



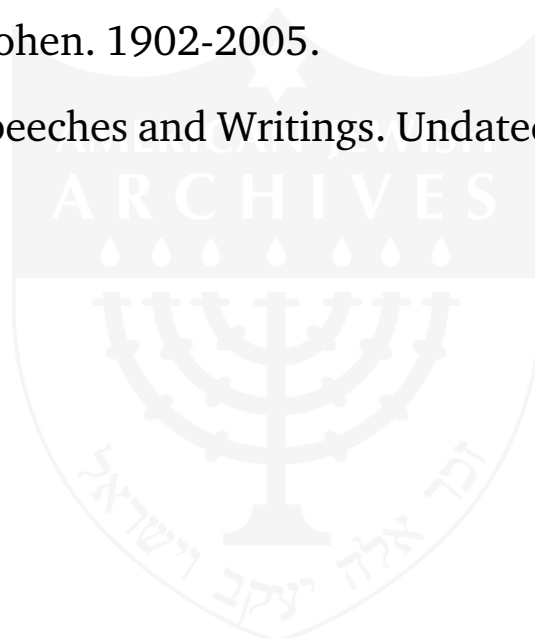
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Preserving American Jewish History

MS-778: Joseph and Barton Cohen Papers. 1902-2005.

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We spent three days in Rome re-visiting the sights we had seen six years before on our first visit there. There is much to be seen in the "Eternal City," the seat of power of the once great Roman Empire, but I will not attempt to relate it here as this talk is already too voluminous. I prefer to hurry on to the next country visited because there history is being written daily in the sweat, tears and devotion of a people who are literally doing the impossible.

I speak, of course, of Israel in the Middle East, surrounded by Arab enemies on all sides who threaten to drive her into the Mediterranean, her only present means of escape or communication with the world.

In 1948 when Israel proclaimed her statehood and was immediately recognized by our Government, she was immediately invaded by her Arab neighbors, Egypt, Jordan and Syria. They seized all of Jerusalem, shut off the power and water supply and cut off the Israeli forces from contact with that city. The world wondered whether a small new nation could survive the might of these Arab countries. I heard stories in Israel about the shortage of even small arms. Part of the army used wooden sticks and fought hand to hand with them. They had practically no heavy equipment and practically no aircraft.

But they had a fierce desire to win, a desire born out of the knowledge that if they lost, they were practically doomed to slavery and degradation under Arab rule. When the U. N. finally worked out a cease-fire armistice, the Israeli army was driving towards Cairo and Amman and the Arabs were only too glad to make peace.

The story today is quite different. Israel is fully armed and confident of its ability to defend its borders against anything any Arab nation or combination of Arab nations can muster against them. Every man and woman from 18 to 49 years of age is either in the Israeli armed forces or is in the ready

reserve constantly alert to quick mobilization. Though the women are drafted right along with the men at 18 years for a service period of 30 months, and the women get the same training as the men, it is not intended, I was told, that the women should engage in actual combat unless extreme circumstances make their participation inevitable. In that event the women are trained to handle the weapons side by side with their brothers, fathers and friends.

Israel wants and needs peace with the Arabs. Historically she has a greater and more valid claim to the land than do the Arabs, and Israel intends to hold it at all costs. The kind of land which the Israelis own is not comparable in quality to the land the United States acquired from Mexico in our Mexican War, nor to that which we acquired from France for 4 million dollars in the Louisiana Purchase, nor even as good as Alaska, which we bought from the Russians. Only a people who were thoroughly familiar with the Old Testament could have undertaken to build a nation out of desert, mountains and marshes which had become useless and wasted by centuries of Arab neglect. But the Israelis know their Bible and they knew from it that this sacred land had once been the "land of milk and honey" and that in Biblical days it had thrived with agriculture and commerce "from Dan to Beersheba."

Theodore Herzl, a Viennese Jewish journalist of aristocratic background, had conceived the Zionist idea while reporting the famous Alfred Dreyfus trial in France. Here he saw a fine, innocent French officer, of the Jewish faith, tried and convicted by false testimony only because he was of the Jewish faith. Dreyfus, you will recall, was finally vindicated due to the intervention of the great French author, Emile Zola, who led an attack on the French army system responsible for Dreyfus' conviction.

The first Zionist convention was called in 1898 by Herzl, attended by leading Jews from all over the world who began the movement to restore Palestine as a Jewish homeland. At that time,

Palestine was under Turkish rule, part of the Ottoman Empire. At one time, Herzl was offered all of Palestine by the Turkish Sultan for 5 million dollars, but his attempt to raise such a large sum at that time was futile. How mocking is the march of time when we realize that Jews throughout the world last year contributed or loaned over 100 million dollars to Israel and for several years prior thereto similar amounts to help this young nation succeed.

~~My wife and I~~ with our son, Barton and his wife, <sup>we</sup> spent 10 days in Israel during which time we traveled from one end to the other of this tiny land and marveled at what can be accomplished with an intelligent application of industry. We saw, to be sure, plenty of sand and mountains still waiting to be converted into fertile farmland, vineyards, orchards and forests, but we also saw plenty of evidence of real accomplishment. We drove through the fertile Sharon, Hula and Jezreal Valleys, which a generation ago was a wasteland of marshes and swamps and sand, as fertile now as any Kansas farm country. We were told how the swamps were drained, trees planted to prevent the movement of sand, Eucalyptus trees selected because they prevented mosquitos along with pine trees because of their hardiness, and then the deep plowing under of the sand with ~~mix~~ mixture of fertilizer. Then with a careful program of conservation and use of water these lands have been fully reclaimed and form the bread-basket of Israel.

We saw fields of lava rock which seemed worthless and then we were shown land next to it that had already been cleared and was now producing wheat and corn or was planted into orchards of olive groves, orange groves, apples and other fruit. It had been land worse than anything in the Ozarks, Wyoming or Nevada and it was now yielding food products for the people. Israel still is a long way from producing all of its foodstuff; in fact it <sup>than half</sup> still ~~must~~ import about 60 percent. However, at the rate she is reclaiming the land she <sup>may</sup> ~~will~~ in less than 10 years be completely self-sufficient on this score.

The reforestation program of the National Jewish Fund, established in 1904 by Herzl, is a dramatic one. Once barren



mountains now bear millions of cypress, cedar and other pine trees and every year more trees are planted. Its present-day program to plant 6 million trees in the Myrtrs Forest as a memorial to the 6 million Jews who died during the Hitler persecutions is already 50 percent completed.

I have known of the National Jewish Fund program for many years, but never did I fully appreciate its tremendous importance to Israel until my trip to that land. Since its inception N. J. F. has been acquiring the waste land from the willing Arab owners who were glad to sell it, as it was worthless to them. These Arabs lack the industry and vision of the Jews. Arabs are a lazy, indolent people who would cultivate only a small piece of land to obtain meager products sufficient for their own use only. They want to know nothing of modern farming.

The Jewish settlers in Palestine, on the other hand, considered themselves part of a Biblical prophecy, pioneers in a holy land being prepared to receive other Jews who would gather here from all parts of the world. They have invited the persecuted and homeless Jews of other countries to come to Palestine and, in fact, are today responsible for thousands of new immigrants coming there every year in spite of the fact that they must lead a rigorous life of survival and must be ready to defend themselves against the Arabs. As an American, it gave <sup>me</sup> a better appreciation of our own early New England settlers who came to America to enjoy religious freedom and who fled their native homes, knowing that when they reached our shores they would have to cultivate virgin fields, cut down forests and defend themselves against attack by hostile Indians.

I was told authoritatively that more than 800 immigrants come to Israel monthly from countries behind the Iron Country in addition to thousands of other Jews from Morocco, Algeria and other North Africian countries now in revolt, stirred up by Nasser. The Jews of Algeria know only too well that if France ever pulls its army out of Algeria they can expect only the roughest kind of treatment by the Arab Nationalists.

In Israel today you find the greatest melting pot of all history, people from 70 nations of the world are gathered there, farming the land they first had to reclaim, working in all kinds and types of settlements from the collective farm type, known as the Kibutz, where everything is owned by the group with no individual ownership of property whatsoever, to the \_\_\_\_\_, which is the cooperative farm where each person owns his own piece of land, but where the farming is done and farm implements are owned in common by the cooperative which, like our own cooperatives, split the profits from time to time, and there is also the independent farmer who carries on his farm operations as a sole entrepreneur. These collective farms, Kibutzim, are operated by people from every land, including the U. S., Canada, Mexico, South American and Europe. While I may have an aversion to community collective farming because of my devotion to the tree enterprise system, I must confess that those who comprise these Kibutzim and their children are well cared for, happy and apparently content to live under a system where no individual ownership is acquired and all increase is the property of everyone. I learned that many of the important officials of the government were once members of one of these collective farms.

One of the memorable events of our tour of Israel was our luncheon at a charming restaurant in Tiberus, located immediately on the shore of the Sea of Galilee, which is not a sea at all, but a big, beautiful lake formed by the Jordon River. I shall never forget the wonderful fish meal with fish freshly caught from the Lake. It was so good that all of us asked for a second serving. It was at this place where Jesus is supposed to have walked across the water in one of his miracles. Our guide had been born and reared in this area and he reveled at telling us how he used to fish in these waters and spend nights in the mountains with his companions, both Jews and Arabs. His forbearers had come to Palestine 200 years before from Holland because of their great



reverence for the holy land. He said that real trouble with Arabs did not begin until after the Balfaur Declaration following the First World War when England declared in favor of Palestine becoming a Jewish homeland.

There is plenty of rainfall in Israel, ranging from 30 to 40 inches annually in the North to 15 to 20 inches in the Negev. It falls in seasons in great torrents and runs off to the Mediterranean if not caught. Israel's problem, then, is conservation and irrigation. This involves the costly building of many dams which she has undertaken to do with the help of the money received from the sale of Israeli bonds and from other sources. The country has what is called a Development Fund, 30 percent of which comes from the bonds and the balance from Israeli taxes. This Development Fund is making possible the building of thousands of apartment houses to house her citizens, the building of roads, the land reclamation projects, power plants, industrial buildings for new industries being encouraged to start in the country and for almost every other purpose connected with the development of a new country. The bonds provide new wealth to the country which could and would not be provided by private enterprise alone.

I left Israel with a better feeling as to the value of these bonds I have bought each year since the first issue was offered. I believe that Israel has the will and power to survive any emergency. There is only one, remote perhaps, danger to her existence and that is a third World War which would find her fighting side by side with the free countries of the West. If she is on the winning side, her future would be assured, but should the Western world collapse in defeat then her future would be dark, indeed. American statesmen, <sup>such</sup> Dulles and others, should spend a week in Israel and if they did they would no longer try to keep a balance between Israel and the Arabs but instead would throw the weight of our government to Israel as our only dependable ally in the Middle <sup>East</sup> West.

I saw the difference between the Israelis and the Arabs right in Israel alone. Arabs number about 10 percent of the Israeli population, approximately 150,000 Arabs and 1,650,000 Jews. We visited the holy Christian places in Nazareth, saw the place where Joseph and Mary lived and the place where the Angel told Mary she was to be the Mother of the Christ Child. These places are sacred to the Christian religion and are maintained as part of the Church of Annunciation by a monastic body of monks. Nazareth is a 100 percent Arab city and one has a feeling of revulsion at the dirt and filth in which Arabs live in spite of the fact that the Israel government has built a pipeline to Nazareth for the benefit of her citizens, Arab men sit around smoking their large, water pipes and let their women take care of the farm work and babies. We also saw the nomadic Beduin tribes living in their dirty tents with dirty children running around while their multiple wives look after the chores.

Arabs have equal rights as citizens of Israel. It was our pleasure to sit in on the opening fall session of the Knesset, Israel's parliament. We saw several Arab representatives, some dressed in typical Arab garb, others in Western garb, come into and take their seats in this governing body. We couldn't understand what the Prime Minister, Ben Gurion, said because he spoke in Hebrew but we did enjoy the experience of being present anyway.

Israel wants and needs visitors. We stayed in first-class hotels, in Tel Aviv, Haifa and Jerusalem and at the resort hotel six miles North of Haifa, the Dolphin House. In the later place we danced under the moonlight to a splendid orchestra, playing all of the latest hit-parade tunes, and enjoyed the singing of a vocalist from the U. S. who had come from Paris where he had an engagement at the Folies Bergere. Food is plentiful and Israeli chefs know how to prepare it in complete conformity to kosher dietary laws. It is a friendly country where one is greeted with a smiling "Shalom" every where.



It is a nation like every other nation, with its criminals and penitents<sup>where</sup>~~there~~, its juvenile delinquents, its divorce and domestic troubles, its good and bad, its rich and poor people, except that getting rich in Israel is a much tougher job than in America, because of high taxes and limitation of opportunities. But, generally speaking, by comparison with America it would be considered a poor nation just beginning to build its wealth of the future. Every person is not a devout religionist nor do they all attend services on the sabbath. Of course most people do go to synagogue. The Day of Rest is Saturday and beginning with the mid-afternoon on Friday stores and factories are closed and the people begin to prepare for Sabbath. We saw them on the way to worship, some dressed in the fur hats and long coats that has typified the synagogue-goers for centuries. We also saw the very fanatic Chasidic Jews in Jerusalem who neither toil nor spin but spend all of their time studying and praying. Though they criticize the government constantly, refuse to bear arms in defense of the country, oppose the use of Hebrew as the national tongue because they claim the language should be held sacred for praying only, they are tolerated by the masses in the interest of national unity and democracy. When I protested to a cabinet member about these useless Jews he said, can't we in a country of 1,800,000 people tolerate a couple hundred fanatics who live here? This is a democracy, you know.

When we reached Israel we had determined to see every part of it. In fact the first trip scheduled was one through the Negev, south to the Red Sea, at the Southernmost edge of the country bordering Egypt. A touch of ~~Sickness~~ sickness by my wife and daughter-in-law forced us to postpone the tour. That night we read in the Tel Aviv News paper that Egyptian raiders had crossed the Israeli border, had killed a party of 4 innocent Israelis who were traveling the same road we would have been on at about the time we would have been returning. The illness might have prevented our names

from joining the long casualty list of victims of Arab aggression, and, frankly, we were thankful not to be included. Thereafter, the Israeli government warned tourists against making the trip to the Red Sea, so we never got down there.

We discussed this event with our guide, an officer in the ready reserves and a veteran of the Hagana and war for Independence. He said, "We don't like to kill Arabs but we have discovered that the only way for us to stop these assaults is by reprisals that make them pay dearly for killing our people. To them human life is not as precious as it is to us."

