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# DICTA

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## The Unification of the Bar of Colorado†

BY BENJAMIN E. SWEET\*

I appreciate the honor of having served as your president. I have enjoyed my work. Through it, I have become more intimately acquainted with you and with the problems of our profession. Because of transportation limitations, I have not been able to visit each of the eighteen local associations which form the working units of our organization. Those I have found it possible to visit have been most cordial and all have been cooperative. Your officers and committees have worked diligently, and in spite of restrictions which the war has placed upon our time and efforts, have creditable reports to make.

Two aims justify our existence—improvement in the administration of justice and advancing the welfare of our profession. What we have done to this end and what I believe we should do are the subject of my remarks.

A year ago, in the midst of the war, with two hundred fifty of our members in uniform, we were directing our attention to aid in the winning of the war. We did our part. Individually, we served as members of Selective Service boards; as appeal agents; cared for the legal needs of men and women in the armed services, and performed countless other tasks without reward other than the satisfaction of having helped and having done our part. By conceiving and promoting "The Lowry Field Plan," which became "The Legal Assistance Plan," of the War Department, and the "Property Guide" which the War Department adopted almost verbatim, we gained national recognition and received at our last annual meeting special commendation from both the army and the navy. As lawyers and as an association, we may justly be proud of the part we played.

The usual association activities have been continued. Reports of officers and committees are to be found in the current issue of DICTA, and I shall not burden you now with further details—only to remark, however, that the Legislative Committee, the War Committee and the Committee on Real Estate Standards, because of the efforts they have expended and results they attained, are deserving of special mention.

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†President's annual address to Colorado Bar Association, October 19, 1945.

\*Retiring president, Colorado Bar Association.

We have emerged victorious from the most colossal and devastating of all wars. The destruction and loss of men and materials has been stupendous and for decades to come we and our children will pay the cost. Our political, economic and social machinery has suffered severe dislocation. Time-honored principles of government have been bent and broken. We can, and we will replace the materials. Those who have perished cannot be replaced, but others will take their places. What of the machinery of society and the principles? Can they be repaired? Are they so bent that their temper is gone, or can we cause them to spring back into their former shapes? Has the modern trend of social progress made them obsolete? Should they remain in these new shapes or be allowed to be bent still further to accommodate the new ideology which seems to be sweeping over the world?

These are difficult questions and perhaps time alone will afford us the correct answers. They will not solve themselves. Their solution for the public good calls for intelligent and conscientious study. Who is going to conduct this study? Who is destined to counsel and guide? It is not the businessman, whose time and interest is devoted to organization and profits, it is not the scientist or the doctor or the engineer, whose talents are given to formulas or health or mathematics; it is not the accountant, whose interest is in figures; and it is not the politician interested in votes or the statesman, who is all too rare—it is the lawyer, whose training, temperament and experience qualify him for this important task. Unless he recognizes this responsibility and embraces this opportunity, the solution of these fundamental problems will lack counsel and direction.

I say this, not to inflate our ego or to discount the interest and capacity of other pursuits, but to remind ourselves of an obligation and opportunity which we face. How are we as lawyers going to perform?

In order to counsel effectively or to guide, we must enjoy that same degree of confidence of the public which we claim to have from the client in the handling of his private affairs. Do we as a profession today have the confidence of the public which we need? Has our profession lost any of the dignity and influence which it formerly had?

In early America our bar enjoyed high respect and exerted influence in public affairs. The Inns of Court of England which governed admission to practice and which, through membership of lawyers and judges alike, kept up the dignity and quality of the bar, were the examples of our bar, and we had the esteem and respect of the public to which we were entitled. The democratic concept that men should suffer as little restraint as possible in the enjoyment of their free and equal births was extended in this country to the right to practice law and caused us to deviate from the English concept. The result was a relaxation of our

standards. Ultimately the bench in an effort to maintain its position became cloistered from the bar and thus the bar lost some of the dignity and potentialities for the public weal.

