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THE ORGANIZED BAR—WHAT LIES AHEAD*

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During the past few months I have received many questions and suggestions concerning the program and objectives of the American Bar Association. I presume the question asked most frequently, both by the Press and members of the Association, is, "What is your program?" Or, "What particular project or activity are you going to emphasize?", with the emphasis on the "your" and "you." The answer to that question is simple; I have no personal project to advocate or emphasize. It is my function to assist as best I can in the interpretation and administration of the program of the Association as determined by the House of Delegates. We should bear in mind also that this is not simply the program of the 50,000 members of the American Bar Association, but rather the program of the entire organized bar, representing all state and many local bar associations, as well as many affiliated legal groups. As most of you know, prior to 1937 the American Bar Association was a purely autonomous organization. Since the beginning of the so-called era of federation in 1937, state and local bar associations have participated in the formulation of the policy and program and actually have more representatives in the House of Delegates than those who directly represent the members of the American Bar Association. The Association today is truly representative of the American lawyer.

Among my friends in the Association, the advice I receive most often is, "Don't make too many speeches." That is excellent advice, but exceedingly difficult to follow. One distinguished New York lawyer suggested, half-seriously, a nation-wide broadcast with advance notice to the lawyers. That would, of course, afford a simple, but I fear impractical solution. The next suggestion is this: "When you do speak, be brief and talk about the accomplishments and objectives of the American Bar Association." Particularly in connection with the campaign for the American Bar Center, it has become increasingly clear that the lawyers generally, and even members of the Association, have little conception of the breadth and magnitude of the activities undertaken by the organized bar for both the public and the legal profession. This is understandable. With 27 standing committees, 25 special committees, 17 sections with 270 committees, and over 1500 committee members, we are not surprised that James Grafton Rogers, in a recent *Journal Review*, wonders whether any officer of the Association comprehends completely the ramifications of the past

*An address delivered at the 55th annual convention of the Colorado Bar Association on October 23, 1953.

and present activities of the Association. We like to think also that Mr. Rogers is correct when he says that one may say with confidence that no professional association, and perhaps no national organization of any kind, has done so much with so little money as the American Bar Association. If this be true, it is because able and busy lawyers throughout the nation are willing to devote their time, often at their own expense, in advancing some project for the good of the profession and in promoting the great public objectives of the Association—the preservation of representative government, the improvement of the administration of justice, providing legal services for all citizens at a cost within their means, the maintenance of high standards of legal education and professional conduct, and the promotion of peace through the development of a system of international law consistent with the rights and liberties of American citizens under the Constitution of the United States.

The coming year will witness the culmination of two of the most significant projects in the history of the American Bar Association—the construction of the American Bar Center, and the completion of the reports and recommendations of the Survey of the Legal Profession.

The American Bar Center, now being constructed on a site given by the University of Chicago, will cost approximately two million dollars, and will be financed by a bequest of \$400,000 from the William Nelson Cromwell estate, and \$1,500,000 contributed by the lawyers of America. It will provide a headquarters for the Association and affiliated organizations, a library where the publications and material of the organized bar may be preserved, correlated and made available for reference and study, a center for research, and a "clearing house" of research activity in the field of law.

Construction of the Center was started July 19th and I am pleased to report that excellent progress is being made. The corner stone will be laid officially on November 2nd, and the building will be dedicated at the annual meeting in Chicago next August.

The initial research project will be in the field of administration of criminal justice. This study is being directed by a special committee of distinguished lawyers, of which Associate Justice Robert H. Jackson, of the United States Supreme Court, is chairman. More speedy and certain punishment of the guilty and greater protection for the innocent are the twin aims of this committee. The project is now in the planning stage, and the Ford Foundation has made a grant of \$50,000 to finance a plan to determine the scope and methods of the Survey.

There is a tremendous interest in this research program. Some forty or fifty projects have been suggested to date, and five thus far have received the committee's approval.

