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Report on Committee for Selection of Judges

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after investigation and interview went out of business and agreed in writing not to repeat his practice; a lawyer from another state who is practicing law here without being admitted and discontinued his practice. His work upon the problem of real estate brokers has consumed more time than any other subject, as it has included not only the reports of unauthorized practice, some 35 in number, but the survey of other bar associations, and detailed briefing and has resulted in the preparation of a complaint for the proposed action to determine the question.

It is our opinion, and I am reading from the committee's report, "That this work and Mr. Riese's work should continue if the work of the committee is to be effectively pursued." The time necessarily spent in handling the work is more than a lawyer can be expected to devote to it without some compensation. This is particularly true if the committee follows through on the proposed court actions. After working as a member of this committee and observing the public lack of information and its misinformation upon the work of the lawyers it becomes evident that the Bar must do more along the line of public information. Our proposed court action will no doubt receive some publicity and will probably be somewhat deterrent to other practitioners. In addition to those involved the need of public information goes further. We must not only seek out and eliminate the activities of the unauthorized practitioner himself, but we must also give to the man who needs legal service at least some idea of what constitutes legal services and forewarn him to some extent of the dangers of availing himself of the unlicensed and unskilled practitioner. The average victim doesn't realize, until he has suffered by his loss, that he should have gone to a lawyer instead of to a notary public or real estate man or business advisor or customs broker who may draw for him his preferred marine mortgage.

It is, therefore, with the foregoing in mind that an active public information program by the State Bar Association is urged—not an advertising program but a program of information so planned that the public will understand that it is for the public's benefit.

Report on Committee for Selection of Judges

MR. HENRY ELLIOT, Chairman. Mr. Chairman, ladies and gentlemen of the convention. A few of my friends have half humorously, I hope, charged me with having, by artful and persuasive words, seduced this honorable body a year ago at Spokane. For that reason I deemed

it advisable when I was asked to present this subject to bring along four learned members of the Bar, two only of whom are members of the committee, to share with me the good or the evil that may come out of this presentation today

Last year at Spokane the Association approved and recommended authorizing the committee on the selection of judges to conduct a campaign of education, looking toward the submission to the legislature of a constitutional amendment, substituting the American Bar Association plan of judicial selection for the present method of popular election and executive appointment of judges in this state. This year the committee is not proposing any formal action by the convention on the subject; rather it would use the limited time assigned to it on this program to help clarify the issues involved by developing the historical and factual background and by eliminating as much misunderstanding, both as to the facts and experience, as it is possible in so short a time. For that reason we have asked three lawyers to speak on certain phases of the subject. In order to cover as much ground as possible they have been requested to prepare their papers in advance and to read them. After they have done this we hope to have at least ten minutes for questions from the floor, which I shall ask the several panel members to answer. Then one of our speakers will summarize the discussion and present his conclusions.

You will notice that we are borrowing the technique of the "Town Hall of the Air," but at this point I would disavow any such disinterestedness as the Honorable George Denny may have as chairman, and frankly confess that while I shall try to be objective and factual and refrain entirely from any form of misrepresentation, yet I am in favor of the proposal. The lawyer who keeps informed today will, I believe, admit the following propositions: One, that since only lawyers can become judges of courts of record in this state, the constitution of our courts and the administration of justice in all its aspects is primarily the concern of the members of the Bar. Two, that the people of the state look to the Bar composed of lawyers and incumbent judges to give leadership in this field. Three, that concurrent, spontaneous movements now taking place in at least 20 states, where they are under way in the various stages of progress, studies or plans, looking to the reorganization of the state courts and changing the method of judicial selection, are indicative of a general conviction among lawyers that important changes are needed; that no state bar association can afford

to ignore or fail to study carefully the plans that have been offered to solve the weaknesses of the present situation.

From this point on, it may be said that there is no consensus of opinion as to what steps are best calculated to strengthen the quality of our judges or to improve the organization and administration of our judicial system.

