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is forgotten. We older men need to be constantly on guard against this tendency.

Laymen are constantly debating the question whether some substitute for jury trial should be found. Those of us who believe that the jury represents something vital in our civilization nevertheless cannot be blind to its weaknesses. In one county it was recently discovered that the names in the jury box had not been changed for years. If the jury is to preserve the full usefulness of which it is capable, earnest effort should constantly be made to bring and keep it up to the standard which it ought to reach, both by enforcing present laws and making such changes as may be desirable. The methods of selection used in federal court deserve continued study.—JOHN H. LEWIS, President.

## OBJECT, DIFFICULTIES AND METHODS OF BAR COOPERATION

The Honorable Charles Evans Hughes recently addressed himself to the questions relating to this triumvirate and said, in part:

"We wish the entire Bar to have a voice, a commanding voice. We desire the concentration of influence. The object is plain enough when there is corruption, when lawyers betray their clients or are false to their larger trust, perverting the machinery of the courts to make it a vehicle of fraud and a device to ensnare the unfortunate. Then, the outraged sentiment of the entire Bar should find expression in investigation, condemnation and redress. It should clean its own house. It should demand of the courts the purging of their administration. The way to proceed has been shown in the recent inquiries (before the Appellate Division in New York). By our united action the latent powers of the court were called into exercise, the expert service of lawyers was volunteered, and the needed measures of reform both in court rules and legislation have been recommended.

"We need something more than this sort of dealing with plain abuses. We desire to improve the tone of the Bar, to stiffen its self-respect, to secure a wider appreciation of professional standards. To commercialize the Bar, to introduce the methods of solicitation, of mass production of trading on the opportunities for litigation, is inevitably to encourage frauds and perjuries and to destroy the sense of personal, fiduciary relation which protects both the client and the court. To preserve the sentiment which subordinates gain to the conception of professional duty, which makes reputation for soundness of advice, for integrity in counsel and performance, for loyalty to the client, to the court and to the law, the most highly prized reward in a career of constant toil amid temptations and incitements to laxity—this is the great object which is fostered in our Associations and gives zest to our cooperative endeavors. With this zeal for the standards of the profession, we are equipped to aid in the never ending task of improving the methods of administration of justice—in the constant pruning to get rid of what is archaic, superfluous and injurious. We need daring and skillful surgery, as well as medicine, and it is a wise conservatism that knows how to employ both.

"The difficulties of cooperation are no less manifest than its needs. The very size of the Bar, with its many thousands of members, is baffling. We have reason to fear that many are coming to the Bar who are unfitted to appreciate the requirements of professional duty. We have not only the problems of technical legal education, the special

equipment for practice, but the greater difficulties with respect to general culture and ethical training. But this is by no means the worst phase. The example of lawyers who succeed, either despite or by the help of their misdeeds, causes the diseases of the administration of justice to spread like an epidemic. Well meaning young practitioners are corrupted by their elders who thrive on dishonorable and unprofessional practices. Our trouble is not simply in keeping the pestilence out of the temple, but in destroying it inside.

"Another difficulty is in the preoccupations of the better men at the Bar. In this community, when a man is found who is well-trained, dependable, faithful and wise, as a good lawyer should be, the demands upon him mount to incredible burdens. The better youngsters in our law offices become crowded with work. The burden-bearers of middle life are bowed down by the multiplying cares of confiding clients. It is a sad spectacle in one sense to see gifted men so absorbed, but it is also inspiring. Despite the large pecuniary returns of success, what a vast amount of unrequited labor is performed by these men at our Bar. Once the cause is espoused by a lawyer worthy of the name, no effort is too great. The demands of reputation, the sense of obligation, of honor, give the urge. Yet these overworked men are the leaven of the Bar. It is to them we must look for every cooperative effort that is worthwhile. It is the preoccupation of lawyers rather than their indifference that constitutes our most formidable obstacle.

"Another difficulty which we encounter when we come to deal with certain questions is diversity of interests. This is conspicuous in the selection of judges. Lawyers have not one voice. They are divided by political affiliations. They wish good men on the Bench, but they are responsive to the appeals of party associates and political expediency. Then, when we come to broad questions of changes in the law, the procedure, we meet different opinions conscientiously maintained. Lawyers are experts in criticism. They are the natural antagonists of paper reforms. They are conservatives by training and they are always ready to turn their batteries of reason on what they think are ill-conceived proposals of change.

"There is nothing extraordinary about this. If theologians cannot agree, if scientists dispute, why should lawyers be expected to have a common philosophy or to hold the same views as to reforms in law and administration? When we deal with corruption, with crying abuses, we may expect unanimity at least in condemning an offense if not a particular individual. But when measures of reorganization, of reconstruction of the facilities of justice, are proposed, differences in conviction, in political philosophy, in predilections, at once appear and the trained combativeness of lawyers has a fair field.

"It is sometimes said that lawyers largely compose our legislatures and therefore they could reform the law and procedure if they would. But lawyers in respect to legislation have not the unity of a guild with a single interest, but the disunity of the members of a profession largely devoted to contention. The difficulty increases with the importance of the subject. It is least in minor matters of procedure reform. It is greatest when we consider constitutional changes which would alter radically the judicial organization or dispense with historic arrangements which in the past have been protected by the great guarantees of the fundamental law.

