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New Directions...

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New Directions...



THOMAS EHRLICH received his A. B. (magna cum laude), Harvard College and his LL. B. (magna cum laude), Harvard Law School. Formerly Dean of the Stanford Law School, Mr. Ehrlich recently assumed the presidency of the newly created Legal Services Corporation in Washington, D.C. He served as Editor of the "Law in the Future" Conference.

*By Thomas Ehrlich
Conference Editor*

The State Bar of California took an important step forward last year, under the leadership of Brent Abel and David Casey, when it sponsored the Conference on "Law in the Future: What are the Choices?" The Conference Report and the background papers prepared for the Conference outline future directions for the State Bar and for law and lawyers generally.

The report and the background papers deserve to be read and considered with care by lawyers and non-lawyers alike. They suggest changes that will be occurring over the next decades in the shape of our legal system and in the responsibilities of lawyers as part of that system. Many of those changes are already well underway; some with the active support of the State Bar and local bar organizations.

The vision sketched in the report and papers will be appealing to some and frightening to others. But it is a vision that should not be ignored. The pressures for change in

the future will continue. The only question is whether we will participate in structuring that future—or will let ourselves be overtaken by events.

The four background papers provided a provocative basis for the Conference discussions and for the recommendations in the report. Each paper covers one of the four broad topics considered at the Conference: Dispute Resolution; The Lawyering Process; Public Responsibilities of the Lawyer; and Public Awareness. Each paper was written by two authors. As a result the papers reflect a broader range of insight and experience than would be possible from a single writer.

Each of the four teams of authors analyzes the choices within its area that are available to the Bar in shaping the future legal system, and the roles of lawyers in that system. As a framework for analysis, each team was asked to consider four different assumptions about regulation of law practice and the legal profession a quarter century

from now: a continuation of the status quo; an activist bar; deregulation of the legal profession; and outside regulation. Our purpose was not to plan in any detail the shape of things 25 years from now. Such plans are certain to be wrong. But long-run trends should be discernable, and short-run decisions can be made on the basis of those trends.

The paper on Dispute Resolution is by Laura Nader, Professor of Anthropology at the University of California at Berkeley, and Linda R. Singer, a private practitioner in Washington, D.C. and Executive Director of the Center for Correctional Justice. Both have worked extensively in the field of conflict settlement. They examine the range of dispute-settlement mechanisms that may be used in the future, and the factors involved in determining which mechanisms are appropriate in which circumstances. They focus particularly on new approaches to resolving everyday grievances outside courtrooms. As they emphasize, the absence of adequate machinery to settle those grievances quickly and inexpensively will have increasingly adverse effects on the legal system and on society generally.

The paper on the Lawyering Process was prepared by Roland E. Brandel, a private practitioner in San Francisco, and Philip J. Murphy, a consultant to the American Bar Association and other organizations, and a specialist in pre-paid and group legal services. They predict substantial changes in the organization, structure, and delivery of legal services. They also suggest that in the future "whether the legal profession will be allowed to be primarily self-regulating will largely be a function of how responsive it is to the needs for change."

The paper on Public Responsibilities of the Lawyer was written by Jane Lakes Frank, formerly Chief Counsel of the United States Senate Subcommittee on Representation of Citizen Interests and currently Chief Counsel of the Subcommittee on Constitutional Rights, and Michael Traynor, a private practitioner in San Francisco. Their paper outlines the current needs for legal services and suggests a series of ways in which lawyers generally, and the organized

bar in particular, might meet those needs. They propose a "standard of public responsibility" for lawyers in the future that would ensure the availability of legal care to meet every citizen's minimum needs in basic areas of personal contact with the law and would also provide representation of a full range of general interest in every administrative, legislative, and judicial proceeding.

Finally, the paper on Public Awareness was authored by William B. Enright, United States District Court Judge in San Diego, and Charles N. Quigley, Executive Director of "Law in A Free Society" in Santa Monica. They consider how far we are from the goal of ensuring that every adult has a basic understanding of the institutions and processes of our legal system, and propose ways to meet that goal. They suggest a number of specific steps that could be taken by the organized bar to increase public awareness.

The Conference participants were divided into four groups. Each group focused on one of the broad topics considered at the Conference. Each group has primary responsibility for the others. All groups developed recommendations, which formed the basis for the report. The participants discussed the report in a final plenary session, and it was revised in light of that discussion.

The report reviews the current situation in each of the four broad areas and makes concrete proposals concerning each area. Although no votes were taken at the Conference, all of the recommendations received significant support, and the Conference as a whole concluded that all the recommendations merit serious consideration. Some are already being implemented by committees of the State Bar and other interested groups. Of the others, some require immediate attention and some involve longer-range matters. But all deserve serious analysis by all California lawyers.

I urge your careful consideration of the materials that follow. They stress how much we can affect law in the future—how great our choices really are—if we have the wisdom and courage to face the issues.