As to the selection of judges, the issue hinges largely on the question of whether popular election has justified itself as a means of selection. In the beginning of our nation all federal and state judges were appointed. In 1793 the sovereign State of Georgia changed to popular election and has maintained that system until today. In the wake of a wave of Jacksonian Democracy which swept the states, beginning roughly in 1830, approximately two-thirds of the states then in the Union, and later to come in the Union, adopted the same method. On the other hand, 11 or 12 states have retained from the beginning the appointive method at all times. As new states were admitted to the Union most of them came in with the system of popular election of most of their judges.

The issue, I think, might be well summarized in the words of Evans Haynes, a lawyer, a professor of law in California, in his recent book, which is comprehensive and compiles all of the history and the present system of choosing judges both in England and in the United States. He very dispassionately presents the matter without recommending any particular method of choosing. "In what way should judges be subject to popular control? That is without a doubt the vital question so far as we are concerned, and the greater part of this book is one way or another an attempt to supply the basis for an answer."

Around 1913 Professor Albert M. Kales, professor of law and one of the founders of the American Adjudicatory Society, made a proposal based upon the belief that the preceding experience of 60 years had demonstrated some very serious defects in the popular election of judges. He made a proposal which for many years bore his name and was called the "Kales Plan." It is in essence the American Bar Association plan as it was adopted by that organization by its Board of Governors, or its governing body, and recommended in 1937, 24 years after Professor Kales had proposed it. Professor Kales' plan is obviously intended, and was so put forth by him, to preserve the best features of the elective system and at the same time to obtain the benefits of an

appointive system. In other words, it is a system which combines the two principles.

In 1934 the State of California, under the leadership of Judge Woods adopted a modified form of that plan and it has been in existence in California, that is the modified form of the Kales Plan, and is still followed in the State of California.

In 1937, as I indicated a moment ago, in the light of the fact about 20 states at that time were beginning to seek about for some method of change, and the Kales Plan was being put forth as the best solution offered, the American Bar Association recommended and adopted that, and from that day to this, since 1937, it has been called the American Bar Association Plan. But it is actually the brain child of Professor Kales.

There are those who say that the American Bar Association Plan is undemocratic and Hitler-like; that it is offered to take the election of judges out of the hands of the people; that it is an attempt to usurp the rights of the people. The opponents answer that by saying that it cannot be adopted without the vote of the people, and significantly they say that in no state, wherever it has been submitted to an adoption of the people, has it ever been adversely voted upon by the people. It is only in those states in which certain leaders, sometimes members of the bar associations, sometimes members of the public, have so far kept it from a vote of the people. Then it has been said that it has as one of its essential features unopposed or non-competitive elections for reelection of judges, that it is again undemocratic in its inception.

It is interesting to note that the State Bar Association of California in 1945, after 12 years of experience with that form of election for judges, non-competitive form, and upon the request of the state legislature for a review of the matter, after two years of study, reported in these words: "Under the present law California has been free of such campaigns for more than 11 years and the committee unanimously felt that the benefits gained by the 1934 constitutional amendment should be preserved and maintained; and the Bar Association also recommends further that it not only be retained, but that it be extended to include superior courts and municipal court judges in California." That is about the issue which we are to discuss today I shall call upon three members to present the pro and con with some of the practical problems involved. Necessarily, for the reason of limited time, I asked them to confine their remarks each to five minutes. That is entirely

too short, of course. We hope that we may have time for a few questions from the floor. Actually, it would be better did we have, but it is impossible with so many subjects before the convention, to have an hour or two hours and we could really do a very fine job, thinking this thing through and getting at the factual background, because that is important. I am sure that the lawyers feel keenly that whatever we do should be done after the most thorough consideration, and that we only ask each one that we do it factually and dispassionately and to the end that whatever we decide may be best for our judges and our judicial system.