He then told us of attempts by Israel to exchange prisoners of war. The Arabs were holding six or eight Israeli soldiers and the only way Israel could finally bring about their freedom was to raise the exchange rate from 10 to 1 to 20 to 1, or about 80 Arab soldiers for 4 Israelis. That further illustrates how cheap the Arabs value human beings.

These border killings and the killing of innocent farmers by Arab infiltrators, such as occurred also while we were in Israel goes on constantly. After a mass reprisal by Israeli soldiers, the killings stop for a month or two; the Arabs complain to the U. N. truce commission; the commission makes an investigation and issues a statement placing equal blame on both sides. This type of useless action by the U. N. has disgusted Israel with its value and has resulted in Israel withdrawing from participation in the mixed armistice commission. Now it merely reports these forays to the U. N. commission but does not sit in any more on the investigations of the commission. What good does it do to sit on a commission that feels it must always issue a report blaming both parties when Israel knows it has not been the aggressor?

The Prime Minister, Ben Gurion, has stated again and again that Israel seeks no territorial expansion, that all she desires is to be secure within her borders and be allowed to carry on in peace the planned development of the country. A visit to Israel confirms the logic of these statements. In the first place,

the country needs and can easily absorb another 2 of 3 million people. There is much land still to be reclaimed, great mineral resources to be exploited; water projects to be carried on and a great deal of industrialization that must follow.

The progress of these people since statehood in 1948 is graphically illustrated at a great Exhibition Hall in Jerusalem which shows you on an electrical chart the great strides that have taken place since the turn of the century. In the past 8 years this little country has made 3 or 4 times as much progress as it did during all of the preceding years combined. Without the restrictions of British and U. N. rule, the nation has gone ahead boldly establishing laws, ~~deeds~~<sup>build</sup> of new Kibutzim, new immigrant villages, built thousands of permanent modern apartment buildings and is headed for self-sufficiency in less than 10 years hence. Immigrants know that the ugly, wooden tents of the Mabarah are only temporary abodes from which they move to new permanent apartment buildings within 2 to 3 years. We saw these temporary shelters and we also visited a permanent duplex apartment occupied by a Rumanian family that had arrived in Israel 3 years before.

What does the future hold for Israel-Arab relationships? That is really a question the Arabs must answer. To the present they have been uncompromising in their determination that Israel must be destroyed and that no negotiations, even, for peace will be undertaken. Until that intransigence melts, Israel can do no more than to maintain its military strength and alertness. The Israeli people have no doubt or fear for their future. They are firm believers in God and plenty of gun powder. In any encounter they can be depended upon to give an excellent account of themselves. Col. Nasser, the dictator of Egypt should be well aware of their fighting ability as he experienced the galling compulsion of personally to have surrendered his troops to them in 1948.

The common denominator of Israel is Judaism. We saw black fuzzy-headed Jewish boys working side by side in the children's villages with fair skinned boys for Morocco and with the brown-skinned boys from Yemen. In fact, no group is more highly regarded than the



40,000 Yemen<sup>ite</sup> Jews who were flown to Israel a few years ago on the famous "magic carpet" airlift. These brown-skinned people had lived in utter and abject poverty for centuries in Yemen but throughout had maintained a strong faith in Judaism and a belief that the Biblical prophecy of the eventual ingathering of all Jews by means of a magic carpet to the holy land would occur. When the magic carpet of the airlift occurred they readily left Yemen to take up life in Israel. They are regarded as a great asset to the country because of their skill and industry and because they are regarded a devout co-religionists. There is no color line in Israel. The sons and daughters of these people now intermarry freely with the white and other population.

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We left Israel October 10 to fly on the El Al Airline, owned by an Israeli company, to Zurich, Switzerland.

Manned entirely by a Jewish crew, with a charming Jewish hostess, the constellation provided us as good a flight as we have ever had with service par excellence. After a two-hour delay in Rome, due to fog in Zurich, we landed to spend 3 days in the Swiss paradise of mountains, valleys and industrious people. The first snow of the season had fallen in the Swiss mountains and we enjoyed the grandeur of the scenery in our several trips into the country-side by car from Zurich.

We saw the steep mountain slopes of Switzerland planted with great forests of pine trees or with vineyards or pastures or grains or other farm products. Not an inch hardly of the precious rugged land that was not in cultivation by hardy Swiss farmers. We understood exactly what our guide meant when he boasted that Hitler didn't invade the Switzerland country because the Swiss have a large-standing army and a large ready reserve that guards the mountain passes and the borders and which would make any invading army pay dearly for any advance it might gain. Here, too, is maintained a quick, all-out mobilization plan using the draft for all able-bodied males from 18 to 49 years. This little country



of 5 million people knows that the price of liberty is the willingness and readiness of its citizenry to fight and they intend to stay free.

Israel was still fresh on my mind as we traveled through the gorgeous scenery. To me there was only one conclusion:

give the Israelis 15 to 20 years of peace, help them to carry on their ambitious program as we have in the past, both through our government's military and economic mutual aid program and through the private funds of those interested, and Israel's hills and valleys will, in a tropical country, duplicate the accomplishments of little Switzerland in a temperate climate.



OLD WESTPORT BLDG  
HARDWARE

RELEASE - SUNDAY SEPTEMBER 5, 1964

On October 1, 1926, Joseph Cohen, then one year out of law school, rented desk space in the law library of the suite occupied by the law firm of Henning & Etchen at 711 Huron Building, Kansas City, Kansas.

He had few clients and the space provided him at small cost was adequate for his needs. Three years later, when the law firm of Henning & Etchen dissolved, he took over the entire lease on the space which then consisted of a rather small area in the northeast part of the seventh floor.

In 1946, Lieut. Col. Charles S. Schnider, returning from six years as an Army officer during World War II, returned to Kansas City to resume his practice. Mr. Cohen invited him to join with him as an associate and within a few months the two old friends became law partners under the name of Cohen and Schnider.

Recently the firm, now grown to ten members and associates, leased the entire seventh floor and a giant remodeling job was undertaken at a cost of approximately \$60,000.00. Now the firm occupies offices especially designed by Joseph Oshiver, architect, to meet the most modern requirements of law office management. A library much larger than the one Mr. Cohen occupied in 1926, plus a large conference room and spacious private offices are available. The five stenographers employed by the firm occupy two separate rooms in ample quarters. When one gets off the elevator on the seventh floor, a large panel of raised



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letters gives the names of all of the members of the firm. Entering the reception room through a heavy plate glass door, one is impressed by the colors and decor of the room.

The room provided for the investigator, Glenn Lundquist, is fitted with a drafting board, photographic equipment and a dictating machine, as well as the usual equipment for drafting diagrams of the important evidence to be used in the trial of litigation.

The conference room is fitted with a pullman-type kitchen, which is used to provide food for the members of the firm during noonday conference periods. When closed, the kitchen looks like a walnut console.

Every office has new carpeting, drapes and office furniture.

The two original partners of the firm have been joined in the law practice by Mr. Cohen's son, Barton P. Cohen, and Mr. Schnider's son-in-law, Jacob F. May. The other partners in the firm are John E. Shamberg, Joseph P. Jenkins, Frederick K. Cross and Miss Norma Braly, who was Mr. Cohen's secretary for many years and who studied law at night while acting in such capacity. The associates are Alan W. Farley and Edward G. Collister, Jr.

The law firm is one of the largest and best known firms in the State of Kansas. Carrying on a general practice, the firm specializes in the trial of litigation. All of its members are members of the American Trial Lawyers Association and Mr. Cohen is a member of the International Academy of Trial Lawyers as well.

"It is a long road from that little office space in 1926 to the luxurious law offices we occupy in 1964," Mr. Cohen commented.

"How is it done? Easy! Just choose the right kind of partners."

THE NEED AND ROMANCE OF ADVOCACY

By Joseph Cohen  
Kansas City, Kansas

Our federal and state governments are framed on the wise theory that there shall exist three coordinate and independent branches, the legislative, executive and judicial, each checking and balancing the others. Every grade school boy knows that the legislature is set up to enact the laws which the people deem advisable through their representatives; the courts are provided to interpret the legislature's intent and the executive branch, both elective and appointive, is charged with the responsibility of enforcing the law.

This is all very elementary, we all know. If the electorate sends good, intelligent, dedicated men and women to the legislature, we can depend on getting a legislative product that is in step with the needs of the people in the space age. But even a good intelligent group of legislators cannot perform at its best if they do not receive the cooperation and advice of the lay leaders who espouse the people's causes.

Men and women elected to high and low offices in the executive branch of our government are similarly affected. If the voters abdicate their interest in government immediately after an election campaign and leave the exercise of power to the elected officials without giving them the benefit of their desires and expectations and without demanding an efficient, fair and honest administration weak officials tend to arrogance, corruption and inefficiency. In the last analysis, therefore, the people hold it within their grasp to get the kind of



government they want, or maybe it might be said that they ultimately get what they are entitled to.

#### THE LAWYER'S MONOPOLY

Lawyers, since time immemorial because of their peculiar training, hold a monopoly not enjoyed by any other group, to influence all three branches of government and this has been our profession's historic posture. As I shall point out more specifically hereafter, our professional group is in danger of losing this great influence for good if the present tendency of the bar is not reversed; if the young lawyers continue to shy away from the conflicts of the courtroom and tend instead to live in the quietude of office practice.

#### WHY ADVOCATES ARE NEEDED

Why do we need good advocates? Can't we make more money with less wear and tear on the physical, emotional and mental structure outside the courtroom? In the course of this discussion I will try to answer both of these pertinent questions. The answers will satisfy those who like the spirit of competition, who enjoy pitting one's intelligence against another person of equal ability, who want to gird for battle and fight valiantly for a cause. Courtroom battles are a part of America's cherished history and the lawyers who have engaged in them have contributed to the making of our best judicial decisions. If all you want out of life is success measured by economic values, you would be better off to forsake the law for a career in business.

The bench and bar have become concerned over the diminishing number of trial lawyers caused by many reasons. Without well-trained advocates, trials are conducted sloppily, evidence is introduced without preparation, or there is a failure to produce proper evidence, resulting in the issues being carelessly presented without pin-point effectiveness so that clients with good causes are defeated because the judges have not been made to understand the true meaning of the issues involved. The judicial system, as envisioned by our founding fathers, cannot function efficiently if the advocates who try the lawsuits are not trained diligently to assist the courts and juries in arriving at the truth.

Speaking before the Maryland State Bar Association, the Hon. J. Edward Lombard, Chief Judge of the U. S. Court of Appeals for the Second Circuit, asks this pertinent question: "Can we save the trial bar? I think we can find that there is still time for a rescue operation, but half-measures will not be enough. As goes the trial bar so go the practice of law and the authority of the courts; so goes the observance and protection of individual rights."

Our law office recently reversed one of our able federal district judges in a case involving the forfeiture of a substantial sum of money because of the alleged failure of our client to consummate the transaction within the time specified in the contract. The case had been tried by other counsel who had advised our client against an appeal. Examination of the transcript of the evidence disclosed glaring

inadequacy of proof, failure to effectively present the main defense, to-wit: that there had been an oral agreement between the parties to extend the time for performance. True, the evidence was buried weakly in the record but the attorneys had not elicited the information with telling impact either because they had not carefully studied and prepared their case or because they did not have the required skill of a good advocate to pound home the salient defense which they intended to present. The record disclosed that the able judge caught a glimmer of the main issue but it was so obscured that when he rendered his decision he completely overlooked the pivotal defense. Our task on appeal was to advocate this obscure point to such prominence as to convince the appellate judges that our client had a right to rely on the extension without jeopardizing his large earnest money deposit. Fortunately for our client, and for ourselves, we succeeded in reversing the case.

JUDGES AND LAWYERS RECOGNIZE GOOD ADVOCACY

Experienced judges recognize the difference between bad, indifferent and good trial practice. A young lawyer who prepares his case well and thoughtfully, who knows what law governs his evidence, who has thoroughly grounded himself in our code of civil procedure, now happily up-to-date in Kansas, who has taken the time diligently to go over all the facts of the case with his witnesses, who has investigated all angles of the case, both for and against his side, soon gains the respect and admiration of the judges as well as his



colleagues at the bar and readily builds a large practice of satisfied clients who gratefully refer their friends and relatives to him for legal services. Courts before whom such trial lawyers practice can do an effective job in the administration of justice. Our adversary system breaks down without the trained trial lawyer.

#### LIFE WAS SIMPLE

Why, then, are we not training more trial lawyers? Why is the art of advocacy a vanishing one? Why aren't more of our young law graduates training themselves for courtroom practice? There are several reasons. The practice of law now is so complex that lawyers tend to group into partnerships much more than they did when I first came to the bar. Then, when you wrote a contract or prepared a will or a trust instrument, the effect of the federal tax laws on that instrument was not nearly as pressing as it is today. Corporations existed, it is true, but they did not live in an atmosphere of government controls, wage and hour laws, social security, withholding laws, high taxes, anti-trust enforcements, etc., as they do today. Life was comparatively simple and the sole practitioner was not perplexed by the many facets of law that concern him now. If you merged or consolidated a corporation or spun off a part of the corporate assets, it was a simple matter. Partnership law, too, had none of the complexities that now must be faced if your client is not to be penalized by unnecessary taxation. Selling a business owned by a single proprietor did not involve questions as to the effect of a covenant not to compete or the sale of good will as distinguished from physical assets. The simple life of the lawyer as compared to the many complex-



ities that now obtain has forced changes in the law practice.

### SPECIALIZATION

Specialization in the practice is the outgrowth of the demands of our profession and specialization has required that lawyers group together in partnerships. Of course, there will always be room for sole practitioners in our great profession. I practiced alone for 21 years before I created my partnership and I enjoyed every year of it. But as one's practice expands, he must either become more and more selective of the cases he will handle, which has many practical difficulties, or he must invite other lawyers to join with him. I cannot frankly say that we have departmentalized in my firm too much, except that we are specialists in the branch of the law which I am espousing today - the trial practice, the art of advocacy. Every one of the men in my firm goes to court regularly in the trial of cases, the younger ones handling the lesser cases and the more experienced ones trying the important causes.

I have no quarrel with a young man fresh out of law school who goes into a large firm and is assigned to the tax department, the corporate department, the probate department, the trust department, or any other department. The beginner's salary is usually better with these large law firms than with the smaller partnerships. These specialties require good brains and dedicated hearts and there is a certain thrill in examining a contract or testamentary trust instrument which has been drawn after careful research into tax consequences.

## THE SPECIALIST OF SPECIALISTS

But I prefer the specialist of specialists - the trial specialists. Eventually all roads of the law firm leads to his office. After the tax expert has rendered his opinions on the tax posture of the case, has dealt with the various administrative agencies of the Treasury Department and has failed to find compassion for his client, he must wind up in the Tax Court or the U. S. District Court where the evidence must be presented and the case argued. The advocate takes over at this level.

