Washington Law Review

Volume 12 | Issue 4

11-1-1937

President's Address

W. G. McLaren

President's Address

Delivered by HON. W. G. MCLAREN *at Bellingham Meeting, August, 1937*

It is one of the traditions of the legal profession that the President of a State Bar Association shall deliver an annual address.

Whatever other merits or demerits may surround this custom, it probably does provide an appropriate occasion or opportunity for the members of the profession to suspend their activities for a brief period and to take stock, as it were, to see what progress has been made in the past, what new influences are arising affecting the legal profession, and in what direction we are being carried by the ever changing currents of public affairs in our form of government.

I think it is safe to say that during the last five or ten years the legal profession has become increasingly "Bar Association conscious", and that this tendency has become particularly manifest during the last two or three years.

The accuracy of this statement may be confirmed by several events, I think. For example, the idea of a State integrated bar, the effectiveness of which has now become firmly established as a successful plan for administering the internal problems of the legal profession, not only of the bar itself but also for increasing the influence of its members upon the public life of which they form an important part.

It is no longer necessary to argue the merits of the integrated bar plan. You will be interested to know that at least eighteen states in the Union have already adopted essentially the same plan, and other states are underway in their efforts to secure such adoption. No state has ever gone back or retreated from the integrated bar plan to the old voluntary state association.

It has been my privilege to have had something to do with the three successive bar association systems which this state has had, and what I have to say upon the question is based upon a considerable amount of first-hand information. In the early years the state took no cognizance whatever of the bar associations. The matter of enforcing the maintenance of standards of professional conduct was left in the main to the judgment and composite conscience of each local bar. Under that system it was my privilege to act for a few years as "Bar Association Prosecutor" for the Seattle Bar Association. Other communities with their respective grievance committees had similar makeshift plans in regard to matters of discipline. You will observe that this plan was entirely voluntary, where each community had its own plan, entirely unassociated with the others, and the state took no notice whatsoever, except to furnish courts of law in which disbarment cases were tried. Later on, the state took cognizance of bar association affairs by providing for a state board of law examiners consisting of three members appointed by the Supreme Court. It was my privilege to serve for three years on this state board. Now, mark you, this board, limited to three in number, was required by the provisions of the act not only to investigate and determine all com-

plaints and all applications for reinstatement of attorneys who had been suspended or disbarred, but also to supervise the entire matter of conducting examinations for admission to the bar, and of applications for admission upon motion.

This system prevailed until 1933, and I can say with considerable assurance that no three men constituting a state board of law examiners, regardless of what their abilities may have been, could adequately have performed the functions which that act imposed upon them.

While I do not for a moment mean to imply that the present system is perfect and therefore incapable of any further improvement, yet I do maintain that the present system with its board of governors, one from each of the six congressional districts, supplemented by administrative and trial committees in the various sections of the state, and a committee of law examiners, is so far ahead of any previous plan that this state has ever enjoyed that there is no comparison whatever, and there can be no argument that we should go back to any one of the systems we have employed for so many years.

In commenting upon the progress which has been made under the present system for the last four years, I wish to pay special compliment to the members who have been upon your board. I can say that without in any way including myself because the president is upon your board for only one year whereas the members of the board are in office for three years. In 1933 the problem which your board had to solve, namely, the problem of getting a new system under way, was no small affair.

During the present year the terms of two members of the board expired, namely, Mr. Allen Paine of Spokane, representing the fifth congressional district, and Mr. Bert C. Ross of Seattle, representing the first congressional district. These gentlemen served both their state and your profession with fidelity and ability during these four years, and I am pleased to make this public recognition and statement of appreciation of their splendid contribution.

During the year the board of governors has given considerable thought to the matter of applicants desiring to be admitted to the bar on motion, based upon their records of practice in other states. While the board does not wish to close the door of opportunity upon any worthy practitioner who desires to move to the state of Washington, yet great care must be exercised in examining the previous record of such an applicant in order to avoid finding ourselves a dumping ground for professional wanderers or ne'er-do-wells who have found it advisable to leave their former place of operation, for various reasons.