As this time I am happy to introduce to you a gentleman who is a member of the Seattle Bar, a prominent lawyer there, who has just returned from a visit to California, where he had an opportunity to check up first hand with some of the lawyers of California and he is going to present this matter to you in five minutes, on a comparison of the rules of the American Bar Association plan as modified in California and as adopted in full in Missouri. I present to you Mr. Newman H. Clark.

MR. CLARK: The members of this Bar Association are earnestly endeavoring to improve the administration of justice in the State of Washington. While opinions differ as to the best method to be used in the selection of judges, it is generally admitted that the present popular election of our judiciary is good in theory but is frequently unsound in practice.

Probably two-thirds of our judges were originally appointees, remaining in office without the necessity of campaigning. Once appointed, the names of these judges become well known to the public so that many competent but lesser known lawyers are reluctant to oppose them in an election.

Lawyers, more than any other group, are vitally interested in the selection of competent judges. Able judges not only render justice and expedite court work but by reason of their competency, litigation is often avoided. Their qualifications for office increases the respect of the public toward the law and the lawyers. To assure the selection of qualified judges, lawyers as a group should evolve an improved plan and submit for adoption.

The method of selection and tenure has been debated in this country for the past 150 years. An examination of proposed changes in methods of selection in other states uncovers a diversification of ideas. The

plan submitted to the Bar in this state last year, and rejected, was the result of careful study and preparation. Unfortunately, the reasons for the proposals were not as thoroughly explained or as fully considered as they should have been prior to submitting the plan to a vote.

It would accordingly seem advisable to review the best considered methods of selection in order to arrive at a feasible plan for our own use.

In 1937 the questions of judicial selection and tenure was thoroughly studied by a committee of the American Bar Association. Its recommendations were adopted by its House of Delegates and the program has since become known as the A. B. A. Plan. This method, which has optional features, generally provides for

1. Filling of vacancies by nomination from a list selected by high judicial officers and laymen holding no other public office.
2. If further check is desired, confirmation by the State Senate or other legislative body
3. After a period of service, the judge is eligible for either re-appointment, or to go before the people, who would vote upon the question, "Shall Judge Blank be retained in office?"

At the time the A. B. A. Plan was adopted there had been in effect in the State of California for several years a non-competitive election system, which created a commission to confirm judicial appointments of the governor. The commission consists of the Chief Justice of the Supreme Court, the Presiding Justice of the District Court of Appeal of the district where the appointed judge is to serve, and the Attorney General. After appointment and confirmation, the judge serves for a year and his name is submitted to general vote, and if a majority of citizens approve, he serves out the term. It is optional with the counties whether or not they select their judges in this manner. Although this plan has been considered an improvement over the elective system, the California Bar Association favors enlarging the commission to five and to require a majority of four members to confirm an appointment by the governor. The Association desires to add other confirmation restrictions and to have all appointments to the superior and municipal courts confirmed by the Qualifications Commission.

At the time of the adoption of the A. B. A. Plan, a committee of the Bar of St. Louis reported the Missouri system of selection of judges was defective in three respects:

1. It did not encourage those best qualified for judicial service to become candidates for the bench.
2. It was not conducive to the highest type of performance of judicial duty after election.
3. It was elective and democratic only in theory, being actually a system of selection by persons with political power.

In 1940 the Constitution of the State of Missouri was amended to provide for the appointment of judges by non-partisan judicial commissions. The Appellate and the Circuit Judicial Commissions have an equal number of lawyers and laymen, with the chairman the chief justice or presiding judge. The members of the Bar select the lawyers and the governor appoints the lay members of the commission. No member, except the chairman, may hold public office nor may they have any official position in a political party

After appointment and service for a year, the judge, in order to continue in office, files his declaration of candidacy for election to succeed himself. His name only is submitted on a separate judicial ballot at the next general election to determine whether he should or should not be retained in office. If a majority vote no, a vacancy exists at the expiration of his term which is filled by the state governor selecting one of the nominees submitted by the commission. The plan, briefly stated, is:

1. Nomination by a non-partisan judicial commission composed of an equal number of lawyers and laymen, chairmanned by the presiding judge.
2. Appointment by the governor of one of three lawyers suggested by majority vote of the commission.
3. Election or rejection after one year's service in a non-competitive general election.

