



1924

## A Challenge to the Legal Profession

A W. Cupler

[How does access to this work benefit you? Let us know!](#)

Follow this and additional works at: <https://commons.und.edu/ndlr>

---

### Recommended Citation

Cupler, A W. (1924) "A Challenge to the Legal Profession," *North Dakota Law Review*. Vol. 1: No. 8, Article 1.

Available at: <https://commons.und.edu/ndlr/vol1/iss8/1>

This Note is brought to you for free and open access by the School of Law at UND Scholarly Commons. It has been accepted for inclusion in North Dakota Law Review by an authorized editor of UND Scholarly Commons. For more information, please contact [und.common@library.und.edu](mailto:und.common@library.und.edu).

# BAR BRIEFS

PUBLISHED MONTHLY AT BISMARCK

—By—

## STATE BAR ASSOCIATION OF NORTH DAKOTA

Entered as Second Class Matter Jan. 15, 1925, at the Postoffice at  
Bismarck, North Dakota, Under the Act of August 24, 1912

Vol. 1

JULY 1925

No. 8

### A CHALLENGE TO THE LEGAL PROFESSION

Much has been said of recent years about "the technicalities of the law" and "the law's delays." The phrases have been repeated so often that it has been taken for granted that law, as a science, is retrogressing rather than progressing. Along with this criticism necessarily goes a veiled but none the less positive condemnation of the legal profession. In the June issue of that dignified periodical, *The World's Work*, we find an editorial indicting the legal profession and holding it responsible for what the Editor terms an intolerable condition in the administration of the law. He predicts that unless the lawyers through their Bar Associations reform the procedural rules of law, the public will take the matter in hand and do the reforming itself and though such reform will be rough and uncouth, it will be better than no reform. This editorial, which no doubt reflects the attitude of a large number of people toward our profession, is a severe criticism of the lawyer as a class. The public are looking, and have for years looked, to the lawyer to keep the administration of justice abreast of the times to meet the great changes that have occurred in all classes of society. It is said that the legal profession has not kept faith with the public and met this responsibility with which it has been entrusted.

In a measure, this is true, but to say that there has been no progress in the administration of justice is to close one's eyes to the fact that in recent years the percentage of cases decided on question of practice and procedure, which are the cause of "technicalities" and "delays," has become relatively small. Both the lawyer and the judge now direct their

thought to the merits of the controversy and endeavor to decide the suit on "the equities of the case," and I venture to say that on the whole there has been a marked advance in the administration of justice in recent years.

But law, like all sciences, is not static. There is, and always will be, occasion for criticism and need of constructive reform. It is and should be the function of the Bar Association to propose and enforce such reforms as are needed from time to time to keep the administration of justice up with the advance that is made in other fields of human endeavor. The public looks to the lawyer and his organization, the Bar Association, for such results. It is only by cooperative effort through the Bar Association that the lawyer can discharge this duty to the public. The necessity of having a well organized and efficient Bar Association, functioning as a part of the Judicial Branch of the Government, is recognized by all. The public should be made to realize that the ideals and motives of our profession are honorable, that we are striving effectively to attain better and more speedy administration of justice. With this thought impressed on the public mind by word and act of ours, we may be sure that our profession will be looked to, as it has been in the past, for guidance in the solution of the many public questions continually pressing for decision as well as those relating directly to the administration of justice.

Let every lawyer and every judge give serious thought to this criticism and contribute his share to the united effort of our State Bar Association to bring about needed reforms in the administration of justice.

A. W. CUPLER, President.

---

## LAWYERS AND LEGAL PROCEDURE

---

For nine years in succession the American Bar Association has endeavored to procure the enactment of a law to authorize the Supreme court of the U. S., in cooperation with the best added legal counsel available, to formulate an entirely new system of federal procedure for cases at law. Court procedure has become so cumbersome in the Federal courts and in many states as to increase the cost of litigation, impair the operation of the law, and delay, and often defeat the ends of justice.

Yet almost no progress has been made. Perhaps the reason may be summed up in the passing remark of a Senator, that the change might inconvenience somebody. Meaning the lawyers, of course. Rules of procedure in the Federal courts have grown out of the earlier endeavor to conform to the practices of each state. But there grew up such a mass of unscientific practices that the Supreme court finally declared that to conform to these state procedures would be to defeat the ends of justice in Federal tribunals. Then came amendatory Federal legislation, and more or less haphazard rules of procedure until we have a procedure, now called Federal Practices, an abnormal growth, through tortuous processes, a system described as "Sanskrit to the average lawyer and a monopoly to the experienced Federal practitioner."

Yet the lawyers, on the Bench and as counsel, are sworn to follow both the law and established procedure. True, as the dominant factor