The beautifully drawn will with carefully prepared trusts written in is offered for probate in the probate or surrogate court. Objections are filed by interested parties to the admission of that will because the testator lacked testamentary capacity or was under the undue influence of the niece who always drove her to the office for consultation. The specialist in wills and trusts wends his way to the firm's trial lawyer who takes over and fights the contestants in the courtroom.

The corporate lawyer assiduously studies the corporations inquiry as to whether the latter might acquire a competitor and merge the business with it. Many questions are probed and much research into the corporation's position in the field involved is studied. The opinion written appears to give a green light to the acquisition. The Justice Department, though, believes otherwise and a suit for injunctive relief is initiated. The battle moves from the lawyer's office to the

arena of the courtroom. The corporate lawyer goes down the hall to the trial lawyer's office and the latter takes charge of the conflict.

Judge Irving Kaufman of the U. S. Circuit Court of Appeals, Second Circuit, has this to say about the trial lawyers: "In other branches of the law specialization and compartmentalization may stultify, but specialization in trial work provides an insight into the broadest aspects of the law. It is specialization in a technique, a technique which is capable of absorbing and molding rules of law derived from any number of substantive areas of the law. The trial lawyer has the perhaps unique opportunity of becoming a Jack-of-all-trades by being a master of one. He gains a sense of the "whole" -- the interaction of legal principles emerging from all the other specialized branches."

So it goes. Every specialty must eventually use the specialist of specialists - the trial lawyer. Law is not hammered out in the law office, it is made in the courtroom, tested first by inquiring into facts which must be assembled with real intelligence under the guidance of the trial lawyer, if not by him alone, and must then be introduced with skill by one who knows the law of the case, the rules of civil procedure, particularly the rules of discovery and evidence.

#### ADVOCACY MUST BE EXPERIENCED

Now that you know what to do, you might ask, why can't anybody be a trial lawyer. It's not quite that simple. Trial lawyers are not born, they are trained and developed the hard way - by time, hard work and experience. They are not born full blown from the head



of Zeus like the mythical Greek figure. Being an art, one cannot transmit

the art of advocacy by books or lectures, neither can it be fully understood merely by watching other lawyers try their cases. To develop the art of advocacy, one must actually practice it in the courtroom in actual conflict situations. Surely, one can learn much from listening to and observing fine trial lawyers in action but the real training comes when you take the front seat at the counsel table in the courtroom battle.

#### HARD WORK MAKES THE TRIAL LAWYER

A great violinist once said to an enthusiastic lady who praised his splendid concert: "Yes, lady, but before I was a genius I was a drudge." Thomas A. Edison, the great inventor, put it this way: "Genius is 1% inspiration and 99% perspiration." To be a successful trial lawyer takes much hard work. That is not to say that you can be really successful in any branch of the law without much expenditure of energy. There is a real difference, however. Office practice may be of high or low quality depending on one's sense of responsibility. Your clients may not recognize genuine quality because they are not prepared to recognize it and have no experience from which to form a judgment.

The advocate, on the other hand, cannot, like the doctor, bury his mistakes. His battles are fought with an adversary ready and able to exploit any mistake of judgment or any error in law with the judge sitting as the arbiter. Careful preparation on both the facts and the law is the sine qua non. With it the trial lawyer is equipped with an arsenal that will be hard to breach. Without such

preparation, he may be made to appear both to the court and opposing counsel as less than a knight in shining armor. Then, too, the next piece of law business that poor, benighted client has is likely to go to the lawyer who was prepared.

#### CHARACTERISTICS OF SUCCESSFUL ADVOCATES

Shakespeare said: "To thine ownself be true and it will follow as the night the day, thou cannot then be false to any man." The lawyer who aspires to be an effective advocate cannot ape or imitate anyone. In the process of developing his best skills he must be himself. I have encountered many different types of trial lawyers. Some are flamboyant and given to histrionics; some are gentle, courteous, soft of speech, giving always the impression of impeccable fairness; some have been belligerent and almost rude in their pursuit of cross-examination; some have appeared to be so retiring as to be almost apologetic. Yet each of these practitioners had one common denominator - he knew his case, his witnesses, his legal theory, his objective and each pursued his case with relentless vigor and made his points of fact jibe with his theory of law.

Born of hard work, these skilled advocates have another characteristic in common - they have confidence - confidence in themselves and confidence in their case. My old classmate, the Hon. Charles Whitaker, retired associate justice of the U. S. Supreme Court, likes to tell of the thrill that he got as a young lawyer when he was

waiting on the call of the docket. He tells of a case being called in the crowded courtroom. A dignified, gray-haired lawyer answered the call with "We are ready, Your Honor," exuding so much confidence there was no doubt in anyone's mind in that court that the plaintiff was going to be well represented. The lawyer was Hon. James A. Reed, a great trial attorney, U. S. Senator from Missouri, whose employment in a case, civil or criminal, raised that case from insignificance to importance. An advocate is nothing more or less than a good salesman. If he has confidence in his product, he can sell it. If the trial lawyer has confidence in his case, in himself, he can sell his case to the court or jury.

To paraphrase Dr. Wm. Osler, the great surgeon of the John Hopkins Medical School. "There is one magic word that makes the dullard bright; that adds stability and sharpness to the intelligent; that lends lustre to the genius, and that word is 'work.'"

#### CHALLENGE OF ADVOCACY

The trial advocate has one distinct advantage over his colleagues in other branches of our profession. To him is given the great challenge to make the law a living instrument in our social order, not a dead, cold thing always governed by the rigor mortis of stare decisis. He has the tremendous opportunity of breathing new life into case law; of making our judiciary conscious of the effect of social and economic changes on the decisions it must make. It took a great trial lawyer like the Hon. Louis D. Brandeis to awaken the conscience and awareness of the U. S. Supreme



Court to requirements of society ~~almost 200~~ years after the industrial revolution. I have just finished reading a new book by A. L. Todd entitled "Justice on Trial," which narrates the sad story of the attack that was made on this great jurist by the vested interests which he had fought and beaten when the U. S. Senate Committee was considering Pres. Wilson's nomination of Brandeis to our highest tribunal, U. S. Supreme Court. The book makes reference to Brandeis' speech before the Chicago Bar Association a few hours after the death of Justice Lamar whom he was surprisingly nominated to succeed. Brandeis attacked the tendency of the law to lag behind the facts of life which gives rise to a clamor for the recall of judges and of judicial decisions. Then he said: "What we need is not to displace the courts but to make them efficient instruments of justice; not to displace the lawyer but to fit him for his official or judicial task."

#### THE KING OF SPECIALISTS

I have spoken of the specialty of advocacy as the specialty of specialties because every determination of a contested legal matter must be done in the courts. Perhaps I would not be criticized too much if I now referred to the trial lawyer as the king of legal specialists. Certainly the public image of the bar is created by the performance of the trial lawyers. He must then, as our professional embodiment, present a front which is scholarly, skillful and dignified without being stuffy or arrogant. The judges have a right to expect that the bar will respect the position of the courts, will

treat the litigants and witnesses with sympathetic understanding and will by learning and skill assist the courts in the formation of proper decisions. These minimal requirements do not call for any compromise of position nor for want of firmness in asserting a client's cause.

The king of the legal specialists will not for long have a need for clients. Firms want men who desire to follow the advocate's specialty. There is such a growing shortage of trial lawyers that the Hon. Tom C. Clark, Associate Justice of the U. S. Supreme Court recently said: "I know of one general court with over 50 judges where less than 100 lawyers handle all of the litigation."

REWARDS ARE PLENTIFUL

The old law of supply and demand comes into play when we consider the remuneration which good trial lawyers receive for their services. I can tell you from personal experience and observation that there is no group of lawyers in America who are paid so well as the trial lawyers, both on the plaintiffs and defense side of the counsel table. Money is not the only great reward of the trial bar, either. The satisfaction of being part of a noble, progressive judicial system, of participating actively and militantly on behalf of litigative causes, of actually directing cases through the channels where the law is interpreted, will furnish you a romance of thrills the like of which is hard to equal.

CRIMINAL PRACTICE CALLS FOR MORE TRIAL LAWYERS

Up to now I have referred only to civil litigation. Large

and growing as is such causes, the future for trial practice in criminal cases is of growing significance. Since the U. S. Supreme Court held in Gideon vs. Wainwright, 372 U.S.335 (1963), that the Sixth Amendment requires that counsel be furnished for an accused and that failure to do so was an invasion of his constitutional rights, all courts are now conscious of the crying need for making counsel available at an early stage of the proceedings. Implementing this provision, Judge Arthur J. Stanley, Senior Judge of the U. S. District Court for the District of Kansas, has announced a plan which, in effect, alerts every lawyer in Kansas to the fact that he is likely to be selected to represent an indigent accused person and that almost no excuse from serving will be granted except disability. Many lawyers who have settled back complacently to an office practice and who have not been in a criminal case for years, if ever, and who are trying few, if any, civil cases, are going to be rudely awakened by an appointment by the court to represent an indigent client in a criminal case. Because of this new responsibility on us as officers of the court, we are being urged to attend some of the institutes on criminal law and procedure that our bar associations are projecting. As Judge Stanley said: "You better begin brushing up on criminal law and procedure because you are going to find out that there have been many changes since you had your law school course in criminal law."

The state courts, too, have become aware of the necessity for protecting persons accused of law violations by providing counsel



for them in all instances.

### HOW TO BECOME A SKILLED TRIAL LAWYER

All right, you say, you have convinced me, how do I go about becoming a good trial lawyer? I want to point out the approaches which are available and some which the bar and the bench and law schools are now considering or might well be taken to account.

1. If you are considering a position with a large firm where the practice is departmentalized, advise the employing partner of your objective, get an understanding that you are to eventuate as an apprentice to the existing trial lawyers of the firm. Training in other branches for a year or more will be helpful but be sure you have a commitment to your ultimate goal and don't allow yourself to be frozen into other types of practice.

2. Positions with the government, state, federal and local, where you can observe advocates in action and where you will be allowed to try minor cases at first until you graduate in experience to more important cases, are great training grounds. The City Attorney's office, the County Attorney, the U. S. District Attorney, the Attorney General's office, State Highway or Tax Departments, where litigation is constantly involved, are fertile training fields for the young lawyer. In fact, it has been suggested that government positions should be available to law school graduates as a principal source of providing trial training just as the hospitals are provided to the young physician for internships.

3. If you cannot make the proper contact with a law firm or in government, you might have to do what so many of my generation did, -

open up your own law office, put out your own shingle, and practice alone until you have built up your own practice. The courts, if advised of your willingness to serve, will appoint you to serve indigent persons in criminal cases. Legal Aid societies often are over-burdened and would welcome help from young lawyers. Older lawyers are often quite happy to know some of the younger practitioners to whom they might refer smaller cases for trial. In the process of handling various kinds of litigation in the courts, you will develop an expertise that will sharpen your wits as it sharpens your knowledge. You will soon attract clients, too, so that you will build the kind of practice that will be rewarding, provided, of course, you have given to every case the kind of hard work preparation and thought which is so necessary.

4. The judges, too, I am happy to say, are bestirring themselves on the problems stemming from the shrinking of the trial bar and they must become even more articulate if the problems are solved before irreparable damage is done to the judicial branch of government. If dockets are clogged because large firms do not have sufficient trial lawyers, the courts must insist that these firms train more of their members for the actual trial work by refusing to adjust their dockets for the benefit of firms that cannot be ready for trial because their trial attorneys are otherwise engaged. Rigid enforcement of this rule will soon see a greater apprenticeship program for trial attorneys by the larger law groups. "The law's delay," always decried by the public, can be ameliorated if the trial bench insists that firms that generate much litigation provide ample trial lawyers to serve and process it.

5. Law schools also bear a great responsibility in this field. It is very well to train young men and women in the law as if the whole sum and substance of our profession centers around the law library and the erudite decisions of the courts set forth in the fine case books. But law is a viable thing springing from the people who must have courts to determine their disputes so that peace may be restored in private as well as public conflicts. Rules of evidence and substantive law are merely the tools by which we try to do justice. It is in the courts where the settlements and final decisions are ultimately made. Moot court is a step in the right direction but would it not be wiser to consider giving our senior law students some actual practice in the courts on live litigation by an internship in a trial firm.

Law schools, too, need to change their emphasis. Instead of teaching the law courses as if every student is being trained for an appellate judgeship, should we not give some thrust on the role of the attorneys in trying these cases; the theory as evolved in the lawyer's mind and the great role which such an attorney played in formulating the rule and in persuading the court to adopt it. By so doing, we can emphasize to a bigger degree the tremendous importance of the trial bar. A Marshal, a Holmes, a Brandeis, a Cordoza, a Learned Hand, are great names in our judicial history, but whoever hears the names of the important trial lawyers who conceived the theory, marshaled the evidence and argued the causes. The law schools can move the bar off its present



plateau to greater and loftier heights.

THE TRIAL LAWYER AND GREAT PUBLIC CAUSES

In periods of social changes, it is not the courts nor the legislatures which lead the battles. The struggles are carried on by enlightened people who have the vision to see and the intelligence to understand the problems. They agitate for reforms that are resisted by vested interests determined to maintain the status quo. Eventually the legislatures and the courts are called into the fray.

I want to see the legal profession regain its historic role as the leaders in great social movements for the betterment of all mankind. No segment of our profession is more fitted for this great task than the trial lawyers who have learned the art of persuasion in popular and unpopular causes. America has much to lose if advocacy becomes a dwindling art. It has much to profit both in and out of court if advocacy is promoted and encouraged.

THE CASE IN FAVOR OF PROPOSED LEGISLATION TO ELIMINATE THE ARBITRARY  
LIMIT IN WRONGFUL DEATH CASES

By David Prager  
Topeka, Kansas

Legislation was proposed in the 1959 session of the Kansas Legislature to remove the present arbitrary statutory limit of recovery in wrongful death cases which is now limited to \$25,000.00 for the life of any one person.

The proponents of this legislation believe that any arbitrary limit on the value of the life of a human being is unreasonable and unjust and that the only fair measure of recovery in a wrongful death action is whatever amount may seem fair and just under all the facts and circumstances of the particular case as determined under the orderly judicial processes of our state.

The present Kansas law is contrary to the overwhelming majority rule in this country. The proponents of this legislation simply ask the legislature to place Kansas in line with the 35 other states which recognize the value of human life by refusing to place an arbitrary limit on the right of recovery for wrongful death.

