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President's Address

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PRESIDENT'S ADDRESS*

Presidential addresses have shown a decided trend in the last few years away from discussions of cases in which only a few were interested, and from controversial political subjects, toward themes more vitally touching our everyday life. Where a few years ago we found advocacy of a code of legal ethics and higher educational standards urged, we now take those things for granted.

Our constitution still permitting the president one chance to air his views before passing into oblivion, I feel justified in following this trend, and will endeavor, therefore, to report on the stewardship of your officers for the past year, and direct your attention to a number of matters which during the year of service on your behalf have impressed me as worthy of our attention.

In this state we have no scandal in judicial appointments or elections, but some of you, perhaps, have heard the chief justice of the Supreme Court announce that that court was seriously considering the plan of setting for hearing at a term of the court only such cases as could be adequately taken care of by the court during that term. If this should be done our Supreme Court calendar would soon be in the condition of those in many states where it takes from two to three years to get a case heard in the appellate courts.

The lawyer's functions in this state have not passed into the hands of laymen, but within the last few years we have seen those not admitted to practice law demanding payment of claims by letters headed "Attorney in Fact" for the obvious reason of leading the recipient to believe that the letter was from a lawyer. We have seen organized corporate interests from the East soliciting purely legal business in the handling of estates by representation that lawyers were not qualified to advise in such matters. The solicitings have been accompanied by claims that these Eastern interests would enable the clients to escape inheritance taxes justly due the state.

Our obligations and our interests are two-fold, first, our duty to the public, and, second, our duty to ourselves. Our duty to the public lies in three directions, law enforcement, aid to business, and administration of justice. Let us first consider that branch of our public duty which it seems is today uppermost in the minds of all, law enforcement.

*Part of an Address Delivered at the Annual State Bar Association Convention.

It seems that whenever law enforcement is mentioned the public at once thinks of the legal profession, often without complimentary remarks, concerning our relationship to the protection of society. It is a truism to say that the lawyer has always been in the van of movements to improve the law and its administration, yet we are too prone to let the public lay the blame for lack of law enforcement on the lawyer. We let the public cry that the crime wave is due to a lack of law for which the bar is responsible, when we, as lawyers, know that there is normally a sufficiency of law, but that the conditions complained of are more likely due to an improper administration of law by courts, which are chosen by the people, not by the lawyers, and by the laxity of juries on which the lawyers do not sit. We permit part of the public to clamor that there is too much law and that more of it should be repealed, and others to cry that there is too little law, and that more should be enacted. While it is true that the commission of crime is aided by the unethical practices of a minority of our profession, no profession is more zealous to keep its ranks clean, or has cast aside more of its members for improper conduct, than has the legal profession.

For the preparation of measures designed to better insure enforcement of the criminal law we look, of course, first to those of our number charged with prosecution for law violation. The responsibility, though, rests with all of us, and if we would perform our duty to the public we must not only give careful consideration to such proposals as may be made by law enforcement officials, but we must determine their necessity and feasibility, reject them if unsound, approve them if meritorious, and if we reject, so explain our position that the public will understand, or having approved see to it that the measures become law.

This Association has not been inactive in the matter of law enforcement. Committees appointed two years ago made a thorough examination and investigation into defects in criminal procedure, and presented at last year's meeting well considered recommendations.

Unfortunately, last year's program did not permit action by the entire association on these proposals, and they were, therefore, referred to the trustees with power to act. The trustees gave each of them careful consideration, and felt that they would be speaking the will of the association if the adoption of some was recommended to the legislature.

The trustees accordingly presented to the legislature three measures. One authorized the issuance of search warrants in felony

cases. Existing law provides for the issuance of warrants only in cases of stolen property, unlawfully taken game, and liquor law violations. It does not permit the issuance of a general search warrant in a murder case. The inability of authorities to conduct a proper search in the celebrated Bassett murder case amply demonstrated the need for such an act.

A bill was proposed which would authorize a justice of the peace warrant to be served in a county other than that in which it was issued, if endorsed by a Superior Court judge. An act was proposed which would make it optional with the trial judge to admit to bail a person convicted of a felony. The advisability of these acts would seem hardly debatable, yet they did not even get to a vote in the legislature. I cannot escape the conviction that had we been better organized and had these measures been more skillfully presented, they could have been passed before they got lost in the legislative jamb in the closing days of the session.