The Survey of the Legal Profession has been described by

its director "as a broad study of the functioning of lawyers in a free society." Started in 1947 and financed by grants from the Carnegie Foundation and annual appropriations of the Association, over 150 reports have been completed. These reports cover all phases of the legal profession and its relationship to the public, including professional services by lawyers, public service by lawyers, judicial services, professional competency and integrity, economics of the profession, and the organized bar. In this comprehensive survey the objectivity of the study and complete academic freedom of the directors and reporters have been emphasized. For the first year, the survey was directed by Arthur T. Vanderbilt, who is now Chief Justice of the Supreme Court of New Jersey, and for the past five years by Reginald Heber Smith. The studies have been supervised by a council of distinguished lawyers and laymen, and over 400 have participated in the survey. More than ninety percent of those participating have been volunteers, serving without compensation, and all members of the council and officers and the two directors have served without compensation.

The reports of the survey contain the factual data of our profession—some encouraging, some disturbing, but all pointing the way to the organized bar for greater service to the public and the profession.

The two final reports are now being written—one by the director, containing the Survey's final conclusions and recommendations, and the other by George Waverly Briggs, vice president and trust officer of the First National Bank of Dallas, who will appraise the survey from the point of view of an informed layman.

The Conference of Bar Presidents has authorized the appointment of a committee to join with our Committee on Scope and Correlation of Work in formulating a program to utilize and implement the reports and recommendations of the Survey. Only through the complete cooperation of the American Bar Association and all state and local associations can this be truly effective.

The Association will continue to emphasize its six major long-range objectives. I wish to discuss the first of these objectives in more detail. My reference to the other five objectives will be very brief, and I shall accordingly consider them first.

The second long-range objective is "the promotion and establishment within the legal profession of organized facilities for the furnishing of legal services to all citizens at a cost within their means." How are we meeting this objective? Through three committees—Legal Aid, to assist poor persons in the protection of their legal rights; Lawyer Referral Service, to make legal service more readily available to persons of moderate means; and Legal Service to the Armed Forces.

At the close of 1952, there were 130 Legal Aid offices in the United States—an increase of 69 since the American Bar Association's promotional campaign was commenced in 1946. In addi-

tion there are approximately 70 voluntary committees which do not have a legal aid office. Investigation and experience have shown that the efforts of individual lawyers do not and can not meet the actual need except in the rural areas. As the current report of the Legal Aid Committee puts it: "We are sure that adequate facilities for legal aid will one day be established throughout the land. The question, however, is this—"Will these agencies be established and regulated by the independent bar, or will they be governmental bureaus?"

The immediate objective of the Legal Aid Committee is to establish a legal aid society in the 68 large communities now without legal aid service, except possibly that afforded by a volunteer committee of the Bar. But, as the Committee points out, "in all communities, large and small, the bar should extend the program a helping hand." As the late Chief Justice Fred R. Vinson said, "legal aid should exist not only in the cities; it should be extended to every part of the country to protect the rights of those who cannot protect themselves."

The program of Lawyer Referral Service, for those of moderate means who can afford to pay a reasonable charge, was first instituted in Los Angeles some 15 years ago. By the end of 1953 there will be about 100 in operation, of which half will be less than three years old. A recent article in Collier's Magazine entitled "Are You Afraid of Lawyers?" is an excellent description of the American Bar Association program of Lawyer Referral Service. In this article the author states that the main reason so many shy away from lawyers is the fear of being overcharged. This conclusion is confirmed by the experience of Lawyer Referral Services which find that about 80% of the people who first utilize the service have never before consulted a lawyer. Surveys in many parts of the country show that even today only about 25% of the real estate purchasers are represented by lawyers; and in the larger cities, only about 15% of those who die leave wills, and one-fifth of those are holographic wills.

Whether it is accomplished through a formal program of Lawyer Referral Service or simply through an adequate program of public relations, surveys throughout the country indicate the importance of explaining to clients and the public the nature of the work of the lawyer, the basis for his charges, and the advantages of consulting a lawyer on every legal problem, and to make it clear that misconduct with respect to fees is confined to a small minority of our profession.