It is the considered opinion of many members of the Bar that the A. B. A. Plan as applied in Missouri, is the most practical yet adopted to improve the judiciary and remove it from pressure groups. The A. B. A. Plan, as modified and in effect in Missouri, or as submitted by the committee of this State Bar Association, should tend to eliminate incompetent judges. It is recognized that judges, when once appointed, do stay in office whether well qualified or not. The final result is generally obtained at the time the lawyer is appointed to be a judge. Therefore, the proposed plan, or one similar to that suggested by your committee, should be an improvement.

MR. ELLIOTT. One of the outspoken opponents of the plan from the beginning is with us today at our invitation. He believes that in this plan he has discovered a sinister thing that would take away the rights of the people, so we have asked Mr. Paul Coughlin of the Seattle Bar to come and address us on this subject: "Criticism of the A. B. A. Plan and alternate proposals."

MR. COUGHLIN. I present, perhaps, here today a minority report in this group, but I am happy to say I appear as a representative of a majority of the lawyers of the state.

In January of this year, the lawyers of this state voted 2 to 1 against the A. B. A. plan. That recent rejection furnishes the proper starting point for today's discussion.

This action was only one more evidence of the good sense of the American lawyer. Fifty such plans have been advanced over a period of 30 years in 22 states. Apparently, in only two states have remotely similar plans been adopted.

The proposal contained provisions under which judges filing for reelection would have gone on the ballot unopposed. If a majority had voted "against" the incumbent, his successor would have been selected by the governor from one of three nominees chosen by a commission, made up of the Chief Justice, six lawyers elected from the Congressional districts by the attorneys, and six laymen selected by the governor. An ordinary vacancy would have been filled in the same way.

One reason this scheme was spurned was that it would have given a practical guarantee of life tenure to all of our present judges and to future incumbents. This is known among sponsors as "keeping the bad in order to avoid losing the good." Actual experience in Washington shows that we do not lose our judges, either the good or the bad. Most lawyers here would like more thought given to a method by which we could lose more bad judges even at the risk of occasionally losing a good one.

Another cause for disapproval of the scheme was its disenfranchisement of the lawyers themselves. We were not given direct election of nominees. We could act only through district representatives, unadvised as to the wish of the majority, free to disregard it if they knew how. In choosing local judges, small-town lawyers would have been disadvantaged as against city lawyers. Even the supposed representa-

tive of city lawyers would have had only one vote in thirteen in choosing county judges.

The most important consideration causing the Bar to repudiate the A. B. A. Plan, however, was its undemocratic nature.

One of the two phrases constantly recurring in the language of advocates is the one that we should "take our judges out of politics." In a democracy, politics is not an evil thing. It is simply our method of governing ourselves. Taking public officials out of politics means taking them away from the control of the many and putting them in the power of the few. In some places we have taken our school boards out of politics, with the result that our schools are in the hands of the banks and the railroads. No one suffers except our children. Nothing is lost except the future.

The other refrain is the cry for an independent judiciary. By this is meant a judiciary independent of the people.

It is not too much to ask of a judge in America that he should strive to do the justice of a democracy, rather than of a dictatorship or of a plutocracy. He should be willing to obey the statutory law as it is written by the legislators elected for that purpose. In those domains of discretion which we call common law and constitutional law, his touchstone should be the social and economic good of the many, not the advancement of the wealthy and powerful.

We deal here, however, with more than the ideals of our judges, with more than their pledged objectives. We are concerned with our very method of government. The most disturbing fact about this radical proposal was that it should have been put forward at all, for the basic issue is that of democracy versus aristocracy or plutocracy. Some of us have read our casebooks more carefully than our primers. Let me repeat some of the old American truths.