While the public at large looks to the lawyer to lead the way in a law enforcement the business world looks to us to keep pace with changing conditions in commercial life and to lead the way in the revision of substantive law affecting business and property rights. While business can suggest the evils and the objectives to be attained, we, as lawyers, must shape the statutes to accomplish those results and herein lies our second duty to the public. I do not mean that we would undertake the enactment of new statutes, or the revision of existing statutes, simply that we may be doing something, but when there is a need for a change in law affecting business or industry, then let us take the initiative in bringing about such a change.

If we do not do so, then unskilled hands will take the task from us and we will lose the right to direct the work. The lawyers of the country have assumed the burden of modernizing business codes. The Uniform Law Commissioners have done and are doing valuable work in bringing together the best ideas of the profession everywhere and are drafting laws which are models of simplicity and effectiveness. The American Law Institute, composed of lawyers and judges, is doing a monumental work in restating the common law. In both these efforts your association has been active.

At last year's meeting we unanimously adopted a new corporation code. Yet our selling of that code to the legislature was so poorly done that several members objected to it merely because of its length and suggested that it be arbitrarily cut 50 per cent, as though the length was any criterion of the merits of the bill. Our

task on this proposal is not completed. Let us during the time available see that we do not fail in our next attempt.

A number of methods for assisting the court have been suggested in the past. The judicial council gave the matter careful study, and its second report contains a complete analysis of all methods which are available. The work of the committees on "Relief of the Supreme Court" contains all the data necessary for determination of the means which should be adopted. We should all be familiar with the needs and with the available remedies.

I feel that we were remiss in our last year's meeting in not determining upon some permanent form of relief. We did, however, agree on three measures which would assist the court until some permanent form of relief could be devised. Pursuant to your instructions, the lawyers presented three measures to the legislature. One, an act authorizing the court to appoint from two to four court commissioners, the second, a constitutional amendment obviating the necessity of written opinions in all cases, and the third, an amendment which would permit the legislature to increase the amount necessary to give the Supreme Court jurisdiction on appeals. Only one of these, the last, met with legislative approval.

We did succeed in getting the legislature to submit to the people the constitutional amendment which, if adopted, will permit the legislature to raise the jurisdictional amount on appeal to a figure more appropriate under modern conditions. During the next year we must get before the people the necessity for their approval of the amendment. We are fast approaching a crisis. The Bar feels inclined to blame the court for inadequately considered opinions. The court, while it does not complain, can give its cases only such consideration as time permits. It is not the fault of the court if our cases do not get the attention to which we feel they are entitled. The power lies with us to remedy conditions.

Our duty is not, however, to the public alone. The obligation of safeguarding our own interests is fully as important.

While the entire world is wrestling with unemployment, we do not hear that term used with respect to the professions. Yet we have heard much in late years about the great increase in the number of lawyers and the decline in legal business. From what I had seen and heard, I had formed an impression—doubtless shared by many of you—that the number of attorneys in the state of Washington must have increased many fold within recent years. I was very much surprised, therefore, when statistics compiled this year by the executive office disclosed that the number of practicing law-

yers in the state has remained practically stationary for the last ten years. Yet we hear on every hand that the business of the lawyer is declining.

The lawyer, it is true, has always been active in furthering such legislation as workmen's compensation acts, water codes, and others, which lessen his practice. Much of the decrease of the lawyer's field can be traced to the enactment of laws taking from the field of litigation that which was once a source of livelihood to the lawyers, yet it cannot be questioned that the performance by laymen and lay organizations of work for which the lawyer is especially trained is responsible for much loss to the lawyer and much misfortune to the person for whom the services are performed.

This matter does not, perhaps, concern the attorney of mature years, whose clientele is established and whose practice has been built up along definite lines. It is, however, vital to the younger attorney trying to get started in the profession.