The following states presently permit recovery for wrongful death without an arbitrary limit:

Alabama	Kentucky	North Carolina
Arizona	Louisiana	North Dakota
Arkansas	Maryland	Ohio
California	Michigan	Oklahoma
Connecticut	Mississippi	Pennsylvania
Delaware	Montana	Rhode Island
Florida	Nebraska	Texas
Georgia	Nevada	Tennessee
Idaho	New Jersey	Utah
Indiana	New Mexico	Vermont
Iowa	New York	Washington
	South Carolina	Wyoming

Arbitrary limits are set in only 14 states, as follows:



Alaska  
Colorado  
Illinois  
Kansas  
Maine  
Massachusetts  
Minnesota

Missouri  
New Hampshire  
Oregon  
South Dakota  
Virginia  
West Virginia  
Wisconsin

Each session of the various state legislatures finds another state falling in line with the overwhelming majority of the states. In 1951, Connecticut abolished its top limit in wrongful death cases. In 1957, Indiana abolished its arbitrary limit.

Seven states have constitutional provisions which prohibit the legislature from enacting any law limiting the recovery for wrongful death. These states are as follows:

Arizona	(Declaration of Rights, Section 31)
Arkansas	(Article 5, Section 32)
Kentucky	(Section 54)
Ohio	(Section 19A)
Oklahoma	(Article 23, Section 7)
New York	(Article 1, Section 16)
Utah	(Article 16, Section 5)

Under our present statute the following unjust results can occur:

1. If a farmer driving a registered Angus bull to a stock show should be involved in an accident which kills the farmer and the bull, the farmer's widow could recover \$30,000.00, a possible value of the bull, and only \$25,000.00 for the loss of her husband.
2. The life of a lawyer making \$15,000 per year with a life expectancy of 20 years is worth only \$25,000 to his family which is less than two years' income. This situation occurred in 1958 in Topeka, Kansas, where a prominent attorney was killed in an automobile accident.
3. A truck driver earning \$5,000 per year with a family consisting of a wife and four children and driving a truck with a cargo worth \$50,000 is worth only \$25,000 to his widow and family under our present arbitrary statute. His employer could recover the full \$50,000 for the loss of the cargo.
4. If a man drives from Lincoln, Nebraska to Oklahoma City, Oklahoma, his life is worth whatever amount can judicially be determined in a court of law without an arbitrary limit in the states of Nebraska and Oklahoma. If, however, he should be killed in Kansas, the value of his life is arbitrarily limited to \$25,000.



The present arbitrary limit of \$25,000 in wrongful death cases is unjust, inhuman and unreasonable. The arbitrary limit should be eliminated and Kansas should fall in line with the other 35 states which give proper recognition to the value of a human life.

EDITOR'S NOTE: Congratulations are in order for former KAPA member David Prager. He has recently been elevated to a District Court judgeship. And a fine judge we know Dave will make. The above article was prepared for his use in working during the last Legislature for the elimination of the arbitrary limit upon recovery of damages in wrongful death cases. It will be only through consistent education that this enigma of the law will ever be erased from the statute books of Kansas.



NEWS RELEASE

Joseph Cohen, Kansas City, Kansas attorney, has been appointed as a member of a new committee established by the Executive Council of the Kansas State Bar Association to be known as the Committee on Professional Economics.

William M. Ferguson, President of the State Bar Association, appointed Mr. Cohen to serve with Jack H. Greene, a Wichita lawyer, who will act as chairman.

This new committee's function will be to study the economic problems of the Kansas Bar. National surveys made of the economic status of the Bar have shown that the income of lawyers has not kept pace with that of other professional groups and that the attractiveness of the legal profession to young men has suffered as a result thereof.

This new committee will attempt to find out the causes of the decline in income by the lawyers of the state and to suggest a program calculated to enhance the Bar's economic standing.



Telkover 10-22-63 before Heart of Am. Lodge at Jewish Com Center.

Speaking for a chapter of B.B. Women.  
All wrote KISS - Keep it short, stupid.

I let try to remember the seduction but to speak on the occasion of B.B. 120 anniversary is a great temptation & at the same time an exercise in discipline

2. B.B. 120 yrs of life is composed largely of the history of lodge P.Pres. who are the dramatic personae who make up the

shifting scenes that is B.B. - I congratulate this lodge on having been able to attract to its leadership the ~~men~~ P.Pres. here & not here but who are being honored tonight for their part in the great history of B.B.

3. I rejoined B.B. at the age of 21 - 40 yrs ago - ~~so~~ I have lived intensely with its manifold activities during exactly 1/3 of its life - and I think the period during which, tortuous well say, its period of greatest transition, growth & service

4. Most of you are familiar with B.B.'s glorious & enviable record. However, if you'd like a short refresher course I'd



recommend that you read Ed. Gued's  
history printed in the <sup>October's</sup> anniversary edition  
of the Nat'l Jewish monthly. Ed is our  
long time, veteran editor of our magazine.  
He has proven himself to be a good  
historian as he traces B.B. history from  
that famous day 120 yrs ago, in Sunbeamed's  
Cope on Essex St. lower East side N.Y. to  
the golden age of our Order which ~~is~~ is today  
4. Pres. Tyler was then Pres. of the U.S. There  
were not over 20,000 Jews in the U.S. then.  
The agitation of the anti-slavery people  
was just beginning to militant. There  
Jews who met were all small tradesmen,  
artisans & laborers. They had no appreciable  
wealth. They set out to found an <sup>intel</sup> organiz  
ation of Jews ~~to~~ would rededicate its member  
ship to elevating the moral character  
of the people of our faith to promote their  
highest interest & those of humanity. Here  
was great purpose by men of little formal  
education. They felt that Jewry needed a  
spokesman & a champion & they set out  
to provide the vehicle

5. I urge you to read Hurd's article. It will thrill you when you realize that from this modest beginning there has developed the greatest Jewish service organization in the world & you are privileged to serve as one of its members.

6. Our D. Y. #2 was organized in 1851 when 2 backstreet #1 & 2 came into being.

8. Mere age does not mean service. Methuselah lived over 800 yrs but nothing is said of any contribution made by him to humanity. He just lived.

B. B. started out as a fraternal order to provide ins. benefits; ~~the~~ secrecy, ritual, etc - Secrecy abolished in 1920. Ritual still is available but not mandatory. We had a fund for widows & orphans, we visited the sick. A bachelor was visited by 2 brethren before marriage & 2 after marriage.

9. Ron Brenner & I attended the official 120th anniversary celebration at Chicago's Waldorf Astoria Hotel a week ago. It was gala. Philip H. Hutzsch was the honoree. Those of us present & the new founders - 120 members were invited to B. B. -



\$700,000 raised with goal, only \$600,000,  
raised to 1 million

10 - 50 yrs ago Sig Lumsden, then a  
Bloomington, Ind, ally - later Chicago -  
organized A.D.L. to combat those  
forms of anti-Semitism & discrimination  
then there no rapport -

(a) 1st real struggle with the  
stage & newspapers

b. Henry Ford's Dearborn Independent

c. The Nazim in the 30s when

A.D.L. started its great growth

11 - 40 yrs ago we started the Hillel Fellowships  
now grown 247, serving 300,000 college  
youth - 77 full time Fellowships & 146 part time  
Counselors - 20 units in colleges thru  
out the world, including Israel - where B.B.  
has been interested for over 50 yrs

12 - 36 yrs ago A.J.A. came after the youth  
program for both high school boys &  
girls.

13. We are still the 1 great unifying force  
in Am. Jewry. Only B.B. can hold a roll  
of Jewish organ & have the



prestige to get positive response from  
other of Hall Jewish Orgon - which trust  
us.. Henry Moskby called the Am Jewish  
conference into being after World War II;  
Phil Kutynick & Label Katz both have  
headed the Conference of Pres. of Jewish Orgon

Pres. Cleveland in 1893 - our 50 anniv  
sent us greetings & every pres. Annually  
recognizes our great humanitarian work  
Pres - Truman - Eisenhower & Kennedy are  
recipients of A.D.L.'s Ben Demovader Legacy  
award.

14a) Our work is still unfinished, Bigotry,  
prejudice & discrim. still persists - maybe  
less vocal but we know it must be  
constantly fought -

a. Survey of structure of major  
industry - out of 5,000 only 328 -  
65/100 of 1% are Jewish

b - 25% of resorts still discrim

c. ~~Also~~ We ~~are~~ have about won our  
battle for equality of opportunity in education

② Jewish youth ~~still~~ <sup>will always</sup> needs guidance and help  
and off of computers.  
They will always need a strong Jewish voice

pleading our cause & the cause of all  
minorities for equal protection & treatment

4. Netake 1 step forward & we often our  
should backward by reactionary forces

(1) Your city is experiencing a campaign  
to defeat the ordinance for equal  
~~protection~~ public accommodations  
B.B. should fight on the side of  
this ord.

5. Strengthen B.B. thru membership, funds  
& program. "Big 120 years" is holamp

"All that is necessary for the triumph  
of evil is that good men do nothing."

"There is nothing so irresistible as  
an idea whose time has come."

The B.B. idea of 120 yrs has proved to  
be the great ~~idea~~ idea that was ready & the  
men who conceived it & the thousands that  
have served it since have ~~been~~ forged a  
& record. Our ritual calls on us - "Yahay Brouck  
Be Thou a Blessing." and it has been a blessing

INSPIRATION - PERSPIRATION - DEDICATION

It is a great privilege for me to be on a program where we are paying deserved honor to one of our nation's great presidents, Harry Truman, whose own life and public record marks him as an immortal in the field of human relations and an example of the qualities of inspiration, perspiration and dedication that combine to transform the ordinary man into a devoted, practicing humanitarian. In paying tribute to him, we enrich our own lives.

My subject as printed in the program is "Dedication". This title is general enough to permit almost any type of a talk on the vast field of human relations. After more than 40 years of steadfast work in this field, of trying to contribute my bit to furthering those programs of education and action that attempt to raise the level of people's thinking from prejudice to tolerance, from tolerance to better understanding and from better understanding to love and appreciation of one's neighbors and acquaintances of varying ethnic, national, racial and religious backgrounds, I have learned a few things that might be of interest to this audience, composed of men and women who annually prove their intense interest in creating good will by attending affairs such as this one, sponsored by our great instrumentality, The National Conference of Christians and Jews.

In my early years of the high school and college period, I worked my way through school as a reporter for the Kansas City Star in Kansas City, Kansas. One assignment that I shall never forget was to interview a couple in the Argentine district of that city who were celebrating their 60th wedding anniversary. After a delightful visit



with this happy couple, I returned to the office to type out the results of the interview. I recall that the lead paragraph of my story started out like this: "After 60 years of married life, Mr. and Mrs. X have learned that to remain happy, there must always be two bears in their home -- "bear and forebear". That story was copied all over the United States.

Just as that old couple had learned the practical need for understanding and tolerance, so we in America, and throughout the world, are realizing more and more that people cannot thrive and prosper, nor be happy and contented, unless <sup>they</sup> we are willing to accord to others the same freedoms, liberties and rights as <sup>they</sup> we wish to enjoy for <sup>them</sup> ourselves and <sup>theirs</sup> our families and friends.

Merely being in favor of the principles of our work is hardly sufficient. There really are two principles that must be firmly established in a nation's traditions before dedication is achieved. We have in America the first principle, well grounded and firmly rooted. That is the principle of inspiration.

We are a religious people and our traditions flow strong from the founding fathers who knew and believed in the teachings of the Old and New Testaments. The Golden Rule -- "Do unto others as you would have them do unto you" was Christ's admonition to his people and it was drawn by him from the earlier inspired writings of the Hebrew prophets whose works guided <sup>his</sup> life.

The Declaration of Independence of 1775 proclaimed that "We hold these truths to be self-evident, <sup>that</sup> All men are created equal, that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness. That governments are instituted among men to secure these rights, deriving

To quote further would be redundant. We have the inspiration in our nation's history and traditions -- but we don't always have the perspiration. We don't always work hard enough, educate deep enough, insist strenuously enough, that this inspiration be made effective, in good times and in bad, even when it is necessary that the majorities yield some of their cherished privileges for the common good of all.

If inspiration is to be more than merely lip service to a cherished ideal, if it is to be enshrined in the hearts and minds of men in a meaningful and worthwhile way, then there must be a willingness on the part of all men of goodwill everywhere to stand up and be counted, to raise those voices in a <sup>a</sup>defening crescendo whenever and wherever there is an attempt to abridge, deny or constrict the rights and liberties of even the ~~last~~ and most obscure among us and to work and strive unremittingly <sup>for</sup> the perpetuation and preservation of those rights and liberties. Then we have inspiration that becomes a living reality in the lives of all of our citizens. Then we have accepted the very exacting demands of our ideals and thereby we preserve for ourselves and our posterity the blessings of our democracy.

There are times when we become discouraged just as I have, when you witness the seemingly slow, almost imperceptible progress that is made in this field of good human relations. The six million Jews who died during our lifetime through the inhuman bestiality of the Nazi regime, the riots at Little Rock and Oxford, Mississippi, to avoid integration of Negroes into formerly all-white schools, the prejudice that still exists against Catholics in some areas that fought a losing battle in the Kennedy - Nixon campaign, all tend to

sicken and discourage us and make us wonder whether all of the inspiration and perspiration of the past years have been worthwhile

Yet, it has been worthwhile in a very practical sense.

You don't have to be a perennial optimist to see the social revolution that has occurred in the past 20 years. A mere analysis of legislation put on the books by almost every state in the union testifies to the progress that we've gained.

Since the end of World War II, an ever-increasing number of our states have passed laws guaranteeing fair employment practices, fair educational practices, equal rights to public accommodations, hotels, restaurants; states and cities have set up Anti-Discrimination Commissions under various titles, empowered by law to find out and correct abuses in these various fields. The states of Kansas and Missouri both have these commissions and both Kansas Cities have local civil rights commissions empowered by city ordinances to act in cases of prejudice and discrimination and, of course, our federal government has a similar commission active, restive and urgent. Of course, we, as mature citizens, know that laws alone do not change people's hearts or minds. But, we also know that legislation is usually behind rather than ahead of the thinking of the majority of people. When you find the Chief of Police of a southern city, like Atlanta, Georgia, saying to his officers recently that they must accord equal rights, protection and treatment to all citizens, regardless of color, or they are not worthy to wear the badge of office because the law means just that, then you know that the persuasive power of law prevails and sustains the principle of our democracy that ours is a government of laws and not men.

It is no longer fashionable to belong to a hate organization nor to boast of discrimination practices that still exist in semi-



private social clubs and organizations. The conscience of good men become uneasy when they are faced with long-established practices of groups that do not conform to the ~~the~~<sup>the</sup> more liberal beliefs and they want to do something about it and they are doing something about it. That is where the perspiration shows up.