During the present year your board, with the approval of the Supreme Court, adopted the practice of requiring a residence of ninety days preceding the filing of any application for admission on motion. I might add at this point that the State of California has a residence requirement of six months. It was the thought of the board, in which the court concurred, that such a requirement would not only afford a better opportunity to examine into the personal qualifications of the applicant but also it would tend to divert from our midst a considerable number of lawyers who

are disposed on impulse of the moment to apply for admission without as yet having come to any real conclusion as to whether they are going to become residents of our state, and who, if they did so, would not be of particular benefit to the state or the profession.

Reinstatement

The question of reinstatement is one which causes your board probably as much concern as any other one phase of its disciplinary work, bearing in mind at all times that it is the duty of the board to make its recommendations to the Supreme Court only after a most careful consideration. On the one hand, the board cannot take the position or attitude that there is absolutely no right of reinstatement after one has been disbarred, regardless of the strength of the showing made. Nor, on the other hand, can the board, in fairness to the public or the profession or to itself, recommend every application for reinstatement which has been presented to it and pass the problem on up to the Supreme Court for final determination. The board feels, and rightfully, that it has the initial and serious duty in such cases of giving to the Supreme Court its matured, deliberate and well considered recommendation, and I say to you that there is not a Superior Court judge or a Supreme Court judge of this state who gives to matters coming to him any more serious and painstaking consideration than does the board on this matter of members who have been disbarred. We must not, of course, be deaf to the plea of the applicant who claims he has been taught his lesson and has genuinely reformed, and desires now to renew earning his livelihood by the practice of his profession, and yet, on the other hand, we must not overlook the fact that there are other attorneys in his community who have at all times been faithful to the interests of their clients, true to the standards of their profession, who have made no trouble either for the authorities or their clients. It is no small matter for the board to decide in favor of allowing a member whose record has been adjudicated bad to be permitted to re-enter the profession in direct competition with men whose high standards have always been scrupulously observed. Each case must, of course, stand or fall upon its own merit, but, as we have been shown here, the question becomes most pertinent as to whether in view of this danger of overcrowding the legal profession, we should aggravate this situation by adding to the number from the lists of those whose conduct has caused them to be formally and legally ejected from the ranks.

It almost invariably happens that reinstatement applications are held *ex parte*. This is true for the reason that it is very seldom that the original complaining parties who brought about the disbarment care to be present and be heard in opposition. It has been the practice of the board when possible to give notice to the complaining parties so they may be present and be heard. During this year your board reached the conclusion that still further opportunity should be accorded for anyone who might desire to be heard and give reasons why a reinstatement should not be granted. It was therefore recommended to the Supreme Court

that notice be published in the Bar Journal, or such other publication as might be selected, giving notice of the time and place of hearing of such reinstatement application. The Supreme Court concurred in the matter and the rule has been formally adopted as an amendment to the rules governing reinstatement hearings.

Legal Education

Now, just a word on the question of legal education. The board has not made or suggested in this year any change relative to educational requirements. As you probably already know, the great majority of our applicants, I am happy to say, come before the board armed with a diploma from an approved law school, and this, of course, carries with it that he must have had a pre-legal college course of at least two years; otherwise, his law school would not have been an approved one.

As to those applicants who have not graduated from an approved law school, provision is made by the board that they must have completed enough school work so as to have the acceptable equivalent of half of a four years' college or university course. And I think we need to remind ourselves of the tremendous increase in standards of educational requirements which have taken place in a very few recent years. The most recent report of the American Bar Association, section on Legal Education and Admission to the Bar, is dated July 1, 1937, and from that report I find the following most interesting statistics. As recently as 1930 there were only fifteen states in the Union which required as much as two years of pre-legal college education, and there were another fifteen states at that time which demanded no educational qualifications whatsoever.

May I quote briefly from this report:

> "Progress has been rapid since that time and today there are thirty-four states in all which have adopted rules requiring two years of college or the equivalent, while the number of states with no educational requirements has shrunk to two, Arkansas and Georgia."