Government which is not genuinely democratic is not sound government. The aristocrat is not as wise as the common man, nor as Christian. Pleasant companions and comfortable surroundings are more corrupting even than gold.

The weakness of independent judges comes from their isolation from the tribulations of the ordinary citizen and their consequent lack of understanding of his aspirations for a better life. Judges worthy of a complete democracy must be aware that they are not rulers but servants, servants not of a few individuals and groups but that of the entire citizenry. The best method of insuring that our judges shall be both

good and wise is to keep them answerable as directly as possible to all of the people.

MR. ELLIOTT. I am sure that you have already an appreciation of some of the problems and technicalities that are involved in any matter of this kind; also when we attempt to make any plan that will fit the entire state, there are matters, substantive matters, that involve many complications. In order that we might face a few of these in the limited time we have, we have called upon one of the attorneys from one of the eastern, smaller counties, to speak to us upon some of the practical difficulties to be faced in the application of the A. B. A. Plan in the State of Washington. Mr. Charles L. Powell of Kennewick.

MR. POWELL. Mr. Elliott, members of the convention. Washington has six Congressional Districts, with many different centers of population. There are large and small counties in all districts but one. There are only two districts east of the mountains with the larger proportion of area, while the west side has four districts and the greater population. Many local bar associations have aided in the past in the selection of those to be appointed to judicial office. What are the problems in applying the A. B. A. Plan in our state?

I. *Is the plan too complicated?*

The judicial commission as proposed would be made up of six lawyers, one elected by the Bar from each of the Congressional Districts. The governor would appoint one non-lawyer to the commission from each district. The thirteenth member would be the Chief Justice of the Supreme Court. There would therefore be no new machinery required to apply the plan in our state except the creation of the commission. The election by the Bar could be conducted at the time of the annual election to the board of governors and would require little added effort.

It is to be presumed that the men elected and appointed would have the highest motives in mind. With the selection of the traditional conservatives from the Bar Association and the appointment of the equal number of non-lawyers of the prevailing political faith, a healthy cross section should be obtained, resulting in our having both liberal and conservative judges, which would theoretically give us the best and most progressive court.

II. *Should a state-wide commission select local superior court judges?*

Superior court judges are state officers. A judge from Asotin County may hold court in Bellingham. It is important to the whole state that

well-qualified men be recommended for appointment to the superior court in each county. Local commissions would be too cumbersome. They would be more subject to local political pressure. There are many local bar associations from whom recommendations would be solicited. Those recommended for superior court judges would be local lawyers and electors in the district to which the appointment would be made. There could therefore be little danger from the selection of local superior court judges by the commission. The commission would recommend three, one of whom would be appointed by the governor. Thus the local bar would be able by its recommendations to the commission to make its influence felt in this regard.

III. *Should superior court judges be exempt from the plan?*

The plan could be made compulsory in King, Pierce and Spokane Counties, and optional in other counties. In Missouri where the plan is now applied, all circuit court judges are elected except in the two largest counties. California, under its modified A. B. A. Plan, has recommended the extension of the plan to the selection of all judges. In the smaller counties in Washington, with the recommendation of local associations to direct the commission, it should be easier to apply the plan than to endeavor to make it optional. There are arguments on both sides which have merit. It is important that the confidence of the general electorate in the courts be maintained. Experience has shown that the electorate respects the federal district judges, all of whom are appointed. The appointment of local superior court judges would not in my opinion affect the confidence of our people in our courts. The plan, if adopted, must come by constitutional amendment. Article IV of our state constitution contains detailed provisions for the election and qualification of judges. Section V provides for the number of judges with legislative power to change the number and to create new judicial districts. The plan to be applied should not change the number of present positions, but leave that question for future legislative action.