The great advances on behalf of human rights have been won by these inspired people, ever growing in number and intensity, willing to work and give of themselves. They are the people who join and support such organizations as the Catholics Welfare Board, the National Conference of Christians and Jews, the Anti-Defamation League of B'nai B'rith, the Council of Churches, the American Jewish Commission, <sup>the</sup> who accept active memberships on boards and committees of these and other similar groups, who put life and meaning into official boards and commissions set up by law to cope with these problems, who by their own precepts and example set a pattern of goodwill in a community, in a lodge or labor union, in their businesses or professions, in their own homes to guide their children in the right direction. They are the dedicated people, they are the ones who furnish the inspiration and the perspiration.

In closing, let me paraphrase Vincent Benet in John Brown's Body -- America is not perfect, she still has her strife and her prejudice but the Lord knows she tries, yes she tries.

There preparation of the med. experts of your case and  
Cr. exam. of the defense doctors may <sup>spell.</sup> be the difference between a mediocre result and  
an excellent, unusual verdict. If the ~~forward~~ <sup>of your testimony</sup> has been permitted to effect the  
highest impact it strives for from their med. witnesses, you're not going to get the  
size of a verdict you had hoped for and probably are entitled to. Therefore, it is  
incumbent on every lawyer handling an injured party's litigation to fully prepare in  
advance not only his own side of the medical testimony but what is equally, and some  
times more important <sup>is</sup> to study carefully what the defense ~~x~~ is likely to produce and  
then prepare your attack on it. <sup>91</sup> This becomes incre<sup>3</sup>asingly easy for the old, exper-  
ience personal injury lawyer, who ~~x~~ crosses ~~swords~~ swords frequently with the defense  
counsel and their ever-ready stable of medical witnesses, but it is an entirely ~~x~~ diff-  
erent and more difficult task for the young men, inexperienced in this field, to  
marshal their heaviest artillery against the defense medicos, who likewise are ex-  
perienced in meeting the plaintiff's attorney's ~~xxx~~ cross examination--unless <sup>agor</sup> adequate  
preparation has been made.

My topic this afternoon is "Med. Prep. Before Trial and For The Trial." It is a  
rather <sup>v</sup> misnomer as it implies that there is some <sup>distinction</sup> differentiation between preparing  
a case before trial and preparing one for trial. In my book they mean one and the  
same thing and the topic <sup>could</sup> be less misleading if it <sup>were</sup> shortened to read: "Med.  
Preparation Before Trial." <sup>We have no monopoly on the art of evidence,</sup>  
<sup>experts in our office in R.C. 11's</sup>  
What we do ~~in our office~~ is typical of what is probably done in most offices handling  
a large volume of personal injury business. <sup>Let me briefly tell you what</sup>  
<sup>we do and if you find our story helpful we hope you will follow</sup>  
<sup>our procedure</sup> 1. We take <sup>from the injured party</sup> a very detailed report of all of the com-  
<sup>plaints, disabilities and running account of all that has happened to the client that</sup>  
<sup>has affected his ~~or her~~ well being physically, mentally, ~~and~~ emotionally, since the</sup>  
<sup>happening of the trauma. We want to know, too, what ~~her~~ condition was before the</sup>  
<sup>accident, whether he has ever had any operations, treatment for previous illnesses,</sup>  
<sup>either by disease or accident, so that we are forewarned of any possibility of a de-</sup>  
<sup>fense based upon <sup>pre-existing</sup> prior conditions.</sup>

Then we ~~x~~ decide what <sup>kind</sup> of a practitioner, <sup>in which specialty, if one is indicated,</sup> we want to send ~~her~~ to for further  
examination. Or, if she has a competent physician already treating her who might be  
relied upon to cooperate with us, we will want to obtain from him a detailed report  
of his treatment, diagnosis or prognosis and after we have received the same we talk  
to him by appointment <sup>and discuss by appointment, not just hanging in there</sup> at his office <sup>and</sup> go over with him the testimony which we might  
expect from him in the case. If the case falls into the type that requires ~~specialist~~  
<sup>can</sup> examination by one of the specialists in the field of neurology, ~~x~~ psychiatry,  
orthopedics, eyes, nose, ~~x~~ ears, <sup>throat</sup> heart, <sup>etc</sup> cancer, <sup>breasting</sup> we may suggest that the doctor refer



Why have the treating doctor make the referral?  
her to such a specialists because we have found that many times a referring doctors  
can obtain better results from such doctors that we can when they sometimes get wary  
that we may have to call on them to leave their offices and come to court to testify.  
too often, we have found that ~~the~~ doctors generally and specialists with big practices

in particular want to shy away from cases that might require their attendance in  
court and that such a possibility in ~~of~~ and of itself will keep some of them from  
giving a ~~far~~ favorable report, whether consciously or unconsciously,

I recall a case I had a few years ago where I exhausted my efforts to get any sub-  
stantial confirmation of my clients many complaints from the several doctors I refer-  
ed ~~my~~ client to but when he went to another doctor on his own and told me that this  
doctor could find nothing wrong and wanted to send him to a neurologist. My client had  
been to so many doctors he was disgusted and didn't want to do so. However, under my  
directions ~~we~~ he went back, told the doctor to make the appointment, saw the special-  
ist and fortunately we got the kind of a report that we used as the basis of a fair  
settlement.

Clients sometimes have a tendency to belittle their own complaints. These are the  
stoics who dislike complainers and hate to complain themselves. They are wonderful  
people to be around with socially but they are sometimes unfair to themselves and  
to their lawyers in the preparation of their case. Therefore, it behooves us in our  
quest for the facts to tell these clients of the pitfalls to them in the case if they  
withhold information from us or from their doctors just for the sake of not being  
classified as a complainer. You've got to delve a little deeper with such parties.  
Depending on the nature of the injuries, you want to know if they've suffered any head-  
aches and how often and what they do for them; does your neck cause you any pain  
when you turn your head; does your back hurt when you lift, stoop or bend, and what  
has been your various experiences. Have you bought medicines on your own, when and  
where, and for what cause. Have you lost any time from work as a result of these  
conditions, dates, times, or have you had to slow down in your work so that any of  
your fellow employess have noticed to having to sit down and rest and give us the  
names and addresses of these fellow employees so that we can talk to them after you  
have reminded them of the events and refreshed their recollection.  
After I have obtained the medical testimony that will support my client's cause,  
and have interview the doctors and have found out how far they can be expected to go  
on his behalf I like to have two or three good lay witnesses, particularly a foreman  
or a superintendent or a dependable fellow employee or an intelligent neighbor who  
will testify to some events relative to the plaintiff's injuries which will bolster



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up the client's own testimony as <sup>to</sup> the debilitating effect of the trauma. If you are lucky enough to get a school teacher, a nurse, <sup>a business or professional person or any</sup> or a personable ~~in~~ party on your side it is always of value.

Don't talk settlement of your client's case until you have exhausted your medical preparation. Experience will tell you whether the treating doctor is giving ~~the~~ your patient a break and if you're not sure have him ~~or her~~ examined by a physician in whom you have the utmost confidence ~~in~~ and one who can be relied upon not to disparage client's injuries whether based on subjective or objective findings and complaints. Remember, <sup>in evaluating a treating doctor's reports</sup> that every doctor takes pride in curing his patient and that he is inclined to evaluate his own treatment more optimistically than will another examiner hearing the same complaints that the treating doctor has failed to head or has minimized.

Don't get caught in the trap of using the treating physician <sup>alone</sup> when you get a report from him telling that he discharged the patient as cured when you know from your own client that he was complaining even when the doctor discharged him. Again, you will find that the ~~treating~~ treating physician himself will be more cooperative on behalf of the patient if he knows that at least one other doctor, who has examined him, has made findings substantiating the patient's complaints and rating the disability. Fortified with such additional report, you will be surprised as ~~the~~ to good effect it will have on the treating doctor when he knows that he will not stand alone on behalf of the

injured party. <sup>almost</sup> Besides, every case is worth having at least 2 <sup>separate</sup> medical reports by <sup>separate</sup> examiners and you owe it to your

<sup>clients to obtain the new</sup> Be sure you understand the meaning of the doctor's reports, sometimes and often couched in technical, medical terms. Use a medical dictionary, study medical text-<sup>and magazine articles</sup> books on the subject, understand <sup>the</sup> functions of the impaired parts. Even with all of the knowledge you can glean from medical libraries it is recommended practice to interview your own medical witnesses <sup>first</sup> for a good briefing on the subject, <sup>and</sup> pay these doctors for the time spent with you in the preparation if you hope to get the fullest cooperation from them and pay them <sup>on within a reasonable time</sup> immediately and certainly not on a contingent basis. We have found it very helpful <sup>in some cases</sup> to engage the doctor to do some of the medical research for you to support the position which he tells you he will espouse in court.

There are many kinds <sup>familiar</sup> of injuries arising out of trauma that require little or no preparation in the medical library. Today there is very little dispute among the med. fraternity as to the cause and effect of a ruptured intervertebral disc or the effect of a physical or emotional trauma as a factor in causing or contributing to a heart attack or the causative or contributing factors to traumatic neurosis. Yet when I started practicing ~~in~~ in the personal injury field in the 1925, when those of us who dared to battle with the vested interest, on behalf of the maimed and the



X  
crippled, the widow and the orphan, these disabilities were far from being understood and evaluated by the medical profession and particularly the defense corps, who seem always to be the last bastion against conceding anything that might be of help to an injured party. Those were the days, I recall, when you would take on such a doctor and when you cornered him with biting cross-examination, he would sting you by a reply such as this: "Your client will get well just as soon as this case is over." I remember my first encounter with such a doctor in court and I remember with what fury and indignation I confronted him in the cross-examination that followed and in the final arguments to the jury.

4# Those were the days, too, when we had to work out the techniques for mitigating the thrust of the defense doctor's testimony that there was no way of accounting for the exaggerated subjective complaints of the plaintiff, and turning such testimony around so that it not only didn't hurt you but actually worked to your advantage.

4# The ruptured intervertebral disc was the successor to the old reliable sacro iliac sprain which you couldn't prove or disprove by X-rays but ~~it~~ which the doctors in those days took as a diagnosis of the many back complaints they couldn't otherwise ~~explain~~. Thanks to Dr. Dandy of the Johns Hopkins ~~Univ~~ Med. School, the ruptured disc not only found complete acceptance by the med. profession but it could be diagnosed both clinically and radiologically. Only if proved by X-rays would the defense medics agree that one existed. We met this challenge on cross-exam. by preparation in the med. libraries which disclosed that 15 to 20% of the discs did not show up even with a myelogram. Preparation, study, interviewing your own doctors carefully made the difference between winning or losing, or winning a poor verdict or a lush one.

METHODS OF CROSS- EXAMINATION is a related subject.

These methods differ with every lawyer and the method that will fit one legal practitioner may not fit another. Each lawyer must use the method best fitted to his own personality, his own emotional make-up and his own peculiar intelligence. What will work with one type of person will fall flat with another. Some men can do devastating work with a soft, prodding cross-exam; others can do it rough shod in a snarling bombastic way and still be effective. But whatever type or method is employed the best results will flow to the man who has thoroughly prepared his case in advance. Unless you are fortunate to discover some facts about the witness during the direct or cross you are not likely to get very far with your attack unless you have made good preparation concerning the witness, if known, before trial.

4# Cross-exam., more than any other part of the trial, requires the greatest skill and ingenuity of the lawyer. Some lawyers are exhaustive in cr-exam. on the most minute details

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brought out on the direct whether they ~~are~~ are very material or not. They seem merely to ~~be~~ be wishfully fishing, hoping to reveal some fragment of testimony that might give them some thread of help. Usually, such cross merely tends to give the witness an opportunity to reiterate his ~~is~~ story and ~~to~~ strengthen the side he has ~~is~~ appeared for. I think this method should be avoided. Cross-exam. should be limited to delving into facts that might bring to light some evidence that will either mitigate or cast doubt on the ~~veracity~~ <sup>testimony</sup> of the witness or at least <sup>cast doubt</sup> the impression which he has sought to give to the jury as to the happening of the event involved.

91 If you haven't been hurt by the witness, I have found it valuable to waive cross-exam. entirely. Sometimes, defense counsel has purposely omitted asking some pertinent facts, hoping to have the witness throw you a hot answer on cross-examination on a point he might have felt would be better to let you bring out.

Another method to be avoided, in my opinion, is the badgering of witnesses to a point where the jury begins to resent your actions and tends to sympathize with the witness to your detriment.

Use a method of cr-exam. that tends to prove distinct points rather than using a buck-shot approach ~~that~~ that leads to nothing in particular.

If you are in a hotly contested medical case where there is a sharp difference between medical authorities on the causative or contributing ~~effects~~ <sup>claim</sup> affect of your trauma in producing the ailment be fortified with ~~is~~ a few of the medical books and magazines that support your position. For example, there is still a great contrariety of opinion with reference to the effect of trauma as a contributing factor in the spread, growth and acceleration <sup>of</sup> cancer. You need to be fortified when you try such a case ~~but~~ you'll be surprised <sup>how</sup> effective your quotations from med. books and articles will be on the court or jury when cross-exam.

92 A rarer type of case ~~is~~ involves a detached retinue of the eye which ~~is~~ I wanted to prove was caused by a strain. With the professors at the K. U. med. school as witnesses against me, I was able to ~~overcome~~ overcome their testimony largely by the force of my one medical witness who remembered reading in a textbook, used at the very med. school, that such a strain could cause the retinue to detach which could result in blindness if not caught at an early stage.

*Confronted with one sentence from the text we were able to overcome the defense's med. testimony*





NACCA BAR ASSOCIATION  
(NATIONAL ASSOCIATION OF CLAIMANTS' COUNSEL OF AMERICA)  
OFFICE OF THE PRESIDENT

EDWARD B. ROOD  
PRESIDENT

720 TWIGGS STREET  
TAMPA, FLORIDA

March 19, 1962

RE: Special, All-Day Seminars on "The Proper Handling of a Tort Case, From Beginning to End" (Time: 8:30 a. m. - 6:00 p. m.)

Dear Member:

This year NACCA is trying to put on a basic seminar in all parts of the country, as a part of our continuing program of education. Inasmuch as the lecturers and panelists attend at their own expense, the registration fee will be as low as \$10.00, just enough to cover our costs. Advance registration is not possible and the \$10.00 fee will be collected at the door. If you want hotel reservations, you should make your own directly with the hotel. NACCA's best speakers will attend to instruct on the following subjects:

PROGRAM

A. M.

- 8:30 A PROPER BEGINNING. (Original interview; check list; fee agreement; initial letters, etc.)
- 9:00 DO I HAVE A CASE? (Preliminary view of facts and law; reasons for refusing to handle "nuisance" cases; use of investigator; should I settle or file suit?)
- 9:30 ASSEMBLING THE PROOF. (Proper investigation; pictures and diagrams; hospital records; deposition techniques.)
- 10:00 FOLLOW UP OFFICE PROCEDURES.
- 10:15 SETTLEMENT TECHNIQUES
- 10:45 MATTERS PRELIMINARY TO TRIAL. (Conference with witnesses; proper order of witnesses; pre-trial discussion with witnesses; dress and behavior of plaintiff, etc.)
- 11:10 TRIAL BRIEF. (Contents, style, and when to prepare one.)
- 11:20 HOW TO SELECT A JURY.
- 12:00 ADJOURN.