Individual initiative and effort which characterized our early American life, has, because of the increasing complexity of life, given way to organization and group action. Forty-seven years ago, in recognition of this, we organized this association on a voluntary basis. Benefits have accrued professionally and socially and the public has gained by our efforts. But we face a new and important challenge today. Are we equipped to meet it?

I have mentioned our duty in matters of public policy. I have said we must recapture the esteem and respect, some of which has been lost. But how? Not by debating and resolving. Not by pulling in different directions, but by intelligent and concerted action. We must become strong individually and collectively. We do not have the strength today which the job calls for. Why?

There are several reasons. We speak not for the bar as a whole but for only seventy-five per cent. We lack facilities to gather information upon which questions of policy must be predicated. There is no continuity in our efforts. We lack organizational strength.

Our weakness is not due to any lack of interest or desire, but to a lack of time. The increasing complexity of law and the agencies which administer it has proportionately added to the work which we must do to keep informed and do our job. While the hours of labor in most all pursuits are being shortened, ours are being lengthened. There is little, if any, time for the average practicing attorney engaged in making a living to devote to bar association work. He has neither the time nor the facilities to collect and assemble information upon which to base his decision or action. As a result, the work which needs to be done to maintain our professional standing and advance the welfare of our profession is neglected.

What is the solution? How can we increase our economic standards, raise ourselves in public esteem and increase our influence in public affairs? We can only do it, in my judgment, by united action through a strong organization of the whole bar.

Our independence and conservatism which have been important and vital to the preservation of order and justice now act as a deterrent in binding us together as a unit. We must unite unless we are prepared to accept a secondary and ineffective role in public affairs and a weakening of our economic position. The profession seems to be oblivious to the one great lesson of the war, i. e.—that there is no safety in isolation. If we want our voice to be heard and our influence felt, we must strengthen our organization.

An organization of the whole bar of this state seems to me essential and the only answer to the problem. We must bring all of the lawyers of this state together. We must have finances adequate to employ a full-time executive secretary who will perform the many tasks which we, who are engaged in making a living, have not the time to undertake. Such a secretary would gather information for the officers and committees so as to keep them informed and permit them to act intelligently and with the expenditure of a minimum of time, and do the thousand and one things which are needed not only to keep the organization running smoothly but to acquaint the members with what is going on and urge them to appropriate action. We should get in step with the state associations of our sister states, none of whom has indicated the slightest desire to return to a voluntary association. We should heed the advice and warning of outstanding lawyers of the nation. In my humble judgment this should be first and foremost on the program for the coming year.

There are some proposals for the program of the future which I should like to make. Some have been started and will doubtless be continued. It will, I believe, be apparent that any effective or satisfactory execution of the program depends primarily upon a strong organization of the whole bar, with adequate finances.

Your board of governors at a meeting held in February recognized the necessity for a comprehensive review of the entire judicial machinery of our state and authorized the appointment of a committee for this purpose. The president-elect and I have discussed this with many of you and it is our hope that the program can be started immediately, that outside financial aid can be obtained and that before the next regular session of the legislature specific proposals can be made for the improvement of our judicial system. The committee will doubtless consider among other things improvements in our appellate practice. Should the printed abstract of record be eliminated? Should periodical reports be made by the court to the legislature, to the executive, or to the people? Are judicial salaries adequate? Can some courts be consolidated? Should not some form of social security be extended to lawyers and judges? And countless other questions.

An educational program to inform the public of what the profession is doing which will serve to raise the profession in the public view should be undertaken.

A closer contact between the association and the law schools has already been made. Refresher courses have been started by Denver University Law School in cooperation with our members. The reestablishment of institutes is needed. Three or four days in advance of the annual meeting might well be set aside and devoted to a review and discussion of the more important subjects. A few hours spent on the subjects of

taxation, wages and hours, recent legislation, etc., would be helpful and popular. Summaries of these lectures could be mimeographed and sent to all lawyers or published in DICTA or the Public Ledger.

