



1936

## The American Bar and the Supreme Court Proposal

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client. And it stands to reason that if proposed legislation is not whipped into proper form by lawyers while in the committee it will have to be when it reaches the floor of the legislative halls, and there will be infinitely more work and worry.

All of which proves that there is a very large job cut out for us to build up a better relationship between the lawyer and the public. I think most clients admire and trust their lawyer. They confide in him and follow his advice in their vital business and personal affairs. Lawyers do not take second place to ministers of the gospel in this regard. Why can we not have this standing and respect as a class? Most of us follow pretty well the legal Code of Ethics prescribed by our Associations, and, candidly, we are often shocked at the ruthlessness of the average business man when viewed in the relentless pursuit of customers and business of a competitor. Yet these are the people who unthinkingly, and as a matter of ordinary conversation, so freely set themselves up as judges of the integrity of the lawyer. Better acquaintance and participation in the public affairs of our community will do a lot to correct this disagreeable situation. Then let us try to improve ourselves a little more. We must not proclaim our virtues nor pretend saintliness. We are not of any different mould to other mortals. Let us get on a common plane with our neighbors and create a relationship which will not encourage the slandering of the legal profession and of lawyers. But in doing this we must also be militant. There should be no turning of the other cheek. Stand up for our profession and resent and repudiate courageously all unfounded or ill-founded aspersions and libels on the greatest profession of our civilization.

When we succeed in building up the relationship which lawyers should have with the public we will have no trouble getting a codification of our laws; and we may even be given the job of managing real reform in government.

C. J. MURPHY.

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**ANNUAL MEETING  
VALLEY CITY, JULY 16-17, 1937**

**The Executive Committee Announces the Annual Meeting  
on those dates. Make your plans — On to Valley City.**

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**THE AMERICAN BAR AND THE SUPREME COURT  
PROPOSAL**

We have heard from our members their opinions on the President's proposals with reference to the Federal Judiciary. You have seen reports of the referendum. The figures need not be repeated in detail.

The issue regarded most seriously was, of course, the proposed increase of the Supreme Court, and, a bit more incidentally, the changes of the lower Federal Courts. Against such an in-

crease the American Bar Association was emphatic. Thirteen out of every fifteen members said no such result can be permitted. This issue is the only one which gets much attention from the public. However serious the other considerations may be, the lay citizens of the United States can think only of the necessity of protection to their Supreme Court. Our influence in this situation must of necessity be great. Whatever the people may think of us, ordinarily, as a class, one can hardly doubt but that in this crisis they wish our advice and help. They must have it and have it abundantly.

Some of the Administration forces say that the American Bar Association isn't representative. Yet they know full well that our membership is recruited from substantially every locality, large and small, in the United States; that, generally speaking, our contacts are wide and that the people who trust the individual lawyer are legion. But because some say that we are not representative, the Bar Association is now starting a poll of all the other lawyers of the United States. We shall see how different is the view of the lawyer who hasn't joined us from the views of those who are already in our ranks. We shall, even by this poll grant the right to vote to those who may disapprove of us as an Association. We have faith enough in lawyers to feel that they will not be influenced by that prejudice when voting on the President's proposals.

It was widely declared that, while older lawyers might be against the packing of the Supreme Court, the younger men would favor it because they believe it the quickest way by which the desired end of the Administration can be reached. The Board of Elections, therefore, counted separately the votes of lawyers under thirty-six years of age. That vote was more than four to one against the proposed increase. Four out of every five of these younger lawyers are out of accord with the President's proposal. When we bear in mind the idealism of youth, their desire for betterment, their dissatisfaction with a sinful world, we can appreciate how emphatic is the declaration by these young men that this legislation must not be adopted.

No state in the Union voted for the increase of the Supreme Court. The same was true of the vote of the younger lawyers, except in one state where there were but four votes cast by the younger men, three of which favored the proposed change.

Everywhere, since the 5th of February, lawyers, individually and as members of bar associations, have been vigorous in their opposition to the suggestion that members of the Federal Courts be hand-picked. The voices in opposition have spoken, necessarily, as individuals and not in behalf of associations. Without detailed knowledge from the members of the Association, the officers have not felt free to be the spokesmen of the Association. That ban is now lifted. Anyone who now speaks can say that, personally and as an officer of the Association, he will do everything in his power to see that the legislation does not become law.

It will be strange if this legislation is accepted. Strange, because to pass this law would run counter to all ideals of proper

judicial conduct, counter to our feelings for one hundred and fifty years that we do not believe that Congress is all-powerful, and counter to the feeling that, while we must have government in order to have civilization, still the powers that have not been heretofore granted by the people remain with them until by amendment they choose to change the fundamental law.—By Frederick H. Stinchfield, President American Bar Association.

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#### SENATE JUDICIARY COMMITTEE ACTION

On May 18th the Senate Judiciary Committee on a vote of ten to eight refused to recommend for passage the President's bill to increase the Supreme Court.

Press comment states that the President now proposes to take the issue to the people in the Congressional Elections of 1938 and 1940.

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#### CONSTITUTIONAL GOVERNMENT

"Other misfortunes may be borne, or their effects overcome. If disastrous wars should sweep our commerce from the ocean, another generation may renew it; if it exhaust our treasury, future industry may replenish it; if it desolate and lay waste our fields, still, under a new cultivation, they will grow green again, and ripen to future harvests.

"It were but a trifle even if the walls of yonder Capital were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the alley. All these may be rebuilt.

"But who shall reconstruct the fabric of demolished government.

"Who shall rear again the well-proportioned columns of constitutional liberty?

"Who shall frame together the skillful architecture which unites national sovereignty with State rights, individual security, and Public prosperity?

"No, if these columns fall, they will be raised not again. Like the Coliseum and the Parthenon, they will be destined to a mournful, and a melancholy immortality. Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman or Grecian art; for they will be the monuments of a more glorious edifice than Greece or Rome ever saw, the edifice of constitutional American liberty."

—From Daniel Webster's Speech at the Centennial Anniversary of Washington's Birth.

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The Honorable John Burke, Justice of our Supreme Court, passed away, Friday, May 14th, 1937, at the Mayo hospital following an operation. An able lawyer, a wise judge, a fearless governor, a good citizen, and a model husband and father. His like in the history of our state is unsurpassed. Appropriate resolutions will be presented by our Memorial Committee at our Annual Meeting pursuant to custom.