It would seem that one of the principal problems concerning the A. B. A. Plan in Washington is to secure its adoption, which cannot be done without the energetic support of the State Bar Association. There may be good and bad features in the plan, but it would seem that since lawyers have the most to do with judges that some system of screening of those on the ballot is desirable. Continuity of tenure, however,

seems to me to be the most important feature of the proposed plan, as without it many are discouraged from seeking judicial office.

IV *Would local bar associations be deprived of a voice in selection?*

The regulations under which the system would operate would be set up by the supreme court. Local associations would be called upon to suggest regulations and would make recommendations for the commission's consideration. After all it is a member of your local association who is selected to fill any vacancy in your county court. The commission should strive to eliminate local criticism by being guided in its selection of prospective candidates. Without canvassing a local situation the commission could, of course, not make an intelligent recommendation.

V *Will large counties and population centers dominate?*

With a thirteen-man commission the selection of candidates for superior court judge should be considered objectively. Each county and each office would present a unique question. The commission would be answerable for its selections and those selected for the supreme court would be more apt to be kept in geographical balance, that is, east side, west side judges distributed on a population basis. The commission should be more selective than the electorate generally but the commission would undoubtedly be constituted of men from the population centers. The commission would be subject to some criticism if it ignored the recommendation of a local bar association in connection with the selection of a local candidate. In the selection of proposed appointees for the supreme court it is probably desirable that the commission represent the greater percentage of the population. The commission will, of course, be subject to considerable political pressure from all sides when an important appointment is to be made. But that situation exists now

VI. *What will the vote be when a judge runs against himself?*

It has been pointed out at numerous times that the candidate for judicial office receives only a small percentage of the total number of votes cast. This is particularly true when the candidate for judicial office runs unopposed. It is possible if the plan is applied in the State of Washington, that the people will ignore the judicial ballot completely. It would therefore be possible, with only a small vote cast for judicial office, for those who are interested, to concentrate quietly upon unseating a judge. This possibility seems remote and few qualified judges would have to campaign if the plan is adopted.

MR. ELWOOD HUTCHESON: My job, as has been stated, is very brief, and it will be brief, and you can call time on me any time, to summarize the arguments pro and con on this very interesting and very important question. Mr. Coughlin has very ably summarized the arguments in favor of the present elective method and against the A. B. A. Plan. In the first place, it is argued that the present method is democratic; in other words, the people vote. And it is argued that it is sound in theory and that it works well in practice because the people have the control and that it is not desirable that judges be removed entirely from politics or that the judiciary be entirely independent. In other words, that the judges are more akin, more in tune with the desires, more responsive to the will of the people if they are elected by the people and subject to reelection or defeat at a popular election.

It is also contended that lawyers are of a somewhat conservative frame of mind, which to some measure is undoubtedly true, and that perhaps the voice of the Bar might be more emphatically expressed by the more conservative elements of the Bar. It is also argued, although this may or may not be entirely contingent, that to some extent at least the lawyers would be disenfranchised in that they would not have a direct vote on the matter, but would speak only through their representatives; in other words, would elect the members of the judiciary commission who would speak for them, rather than by direct vote of the attorneys.

The third argument, and what seems to be the strongest argument against the A. B. A. Plan is not the theoretical but the practical argument that perhaps it would render too difficult the removal of unfit judges, because of the lack of the opposition of an actual blood candidate. In other words, opposing candidates serve at least two purposes; it is argued first to give an outright expression and voice to the incumbent judges; and, secondly, to furnish someone with whom the voters can compare the merits of the two opposing candidates, thereby assisting the voter. It is argued that would create a tendency toward life tenure of judges by reason of the lack of opposition of flesh and blood candidates. That very briefly, I think, states fairly the proposition, maybe not all, but the principal contentions, as I see them, with reference to the opposition—in favor of the present elected method and the opposition to the A. B. A. Plan.