A recent survey which we conducted discloses that the average yearly income of lawyers in Colorado is less than \$4,000. Among other causes which have contributed to bring about this meager figure are the diminishing field of practice, the loss of some branches such as estates and trusts, the loss of personal injury actions by workmen's compensation and liability insurance, the decrease in abstract examinations because of title insurance, and encroachments by administrative agencies and bureaus, many of which discourage the employment of legal counsel.

Vigilance is needed to see that lawyers' earnings are protected. The average charge for examining an abstract is \$15. Considering not only the time involved but the risk incurred and the responsibility assumed, this is inadequate. The preparation of contracts, deeds and similar instruments is the lawyers' job and an integral part of most real estate transactions. A charge predicated to some extent upon the value involved should be established sufficient to require the lawyer to not only examine the abstract, but to prepare all papers and close the transaction. The established commission of five per cent collected by real estate brokers is collected without difficulty because the public has become accustomed to the practice. There is no reason why a lawyer's compensation should not embrace all of the duties which he should perform and be adequate and predicated to some extent upon the value of the property involved.

These are the things which we should do. We may here resolve to do them and leaving here forget our good intentions only to return next year to resolve again. We need action. How are we going to get it? You and I agree on these objectives.

We recognize the necessity of organized effort, we must not permit any illusions as to our traditional place in society blind us to the realism of present problems. We must make society realize that we are an integral part of it and that our precepts and philosophy are essential to the preservation of order and justice and peace. We are jealous of our heritage and too conscious of the past. We are reluctant to admit that our fellow men have the same desires and objectives as we. From our ivory tower we look down upon them, hoping that they will realize the importance of the legal profession.

From that tower we must descend to become a part of the society in which we live. We must preserve and protect our principles and our traditions. But, we must make them known to the public. Our primary obligation is not to our profession but to society for whose benefit we strive. Let us not fail in our real purpose. We constitute but a small segment of society. We are guardians of the principles of law and order

and we must be worthy of that trust. If our hopes are to be realized, if our trust is to be fulfilled, we must with realism cause them to be effective. Otherwise we have failed in our purpose.

The bar of Colorado is at the cross roads. We may continue as in the past oblivious to the forces which influence our profession and shape our lives. But we have an obligation, the obligation not only to announce, but to make effective, the principles for which we stand. We must not be content with the mere expression of our views, we must make them effective. Let us realize that we as lawyers must act and speak in unison. Our voice must be heard, our influence must be felt. Let us organize as a unit the bar of Colorado.

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### Personals

Dee H. Beer has been promoted from chief attorney to assistant solicitor in Branch Office 13 of the Veterans Administration. Mr. Beer is a graduate of the University of Colorado and has been chief attorney of the Colorado regional office for the past fourteen years. Major William C. Edgar is acting chief attorney.

Harry S. Petersen, Pueblo, and Allan T. Phipps, Denver, have been appointed by the Governor to the new Colorado Aeronautics Commission, established pursuant to a bill passed by the special session of the legislature.

Weldon W. Tarbell, recently discharged from the army, in which he served as captain, has been appointed to the State Industrial Commission to fill the vacancy created by the resignation of Ray Brannaman and the appointment was confirmed by the state Senate at the special session in December. At the time he entered the army in January, 1943, he was practicing law in Alamosa. At the time of his discharge from the army he was commanding officer of a criminal investigating detachment.

Mrs. Bertha V. Perry, Denver, has been appointed to the city Civil Service Commission to fill the vacancy created by the resignation of John J. Cory (who died shortly after his resignation), and was elected president of the Civil Service Commission shortly after her appointment. Mrs. Perry has been active in legislative matters concerning women and children.

Ruth S. Hunt, Denver, Assistant City Attorney, became the bride of Stuart B. St. Germain, Denver lawyer recently discharged from the service, at a ceremony in the Colorado Supreme Court chambers. Justice B. C. Hilliard presided at the ceremony.

Kenneth M. MacIntosh, Denver, has been appointed secretary to Mayor Stapleton. He has retired from the navy, in which he was a lieutenant. Prior to entering the navy he was clerk for District Judge Henry S. Lindsley.