The third long-range objective is "the improvement of the administration of justice through the selection of qualified judges and adherence to effective standards of judicial administration and administrative procedure." Nine committees and sections are working in this field. The Committee on Judicial Selection, Tenure and Compensation has been particularly active in recent months

in enlisting the support of both the legal profession and the public generally in favor of legislation to increase judicial and congressional salaries. The Committee has received excellent support from the organized bar throughout the country. As most of you know, one of the last acts of Congress was the passage of Senate Bill 2417 providing for the appointment of a Commission of 18 members to study and make recommendations to Congress by January 15, 1954. This action was most encouraging to the Association and to the lawyers throughout the country who have participated in this campaign.

The Traffic Court program is increasing each year in its popularity scope, and effectiveness. Its conferences and surveys are receiving wide acclaim. We are convinced that Chief Justice Charles Evans Hughes was right when he said, "Upon the minor courts rests the burden of all our legal institutions. * * * Justice in the minor courts—the only courts that millions of our people know—administered without favoritism by men conspicuous for wisdom and probity is the best assurance of respect for our institutions."

The fourth objective is the "maintenance of high standards of legal education and professional conduct to the end that only those properly qualified so to do shall undertake to perform legal service." Working toward this objective are the Sections on Legal Education and Admissions to the Bar and Committees on Continuing Legal Education, Professional Ethics and Grievances, Law Lists, and Unauthorized Practice of the Law.

Unauthorized and unqualified practice of the law of course is not new. John Adams, shortly after his admission to the Bar of Massachusetts, began a crusade against unqualified and unauthorized practitioners, complaining that the "practice of law was grasped into the hands of deputy sheriffs, pettifoggers, and even constables." He instigated a meeting of the bar, and reports in his autobiography that "a great number of regulations were proposed, not only for confining the practice of law to those who were qualified and educated to it, and sworn to fidelity in it, but to introduce more regularity, urbanity, candor and politeness, as well as honor, equity and humanity among the regular professors."

In perhaps no field of work of the organized bar are the interests of the profession and the public more similar and interwoven than in the work on unauthorized practice. This work has not been undertaken by the American Bar Association primarily to prevent competition. Rather it is recognized as a public danger, with the victims receiving either incompetent or unqualified advice. As the Supreme Court of Iowa has well said: "The public, far more than the lawyers, suffers injury from unauthorized practice of law. The fight to stop it is the public's fight."

In 1930 the American Bar Association organized its first committee on unauthorized practice of the law. It became obvious

to the committee that if the bar could obtain the cooperation of leaders of national organizations, whose members might engage in the unauthorized practice, this would have valuable educational and preventative results. In 1940 the House of Delegates, upon the recommendation of this Committee, approved the policy of endeavoring through full discussion of unauthorized practice problems to secure, wherever possible, the cooperation of national associations of laymen in the acceptance of principles relating to these problems.

Pursuant to that policy, agreements have been reached with national groups of trust companies, real estate brokers, lay insurance adjusters, life insurance underwriters, collection agencies, loose-leaf services, broadcasters, accountants, and law book publishers. The statements of principles with the various groups are published in the current edition of Martindale-Hubbell Legal Directory.

Are these agreements operating successfully? With a few exceptions, I think the answer is emphatically yes. They are of course more effective when they are recognized also on the state and local levels with the other groups.

Our fifth objective is the "promotion of peace through the development of a system of international law consistent with the rights and liberties of American Citizens under the Constitution of the United States." In portions of this field, two groups have concurrent jurisdiction—the Committee on Peace and Law Through United Nations, and the Section of International and Comparative Law. These two groups are not always in agreement, as was the case on the Bricker Amendment; but both have performed a valuable service in presenting their respective views to the House of Delegates in an intelligent and constructive manner.

Our last long-range objective is "the coordination and correlation of activities of the entire organized bar of the United States." In the attainment of this objective, we have all of the administrative agencies and committees of the House of Delegates, together with the Conference of Bar Association Presidents. This, of course, includes the Committee on Public Relations, and I think it is important to report to you briefly on recent developments in this important activity.