I trust that no members are offended by that reference to those states. The report continues:

> "The standards of the American Bar Association, as adopted in 1921, recommended graduation from an approved law school. In addition to the entrance requirement of two years of pre-legal college education, such a law school was required to have a three-year course if a full-time school or a four-year course in cases where the majority of classes were scheduled in the afternoon or evening for the convenience of working students."

I notice in the same report in a foot note that the New Jersey State Bar Association, at its last annual meeting, in June of this year, recommended to the Supreme Court of that state the adoption of a college degree requirement.

We still have an occasional applicant for examination who has prepared therefor by pursuing a course of study as a registered law student, but in view of the tremendous increase in the educa-

tional requirements for admission to the bar and a similar increase in the complexities of professional demands which are made upon the practicing attorney, the question arises as to how much longer we should continue in this state to recognize and approve a law office course of study as an adequate preparation for admission to the bar. Whatever may have been true in the past as to the merits of a law office as a place in which a young student might learn the science and practice of law, I doubt very much whether the modern law office furnishes either the opportunity or the proper atmosphere for the obtaining of a legal education.

There has been some complaint that the type of examination given by our examining board did not sufficiently accord with the type of examinations given by our two approved law schools in this state. It was felt that there was a gap in there which was sometimes the cause of injustice in the bar examination applicant finding himself confronted with problems in a field of law for which his law school study had made little, if any, provision. There was recently arranged a conference between the faculties of the two institutions, the chairman of the board of examiners and your Committee on Legal Education. The purpose of that conference was not to do away with bar examinations, nor even that school examinations should be identical with the state bar examinations, but it was thought the matter should be looked into to avoid, if possible, the difficulty concerning which complaints have been made. The problem is one of readjustments on both sides, and whatever danger of injuries may have existed in the past, I may state will be practically eliminated as the result of these meetings.

The Courts' Reassertion of the Rule-Making Power

I wish to take just a little of your time at this point in discussing the question of the rule-making power of the courts, because of the bearing it has upon problems which are common to both the bench and the bar. We are reminded by Professor Wigmore, in a statement published by him in the last three or four months, as follows:

> "It is high time to raise a constitutional question which has long remained in abeyance. We assert that the legislature exceeds its constitutional power when it attempts to impose upon the judiciary any rules for the dispatch of the judiciary's duties.
>
> "That the legislature has no more constitutional business to dictate the procedure of the judiciary than the judiciary has to dictate the procedure of the legislature."

Now that this problem has been opened up for thorough discussion, we wonder why the courts for these many years acquiesced in this assumption of legislative power. It is my own opinion that the courts themselves were originally to blame for this particular course of events. You will remember that under the old common law system of pleading, the art or science of properly instituting a law action had become such a web of finely spun

distinctions that the practice of law and the machinery of the courts had become converted into an arena for the playing of a very interesting and legalistic game known as "Common law pleading", rather than an instrumentality for the attaining of justice to parties invoking the aid of the courts. It was only after this situation had become unbearable that the lawyers, acting through their state legislatures, caused to be adopted and forced upon an unwilling court, the Code System of Pleading. This necessity for legislative interference to cure the indifference of the courts was the entering wedge which led to a long-continuing assumption that the legislative department was the source of all power as regards judicial procedure. Our own state avoided any such constitutional issue by procuring the enactment of a statute authorizing the courts to make all rules of procedure.

I submit to you this rule-making power must be kept under the control of the judiciary, aided by the suggestions of the bar, if the machinery for the administration for justice is to keep pace with the improvements and progress of society in other matters. We need not amplify the difficulties inherent in depending upon legislative enactment for improvements in judicial procedure. Any legislature having once adopted a system of code pleading is inclined to consider that matter as finally settled, thereby blocking all prospects of future progress in the judicial machinery.

Just as this earlier indifference of the courts to their responsibilities led to the adoption of legislative code pleading systems, so in turn a later legislative indifference regarding any further improvements in procedure made it inevitable that the courts, aided by the influence of the bar, should re-assert the exercise of this judicial function by destroying this static condition into which the whole question of procedure had lapsed.