P. M.

- 1:30 MEDICAL PREPARATION BEFORE TRIAL AND FOR THE TRIAL.
- 2:15 METHODS OF CROSS EXAMINATION.
- 2:45 OPENING STATEMENTS AND JURY ARGUMENT.
- 3:30 TRIAL TACTICS. (1-Railroad cases; 2-Tort cases; 3-Products Liability cases; 4-Admiralty cases.)
- 5:00 DISCUSSION OF SPECIAL PROBLEMS IN TORT CASES.
- 6:00 ADJOURN.

PLACE

- April 4 The Statler Hilton Hotel, Detroit, Michigan
  - April 5 Claypool Hotel, Indianapolis, Indiana (with the cooperation of the Indiana Trial Lawyers Association)
  - April 6 Schroeder Hotel, Milwaukee, Wisconsin
  - April 7 Sheraton-Blackstone Hotel, Chicago, Illinois
  - April 9 Blackhawk Hotel, Davenport, Iowa
  - April 10 The Statler Hilton Hotel, St. Louis, Missouri (sponsored by Missouri Association of Claimants' Attorneys)
  - April 13 Town House Motor Hotel, Omaha, Nebraska
  - April 13-14 Adolphus Hotel, Dallas, Texas (Tri-state Seminar sponsored by Texas Association of Plaintiffs' Attorneys)
  - April 20 Mayo Hotel, Pompeian Room, Tulsa, Oklahoma
  - April 21 Lassen Hotel, Wichita, Kansas (10th Circuit NACCA Seminar)
  - May 4 New York, New York
- (For further information contact Office of the President, 720 Twiggs Street, Tampa, Florida. May 5, 6 - Practicing Law Institute, New York, New York.)

These seminars will be conducted by a stellar panel of nationally known trial lawyers and lecturers including: Bill Colson, Jack Fuchsberg, John Lane, Max Israelson, Bill Frates, Hugh Head, Wm. Art Combs, Verne Lawyer, Russell Baker, Leo Karlin, Walter Beall, Craig Spangenberg, Harry H. Lipsig, Moe Levine, Albert Averbach, Leon RisCassi, Thomas F. Lambert, Jr., Israel Steingold, Philip H. Corboy, Eugene Phillips.)

EDWARD B. ROOD, President

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ADVOCACY'S GREAT CHALLENGE

*by*

THE HONORABLE TOM C. CLARK

ASSOCIATE JUSTICE, SUPREME COURT OF THE  
UNITED STATES.

*before the*

AMERICAN COLLEGE OF TRIAL LAWYERS

BAL HARBOUR, FLORIDA

MARCH 13, 1962

## ADVOCACY'S GREAT CHALLENGE

I take the liberty of your kind invitation to participate in your sessions. As one of your Honorary Fellows—1962 vintage—I appreciate greatly, as I said yesterday, the honor of your admission. Today I pray that I shall not violate its privileges.

During my early professional life I was in court often: in fact, for five years as Attorney for Dallas County my office was in the courthouse, and I was in the various courtrooms most every day. During that period I acquired a great respect for the trial bar, although like other of its members I had more native ability than legal learning. I lost quite a few cases to what we then called "the jury lawyer."

But those were my greatest days, for it was then that I learned to love the law and, through the experience of courtroom work, to appreciate and apply its teaching to the every-day problems of my professional practice. Advocacy was an art I longed to master.

It was there I learned that the adversary system had a certain genius. It operates on the assumption that the adequate representation of opposing interests is a better lie detector than any machine. It is therefore the handmaiden of that concept of ordered liberty to which our system of justice aspires. There are two factors necessary to maintain a healthy advocacy. The first is a strong trial bar, and the second is an efficient judicial system. I come here to counsel with you as to the state of both.

I talk with you because I believe that the genius of our system may be threatened. My case is laid before you because among you are the most successful and knowledgeable advocates in the profession. In addition, you have forged yourselves together into a strong, dynamic, and distinguished national College. It was Edmund Burke who said that "evil grows because good men do nothing about it." I have an abiding faith that you are



“good men.” Equally strong within me is the feeling that where evils exist you have the courage to do *something* about them.

We first focus our attention on the present situation at the trial bar. The work of your College is the sole counter action that has been taken to prevent a continued reduction, both in size and quality, in the ranks of the trial bar. For over a score of years trial lawyers have been a vanishing tribe. We shall not digress to enumerate the causes of this situation. I dare say, however, that specialization is one; lack of training another. Despite what some may say, advocacy should not be thought of as a specialization. It is in truth the core of the profession. Just as sure as lawsuits in the final analysis make the law, good advocacy makes good law. We should not, therefore, trust any field of law completely to the specialist. The advocate must of course be able to recognize the latent difficulties in a case that may require the views of a specialist, just as the diagnostician turns to the pathologist. But the specialist, without courtroom experience cannot see the instrument he is drafting or test the recommendation he is making through the eyes of the judge or of the jury. The advocate does just that. Indeed, accuracy in the solution of legal problems comes only by relating them to courtroom experience, where fact conquers fiction. The wisdom of a lawyer depends upon his grasp of the basic principles of law—and his aptitude in applying them to particular cases. The ability to distinguish between cases—to moderate the tyranny of the theoretical—is the imperative essential for anyone holding himself out as the mediator or protector of the rights of man between man, and man between government.

My thesis, therefore, starts with the young man just licensed to practice law. He no longer comes to you with hat in hand for a job. You go to him if he is high in his class and, if you get him, you pay a top salary. This is the beginning of the most important years in his professional life. He has, we will assume, a fine legal education along with a controlled and disciplined mind. But he

has only completed half of his training. He must learn how to apply the basic principles of the law to specific cases. His law school does not claim to have taught him this and, if he is smart, he knows it. But what comes next in his transition from law student to practicing lawyer?

It does seem that some conscious effort should have been given to this problem, but the sad fact is that neither the bar, the law schools, nor the courts have completely faced up to it. Your society alone has recognized this and taken some affirmative steps to correct it. One is your project to bring experienced trial lawyers to the law school where they can participate in programs designed to increase the stature of advocacy and to underline its importance in the building of a real lawyer. Even though a student at graduation has never seen a lawyer at work or attended a court session he will at least, under your program, have seen a trial lawyer in the flesh.

However, under present practice, if the graduate goes into a large law office, he is quickly assigned to research and memoranda work. In some firms he may be assigned to a senior who occasionally may have time to fill him in on some minor matter. The litigation of the firm is, of course, handled by an experienced senior. The routine of preparation is broken into small units, the least of which may be entrusted to the youngster. As a result courtroom experience comes later for him—most of the time too late because specialization has engulfed him in the meanwhile. He then takes on "a buck fever" that keeps him in the office rather than in the rough and tumble of the courtroom.

If the graduate goes into a small office his experience depends on the exigencies of the firm's practice. He might answer a few calendar calls. But try a case? No! They might lose a client. Confer with a client? No! He might steal him!

If the graduate is unfortunate and makes no connection he is graduated at large, placed on the hands of the public and at the mercy of whatever clients he is able to

muster. This often proves disastrous to him, degrading to the profession and sometimes destroys the respect and confidence that the public has for its judicial system.

This is not to say that the present practice has not produced some great lawyers. Take yourselves for example. But this does not in itself justify the situation. Either the law schools or the profession must provide training and courtroom experience for the young lawyer sufficient to develop his skill and confidence. This should begin, I submit, before graduation. In these formative years a confidence, which is the forerunner of independence, is developed. Once attained it is retained. An independent lawyer—willing to not only take a stand but to be counted—is the greatest bulwark of a free society. The Bar needs to be independent—especially from clients. —

The law schools, I know, have their moot courts and practice courses but I speak of advocacy as an art that can be only attained through exposure to courtroom activity. As I have said, this should begin in the law school. However, while we await that development, it is suggested that the law firms of the United States adopt a policy of requiring every lawyer who becomes affiliated with them to handle some trial work. This would at least give a start. In the beginning it should, of course, be under the tutelage of a senior, but as soon as the young lawyer shows aptitude then he should be put on his own. This would not only enlarge the ranks of the advocate but would enhance the skills of the young lawyer.

In addition to "firm litigation" he should also be required to put in some service with the local legal aid society—the lawyer referral bureau or the public defender's office. Instead of contributing more money to legal aid and lawyer referral, why not contribute services in legal skill? This would give the young lawyer a good opportunity to meet clients, test out his wings and gain that courtroom presence which is the *sine qua non* of the successful advocate. As Dean Rostow said in his article



"The Lawyer and His Client" in the February issue of the American Bar Association Journal:

"The provision of legal services to the poor, both in civil and in criminal matters, is in most communities of the nation scandalously inadequate. And for that failure we of the Bar are primarily responsible. There are outstanding Legal Aid bureaus here and there, and some effective Public Defender programs. But their strength only highlights our general failure to meet a real social need. The poor man cheated of a few hundred dollars by his landlord or his finance company, the boy swept up by mistake in a police raid, suffer losses and indignities quite as important to them and to society as those incident to lapses of the law which touch larger interests. Here, as in other fields of social welfare, we may be sure that if private and professional organizations fail to act, government will sooner or later take the initiative."

The good Dean did not mention it but on our Miscellaneous Docket over 1,200 *in forma pauperis* cases come to us each Term. Most of them are *pro se* applications. Examination of the papers show that most of them had no counsel in the courts below. In the Supreme Court we appoint counsel on the petitions that we grant and cover the expense of the record and briefs plus his actual travel expense out of the admission fees. Certainly a society that prides itself on its constitutional system should have a Bar that would furnish counsel *pro bono publico* to every indigent defendant who requested it. Moreover, some of these petitions make serious charges of incompetence of counsel. While the Court has not as yet reversed a case on that claim if the situation worsens just that may happen. Some say that incompetence of counsel is "a stock claim." Perhaps in many cases it is, but some of them have merit. Today the claim is commonplace not only in the paid cases but in the *in forma pauperis* ones as well.

The suggestion is that the law firms not only require their new associates to take part in the "firm litigation" but also make them available in indigent cases. This dual approach might afford grist for advocacy's mill and at the same time perform a function that the Bar owes to a free society. Certainly it would develop the skill of these young lawyers. And I assure you from where we sit the cause of advocacy can stand more skill.

Another thing that puts our trial courts in an awkward situation is the fact that most litigation nowadays is handled by a handful of lawyers. This puts the metropolitan court woefully behind. I know of one general court with over 50 judges where less than 100 lawyers handle all of the litigation. This is not a healthy sign for the profession or for the courts. The courts depend to a large extent upon the advocates, and when the litigation is so concentrated the result is not only that trials are delayed but the cases are ill-prepared. Most of the cases that come to the Supreme Court have gone off below on some procedural point that could have been avoided.

Conditions in the "criminal bar" are worse. In most of our cities the number of capable criminal lawyers can be counted on the fingers of one hand—and in some places you might not need a finger or so at that. This situation has a most serious impact on the administration of criminal justice. Especially disappointing is our failure to clean up the situation. For example, because of a woeful shortage of lawyers willing to take on criminal work, a layman with a criminal record recently masqueraded as a lawyer in Washington. He appeared in the District Court under the name of a licensed lawyer who had been a non-resident of the District for some years. He tried several important criminal cases. This went on for over a year without detection when a national magazine ran a picture of the culprit and he was recognized as a former convict. Naturally both the local court and the Bar had red faces.

None of us would defend these conditions as desirable, but few are willing to undertake the job of eliminating them. The suggestion as to law firms requiring their youngsters to expose themselves to court work is admittedly not a solution—just a starter. In addition to it another plan has been suggested. It is that the Bar Associations of two or three of our larger cities each inaugurate pilot projects in advocacy institutes. In such metropolitan areas the facilities of law schools would be available, and the trial bar would be of such size as to afford ample talent to take on assignments in after-hour teaching. The young lawyers would be the students, the subject: The Art of Advocacy. There are other solutions that I am sure would be even more effective. Furthermore, I am certain of one thing, if the American College of Trial Lawyers undertook to solve the problem, it would come up with the right answer.

The second indispensable to good advocacy is an efficient judicial system. Most of our state systems need a modernization job. I am happy to see that the trial bar is taking an active interest in this renovation. Judicial improvement is difficult, but there is a tide now running in its favor. As your President has pointed out, the Board of Governors of the American Bar Association has created the Joint Committee for the Effective Administration of Justice. Some 15 organizations all working in the judicial administration field have united together to put on a mammoth program to improve the organization and procedures of our state trial courts of general jurisdiction. Representatives of these groups compose the Joint Committee, of which I am Chairman. The Committee is financed by allocations of personnel and some cash from the cooperating organizations plus a \$350,000 grant from the W. K. Kellogg Foundation and a \$10,000 grant from the Rockefeller Foundation. During the next three years each of the 2,800 trial judges of the general courts of the 50 States will be afforded an opportunity to attend a



judges' seminar composed of the judges of his respective state. The Joint Committee has adopted an action program based on this declaration of purpose: Effective justice may be obtained in the courts only where judicial processes are (1) fairly administered without undue delay (2) by competent judges—selected through non-partisan, non-political methods, who are adequately compensated and with fair retirement benefits, with an expeditious method of removal for cause, and with annual conferences to keep current with improvements in judicial techniques—and with such judges (3) operating in a modern court system—simplified in structure without overlapping jurisdiction, with a sufficient number of them to carry the load and with practical methods for equalizing it, and with a competent administrative staff—all working under (4) improved rules for procedure and practice—designed to advance trial preparation, reduce the elements of surprise, and bring about an effective administration of justice.

This is a large order but we have good men to do it—all dedicated to the cause. The Committee's staff of full-time experts is now organized on a national basis. The Joint Committee has held four conferences since its organization, namely, in Michigan with almost a hundred judges participating; in the Southwest with over 110 judges present representing seven states; Puerto Rico with some 120 judges participating, and in Cleveland with all of the metropolitan judges cooperating. In the latter city the metropolitan trial court under the leadership of Chief Justice Silbert has inaugurated a pre-trial system in which experienced trial lawyers, led by Marc Grossman, sit after court hours as Masters. Last week 50 cases were disposed of by this unique voluntary procedure.