For the first time the Association has employed a full-time Executive Assistant on Public Relations. For this important position there was chosen Don Hyndman, who has had extensive experience as a writer and executive with the Associated Press and who served as Administrative Assistant to the last three governors of Illinois. Incidentally, the total budget for Public Relations for the ensuing year will be \$30,000.00, the largest in the history of the Association. By way of comparison, the American Medical Association spends on the average of \$600,000.00 a year or 20 times our increased budget in the field of public relations.

A manual on Public Relations for Bar Associations, edited by Richard P. Tinkham, a member of the Committee, is available for state and local bar associations. It is a most comprehensive, practical treatise on public relations, and contains suggestions and illustrations which have proved effective in various associations. Recently a bi-weekly News Letter made its appearance under the auspices of the Committee on Public Relations, Section of Bar Activities, and Committee on Coordination.

The Public Relations Committee has carried on a most effective program in encouraging advertising by outside organizations, explaining the law, courts, and the need and importance of legal advice, such as those run by the John Hancock Mutual Life Insurance Company on "The Jury" and "The Judge."

The Committee has registered complaints against radio and TV programs, motion pictures and plays, derogatory of courts, lawyers and the administration of justice, and has encouraged programs, pictures and plays which accurately and fairly portray courts, lawyers, and the administration of justice.

The Committee is keeping lawyers themselves informed on what the public thinks of us, and is cooperating with the committees on Legal Aid, Lawyer Referral Service, American Citizenship, Unauthorized Practice, and Professional Ethics and Grievances, in improving the understanding of the lawyer and his standing in the eyes of the public. After all, any successful program of public relations must be founded upon actual accomplishments. We must first make certain that we are in fact providing legal service to all people regardless of economic conditions; that we have educated ourselves to the point where we do a better job in those fields where laymen would compete with us; that we are in fact promoting an understanding of the privileges and responsibilities of American citizenship, the improvement of the administration of justice, and the maintenance of high standards of legal ethics and professional conduct.

Phillips and McCoy, in their Survey Report on the Conduct of Lawyers and Judges, I think, summarize the situation very well when they ask this question, "Where does the average American lawyer stand in the respect of his community as an individual and as a representative member of his profession?" Unfortunately, the answer must be "well, but not well enough." And there can be little question that the principal reason we do not stand well enough is the lack of an adequate public relations program. Yet, in any public relations program, we must also bear in mind these words of caution of George Maurice Norris in his Survey report on Public Relations:

One of the ways, even in these days of "super-selling," to get a reputation for being honest, able and public-minded, is to demonstrate, by deeds, that you are honest,

able, and public-minded. Advertise your merits if you like, but make sure that you hold to the first principle of advertising, i.e., "see to it that the goods live up to the copy."

Of the 17 Sections of the Association, 10 are so-called "Bread and Butter" Sections, which are of direct benefit to lawyers and answer the common question, "What is the Association doing for the American Lawyer?"

Time will not permit any detailed account of the accomplishments of the various sections. I will refer to just one, as illustrative of the service both to the profession and the public of these specialized groups. The Section of Taxation has been amply described as "the people's tax attorney." Its standing in Congress is illustrated by a statement on the floor of the House of Representatives by Congressman Reed of New York when he said:

The Tax Section of the American Bar Association deserves the highest praise for its constructive work in this field. These distinguished lawyers have devoted themselves unselfishly to this task, not in the interest of their clients but in the general public interest of making our tax laws equitable in their application and better in their administration.

What, specifically, has the Tax Section accomplished? Obviously, the work of this Section, like that of other sections, is correlated with other groups working in the same field. May I enumerate just a few legislative acts for which the Section is entitled to either full or partial credit? Of first importance is the provision in the Revenue Act of 1948 for income splitting in income, estate, and gift taxes. You will recall that the inequities between community property and common-law states troubled Congress for 25 years. The 1948 Revenue Act embodied in principle the recommendation of a special committee of the Tax Section, and this Section assumed a major role in the enactment of this important legislation. Other recommendations of the Tax Section which have been adopted include the present provision for limitation of gain in the sale of a tax payer's residence, where a new residence is purchased—usually made necessary by an increase in the size of the family or by a change in the place of the tax payer's employment; the reinstatement of the rule which permits "Spin-offs" without recognition of gain or loss to the stockholder; the provision for deduction from the gross estate of enforceable pledges to eleemosynary institutions; the provision of the 1942 Act allowing a deduction of certain non-trade and non-business expenses.

