for "becomes" write "comes."
Page 130, line 11, for "are" write "is."
Page 131, line 2, after "ways" insert "generally."

PREFACE.

At forty everyone is said to be a fool or his own physician. Perhaps the hidden wisdom in the adage is that, at that age, one learns to take care of his health. In the sense that as one grows older he usually grows wiser and more prudent, it may be said that every man is his own lawyer. But in no other sense is this true.

In presenting to the public these simple TALKS ABOUT LAW, one object is to prevent unconscious law-breaking. To this end such subjects as have to do with the affairs of every-day life have been selected.

Many a man gets into the toils of the law when he does not intend to do so, and because he is ignorant of the law. Again, many a man has given up valuable legal rights because he did not know that he possessed them. For example, the average landlord would not forcibly eject a tenant, even at the end of his tenancy, if he knew that in so doing the criminal law was violated; nor would men sign notes and bonds with so little concern if they knew that there was practically no defence against the same in the hands of innocent holders; the dissemination of which information ought to make beautifully less many patent churn notes, patent beehive notes, patent fence notes, and what not. Our books are full of the burning of insured houses, and of the insured failing to recover insurance because of some violation of the terms of the policy.

So, also, the questions of, what is a fixture, what are the rights, duties and privileges of landlord and of tenant, of inn-keeper and of guest, of cropper and of field hand, are of much practical value to the people of our State. Nor can any business man well afford to be without a general knowledge of the law governing wills, banks, corporations, partnership, married women, the statute of limitations and of frauds, the distribution of property, and of accidents and damages generally.

In treating of these and kindred subjects, technical words have been avoided as far as may be; nor is any excuse made for the use of plain homespun words and of household illustrations.

I cannot permit this opportunity to pass without speaking a parting word in favor of Law and Order. Contempt for law and persistent violation of law will soon change any republic into a monarchy. Liberty may so soon run to License that timid and insecure property will prefer a strong government and less liberty in preference to a weak government and more liberty.

Let the great FOURTH ESTATE bear these facts in mind, and let "reverence of law be breathed by every mother to the lisping babe that prattles on her lap; let it be taught in the schools, seminaries and colleges; let it be written in primers, spelling-books and almanacs; let it be preached from pulpits, and proclaimed in legislative halls, and enforced in courts of justice; in short, let it become the political religion of the nation."

WITHOUT LAW THERE IS NO SECURITY.

JEREMY BENTHAM.

Law alone has accomplished what all the natural feelings were not able to do; law alone has been able to create a fixed and durable position, which deserves the name of Property. The law alone could accustom men to submit to the yoke of foresight, at first painful to be borne, but afterwards agreeable and mild; it alone could encourage them in labor, superfluous at present, and which they are not to enjoy till the future. Economy has as many enemies as there are spendthrifts, or men who would enjoy without taking the trouble to produce. Labor is too painful for idleness; it is too slow for impatience; Cunning and Injustice underhandedly conspire to appropriate its fruits; Insolence and Audacity plot to seize them by open force. Hence Society, always tottering, always threatened, never at rest, lives in the midst of snares. It requires, in the legislator, vigilance continually sustained, and power always in action, to defend it against his constantly reviving crowd of adversaries.

The law does not say to a man, "Work, and I will reward you," but it says to him, "Work, and by stopping the hand that would take them from you I will insure to you the fruits of your labor, its natural and sufficient reward, which, without me, you could not preserve." If

industry creates, it is the law which preserves. If at the first moment we owe everything to labor, at the second and every succeeding moment we owe everything to the law.

In order to form a clear idea of the whole extent which ought to be given to the principle of security, it is necessary to consider that man is not, like the brutes, limited to the present time, either in enjoyment or suffering, but that he is susceptible of pleasure and pain by anticipation, and that it is not enough to guard him against an actual loss, but also to guarantee to him, as much as possible, his possessions against future losses. The idea of his security must be prolonged to him throughout the whole vista that his imagination can measure.

This disposition to look forward, which has so marked an influence upon the condition of man, may be called expectation—expectation of the future. It is by means of this we are enabled to form a general plan of conduct; it is by means of this that the successive moments which compose the duration of life are not like isolated and independent points, but become parts of a continuous whole. Expectation is a chain which unites our present and our future existence, and passes beyond ourselves to the generations which follow us. The sensibility of the individual is prolonged through all the links of this chain. The principle of security comprehends the maintenance of all these hopes; it directs that events, inasmuch as they are dependent upon the laws, should be conformed to the expectations to which the laws have given birth.

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