It is almost incredible today that there ever was a time when a plaintiff was thrown out of court because, unfortunately, his attorney had brought an action in debt when it should have been *indebitatus assumpsit,* or a suit for trespass when it should have been trespass upon the case. And it is almost equally incredible that even in the recent history of our own state, many a lawyer has gone out the window because he had served the proposed statement of facts and then filed it rather than by reversing the sequence of events, first filing and then serving it.

To contrast such a worship of the forms of law with the liberal rules of procedure which we now in this state enjoy, I submit to you, Members of the Profession, is exceedingly refreshing. For example: all persons may now be joined as plaintiffs in one lawsuit in whom any right to relief arising out of the same transaction is thought to exist, whether jointly or severally, and they may bring all such persons in as parties defendant as they may believe are parties from whom they may be entitled to redress, and have all rights determined under one lawsuit. Consider again that by these new rules adopted by our court, a new cause of action which would not have been barred if stated in the original complaint may be introduced by amendment in spite of the statute having meanwhile run if the adverse party was fairly

apprised of the nature of the cause of action by the original pleading.

Many other illustrations might be given, all of which serve to point unerringly to the fact that a lawyer of today, whether a practitioner at the bar or a judge upon the bench, has ceased to consider rules of procedure as an end in themselves, and has come to recognize that which always should have been the case, that such rules are, after all, a mere means to an end, namely, the administration of justice in whatever court the litigation may be found.

Federal Rules

This desire for the improvement of procedure and a recognition that the court is the natural source for the formulation of all judicial procedure has further found expression by the act of Congress authorizing the United States Supreme Court to formulate and adopt a complete uniform procedure in the District Courts of the United States. While these rules have not yet been finally approved or adopted by the court, nevertheless an examination of the most recent draft thereof, as prepared by the Advisory Committee of fifteen, of which George Donworth, of Seattle, has been a member, discloses that many a familiar and antiquated procedural figure has passed out of the picture to be replaced by methods and rules more in keeping with the spirit of the times, and in harmony with the expedition with which commercial transactions are now carried on, as compared with the same transactions of a century ago.

It would seem most unfortunate that right in the midst of these most painstaking efforts to prepare and complete a uniform set of rules for the United States District Courts that the lower house of Congress should have passed an act only last June, by the terms of which the right of the United States District Judge to comment upon the evidence should depend upon whether the same was permitted by the local state law of the jurisdiction where the trial was held.

Apparently nothing less than eternal vigilance will serve to preserve judicial independence against legislative encroachment even as to matters of procedure, a subject upon which the courts themselves should have the exclusive control unless and until they shall have abandoned and lost such right by neglect or refusal to exercise the same.

It would seem to be the height of inconsistency for Congress to have authorized by one act the creation and adoption of a uniform system of procedure in the United States courts, and while that effort is still under way, progressing rapidly toward a favorable conclusion, to destroy such uniformity by the passage of such a bit of ill-timed and unfortunate legislative interference. This type of legislation is a splendid example of the wisdom of leaving judicial procedure to the courts.

While upon the question of improved procedure made possible by the rule making power, I wish to pay tribute to the splendid services rendered by our Judicial Council, which has acted at all

times, you may say, as a testing station, as a clearing house and experimental laboratory for the purpose of sifting out and submitting to the bar every possible suggestion as to improvements in procedure which any attorney or any judge might think of and submit to them for their preliminary survey. As you know, if they feel such a suggestion has probable merit they then send out a questionnaire to the entire bar, and if approved by a majority it is then submitted to the Supreme Court. It would seem that there is therefore no reason other than ordinary human fallibility, why we should not look forward to a continued and satisfactory development of our judiciary machinery which will at all times be in the enjoyment of these laboratory tested improvements. A Judicial Council is in session at all times, as compared with the biennial session of the state legislature. A Judicial Council is composed of judges and lawyers, whereas a legislature must depend upon securing the cooperation of a number of laymen to whom the processes of the courts of law are largely a field of mystery which they are perfectly willing shall continue to be unexplored. And finally, such a Judicial Council, aided by the experience of the bar and bench, can bring to these questions solutions which are entirely unaffected by any political logrolling or other hazards which attend legislative efforts no matter how meritorious they may be.