There is even more and greater work on its agenda for the future. For example, there has been no general revision of the federal taxing statute since 1942. The American Bar Association's proposed Revenue Revision Act contains many provisions for tech-

nical improvement of tax laws, including provisions relating to alimony paid under separation agreement, the tax treatment to be accorded partnership income upon the death of a partner, stock dividends subject to redemption from a sinking fund, the elimination of tax where a corporation sells its assets just prior to liquidation; and the elimination of withholding tax on non-cash benefits furnished by employers to employees. These are just a few of the accomplishments and proposals of the Tax Section which justify a statement made recently by a former president of the Association, that in recent years the Section of Taxation alone has justified the existence of the Association and its support by the American lawyer. This Section is typical of the constructive service of the sections of the Association in their various specialized fields.

A short time ago, a lawyer in my home state, who is not a member of the American Bar Association, made a rather substantial contribution to the American Bar Foundation for the new Bar Center. He seemed to be a good prospect for membership. His reply to my suggestion that he join the Association was this: "I think the American Bar Association is doing a fine job, and am willing to contribute to it financially, but I don't have the time and opportunity to participate in its program and do not feel accordingly that I should be a member."

Perhaps there are others who share this viewpoint. It seems to me it is short-sighted, and that if a lawyer is genuinely interested, as that man is, in the advancement of his profession, he should belong to the American Bar Association, as well as his state and local associations.

I know something about that lawyer's practice. From a purely selfish standpoint, the benefits of membership in the Sections of Taxation, Real Estate, Probate and Trust Law, and Mineral Law, would repay him many times each year the cost of Association and of Section dues.

I know also that he would find stimulation in the articles in the Journal and other publications of the Association. Above all, I know that he is a civic minded, public spirited citizen, and would derive satisfaction from the knowledge that through his dues and support he is participating in the program for the preservation of representative government, for the improvement of the administration of justice, the maintenance of high standards of legal education and professional tactics, and the promotion of facilities for furnishing legal services to all citizens at a cost within their means.

True, we cannot all attend the annual meetings. Even with the largest attendance in the history of the Association, less than ten percent of the members attended the Diamond Jubilee Meeting in Boston. Through the program of Regional Meetings, many more can participate personally in the Association's activities. But we

can all participate indirectly in the comprehensive program of activities and in the attainment of the objectives of the Association.

And now may I revert to the first and I believe today the most important of our major objectives—"the preservation of representative government in the United States through a program of public education and understanding of the privileges and responsibilities of American Citizenship." In his message to the Diamond Jubilee meeting at Boston, in August, President Eisenhower reminded us "that the role of the lawyers in the daily life of our nation and communities is vital to our democracy" and that "the lawyer is the guardian of individual liberties granted under our Constitution and their defense is one of the main objectives" of the Association.

One of the most important committees of the Association is that on American Citizenship. A distinguished member of that Committee, Judge Robert V. Bolger of Philadelphia, reminded us recently that "unless we preserve our form of government, everything else will collapse, our free enterprise system, our educational, scientific and artistic institutions, and above all, our religious liberty." Judge Bolger calls upon all of us as individual lawyers to implement in our communities the program of education promoted so effectively by this committee.

We have three other committees working in the same field and toward the same general objective, i.e., committees on Bill of Rights, Communist Tactics, Strategy and Objectives, and Individual Rights as Affected by National Security. The two latter committees submitted significant reports at the recent meeting at Boston. Together they suggest a sound balance between the protection of individual rights and the safeguarding of national security. May I refer briefly to the work and reports of these two committees.

