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ADDRESS

BY

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It is always a pleasure to attend a Yale Law School Alumni Association Luncheon and a real privilege to be invited to address the group. It provides an opportunity which I so seldom seem to have any more to renew old law school friendships and to make the acquaintance of more recent graduates.

Today, I would like to speak for a few minutes about the current drive which is underway to eliminate excessive delays in litigation. As you know, in May 1956, there was convened, on my invitation, a Conference on Court Congestion and Delay in Litigation composed of the presidents of the bar associations of the States and larger cities and the heads of other bar, judicial and research organizations. Our purpose in calling the Conference was to enlist the assistance and to coordinate the activities of the many State and Federal organizations which heretofore have been working independently, and therefore not too effectively, to solve this problem.

The Conference authorized the appointment of an Executive Committee to further its work and to prepare a nation-wide program for eliminating the law's delay. Several weeks ago the Executive Committee issued its Report. Because this is the first opportunity that I have had to comment publicly on the Report, I would like to address my remarks to it for a moment.

First, let me say that I think the country was indeed fortunate in securing the active assistance of the leaders of organizations, Committees and associations whose help is absolutely essential if this nation-wide program is to accomplish its objectives. Although already heavily burdened with important duties of a public nature, representatives of Congressional Committees, judicial organizations, bar associations, State governments, law schools and newspaper editors not only unanimously agreed to serve in

this important capacity but gave generously of their valuable time in the preparation of the Report. Their willingness to participate is clear evidence of the importance we attach to this endeavor and to the mounting confidence that the law's delay will at least be eliminated.

Second, in my opinion, the Report constitutes a guiding charter for improved judicial administration in this country. Its conclusions are brief, accurate and to the point. Avoiding the technique so often employed of soft-peddling a serious situation because it might reflect adversely on themselves and their professional associates, the Committee concluded that prolonged and unjustified delay is "the major weakness of our judicial systems today." Further, that "unless effective action is undertaken immediately to remedy this serious situation, it may further deteriorate and result in bringing the administration of justice in this country into disrepute." Perhaps you may think this language overly strong and unduly critical, but I am in complete agreement with it.

The Committee's recommendations for correcting this shortcoming are not couched in fuzzy abstract generalities. The Report sets forth succinctly and specifically over a dozen concrete steps which, if implemented can solve this problem within a relatively short time even though over the generations delay in the administration of justice has become chronic.

The program is not beyond the reach of any jurisdiction because of expense or interference with substantive law. Fundamentally, it has three basic features. It calls for the centralization of administrative supervision of all courts within a jurisdiction in a single head, preferably the chief judge, with authority to promulgate uniform court rules and to assign judges to places where congestion is acute. Second, it calls for the adoption of modernized pre-trial procedures so that when a case comes

on for trial, the parties and the judge will have full knowledge of the legal questions involved and the issues to be tried. Third, it calls for the maintenance of accurate and up-to-date judicial statistics so that the time elapsed in the progress of any case can immediately be determined. The Committee proposes a number of other procedures for expediting cases, including specific recommendations for the Federal Courts. But these three provisions, as emphasized again and again by Chief Justice Arthur T. Vanderbilt of New Jersey are indispensable to any successful program to place litigation on a current basis. They were the keystone to the successful New Jersey drive which he so ably conducted.

A report, of course, is nothing more than words on paper. So long as it remains only that, nothing can be accomplished. It is important, therefore, that each organization represented in the Conference, and each individual judge and lawyer, seek the means to implement those recommendations which pertain to their particular sphere of activity. Mr. Jenkin Lloyd Jones, President of the American Society of Newspaper Editors, and a member of the Committee, has already assisted our drive immeasurably by distributing the report to all the members of his association with a special plea to give it the widest possible publicity. The response of the press to this request was more than gratifying.

There will, of course, be some "doubting Thomas'" who will look at this drive as just another fly-by-night scheme which is bound to fail. This attitude, coupled with wide-spread public apathy and resignation to the law's delay, is the biggest hurdle to be overcome. Because it is not an isolated reaction, you may be interested in what

the Department of Justice has been able to accomplish during the three-year period in which we have placed top priority on reducing the delays and backlogs for which we must assume responsibility.

