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Remarks Accepting the [American Bar Association] Presidency

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Dissenting Opinion

I do not agree with the above entitled report, as in my opinion proposed legislation should be prepared and submitted to the next Legislature rendering any judge who has reached the age of seventy during his term of office ineligible to re-election. I believe this would be wholly constitutional.

Nat U Brown

Notes on the American Bar Association Meeting in Seattle,
by William J. Madden

That the American Bar Association meeting in Seattle in September of this year was an outstanding success is generally agreed. A sampling of the opinion of any of the visitors usually elicited a response indicating that those who came from afar were well and favorably impressed with the manner in which the arrangements were handled, and with the hospitality which they encountered. Unlimited credit should go to the General Chairman, to our Executive Secretary, and the hosts of assistants who made the meeting one of which we can be proud.

Inasmuch as the events of the bar meeting will be reported fully in other publications devoted to that function, it is not proposed to set them forth at length herein. Due, however, to the fact that one of our practicing brethren and a former president of our state bar has been accorded the high honor of having been asked to lead the American Bar Association for the ensuing year, we have requested him to make a few remarks for publication in this issue. He responded with a characteristically stimulating discourse on the importance of the bar and its members at this crucial time in our history. We further were of the opinion that the issue would be incomplete were it not graced by the address of welcome which was given to the meeting by Richard S. Munter, our President.

Remarks Accepting the Presidency, by Frank E. Holman

No one receives and undertakes the Presidency of the American Bar Association without sensing the great honor and at the same time the great opportunity and obligation of that high office. The success of your President is largely dependent upon the help and cooperation of the whole membership. With this help and cooperation, we shall strive to continue during the coming year to make the organized Bar not only an active voice, but an active force, for the public good.

An American Bar president, unlike other presidents, is elected without any formal platform or program outlining the objectives of his administration. His term being for a single year, there is little opportunity for him to attempt to formulate any long-term program. His function and influence are largely limited to emphasizing and re-emphasizing such activities of the Association as are already under way and as will enable the organized Bar to make the most significant contributions to the improvement of the administration of justice, the advancement of the profession, and to the public good.

Ours is not only an ancient and honorable profession, but it is a profession *essential* to the functioning of free government—particularly necessary in any form of society based upon a representative and constitutional government.

If some cataclysm were to wipe out the whole of the legal profession overnight so to speak and destroy all lawyers, it would be necessary that a new group of lawyers come into being so that the essential processes of an ordered free society might continue to function—for the lawyer is the only authorized defender of the life, liberty, and property of the citizenry. Without the lawyer the individual citizen and his rights would be without the protection that the Constitution and the laws intend to accord him.

However, the lawyer's obligation transcends his role of representing clients. He must stand ready, fearlessly and unselfishly, to rally to the defense of our kind of government and its institutions. As grave national and international issues arise, he must be prepared not only individually, but through the organized Bar, to defend and preserve liberty under law. Liberty under law means not only that your acts and mine shall conform to law, but that all public officials from the highest to the lowest shall likewise conform to law and serve within the spirit and the intendments of our form of government. In recent years public officials have too easily fallen into the habit of asserting that some *crisis* exists which justifies extraordinary and extralegal procedures. We have endured much through government by crisis. We have noted that almost invariably these "temporary" expedients tend to become permanent.

The chief genius exhibited by our forebears in setting up the structure of this government was that they established, and intended to establish, a completely independent judiciary to which the citizen at all times might have free access—that is, his day in court—not only with respect to other individuals, or groups of individuals, but

even with respect to the government itself. As once pointed out by Mr. Justice Brandeis, the individual is entitled, even as to the government itself, to the right to be let alone in his individual life, as against any attempted invasion of his constitutional rights.

Without this free access to the courts, all our basic rights and freedoms would be high-sounding paper declarations of things to be hoped for, but always dependent upon the will of a particular President, or the particular majority for the time being in power. Most of the guaranties of the Constitution are for the protection of the individual citizen against the acts of government officials, and for the protection of local self-government. If the acts of the Executive Department, or of the majority in Congress, were not subject to judicial review as to their constitutionality, the basic rights of the individual, and even of states, would no longer exist as rights since they would be enjoyed only during the pleasure of executive or legislative fiat. To our profession alone belongs the privilege of advising the whole body of the citizenry as to its rights and the obligation of securing these rights, if necessary, by a resort to the courts. This is why our profession is so essential to the functioning and continuance of free government.

Therefore, a primary duty of the American Bar Association is to emphasize and re-emphasize on every occasion, and in every way, that the lawyer in each community is not only a friend, counselor, and champion of individual rights and liberties but that he is also the defender of the basic principles of the form of government under which the people are entitled to live.

Americans respond magnificently in time of war, but in time of peace we often permit our rights and liberties to be whittled away. We have taken free government for granted and in doing so have already lost some considerable measure of our independence and dignity as individuals. Under the influence of pressure groups, movements and programs are definitely under way seeking to change or circumvent the fundamental principles and processes of our government. These movements are often begun without any recognition of their real significance. Sometimes the events preceding proposals for change arise wholly within our own country—sometimes foreign developments and foreign influences have a direct impact on our national life. The lawyer and the organized Bar are under the duty to keep advised not only with respect to domestic issues but with respect to international problems. In both these fields, the lawyer and the or-

ganized Bar now face challenges of greater significance than at any time in the whole history of the country. Lawyers cannot adequately meet these challenges without working together in and through organized bar associations, local as well as national.

Many countries, including Russia, have adopted constitutions which appear to be somewhat similar to our own, but their citizens do not enjoy similar protection as to life, liberty, and property because, in the first place, they do not have an independent judiciary, and in the second place, they do not possess a courageous Bar with sufficient independence to assert and establish these rights. The members of our Bar have been trained for generations in a tradition of courage and in a spirit of loyalty to the constant defense of our constitutional guaranties of individual liberty. If the time should ever come when the living reality of this tradition and spirit fades out and members of the Bar become merely servants of government policy, our basic rights and liberties will vanish.

Address of Welcome to the American Bar Association,
by Richard S. Munter

On behalf of the Bar of the state of Washington, I welcome you to this, the Seventy-first Annual Meeting of the American Bar Association.

This may be an historic session of this Association. Throughout almost all the world the rule of law has given way to the rule of wilful men. In our country we can not much longer go on straddling such issue. There can be no certain justice except that based on rule of law. Decision based not on law represents but the will of the despot or the bid of the dictator to be. Nor can largesse be accepted from the dictator, for what he gives to one must be taken away from another.

More crystal clear than even our beautiful mountain lakes is the lesson of the ages, that power unrestrained by law can be given no mortal; and that is literally true, no matter however benevolent he may conceive himself to be. It is a sad commentary on our enlightened times that our public men have been so lacking in humility, so selfish and so regardless of their relative pigmy status as to seek for, grasp, and attempt to wield power unrestrained by law. But it is an equally sad reflection upon the people of our nation that for what they conceived to be passing gain and special favor they have yielded to such