Some three years ago, the Association authorized the appointment of a Special Committee on Communist Tactics. The committee is composed of able, conscientious members of our profession. The first and completely logical action of the committee was to study the facts relating to Communism. This was followed by an excellent Brief on Communism, Marxism, Leninism—Its Aims, Purposes, Objectives and Practices, well documented by references to original source material. The Brief shows clearly that the Communist Party program contemplates the establishment of a dictatorship "untrammelled by law." Pointing to an all powerful state, the avowed purpose of Communism is to destroy by force all that our constitutional system was designed to protect.

We were warned some seven years ago by the Director of the Federal Bureau of Investigation of the activities of the Communist Party in these words:

The Communist Party in this country is not working

for the general welfare of all our people—it is working against our people. * * * It has for its purpose the shackling of America and its conversion to the Godless, Communist way of life. * * * Let us no longer be misled by their sly propaganda and false preachments on civil liberty. They want civil license to do as they please and, if they get control, liberty for Americans will be but a haunted memory. For those who seek to provoke prejudice and stir up the public mind to angry resentment against our form of government are a menace to the very powers of law and order which guarantee and safeguard popular rights.

We paid little attention to Mr. Hoover's warning at that time, but subsequent events and the documents contained in this Brief and the investigations of this committee emphasize the truth of his statement.

The most recent report of the Committee on Communist Tactics contains this excellent summary of our duty as lawyers:

In the contest for survival of constitutional government, the American lawyer bears a unique responsibility properly placed upon him by reason of his training. Many specific phases of this responsibility will develop and become obvious—but at present the prime duty is leadership—

(1) in upholding our Constitution and our form of government by free men;

(2) in exposing the dangers of Communism and its activities through action and front organizations and Communist collaborators; and

(3) in guiding our people during these dark years. This role of the Bar is delicate and vital.

We should not yield our heritage under the pressure of Communism. While we should and must protect fundamental rights—even of Communists—we must expose and overcome by legal means—the concealment, infiltration, subversions, espionage and obstructive and destructive Communist tactics—and wherever warranted—convict those domestic traitors and enemies who would destroy our government and enslave our people.

And what of those lawyers, fortunately few in number, who have espoused the cause of Communism? In February, 1951, the House of Delegates, upon the recommendation of the Committee on Communist Tactics, recognized that the concepts of the Communist Party and Marxism-Leninism were incompatible with the obligations of a lawyer as an officer of the courts and provided for the expulsion of all members of the Association who were mem-

bers of the Communist Party or who advocated Marxism-Leninism.

In February, 1953, the House recommended that inquiry be made with respect to the activities, conduct and fitness to continue the practice of law of all attorneys who were members of Communist cells or who have refused to testify on the ground that such testimony would tend to incriminate them. It is the definite conviction of the American Bar Association that membership in the Communist Party is incompatible and inconsistent with membership in the Bar. We recognize that all lawyers, as citizens, retain all constitutional rights, including the right to refuse to testify if their testimony might tend to incriminate them. In asserting this right, however, the lawyer discloses disqualification for the practice of law. The license to practice law is not an absolute right but a privilege revocable for cause.

This does not mean that we subscribe to the doctrine, once a Communist, always a Communist. On the contrary, the committee has urged that all such attorneys be permitted another opportunity to give frank testimony concerning all Communist activities and participants within their knowledge. What is sought is not punishment for past misdeeds and mistakes, but a determination of present fitness to be a member of an honorable and responsible profession, whose members have taken an oath to support the constitution and American form of government.

And now may I advert to the report of the Special Committee on Individual Rights. At the last meeting, the Committee on Individual Rights submitted two resolutions which were adopted by the House of Delegates. One recited that "The freedom to read is a corollary of the constitutional guarantee of freedom of the press and American lawyers should oppose efforts to restrict." Some have questioned the necessity but none the soundness of this resolution. I think it was the feeling of the House of Delegates that it was wise to reaffirm this fundamental right. The committee's statement in support of this resolution contains these significant statements:

It does not advance the interest of national security to surrender any of our freedoms at home unless necessary to survival. Instead, weakening those freedoms actually causes injury to our national security. If our people are not allowed to judge the truth for themselves or if they cannot learn the nature of our enemy or his propaganda, it will be harder for them to develop the cool and informed heads and stout hearts needed to combat that enemy.