The initial problem we faced in the Department was to determine just exactly what cases we had on hand and what matters were pending which might ultimately go to court. Surprisingly, we found in 1953 that such information did not exist. It was not until August 31, 1954, after an extensive survey, that we discovered there was a total of 74,972 cases and matters pending. Through our drive, the details of which I recently discussed at the meeting of the American Bar Association last Fall, we were able to reduce this total to 52,785 by November 30, 1956, or by almost one-third in just slightly over two years.

Breaking these figures down, we had 20,277 triable civil cases in August, 1954. As of November 30, 1956, we had only 14,525. This figure is the lowest in total pending civil cases since 1942. It should be pointed out that this reduction has been made during a period when the total number of new cases each year has increased. However, there has been a decided increase in the willingness of the Department to try cases which in the public interest require judicial determination.

Some of the districts where the U. S. Attorney has made the most notable reductions are New York Southern, with a reduction from 1,861 cases to 1,170; Maryland, with a reduction from 931 cases to 267; Illinois Northern, with a reduction from 951 cases to 448; and California Northern with a reduction from 1,214 to 780 as of last November 30.

On the criminal side the picture is equally bright. During the same 27-month period, we reduced our triable criminal cases from 7,451 to 6,237. Actually, at the close of business last June, the figure was 5,185 cases. With but very few exceptions, our criminal cases are current in the sense that approximately 85 percent of them have been pending less than six months. And the total of pending triable cases is the smallest it has been since June 1889.

Another spectacular development which is a direct outgrowth of our case backlog drive has been the amount of money collected through the United States Attorneys' offices for the Government. During fiscal 1954, before our drive got under way, the Department collected $21,217,000. In fiscal 1956 we collected $41,785,000, almost doubling the amount in just two years. This is the all-time record. It exceeds by more than 8 million dollars the highest prior collection in any year by the Department of Justice. Recent figures show that during the first five months of the present fiscal year our collections are running over 8 percent higher than last year, indicating a further substantial increase in collections again.

These collections have significance to the Government and the taxpayers in terms of money spent. For every dollar spent by the United States Attorneys' offices the Treasury received in return $2.61 in fiscal 1954. In fiscal 1956, the return for every dollar spent was $3.75.

I suggest that several startling conclusions may already be drawn from this departmental drive, even though we view it as by no means complete. First, it demonstrates that a determined effort can in very short order produce substantial inroads into case backlogs and congestion

which are the primary factors causing inordinate delays in litigation. It is therefore an answer to those who believe that the nation-wide drive cannot produce comparable results. What is required is merely foresight and plain hard work.

Second, the Departmental drive demonstrates that as litigation is moved along more promptly, revenue increases and operational expenses decrease. I see no reason why the same principle would not apply to private litigation. Thus those who think they somehow "profit" by delay are mistaken. I am reminded that Chief Justice Vanderbilt said that initially the lawyers in New Jersey were not enthusiastic about the reform in the court system of that State, but that after a year or two their only complaint was that they had failed to put aside enough reserve to pay their enlarged income taxes.

Effective and impartial justice are vital to the existence of free government. Justice, to be effective, must be prompt. Unwarranted delay in the administration of justice weakens public confidence in the institutions which assure liberty under law. It is therefore most encouraging that the Executive Committee concluded: "We are convinced that given adequate judicial manpower and proper judicial administration, this concerted drive can eliminate the existing congestion of cases on the calendars of our courts without subverting fundamental principles of justice. Once this backlog of pending cases is eliminated, and lawyers, judges, and litigants are shown that delay is not inevitable in our judicial systems, the business of the courts can then be kept current even though litigation will undoubtedly increase as our economy and population continue to grow."

Let me make it clear that we are not seeking to expedite cases just to save time and money. The ultimate objective of this nation-wide drive is to secure effective and meaningful justice to every person seeking recourse in the courts. If we are to justify the trust of the people which has been reposed in our profession, we must accept the responsibility for deprivations of justice flowing from our professional shortcomings.

The program which the Executive Committee has proposed will, in my opinion, immeasurably improve the administration of justice. I urge each of you, therefore, to lend your wholehearted support to this undertaking.