Sensing that we must be prepared against such a time, and recognizing that already many evils exist which need correcting, your association has given the matter attention. A committee appointed by my predecessor made an exhaustive study into the action taken in the various states to protect the public by prohibiting the unauthorized practice of the law. You will remember that at last year's meeting this committee reported its conclusion that we are in need of a legislative definition of what constituted the practice of law, and there was, therefore, prepared and presented to the legislature such a bill. It was found, however, by those in charge of the legislation that an attempt to define by a legislative act what constitutes the practice of law raised so many questions that it would be best at this time, at least, to leave it to the courts for determination. The introduction of the bill, however, brought to light many instances in which laymen were found to be unlawfully practicing law, and these instances have had the attention of the committee. I will not burden you now by going into a discussion of the actions of the committee, the history of what is occurring in other states, or a discussion of our committee's plans. We have set aside a portion of our time for a consideration of this matter, and I know that your interest will impel all of you to be present and participate in the discussions. I urge, therefore, that each of you give this matter your most serious consideration and that this meeting does not adjourn without taking definite constructive steps to see that the provisions of law restricting the practice of law to those adequately trained and licensed are enforced.

Individually, of course, we cannot stop crime, revise business law, improve the administration of justice or remove the evils of unauthorized practice of law, but as an organization we are omnipotent.

Due to the far-sightedness of past administrations, the association has been built up to a point where for the past year it has maintained, in cooperation with the Seattle Bar and the Judicial Council, an executive office in charge of a full-time official, but we have not yet been aroused to the point where we are sufficiently jealous of our own interests that we will put into our association what it needs to enable it to function efficiently. As I see the work being done by associations in older states, I realize that this association has just begun to prove its worth to the members of the Bar.

When I accepted the office of presidency of the association a year ago, I said that the happiest day of my professional life would be if when I handed the gavel to my successor I could say that we had accomplished during the year something for our mutual welfare. I feel that I can truthfully say we have. We have not done a great deal, it is true, but the work of the association is being more and more efficiently handled. While some of the committees have not functioned effectively, the reports in your hands show intelligent effort by nearly all. Up to the present time most of their work has been of a preparatory nature. The time has now arrived when we must put into effect such of their recommendations as we approve. The executive office and the local associations afford the machinery for doing so. The executive secretary, or assistant, should attend the meetings of each committee so he will be conversant with the committee work and able to carry on each committee's instructions. As executive secretary of the Judicial Council, Mr. Schweppe attended all its sessions. Believing that an extension of that idea to the association's committees would be beneficial, the plan of having such attendance by the executive secretary or assistant was employed in several cases with success. I recommend that in the future all committees have one of these officials at all meetings.

The maintenance of an executive office and the employment of a full time assistant has made possible greater activity and accomplishment. As we go farther the work becomes more effective, but there is much more than can be done. Committees and officers should be freed from detail so that their time can be devoted to study and constructive work. These details can be and are being carried out by the executive office.

During the past year, the executive office has carefully examined

the reports of the bar associations of states where matters in which we are interested were under consideration, and has made the work of those states available for our committees. This is only one of the many ways in which the executive office can be of service. During the coming biennium the executive office can be the means of getting before the public information which will assure their adoption of the constitutional amendment limiting the jurisdiction of the Supreme Court. In future years when our immediate objectives are accomplished, that office can be a clearing house for assistance to individual lawyers, as are the offices of the bar in such states as California, Illinois and Ohio. The executive office must by all means be maintained.

We are engaged in many activities. We can, however, meet but once each year. We must have closer contact between sessions. THE WASHINGTON LAW REVIEW provides one means for your officers and committees to get important matters to your attention. Through the courtesy of Bancroft-Whitney Company in donating pages of the advance sheets, we have another means of communication.

In order that our projects may be intelligently acted upon, they should receive the attention of each local concern. During the next year it is essential that each county association discuss thoroughly such proposals as shall be here recommended for consideration, and that not only each association, but that each of you individually, sees to it the public is informed on such of our measures as may require its vote, and that the members of the legislature are in sympathy with our aims. While we can here decide what is to be done the local association furnishes the means for taking action.

There is much more I would like to tell you of the visions I have of the future of our association, but I have already taken more of your time than I should. I must, however, in closing express my deep appreciation of the cooperation which I have received from the trustees, committees and individual lawyers. Every trustees' meeting has had one hundred per cent attendance, except where illness prevented, the committee members have given generously of their time, and individuals have responded whenever called upon. I am especially grateful to the press for their courtesy in handling our publicity, to Bancroft-Whitney for use of the advance sheets, and last but not most rather than least, to the enthusiasm with which the assistant executive secretary has handled the trying duties of that office.

GLENN J FAIRBROOK.*

*Of the Seattle Bar.