The United States Constitution

I think it is appropriate this year to make a brief reference to the Constitution of the United States. This is the one hundred fiftieth anniversary of the drafting of the Constitution. In 1935 Congress passed an act in recognition of this event and creating a "Sesquicentennial Commission", such commission to be charged with the duty of encouraging and providing for suitable exercises commemorating this memorable anniversary.

The President of the United States by proclamation issued July 4, 1937, proclaimed a period from September 17, 1937, to April 30, 1939, for the commemoration of the one hundred fiftieth anniversary of the Constitution and of the inauguration of the first President thereunder.

While the period of one hundred fifty years may seem brief when viewed in the terms of the history of nations, yet when we contemplate even casually the terrific rate of mortality among the nations of the world and their respective forms of government during even the last twenty-five years, I think we may well agree with the sentiment of the Sesquicentennial Commission Act, that the occasion is one well worthy of our most serious reflection and observance.

Your board has caused the appointment of a committee of members throughout the entire state who have been vastly interested in the assisting of observance of this occasion. As you know, we have for years had suitable exercises during Constitution Week. It is the thought of the committee that, of course, it will be impossible to carry on exercises over the entire period covered

by the proclamation, but that during this week especially they should be given in the various local communities.

It is a striking coincidence in public affairs that this very one hundred fiftieth year should be the identical year in which our Constitution has been subjected to the most serious and nation-wide discussion and attention that it has received at any one time since the Civil War period.

The whole constitutional theory of an independent judiciary created and maintained as a coordinate independent branch of the government, was subjected to assault by the proposal either to retire, or outvote by newly added encumbents, those justices of the Supreme Court whose decisions did not happen to conform to the personal views of the executive. We were told in the early days of the discussion that one unit of the supposed three-horse governmental team was backward or derelict in the performance of its fair share of the work which the team was supposed to do. Assuming for a moment that the curious figure of speech was ever apt, whereby three independent branches of government are likened to a team tied together acting as one unit, I think the general consensus of opinion now appears to be that there has been a mistaken idea as to which one of the three horses was guilty of a failure to appreciate its proper place in our constitutional scheme of separation of powers.

Regardless of the *pros* and *cons* of the criticism against the Supreme Court decisions, it must be clear, as has been pointed out by so many writers, that this proposed method of correction was many times more dangerous than the ailment of which the complaint was made.

It is of the very essence of government itself that all controversies be submitted to and decided by a tribunal free and independent of all political pressure and other extraneous influences. The terrifying extent to which political pressure can and will be applied was demonstrated in this very legislative fight to preserve the independence of the judiciary. Members of the Congress were subjected to and controlled by political considerations of the lowest order in the very contest in which the independence of the court was at stake. Is it reasonable to suppose that these same individuals, or any other individuals, if members of a court, would be any less subservient to political pressure if a channel had thus been created whereby political pressure could reach the judicial department of the government?

It is worthy of note that the legal profession as a whole voted about four to one against such an impairment of our judicial structure. Our State Bar Association by a formal ballot voted about seven to one against the proposition. The American Bar Association members voted about six and a half to one, and then the American Bar Association conducted a subsequent referendum among all the lawyers of the nation, and that vote showed about four to one against the proposal.

Legal Aid

There is another question which I think deserves brief comment at this time, and that is the question of legal aid. One of the

public responsibilities recognized by the bar generally has been that of providing free legal services for those unable to pay the cost of obtaining the assistance of attorneys for the establishment or protection of their legal rights. In most instances I will say that the necessity of legal aid arises in the larger centers of population. It was for that reason that your board during this year discontinued having a state legal aid committee, since most of the local bar associattions were maintaining such activity, of their own. Upon further consideration of the matter, speaking solely my own views upon it, I am of the opinion that there should be a state chairman of a legal aid committee so that some central office might at all times be available through which a clearance could be made of legal aid requests from communities having no local committee or from points outside the state of Washington. Such an office, in my opinion, would not be expected to furnish directly the legal aid in such cases, but rather to supervise and coordinate the rendering of such service by others throughout the state, in those communities where, for instance, a local committee is not available.