The insidious part of all such efforts is that they are usually based upon some premise which most of us accept. Thus today one of the attacks is upon books written or illustrated by people who have refused to testify before Congressional Committees because of possible self-

incrimination. No group could oppose more vigorously than lawyers do the activities or views which have led these people to take that position. No group deplors more than we do conduct which prevents a citizen from candidly revealing his activities and views affecting the possible safety of his country when interrogated by proper authority. But if today we ban books on these grounds, tomorrow there will be others.

The committee very definitely recognized, however, the right of the government with respect to libraries maintained abroad to restrict their contents to "those which, in the judgment of the responsible officials, fairly and effectively present American life and culture, the presentation of which is the purpose of such libraries," reasoning properly that "there is no good reason why such libraries should include propaganda against the United States," and calling attention to the fact that in this matter, "we are not dealing with a facet of a constitutional problem but only with the practical administration of a government program."

The other resolution recognized that the right of an accused person to the benefit of counsel and the duty of the Bar to provide counsel even to the most unpopular involves public acceptance of the correlative right of the lawyer to defend, in accordance with the standards of the Bar, any client without being penalized by having imputed to him his client's reputation, views or character. This right has been recognized throughout our history by the conscientious, patriotic lawyer. Certainly no American in colonial days questioned British authority more sincerely and effectively than John Adams. Yet when British soldiers were arrested after the Boston Massacre it was John Adams who defended them, even though criticized by many of his fellow citizens. With reference to this fundamental right, the Committee says:

There have been and will be numerous proceedings and trials conducted in order to protect our national security. In such cases, the defendants must be properly represented if our tradition of fair trial is to be maintained. It is in the interests of national security that they should be represented by lawyers of devoted loyalty to our system. Such lawyers will see to it that the defendant's rights are properly protected without turning the occasion into a circus. Furthermore, the very fact that such lawyers are willing to appear, is added evidence of the strength and health of our system, a further good answer to the enemies of that system at home and abroad.

And now let us compare this statement in the report of the Committee on Communist Tactics:

At times the feeling has existed that some of the

witnesses called before Congressional Committees and who refused to testify under the Fifth Amendment, did so on the advice of attorneys who were more concerned with aiding the Communist Party than protecting the basic, personal interests of the witness. It has been thought that some of such witnesses, not knowing where else to seek advice, went to the very Communist Party under investigation.

The Bar—particularly through the State and Local Associations—can and should render a distinct public service by publicly indicating its readiness on request to furnish a panel of attorneys whom such prospective witness or any former member of the Communist Party may consult and from whom he can receive confidential, dependable counsel and guidance based solely upon the proper interests of the client,

It is as essential to protect all citizens from unjust and unfair accusation as it is to study Communist tactics, strategy and objectives. It is obvious that the safeguards inherent in American citizenship are too precious to be subjected to hasty, ill-considered charges without adequate defense. Accordingly, legal representation of the highest order should be available upon request to any accused person, even one alleged to be a Communist.

Observe the striking similarity in these statements—one from the committee concerned primarily with the protection of individual rights, the others concerned primarily with combating Communism.

The Assembly and House of Delegates both adopted resolutions relating to Congressional investigations. It is important that the resolutions be clearly understood. The resolution adopted by the House is short and I will read it.

WHEREAS, the procedure for the conduct of Congressional investigations are receiving extensive consideration by the Congress; and

WHEREAS, the views and assistance of lawyers are especially important to this Congressional consideration because one of the chief subjects under consideration is the protection of individual rights by more extensive participation by lawyers for witnesses in said investigations without impairing the essential investigatory power of the Congress;

NOW, THEREFORE, BE IT RESOLVED, That the Special Committee on Individual Rights as Affected by National Security is hereby authorized to make a study of procedures for the conduct of Congressional investigations and report thereon with its recommendations to

the midwinter meeting of the House of Delegates in Atlanta in March, 1954.