"In the face of these obstacles, what should be the methods of our cooperation? At once, we observe the importance of maintaining our existing associations which have their roots in local sentiment and to some of which are attached the most precious traditions of service and fraternity. We need every bit of help that we can get from these affinities. We cannot accomplish what we seek without the delightful influences of intimate personal friendship.

"Then, we need the intensive work of small groups. We cannot have the necessary discussion and planning in great meetings, which encourage the expression of extemporized opinions and foster debate rather than a common effort to find solutions. The committees of our associations furnish this opportunity. . . .

"But when abuses demand the emphatic protest and remedial action of the Bar as a whole, . . . we need the cooperation of all our associations to speak with authority of the entire Bar. How shall we achieve this?

"We need more than the cooperation of lawyers. We must have the cooperation of the Bench. The judges should know as well as the lawyers, if not better, not only where the need of improvement lies, but the best means of securing it. Sometimes a very small change will produce a great result. . . .

"We also need the cooperation of the community. I shall not waste time on the repute of lawyers. They have never been popular. But while they are, in general, the object of much public objurgation, they are in particular the trusted advisers, the counsellors and fiduciaries of the community upon whose expert judgment and trained talent everyone in trouble relies. Let us not forget that law itself is the vital breath of democracy. Despotism exercises an uncontrolled will. In democracy the power of government is subdued to the principles which have general acceptance, and these principles are embodied in what we call the law. It is the only escape from an unbridled official discretion which is the essence of tyranny. Lawyers should be the expert instruments of democracy and the more complicated its mechanisms, the more elaborate the laws which are the product of democracy's legislative workshops, the more necessary is the service of those who devote their lives to the study and interpretation of the laws.

"But no one should forget that while improvement in the administration of justice is the special responsibility of the Bar, because of its knowledge and experience, that improvement is sought for the benefit of the community and not for the benefit of lawyers. High-minded lawyers indeed are disheartened and disgusted by favoritisms, delays and abuses. They feel humiliated by perversions of justice. But lawyers are representatives. The real sufferers from defective administration are the clients—the community itself. Lawyers have everything to give the community and nothing to fear from its action. If the community apart from the lawyers, could intelligently reform the administration of justice, the lawyers would have no reason to complain. Unintelligent efforts at improvement would only make matters worse and, even then, the lawyers would suffer the least. They would have even more work to do in endeavoring to disentangle justice.

"The true point of view is that we are all bound together in society. One member, a trade or profession, cannot say to another, 'I have no need of thee.' Lawyers should recognize their responsibility not because of any selfish interest at stake, but because they have the knowledge, the experience and the skill which are needed. They have the obligations

of their equipment. They should realize that their highest privilege is that of the trained servants of democracy. But let all join in the work. If it is a matter of purging the profession of unworthy members, let the Bar attend to it. If it is a question of improving the methods of administration, let the Bar aspire not to impose its will on the community but be the guide, philosopher and friend of all the people in a common effort for the common good. . . .

"We should be active and persistent, but not impatient. It is not to be assumed that all needed reforms can be accomplished in our day. Even if we could achieve what we desire, the old conflict of good and evil would remain and perhaps our very achievements would produce new difficulties. I am often reminded of the observation of Santayana that in any specific reform we may succeed but half the time and in that measure of success we may sow the 'seeds of newer and higher evils to keep the edge of virtue clean.' But we have not to do with such later evils. The Absolute within us demands that we deal with those now existing and within our ken. Who is my neighbor? The lawyer need not pause for reply. His first charge, his lasting obligation concerns the administration of justice and his keenest satisfaction should be found in the fellowship and cooperation of those devoted to the task of safeguarding and improving it."

## IMPEDIMENTS TO ADMINISTRATION OF JUSTICE

In an article in the March "Panel," published monthly by the Association of Grand Jurors of New York County, Mr. George Z. Medalie, of the New York Bar, directs attention to the barriers raised by reason of the fact that the processes of our courts do not reach beyond the territorial limits of the State.

He cites legislation, proposed or enacted, in the following jurisdictions, which makes or will make available the testimony of witnesses residing without the State: Connecticut, Maine, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont, and then offers the following recommendations:

1. Conferences of representatives from neighboring states, and later from all states, to agree upon a uniform statute;
2. The uniform statute to cover both felonies and misdemeanors, and to make no distinctions between courts of record and those not of record;
3. The statute to carry threat of imprisonment as well as fine for disobedience;
4. Hearing in favor of the witness should be provided, to avoid constitutional objections and misuse of process;
5. There should be adequate compensation for time lost and traveling expenses;
6. "The laws of the respective states should be amended to authorize, when needed, the use of testimony of absent-from-the-state witnesses where a warrant is to be issued, or where a grand jury indictment is to be sought. Such depositions should be taken as in civil actions, under proper safeguards and authentications and necessarily without the privilege of cross-examination to the defendant who, under accepted principles, is not required to be informed of the pending proceedings."

Law writers are not in agreement, however, as to the constitutionality of such a statute, although in *Commonwealth of Massachusetts vs. Klaus*, 195 *App. Div.* 798, the Court held the New York statute to be