The Joint Committee enlists your support on a national basis. We need no money. We do need skill and ability. I think your College should have a close working arrangement with this program. Judicial improvement depends

largely upon the advocate. If he drags his feet, no program will succeed; if he puts himself into it, success is assured. Particularly in point are the words of Dean Drinan before the American Judicature Society recently:

"The oath of a lawyer means that he promises to society, calling God as his witness, that he will act as his client's fiduciary, in which capacity he is the trustee of the legal and moral legacy which belongs as of right to all those citizens whom he serves.

". . . How can the toleration of judicial inefficiency be squared with the solemn covenants which a lawyer has made with man, God and his own conscience? Judicial inefficiency not merely wastes the taxpayers' money, not only alienates the public from the bench and the bar but—far more importantly—the presence and the daily condonation of judicial inefficiency silences and corrupts the consciences of the judges, the lawyers and the court personnel who live and work amid the compromises known to all of them. There is nothing more corrosive of conscience and destructive of integrity than the guilty knowledge that we tolerate each day—through fear or apathy—conditions which we know should be and could be corrected."

To help in this great undertaking, I extend to the College an invitation to appoint a representative to sit with us on the Joint Committee. Together we can forge a sequel to Edmund Burke's admonition, and it will be: "Good men will do something about the evils of the law."

## A PROFILE OF THE PEOPLE'S JUDGE

by Joseph Cohen,  
Member of Wyandotte County Bar

One of the longest and most illustrative judicial careers in Kansas history came to a distinguished end on January 14, 1957, when the Honorable E. L. Fischer stepped down as Judge of Division 1 of the Wyandotte County District Court.

He was then 86 years of age and had served as a judge for 55 years, three years on the old City Court bench of this community, and 52 years on the District Court of this county, a continuous term that was interrupted only once. It was a tenure said never to have been equaled in the annals of the state/ and now could never be approached *in view of the* In this long and distinguished career on the bench, he, like the great Oliver Wendell Holmes, lived to see vindicated his liberal concepts of what should always be the law's principal objective, the protection of human rights above property rights.

Judge Fischer was a product of Kansas schools. Born in Kansas in 1870, he attended grade and high school here. He received his academic and legal training at the University of Kansas, where he was graduated with a Bachelor of Law degree in 1892, the year he was admitted to the bar and the year he commenced private practice. He was one of Uncle Jimmy Green's students at the A. U. Law School.

Judge Fischer had a reputation among members of the Bar as being a "plaintiff's judge". There was probably some basis for this reputation, but a fair and more correct appellation would have been to have called him the "people's judge". His natural sympathies were on the side of the common man who came into his court, injured and maimed, seeking justice.



When learned defense counsel would suggest that the court would be reversed on appeal, Judge Fischer never allowed such a possibility to deter him in his decision. Even in a state where our highest court was at times inclined to be extremely favorable to the arguments of conservative economic interests, he continued to expound a philosophy of liberality. Like the great Justice Holmes, he lived to see many of the liberal legal principles he espoused adopted as the prevailing view of our Supreme Court. In spite of his advanced thinking, Judge Fischer's record of reversals was certainly as good as the average members of the judiciary who were his contemporaries.

In a highly competitive and combative profession such as the law where the members of the Bar representing both sides of a case exert every bit of energy and talent which they possess on behalf of their respective clients, it would only be natural that the vanquished side of a lawsuit might be unhappy with the result. Yet, Judge Fischer had a reputation for fairness, honesty and integrity which was never questioned.

He did not believe in taking a case away from the jury unless compelled to do so by undisputed facts. In administering the harsh law of contributory negligence, which if applied rigidly denies a recovery for the slightest negligence on the part of a plaintiff, he believed that the softening and leavening influence of the jury should be brought to bear. Fortunately, his philosophy is now more than ever an accepted rule in our supreme court, and we are seeing more cases reversed than ever before wherein courts have tried to take cases away from juries.

I have referred to Judge Fischer as the people's judge. He enjoyed the company of people in all walks of life. Never one to hold himself aloof from the mainstreams of his community, he participated actively in all phases of civic, business, philanthropic and social service affairs. The Masonic Order found him an ardent and devoted member and honored him with many offices, including the coveted 33rd degree. He was one of the original members of the Kansas Judicial Council to which he gave excellent service.

There was genuine warmth in his friendly smile and firm handshake that immediately endeared him to those whom he met for the first time. It was a warmth that did not diminish but grew as you knew him better. He was an extrovert in the best sense of the word. He loved people and loved to socialize with them during and after business hours.

As the people's judge, he drew his great strength from the rank and file of the voters. In the early years of his judicial career it was not an easy task for a Democrat to be elected to any public office in Wyandotte County because the county was then overwhelmingly Republican. At one election he was the only Democrat to occupy public office at the court house, surviving the Republican avalanche because of the fact that he was the people's judge and the people responded to his campaign for their votes.

Even when he was sure of election because of the trend towards Democratic ascendancy that set in after the first Franklin D. Roosevelt election, he would not take for granted that he would be re-elected, but carried on his personal campaign with the people. In the span of 57 years from the date of his first election to the district bench to the time of his forced retirement in 1957, he had tasted the bitter pill of defeat once as a young man and he made certain thereafter that there was no



repetition.

Though he was 86 years of age when the judicial retirement act, which he had fought vigorously but unsuccessfully, compelled him to relinquish his judicial career, he was still in good physical and mental health. This had been his career and his great love, and he did not accept the stern realities of the law's objective too well. There must have been some resentment at this turn of fate which terminated the work he loved so much and to which he had devoted himself so assiduously and so well. Here was a case where a good law of general application could not make an exception for an exceptional person such as Judge Fischer.

When he stepped down from the bench he ended a notable and outstanding career in many respects. For a number of years he was the only judge of this judicial district. He learned to handle his docket with dispatch. Litigants who wanted their day in court got it with a minimum of delay. Lawyers often found him impatient with their attempt to continue cases, especially if there was a genuine and persistent demand by opposing counsel for trial. He felt that the courts belonged to the people and if litigants wanted their cases tried it was his responsibility to expedite the docket. Thus he hung up an enviable work record each year of the number of cases which he disposed of in his court. The people's judge was always available and the people had reason to know that they were getting their full money's worth both in time and in real judicial service.

Judge Fischer was a modest man. He made no claim to being the most erudite and scholarly man on the bench. A competent scholar, he



was also a highly practical judge with a penetrating sense of judicial awareness. Some of the most complicated cases in the judicial history of this county came before him during his many years on the bench, and these he handled with intense understanding both of the complex facts as well as the rules of law applicable. His instructions were seldom long or unduly involved but they covered the subject matter of the litigation adequately so that juries were able to understand the issues and render proper decisions.

He abhorred hung juries as a waste of time and a failure on the part of the fact-finders to complete the job entrusted to them. "If this jury doesn't arrive at a verdict," he would tell a hung jury, "some other jury no more able than this one will have to hear the case again and make a decision." His urging would sometimes dismay the lawyers involved who might feel that another trial would be better but it usually induced a verdict and saved the taxpayers' money.

<sup>as their</sup> ~~The people's~~ judge <sup>he</sup> believed in the wisdom of the people. That explains the reason he believed so ardently in the jury system as the best method ever devised by civilized man to settle his disputes. He fought every attempt to curtail or limit the right of trial by jury as an infringement on the people's liberties and rights. Seldom were new trials granted by him from the verdicts of juries whether they were for or against the plaintiff. He believed there had to be finality to litigation and when the jury spoke, it was entitled to be sustained by the trial judge unless its verdict was so manifestly erroneous as to demand its being set aside.

Judge Fischer had an uncanny understanding of people. He exercised a gifted evaluative process by which he was able to separate the "phonies" from genuine people of merit. His was a rare ability to penetrate the superficialities of specious argument and to separate the genuine from the welter of confusing pretense. When you argued a law point before this judge, you fared better when you were prepared with citations because the citation of one apropos case often meant more to him than the best argument that was not supported by the product of research. If from that case you quoted passages that tended to establish your position, he would frequently ask that the book be handed to him so that he might, on the bench, study its fact structure and its commentary. Not one to delay a decision, he seldom asked for briefs from the lawyers after the case was argued. Instead, he preferred to "think through" the facts and the law as the case progressed and then deliver his decision from the bench impromptu and instantaneously.

The people's judge had many of the usual attributes of greatness. Without pomp or pretense on the bench, his court was a model of dignity and decorum. When the organized bar recommended the wearing of black judicial robes, he demonstrated his independence of thought by rejecting the suggestion because, as he thought, it tended to separate him from the people.

Judge Fischer's home life was a happy one. His gracious and charming wife, Minnie May Fischer, "Susie" as he called her, was his devoted sweetheart and companion, and on her he lavished all of the love of his great heart. Friends liked to visit in his happy home, and when



they came they were often rewarded by an evening of music played expertly on the piano by the judge whose love for music and the piano never ceased. A son, Chester H. Fischer, who lives in this city and who has followed a successful career as a social worker, Community Chest and United Fund executive, and Mrs. Fischer survive this happy union.

The nearest approach to a divine right which men possess in a democracy is that which the people entrust to their judges. The right to sit in judgment on the disputes that arise out of human relations is a grave and weighty responsibility and men who have been elevated to judicial positions sometimes forget that they are the mere guardians of their privileges and not the owners in perpetuity of a divine gift. Not so with the people's judge, <sup>Fischer</sup> Always approachable, always sensitive and considerate of the feelings of litigants and their attorneys, always patient in listening to their testimony and argument, he gave everyone a feeling of having had his full day in court.

The people and this bar in particular lost a great judge when Judge Fischer terminated his judicial career. The debt of gratitude which we owe to him, as we do to other judges who serve us long and faithfully, can never be paid and it cannot be adequately expressed in a memorial exercise such as we hold today. No words that I may say will have much meaning, but in the hearts and minds of the hundreds upon hundreds of people whose lives he touched and enriched, whose disputes he settled fairly and justly, to whom he gave counsel and advice that made their road easier, the people's judge, <sup>Fischer</sup> has built a lasting memorial that will influence the lives of generations yet unborn. To paraphrase the great poet Markham's statement about Lincoln, When he fell it was like a great oak that falls in the forest and leaves a void in the sky.



## HUMAN RELATION--1960

There are many kinds of relationships--public relations, employer-employee, press relations, foreign relations--but it is the art of human relations that encompasses all of them.

This art was defined by one wag as ~~it~~ being the art of treating people as if they were human and not relations.

What might be considered in 1960 as some new kind of art is really something we have had drilled into us from childhood for centuries without end. It is the golden rule of the Bible, to do unto others as you would have them do unto you. The churches have tried to preach ~~and~~ it, the schools work at it, the intelligent home teaches it but yet it is the most difficult art in the world to foster. About the time we think we have made some ~~headway~~ headway, along comes some hate movement that enlists thousands of confused malcontents and from one objective of hate it sprads until many different objects are involved.

We must teach ~~the~~ people how to get along with each other and how to handle situations as they arise.

- A. ~~Teach~~ Workshops for teachers, police, industrialists, labor executives, union labor leaders--all over the country training people how to get along.
- B. Teach people that there is a right to be different. Story of the school girl who was ostracized by her high school friends because they thought she was Jewish because she wore a ring with the Star of David on it.
- C. Recognition of the rights of foreign born to carry on their traditions and rituals.

We must teach people that there is an inherent right that must be respected of every Am. to work, to public accommodations, to schools and to housing without regard to race, color or creed.

1. Legislation in our generation ~~in~~ many states prohibiting discrimination in housing, employment, education, setting up ~~for~~ anti-discrimination boards in these fields with penal provisions against any who violate. Unfortunately, Kas., which has an anti-discrimination commission, has such a weak law that it can only investigate and propagandize but no teeth and insufficient money to be really effective. We should do something about it.
2. Problems of human relations become very tense when the mores and practices of people become deep-seated as ~~is~~ in the South where 5 states have not even made a start in complying with the constitution as interpreted in 1954.
3. There is still much doubt as to whether a ~~Yx~~ Catholic can be elected Pres. because of the prejudices deep-seated against that faith.
4. The recent desecration of the syngogue in Cologne, Germany, followed by widespread similar acts of vandalism and desecration of Jewish institutions all over the world and to a large extent in the U. S. shows that latent neo-Nazi tendencies, which costs 6 million Jewish lives, and millions of other lives in World War II, are still alive 15 years after the war.
5. Images of people as wops, geezers, bohunks, kikes still persist ~~to~~ falsely describe ~~the~~ people we don't like or don't know.

People are entitled to be judged in the true American way--on character, intelligence, attitude, merit and not by ~~the~~ prejudiced thinking which refuses to recognize the true value of man. When you start disliking someone, asked yourself ~~if~~ if you can ascribe ~~an~~ rational reason, eliminating race, color and creed. ~~In~~ In South Pacific, the song, "We have to be taught to hate," was a good contribution to the art of human relations.

America can ~~only~~ continue to achieve greatness, unity, strength enough to withstand any external enemies if we do not dissipate our resources in those things that divide us from within. Economically, we need the manpower to don't use in employment through discrimination; we need the better schools we can have in one school system not two, we need the better homes that replace the slums that breed lawlessness and delinquency, we need the harmony and creative force of all people.

Story of the man lost in the London fog.

CONGREGATION OHEV SHOLOM

Kansas City, Kansas

MARSHALL MILLER, Rabbi

PHONES

STUDY - DR. 1-0110

RESIDENCE - FA. 1-2879

January 21, 1960

Mr. Joseph Cohen  
711 Huron Building  
Kansas City, Kansas

Dear Joe,

I had promised to send you some information regarding the origin of the Chanukah Menorah. I believe that Norma Braly is using the Menorah as part of the table decorations. I think she said that you were to address her group on January 26.

Chanukah is a dated holiday, commemorating the victory of Judah Maccabee and his followers over the Syrians (Greeks) in the year 165 B. C. E. Originally it was a struggle for religious freedom. It led to the establishment of a new, independent Jewish kingdom in Palestine, which lasted over a hundred years.

As to the Menorah and candles there are various explanations. The Talmud refers to the legend of the flask of oil, which was not defiled, and contained enough oil to light the Menorah for one day. A miracle occurred and this oil lasted for eight days. The Midrash, a basic source of Jewish literature and lore, states that it required eight days to build a new altar and to install the new sacred utensils. As a result we observe the holiday eight days. The kindling of the lights is attributed to the fact that when the Maccabees entered the Temple they found eight iron spears, stuck candles in these spears and kindled them.

The Shamash on the Menorah is in a sense a 'servant' and is merely used to kindle the other candles.