We are perhaps accustomed to thinking of the word "need" in terms of food, shelter and clothing. Such a limited conception, however, is not at all adequate but we must take into consideration the necessity of making available legal aid where without such aid valuable personal or family rights would be lost or endangered, and society as well as the individual suffer thereby.

Administration of Justice

I have perhaps spoken with some considerable emphasis upon the question of the administration of justice, referring particularly to the development of the rule-making power as an aid to the proper functioning of the government, but after all is said and done we must bear in mind, as justifying the stress that I tried to place upon that function, we must bear in mind that, after all, the real function of a member of the legal profession is the administration of justice, and I include in the term "legal profession" not only the practitioner at the bar but also the judge upon the bench and the instructor in the law school. We are in a sense, gentlemen, "ministers of justice". By the very act of accepting admission to the profession, we have automatically assumed a peculiar responsibility for the proper functioning and improvement of machinery for this most important and essential element of government itself. All of these topics which I have been discussing, such as legal aid, legal education, disciplinary matters, and other topics which there is not time to discuss, do not possess importance independently in themselves but they derive their importance only as they have a bearing upon the improvement of the maintenance of administering justice.

That is why the profession is concerned with the subject of a legal education. That is why we as a profession are concerned with the subject of the unauthorized practice of the law. We are not concerned so much with that question because we regret to see some layman getting the work. Society is not interested at all in

the question whether a layman or a lawyer performs a particular legal service, if society could be assured that the service would be equally well done in either case. That being true, it is entirely immaterial as far as the public is concerned whether individual *A* or *B* renders a particular service. What the public and the profession are concerned with is in seeing that these legal services are performed in the most competent manner without prejudice or damage to the rights of those by whom valuable legal rights have been entrusted for attention.

Again, take the question of the increasing number of administrative boards for the determination of controversies, the rapid growth of which we cannot overlook. I will not, of course, presume to discuss this subject in any great detail in view of the fact that it is up for discussion later on in our program by one who is eminently qualified to enlighten us upon it. But what we are concerned with is in seeing that these administrative boards do render and hand down a quality of justice that is at least equal to that administered by the courts of law. May I quote briefly from a former president of the American Bar Association:

> "The aversion of the average man is rather to the procedural and administrative side of our legal machinery. He believes in and needs the administration of justice according to law; the safety of his transactions requires certainty and rule as the basis of individual and property rights. Uncertainty and inequality were long ago called 'The twin bugaboos of Anglo-Saxon jurisprudence'. Popular dissatisfaction with the law, as I have come to believe, is based not so much upon any variance between justice according to the substantive law and justice according to the *arbitrium boni viri,* as upon the great variance between the justice which would result from a fair, prompt determination of controversies according to substantive legal principles and the 'justice' which does result from the existing procedural mechanism of our courts. *Business men go to arbitration to avoid legal procedure and not legal principles.* To 'tune up' and 'speed up' our judicial mechanism, to 'cut out' the delay and 'lost motion', to organize our courts and their workings along lines which take cognizance of twentieth century experience and expedients, and to bring to the aid of the courts those direct and simple administrative aids which modern progress has made available in every field of activity, are some of the paramount tasks of the present day, in which every young man coming to the bar should plan to do his part."

The assertion is sometimes made that the activities of these various agencies modifying the old acceptation of administration of justice will completely change, if not utterly destroy, the present conception of the function of the lawyer. But if the lawyer is to be displaced either in whole or in part by new agencies it would not be the first time in the history of society that a legitimate occupation has been so superseded.

Whether the functions heretofore performed by the lawyers and the courts shall in the future be performed in whole or in part by

some different agency should depend upon whether such other agency or method affords any improvement over the present system. It is not an unheard of thing for an occupation or an institution to be entirely displaced by the march of progress. We no longer have the gas lighter making his rounds of the streets at dusk; the maker of the flintlock musket was long ago forced into other occupations. The "horse and buggy" has been displaced and has no place except in exalted places, and then only as a figure of speech.