The topic assigned me, you notice, is "Summary and Conclusions." I asked Henry "Whose conclusions?" and he said my own conclusions,

referring to me. Well, I realize I shouldn't keep you in suspense any longer, that the high water mark of the convention has now arrived when I am to state my conclusions on this important subject.

My conclusions are very definitely and emphatically in favor of the A. B. A. Plan. In fact, I hope you will not consider me immodest if I mention parenthetically that the A. B. A. paid me two thousand dollars of Judge Ralston's money for stating my conclusions, and today we haven't even charged admission, so you see how very fortunate you are. Also parenthetically some people thought Missouri was overhasty in adopting this. Summarizing the reasons in favor of the A. B. A. Plan very briefly, which I say coincides with my own conclusions, so I will cover both together to save time, the fundamental idea of this "Missouri Compromise," if we could use that expression, between the strictly elective and strictly appointed method, the idea is to combine the advantages of each method and so far as possible the demerits of each. It must be recognized there is a national tendency of the voters to retain a judge in office. As has been stated, something over two-thirds of the judges are appointed originally, at least as to the history of our Supreme Court. It would, therefore, seem desirable in order to improve the caliber of the judges to have a method involving greater care in the original selection of the judges. With reference to what Judge Phillips said, I am not disputing at all his conclusions as to the improvement in that county; it must be borne in mind, however, that at present, so far as the appointive feature is concerned, we have the unrestricted and unlimited appointment by the governor without any check upon that at all. That is not the A. B. A. Plan. The A. B. A. Plan as to that feature is to require—while the appointment is made by the governor originally, it must be one out of three selected by this judicial commission, which it is our belief makes all the difference in the world. It is the belief of the advocates of this method that the lawyers—no matter what the public thinks of us—are every day working with the judges; that we are of the same profession and are therefore in a better position to know the presence or absence of judicial qualifications on the part of the candidates. The people mean well, but often, especially in the larger cities and in a state campaign for supreme court judges, it is difficult for them to actually know the qualifications or lack of them of the candidates. It is believed that a popularity contest or vote getting ability is not necessarily the best test of judicial qualifications. It is believed that it is also fair to the judges; and better men

will be willing to take judicial office when they feel they will not be subjected to the expense and disagreeableness of a state-wide campaign or a political campaign, especially in the larger counties. It is believed that there is some distinction between the executive and legislative, who are elected to carry out the will of the people, and the judiciary who should have, it is believed, a greater independence and who are not elected to carry out the will of the people, but whose job is to decide cases according to the facts and according to the law regardless of the will of the majority. So it is believed, that while this is not a perfect plan, it does furnish a method for obtaining better judges and a method of retaining in office better judges, while at the same time being reasonably democratic and eliminating the unfit, and therefore, we submit, a definite improvement.

**“A Layman’s View of the Lawyers,” by John Foster,
Editor, Rocky Mountain News, Denver, Colo.**

This is the fourth time in the past year I have had the privilege of appearing before a group such as yours, and frankly, I like it. I cannot, of course, predict how you will feel a half hour hence. But, as for myself, I think it is all to the good that a member of my profession exchange views with the members of a profession whose human and political activities have such a bearing on news.

Whether they like it or not, the newspaper and legal professions are part of the same world. Sometimes they’re partners, sometimes they’re in dog-and-cat conflict, but always they’re participants in the human scene as it unfolds.

Why it should have fallen on me so often to explore this relationship I do not know. Like most newspapermen I prefer the detached security of the typewriter to a position as vulnerable as this one. But a year ago Judge Orin L. Phillips, of the Tenth Circuit Court of Appeals, asked me to say a few words before those graven jurists in Santa Fe, New Mexico. I like Santa Fe. It is a world that time has forgotten and haste never knew. I like federal judges also—but, of course, for entirely different reasons.

And so I spoke before this judicial conference, pleading for a closer, more warmly human relationship between the law and the citizen, pleading for simpler judicial procedure that would make the meaning of law more clearly apparent to the citizen, pleading for an understand-