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## THE LAWYER'S PRESENT PLACE IN THE STATE AND NATION

By FRANK J. HOGAN, *Washington, D. C.*

(Reprinted From Florida Law Journal)

“If I were to indulge in the expression of a serious thought here tonight that expression would include a warning against the inferiority complex which has invaded our profession. It has long been popular with the unthinking, the wisecracker, and the squib-maker to speak in derogatory terms of the lawyer. Probably we considered such lighter vein references to us as not sufficiently important to be provocative. In recent years, however, from within our own ranks, there has been dinned into our ears the reiterated statement that the profession has fallen from its once high place; that the lawyer is no longer the leader; that the lawyer criminal has cast the cloud of his shameful practices over the entire profession, and that unless we ourselves do something about all this, someone else will.

“Over and over again recently it has been said that the lawyers no longer enjoy the popular confidence that once was theirs; that their influence in the affairs of State and Nation has waned; that once upon a time they were honored where now they are scarcely tolerated. One of the nine learned men now on the bench of the Nation's highest judicial tribunal recently said in a Law Review that in the early day of the United States the lawyer was found in larger numbers in high places as the selected representative of the people than he is today. And, joining with many whose voices have been heard from a less elevated position than is his, he called upon us to do something, he did not seem to be exactly sure what, to stem the hostile tide and regain the lost ground. Indeed it is remarkable that most of those who have lifted their voices in lamentation over the situation as they say it is, and in cries for an application of self made remedies, are neither specific with respect to that situation, nor definite with regard to what the remedies should be. \* \* \*

“How are we to ascertain what is thought of the lawyer as leader unless it be by taking stock of what the people have done in the way of choosing or refusing to choose lawyers for the places of leadership? Today the President of the United States is a lawyer; 24 of the 48 State Governors are lawyers. In the Senate of the United States 67 of the 96 Senators are members of our profession. In the present Federal House of Representatives there are 435 members, 255 of whom are lawyers.

“This Republic has had 31 Presidents; 24 of them have been lawyers and only 7 have come from all other professions and walks of life combined. Lest it be thought, however, that that takes in the earlier days when it is said we furnished the Nation's leaders, and that the later records would not sustain me, let it be here noted that of the last 13 Presidents of the United States 11 have been lawyers. I stress that record. Since General Grant stepped out of the White House only two of our 13 Presidents have come from all the other professions, industries and walks of life in this Nation. If that be evidence that we are slipping, let our critics make the most of it. And lest any one think that those two shone more brightly in the presidency than the 11 of our profession, I name them in passing: President Harding and Hoover. They were NOT lawyers. \* \* \*

"Rascality in any walk of life is given greater publicity today than was possible before the instrumentalities for the dissemination of news were so numerous and so great. Hence the conduct of one lawyer criminal is instantly made front page news, and carried throughout the length and breadth of the land. Doctors do not join in deriding the medical profession because of the existence of a few quacks. The clergy are not pointed to as irreparably besmirched because of the conspicuous immorality of an occasional black sheep. I assert that the efforts of our bar associations and of the rank and file of our profession at large have not been futile, unsuccessful, unproductive of real results. *I assert that our position in the affairs of the Nation, is not less high, but is in fact higher, than at any time in our history.* If these seem bold assertions I submit that the seeming is because we have allowed what I referred to a few minutes ago as a professional inferiority to take possession of us. Let us meet our defamers with a denial and a challenge. From now on let us up and at 'em. I heard recently of a man who stepped into a hornet's nest, and later said that he could have licked 'em all, had they come at him one by one, but was unable to handle all of them in a bunch. If we can't effectively meet all of the critics and detractors at least let us resolve to meet them one by one and take up first the lawyer denouncer of the profession of the law and call him to account."

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#### NORTH DAKOTA DECISIONS

*Nonweiler vs. Rettinger et al.*: Chapter 131, Laws 1919, which provides that any action which shall be commenced to foreclose a mortgage on real property shall be void unless a written notice describing the land, the sum due, etc., shall have been served more than thirty days prior to the commencement of such action; and that "an affidavit of proof of such service of notice shall be filed with the clerk of the court at the time of filing complaint in any action for foreclosure" is construed, and for reasons stated in the opinion it is *held*:

(1) That the service of the notice prescribed by the statute is a condition precedent to the commencement of an action to foreclose a mortgage on real property.

(2) That the filing of the affidavit of proof of service of the statutory notice at the time of filing the complaint is not a condition precedent to an action to foreclose a mortgage on real property; and where upon the trial of such action it is shown that due and timely notice was given and an affidavit of proof of such service of notice is submitted and made a part of the record the great object sought to be obtained by the statute has been subserved, there has been substantial compliance, and the action should not be dismissed but proceed to judgment.

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#### EMERGENCY LEGISLATION

When provision was made in this state for the taking effect of legislation on July first following the enactment thereof the purpose was obviously to permit full publicity of the new statutes, to permit persons affected thereby to make such arrangements as might be necessary to comply therewith, and generally to allow a reasonable time to elapse before compliance with the new law became obligatory. It was recognized that there are a few occasions when an emergency does *in fact* exist, and provision was made whereby the legislature might, under such