I recall that the author of the resolution stated on the floor of the House that its introduction did not imply any criticism or question of the investigatory power of Congress, but rather was designed to protect an essential governmental activity.

Already, the District of Columbia Bar Association has made a significant contribution through its proposal of rules of procedure for Congressional investigations. Many who have examined the record with care find that, as a rule, Congressional committees have conducted their inquiries with due consideration of the public interest and fairness to the organizations and individuals concerned. In the absence of recognized standards and rules of procedure, however, there is, of course, always room for doubt. The study contemplated by this resolution should be helpful to Congress in its important and necessary investigations.

I have tried to summarize as briefly as possible, in a general way, the position of the American Bar Association on what is perhaps the most important problem confronting the American people today—the continued maintenance of a government of law and not of men, with a proper balance between individual rights and national security.

As lawyers, both individually and through the organized Bar, we have an obligation to assume leadership in upholding our Constitution and form of government and exposing the dangers of Communism and its activities. There is crying need for a fair and intelligent presentation of both the principles and facts.

Unfortunately, the true facts are often misunderstood, both at home and abroad. This, I believe, was well expressed by Dorothy Thompson in a recent article entitled, "Is There a Climate of Fear in America?" She reports the general impression in Europe that there is such a climate of fear which is rapidly obliterating free speech and free thought. We, of course, agree with Miss Thompson that there is no basis in fact for this impression. Miss Thompson's article contains this significant statement: "Behind these fictions presented as facts is, of course, a systematic worldwide communist campaign to present America in just such a light. What is regrettable is not that the international-communist parties conduct this campaign; that is nothing new and was to be anticipated. It is appalling that thousands of anti-communist liberals fuel it, both here and abroad. Let anyone justify in any way, or even objectively report on the history, purpose, methods and limitations of these Congressional committees, and he is damned on both sides of the Atlantic as an antiliberal promoter of the 'reign of terror.'"

As Miss Thompson points out so clearly, many of the same critics are not so concerned when the investigatory powers are being used to expose questionable practices of businessmen and

other groups. In such cases, they give little or no support to protests of infringement of Constitutional rights. Nor do we find any words of commendation from these same critics when a Congressional committee, through relentless investigation, develops the true facts of an Alger Hiss case, as was done by our distinguished Vice President in his capacity as a member of the House committee just a few years ago.

The defense of our Constitutional rights and freedoms should not depend upon our economic, social or political viewpoints but should apply equally to all persons and be administered fairly under all circumstances.

Let us recognize and protect the Constitutional rights of all, including Communists, but let us not be blinded to the fact that if the Communist philosophy should prevail, these Constitutional rights would be forever lost.

Let us make certain that all accused, including Communists, have a fair trial or hearing under recognized standards and rules of procedure, but let us not condemn as "witch-hunting" all efforts to rid our government, our profession and our schools of the disciples of Communism or condemn as "stool pigeons" those who espoused Communism in the past and are now willing to testify under oath to expose its aims and purposes.

Let us recognize the rights of all, including Communists, to refuse to testify with respect to alleged Communistic activities on the ground of self-incrimination, in the absence of a statute granting immunity from prosecution, but let us also recognize that a reliance upon this right should, in itself, disqualify them from service in our government, our profession and our schools.

Let us be zealous in the protection of individual rights, but, at the same time, be equally zealous in safeguarding our national security.

We have a challenge to leadership in this all important task of maintaining the proper balance between government and men, between individual rights and national security. May we accept this challenge and rededicate ourselves to an intelligent and effective defense of Constitutional liberty.

ADDITION TO BAR ASSOCIATION STAFF

The Board of Governors of the Colorado Bar Association and the Trustees of the Denver Bar Association have authorized the employment of a student assistant in the joint Bar Association office. This position has been ably filled by Mr. Warren F. White.

Mr. White is a graduate of Iowa State College, is a former Air Force officer and is married and the father of two children. He is at present completing his legal studies at the University of Denver College of Law where he is a member of Phi Delta Phi legal fraternity.