But in each instance the occupation or the contrivance in question has passed out of our picture only because it has been replaced by a better method of securing the same or a better result.

But suppose we consider whether or not these new agencies which may displace our system of administering justice are an improvement over the present method, and consider whether or not our present methods of administering justice may not be swept aside, either in whole or in part, because of an avalanche of popular impatience with the methods of appliances with which the present system has so long been content to function.

Here, I take it, is the real obligation of the courts and the lawyer, because we are in the most essential sense the custodians of that particular function, the administration of justice, and the administration of justice is not only a function of government, it is *the* function of government without which no government can possibly exist.

It is an old and threadbare statement, of course, that the practice of law is a profession and not merely a money-making proposition. We all know that. We have become weary of hearing it spoken. And yet I am sufficiently optimistic as to believe that there may be still some additional meaning or possible unused value squeezed out of that venerable expression if we dwell for a moment upon the reasons why that statement is true. Let us not take it for granted any more for a moment, but see why it is true that the profession of law is something more than a money-making occupation. Granted, of course, that a lawyer has to make sufficient money in his occupation to live while he is doing it, and granted that it is not the primary, and should not be the primary purpose for which he is so engaged, I think the real reason why that distinction must be made, and why that distinction is well founded is that the lawyer knows that he is an inseparable part of a most essential function that is the very essence of government itself. That is something that you don't measure in terms of the book work required.

We had the spectacle, for example, of an eminent member of our bar devoting his tmie to drafting the Workmen's Compensation Act without a particle of financial gain, and no hope of financial gain. We have another member of our bar devoting his time and special talents upon this Advisory Committee for the purpose of establishing this reform in the procedure. The members of our Board of Governors have been spending hours and days and days trying to make improvements in the very thing I am discussing, namely, the improvement of the administration of justice. Your Board of Governors, your trial committees, if they

sought only their personal convenience, could find many, many more pleasant ways to spend their time than discussing whether or not an attorney should be reinstated. Those things all show that we are a part of the government in its most vital aspect. I think that this particular viewpoint was most ably portrayed by the Chief Justice of the United States Supreme Court last spring when addressing the meeting of the American Law Institute. He said this:

> "The success of democratic institutions lies in the success of the processes of reason as opposed to the tyranny of force. Between these society must choose. If society chooses the processes of reason, it must maintain the institutions which embody those processes. Institutions for the exercise of the law-making power and for the execution of laws must have their fitting complement in institutions for the interpretation and application of laws, for the safeguarding of individual rights, through a competent and independent judiciary. The firm and true administration of justice is thus the primary concern of civilized society. That administration must find its ultimate assurance, not in statutes or forms, but in the sentiment of a free people — themselves tolerant and reasonable and keenly alive to the necessity of maintaining the instrumentalities for the impartial determination of controversies." I thank you.

Superior Court Judges Promulgate New Rules

The Association of Superior Court Judges at its meeting in Bellingham in August adopted the following general rules relating to practice in all Superior Courts throughout the state:

"In all cases where a party has appeared in an action through an attorney the judge will not sign any orders or judgments in such action unless such orders or judgments are presented by such attorney of record, or unless they bear the approval of such attorney for the party for whose benefit such order or judgment is being presented. If the order or decree is presented *by an attorney* on behalf of a party to a divorce action who did not appear in the original action such order or judgment must bear the approval of the attorney of record, or an affidavit setting forth the service of such order or judgment has been made upon the attorney of record for the prevailing party at least three days prior to the presentation of the order."

Amend Rule 5, General Rules, so that the last paragraph of same shall read as follows:

"The Court shall hear no default divorce case until the judgment fee has been paid and the receipt of the clerk tendered to the Court with the proposed decree before a witness is sworn. If the decree is granted, the proposed form shall be signed by the Court as amended and immediately handed to the clerk for the record."