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# The Lawyer's Role in Defense of Justice and Democracy

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## THE LAWYERS ROLE IN DEFENSE OF JUSTICE AND DEMOCRACY

The American Bar Association's Special Committee on Improving the Administration of Justice is actively engaged in a program vital to the maintenance of the strength of our democratic institutions. The program and objectives of this committee will be of compelling interest to every member of our Association. A condensed statement of the committee's activity follows:

At a time when democracy is in peril throughout the world, there is little doubt that we are facing a threat to our way of life greater, perhaps, than any we have experienced in our history. This common danger has aroused a united will to defend our democratic institutions. Something more, however, than a mere enthusiasm for democracy must animate its defenders or they will fail. The ultimate survival of democracy will depend primarily on the strength of its basic institutions and the confidence of its citizens in them. The preservation of democracy depends on the improvement of the democratic processes.

Because the real danger to our institutions is springing up amongst us, we must undertake to make strong the institutions we would maintain, and in our form of government no institution is more fundamental than the courts. Unless our courts can be kept strong and high in public esteem, individual liberty cannot long endure. For this reason, then, the improvement of judicial procedure is not an unimportant side issue, but is vital to the defense of democracy.

Few would deny that today our courts do not enjoy the degree of public respect which is desirable. Judicial processes are frequently criticized as inefficient, slow, cumbersome and expensive. Citizens do not feel that the courts provide prompt and cheap protection of their rights, and seek at all costs to keep their controversies out of court. As a result the prestige of the courts suffers.

Many lawyers recognize the need for improvements in procedure, but action to attain that end requires a concrete program of proposed reforms, adequate organization to promote them, and information for public education. Recognizing that individual lawyers or bar committees seldom have time

or facilities to make the necessary study required for these purposes, the American Bar Association has undertaken to meet these needs and to assist lawyers in the various states in bringing about needed reforms.

Time, however, is running short. The defense of our institutions by making them work cannot be relegated to the slow process employed in the past. There is no time to enjoy the leisurely luxury and waste of large committees working through top-heavy organizations. Men of good will everywhere must make the defense of their liberties through the improvement of our democratic institutions an individual obligation and an immediately personal responsibility.

Directing this work, and charged with the responsibility for administering it, is the Special Committee on Improving the Administration of Justice.

#### *The Activities of the Special Committee*

There is no thought, of course, that in a program of this kind the American Bar Association is attempting to interfere with the splendid work that is being done by local and state associations. Rather, it is the purpose of the Special Committee to facilitate the work of the state and local associations by making the experience of other jurisdictions available to all lawyers interested in efficient judicature.

To aid state committees the Special Committee on Improving the Administration of Justice proposes to organize its work in part along the following lines:

1. The Section of Bar Organization Activities will sponsor throughout the year regional conferences of bar association executives. At each conference, a representative of the Special Committee will meet with the state committeemen and he will formulate with them the programs to be developed within the states and will learn from them in what way the Special Committee can best serve their particular interests. Full information concerning the regional conferences can be secured by addressing Burt J. Thompson, Chairman of the Section of Bar Organization Activities, Forest City, Iowa.

2. The Special Committee will make available to all those interested the results of the nationwide Survey of Judicial Administration, which is being conducted by the Junior Bar Conference, in cooperation with the Section of Judicial Administration and the National Conference of Ju-

dicial Councils. In the files of the director of the Survey is a wealth of valuable information that can be of great assistance to the state committees. Inquiries concerning this part of the Special Committee's work should be addressed to Paul B. De Witt, Director of Procedural Studies for the Junior Bar Conference, Southern Surety Building, Des Moines, Iowa.\*\*\*

4. Perhaps the most important work to be undertaken by the Special Committee will be the preparation of a series of monographs dealing with sixty recommendations.

Naturally, the preparation of the monographs will take some time and they will not all be available at the same time. The following titles are in preparation :

The Rule Making Power

Judicial Councils and Judicial Statistics

Pre-trial Discovery

Pre-trial Conferences

Summary Judgments

Instructions to the Jury

Selection of Jurors

Special Verdicts and Special Issues

Directed Verdicts and Judgments Non Obstante Verdicto

Trials by the Court

Free Joinder of Parties, Claims and Counterclaims

Evidence the Simplification of Proof

Evidence—Disqualification and Privilege

Evidence—Reversals for Errors

Appeals, Right to Appeal and Method

The Record on Appeal

Appeals, Argument and Decision

Other monographs will be prepared in due course. Full information on the availability of these monographs can be secured by addressing Paul B. De Witt, Secretary of the Special Committee, Southern Surety Building, Des Moines, Iowa.

#### *What Should Be Done?*

What is accomplished in each state will, of course, depend entirely on the lawyers and judges in that state. As has already been said, the American Bar Association has no desire to interfere in any way in any jurisdiction. The Special Committee merely hopes to facilitate the work of

those in each state interested in obtaining improvements, by providing information, educational material publicity or any other aid, which may be desired. The local committees of the American Bar Association which have been named in each state, are intended to provide a channel through which this assistance may be rendered.

There is, however, much more to the work than is usually involved in work done by committees of bar associations. In fact, it is work that probably can not be done at all by the formalized committee method.

It should never be forgotten, however, that the success of this program will depend upon the conviction of each individual connected with it that he is interested in preserving perhaps the greatest bulwark of democracy—the American ideal of justice according to law.

The success of the program for reform will require leadership, and intelligent and patient action by many cooperating individuals in each state. Frequently, the progress will be slow and the results extremely discouraging. But with a sound program, effective materials for education and devoted work by those interested, the necessary changes can undoubtedly be secured. Certainly, the need for such a movement was never greater than at this time. The basic problem is to make clear to lawyers, judges and citizens the true significance of the program and its vital importance to the preservation of our institutions. If that can be done the success of the program will be assured. As President Lashly has said: "It would be hard to conceive a better or more patriotic service which any lawyer in practice or in the work of legal education, or any member of the judicial branch of the Government, could render to his country and to its institutions of justice, equality and liberty than to give what aid he may be able to give in the furtherance of this great enterprise in the community of his home. These are the fundamentals of Democracy. Their preservation is the very objective of National Defense."