At our Rabin Interfaith meeting we unanimously selected Earl Peterson as the recipient of the award. There were a few other candidates whom we discussed.

The presentation will be held on Thurs., Feb. 25, at 8 P. M. It was suggested that we try to obtain Judge Stanley as our principal speaker. Please give it some thought.

Cordially,

*Marshall*



I would like to tell you something new, give you some fresh angle, startle you with a novel observation, stimulate imagination to great heights of eagerness but that is next to impossible in this day of the greatest tourist season ever enjoyed in Europe.

But I can describe one man's reaction to these sights and I can give you some information about places that are constantly in the news but which have only recently been open to travel to the American public and where history is now being written. I mean West Berlin and West Germany, Vienna and brave little Israel, our dependable ally in the Middle East, standing alone amidst nine huge bullying Arab nations that swear to bring about her ultimate downfall while she stands mockingly strong daring them to try.

We visited eight countries in toto, seven in Europe and Israel situated at the bridge between Europe and Asia. England was our first stop. From London we took trips into the beautiful countryside which in many respects looks like our own New England states, particularly, New York, Connecticut and Massachusetts. I thrilled at the site where King John was compelled to sign in 1215 the Magna Carta, the first great document of Anglo-Saxon freedom. Our guide was a great student of English history and his description of the gathering of the Lords and Barons at Runymede to demand this concession from the unwilling king was almost in the dramatic manner of the "You Were There" T V programs. When he told of the noblemen awaiting the arrival of the king and the latter's refusal to attend and the message sent back to the king that if he didn't come they would go and get him, I could feel the tenseness of that day when the people first rebelled against unrestrained monarchy.

We then went to the town of Bray on Avon where we were first introduced to the story about the Famous Vicar of Bray who during the Protestant Revolution changed his faith three times from Protestant to Catholic, then when the town went Protestant again, back to that faith and again to Catholic when another change occurred. But, as the poem says, he remained, as he <sup>deserved</sup> ~~denied~~, always to Vicar of Bray.



On the mantle of the fireplace of the quaint English inn in Bray where we dined was a quotation placed there during the dark days of the Second World War when England stood alone against the might of conquering German hordes, with Churchill defying them to try to invade his tight island homeland. It said "Fear knocked at the door. Faith answered. Noone was there." Isn't that a great piece of philosophy? Fear will disappear if you have faith. Faith in your God, faith in yourself. Our guide added this one: "Don't spoil today's blue skies with tomorrow's dull clouds."

The Crown Jewels in the London Towers, built by the Normans in the eleventh century with a moat around it was worth seeing if only for the purpose of giving you some idea of the pomp and splendor of a British coronation. Diamonds 25 and 50 carats in size were a commonplace. We were amused at a tiny crown on display there when we were told that Queen Victoria had it made for her use when the regular sized crown proved too big and gave her headaches.

I visited the Lincoln Inn of Courts, one of the ancient Inns of Courts where British lawyers have been trained for centuries. We were shown the great beautiful dining hall where the students and members of the bench and bar dine daily. The keeper proudly showed me a framed letter from General Eisenhower thanking the Inn for making him a "bencher" upon his visit there. Another pride was the huge law library maintained there.

When we entered the Inn we first met a young dark skinned man whom we asked for directions. He promptly offered to and did take us to the office. As we walked with him we learned that he was from Ceylon, a student of law at the Inn. He said there were students enrolled from all over the World, particularly the British Empire.

I was interested to know of the educational qualifications for entry into Law School. All that is required is the completion of a four year course in a secondary school, not a college degree as we require in America. However, a young man finishing the law school does not enter into practice immediately but usually undertakes an apprentice or internship with older lawyers for a year

or more. Requirements in France are practically the same I learned from a French lawyer friend.

While I'm on the subject of the law, I would like to tell you of my visit to the French law courts in Paris. My friend first went to the locker room put on his ornate black robe with a white ruffle in front and then took me from one level of courts to the next, starting with the Court of ~~Corsation~~ <sup>Conversation</sup>, which is equivalent to our United States Supreme Court and passes on only the law, not facts of a case. Then to the intermediate courts of appeal, which review the trial court's decisions and which may reverse or modify them on law or facts with the same authority of a nisi prius court of original jurisdiction in our state.

Trial by jury is unknown in France except in major criminal cases. I saw one criminal case on trial with six jurors sitting on one side and six on the other with a witness standing at a rail giving his testimony in French in the middle of the room, facing the 3 red-robed judges. It seems as though the witness were permitted to speak his testimony without questions or cross-examination. I learned that cases are pre-tried by written statements obtained before actual trial and that little cross-examination occurs unless the witness varies his statements.

Surprising to me was the large number of women wearing the legal robes. They were all over the crowded corridors talking to clients and witnesses, as were the men lawyers, and were engaged actually in the courts. There are about twenty per cent women lawyers in France and my friend said they were very intelligent and industri<sup>ous</sup> and were particularly helpful in the preparation of cases. He might have been prejudiced in their favor in view of the fact that his wife is a practicing avocat, too.

We are familiar with the English classification of the bar into Barristers, Solicitors & Proctors. In France there is also a distinct classification, <sup>a</sup>Notories and <sup>a</sup>Avocats. <sup>a</sup>Notories are something greatly more than what we think of when we mention the name. They have the lucrative probate practice, drawing of wills and trusts, and the handling of real estate conveyances and other legal documents. Only when there is litigation are the avocats called in. Advocats cannot even draw a will, but they



can consult with reference thereto and do prepare wills for their clients who must then copy the will in his own handwriting at his home and when so done, a will is sufficient without signatory witnesses. It is the same as our halographic wills, only it may be probated at any time without limitation.

I said at the outset that this is a great year for European travel. I didn't run into Paul Ditzen myself but our traveling companions, the I. D. Rubins of Kansas City, Missouri, reported meeting them at Heidelberg, Germany. We did, however, get the surprise of our trip when we turned around to see Jimmie and Helen Howell and Carl and Ruth Rice shopping in the famous Flee Market of Paris. Meeting friends from home is always a pleasure when you are traveling, but to meet four of your old neighbors from the 22nd and Washington Blvd. area is something extra special. It gave me almost as much pleasure as a letter from my office telling me that my partner, Charlie Schnider, had gotten a \$60,000.00 verdict in a damage suit which he tried in my absence in Kansas City, Mo.

We left England with a renewed and revitalized appreciation of the English people, their love of tradition and history, their loyalty and the throne and love of the prevailing monarch, Queen Elizabeth, and her husband, the Duke of Edinburgh. I'll not tell you of Windsor Castle or other great castles which mark the countryside, reminding us of the feudal days when the castles served as the governing spot and the military fortress of the area. Parliament, Westminster Abbey and Hyde Park are standard places to visit on any sight-seeing tour. Those of you who might be going to the American Bar convention in London in May will want to spend a lot of time on the British Isles.

✓ Hyde Park is worth mentioning further because of its reflecting so typically the great affection which the English have for the institution of free speech and free press. My wife and I went over to Orator's Corner in Hyde Park merely to spend a few minutes lis-



tening to the speeches that were going on in at least 5 or 6 different places. We got so interested in the discussions that we were late getting back to our hotel for dinner. One orator had his own platform and billboard. He was a darkskinned lawyer from one of the colonies. He was lambasting the government over the Suez crisis and was being heckled by various people in the audience and in turn was being defended by others, some in good humor, others very serious.

In another place, two Arab students were discussing the Israeli problem in the Middle East from the biased point of view of Arabs. When they finished, a by-stander from Australia took them on and by the most persuasive facts I had ever heard on Zionism, and I think I've heard much, completely devastated their positions to the amusement and edification of the crowd.

At still another spot, there was a fiery Irishman talking on the old subject of Irish freedom, and when the hecklers tried to drown him out he shook his fist and said: "You ask me why I don't go back to Ireland, if I love it so much. I'll tell you what I'll do. If the English will get out of Ireland, I'll get out of England."

So everyone has a chance to blow off steam, say anything on any subject he wishes, criticize the government and be protected by the bobbies who stand around so long as he does not commit a criminal breach of the law.

Of interest to me as an American, too, was a visit to Sulgrave Manor, the Northamptonshire home of George Washington's ancestors. A tour through this old, two-story Colonial type home is proof that the Father of His Country sprang from <sup>not</sup> ~~an~~ aristocratic Anglo-Saxon blood who lived gently and well in England just as our first President did at Mount Vernon.

Have you ever wondered as to the mechanism and organization known as Lloyds of London, the famous insurance exchange where the great institution of the modern insurance industry was born? I had a curiosity to visit this world-renowned place and learn at first hand more about it. Through an insurance contact in Kansas City, I was

able to meet one of the brokers whose firm places United States insurance risks with Lloyds and from him I learned some interesting facts and was shown through the present exchange floor which, incidentally, will soon be replaced by a new one in larger quarters nearby.

As you all probably know, Lloyds of London originated in Lloyd Coffee Shop as a mutual or reciprocal marine insurance group, composed of ship owners who insured each other's ship's and cargoes against the <sup>risks</sup> ~~perils~~ of the sea, each person in the group accepting a certain percent of the liability. From the beginning in \_\_\_\_\_ the Lloyd's Exchange has grown to such proportions as to rightfully enjoy the reputation of being willing to accept and insure against any risk whatsoever. In a single day the Exchange will underwrite an average \$30,000.00 in insurance risks involving premiums proportionately as large.

Contrary to popular belief, Lloyds of London is not an insurance company. Rather, it is an aggregate of individual syndicates whose members must qualify with unexempt property of from one-fourth of a million dollars upwards, be people of tested character who are prepared to pay insurance losses out of their own property should their professional underwriter, who manages the syndicate, prove to have exercised bad or unlucky judgment in accepting a risk. However, we need not shed too many sympathetic tears for these syndicate members for the reason that they are well insulated and every year make handsome profits.

If you have an insurance risk you want covered, the procedure involves contacting a broker; he, in turn, goes on the floor of the Lloyd's Exchange, contacts the leading underwriter there in the type of risk involved. If the latter agrees to take a certain part of the risk, say ten to twenty per cent, it is easy to get the other syndicates to accept smaller parts



until the entire one hundred per cent of the risk is underwritten at a premium fixed by the expert first contacted whose judgment carries so much weight and influence with the others. No corporate entities exist on the Lloyd's Exchange, it is all individual responsibility.

I will not dwell on our visits to Holland and Belgium. These are lovely countries, industri<sup>o</sup>s, thoroughly democratic. Both were invaded by Hitler without cause and previously by the Kaiser in 1914 and the people in those countries do not speak too kindly of the Germans. In fact there is a suspicious feeling there as well as in France, that the re-arming of West Germany may again result in arousing the militaristic feeling of the Germans to a point where they may again, in a generation or two, make another bid for world domination. The Dutch and the Belgians are small, freedom loving people, who are now enjoying, along with all of Europe, great prosperity.

We flew from Amsterdam on K L M to Nuremberg, Germany, where we were joined by my son, Barton, a member of the Wyandotte County Bar Association, and his wife, for the week end. Bart is legal officer of the 33rd. Battalion of the 3rd. Armored Division and should be practicing here next summer or fall after his discharge from the Army. Bart had to go back to field maneuvers, but we did have the pleasure of touring West Germany in his little 4-cylinder 1952 Mercedes Benz that he had purchased for \$500.00.

All that you have heard about the beauty of the German countryside was confirmed by us. Hitler's autobahns, or super highways, are the finest in Europe and compare with our turnpikes. Though he built them primarily as highways for his mechanized armies, their use as peace-time roads make Germany far ahead of any country, including our own, in good means of automobile communication. Secondary roads are narrow and winding and should be avoided in Germany but if you stay on the autobahns you'll have a delightful tour. I am happy that our own Federal Government has recently voted to subsidize an improved and enlarged highway system in America to meet the present-day demand for roads that will equal the advances in speed and comfort of



current automobiles.

We visited, besides Nuremberg, Munich, Frankfort, Heidelberg, Weisbaden and West and East Berlin. It is almost incredible the terrific destruction which the Allied bombers wrought on Munich, Frankfurt and Berlin and one wonders why the German people continued to fight during the last year of the war when defeat was inevitable to any sane leader. These cities not only were bombed at night but during the day time, too.

I asked several German people that question. The most rational answer was that Hitler told the German people that they were not fit to live if they lost the war and then promised them a secret weapon that would turn defeat into victory and they believed him. One German businessman said that documents had been discovered since the war that confirmed the fact that the Germans were working on the atomic bomb at the same time as we. I had read of that before and I thanked God that we had made the discovery first as I would have shuttered at what our reaction would have been had the atomic bomb been exploded in New York City first instead of Hiroshima and how well would we have been treated had victory gone to the Germans instead of to us.

The Germans are enjoying great industrial and economic prosperity. Cities scarred by bombs show block after block of cleaned places where the rubble was taken away or where part of the building can be used, the useable part remains as a stark reminder of the power of nuclear weapons. Frankfurt, seat of our military staff in Germany, seemed to be furthest along in its recovery program. We stayed at the lovely Frankfurterhof Hotel which was practically leveled by bombing raids, but which has been restored to its pre-war style and appearance with all modern conveniences, including American type shower outlets, something rare, indeed, in that country. Munich is also a thriving city where trade goes on with alacrity. As one of the great cities of Germany, it, next to Berlin, got the real fury of our air attacks and this destruction is apparent everywhere. Temporary shopping centers, though, are giving way to a

program for permanent structures on a large scale basis. We found Munich the best place to shop in Germany.

Berlin is a different story. Entirely surrounded by Russian-held country, it is an inland island, about 2/3 of which is in Allied hands, and the other 1/3, East Berlin, dominated by the Communists. This is a sore topic to the Berliners who have trouble rationalizing the Yalta agreement of Roosevelt, Churchill and Stalin that permitted this eventuality. The city is divided into 4 sectors, British, American, French and Russian. We went through the Brandenburg Gate that divided West Berlin from East Berlin. It so happens that the best and most beautiful government buildings, the university, the stock exchange and leading hotels were in the East Berlin sector. They are still shambles from the destruction of our flyers, as the Russians have done little as yet to restore the damage. One sees the rubble and damage to the once-beautiful structures and one has no difficulty in equating the destruction with the historic Vandals or Ghengis Khan. Though little building has occurred under Russian influence in East Berlin, we did see a block of large business buildings constructed as a facade against bombed-out buildings to their rear.

Instead of building homes for the many who need them in East Berlin, the Russians have completed a huge, gorgeous memorial in East Berlin to the memory of the liberation of the country by the Russians. We were told that this memorial cost \$16,000,000. How much more impressive it would have been to have seen that amount of money go into apartment buildings where people could enjoy housing they so sorely need.

There is now easy communication between East and West Berlin. Many people work in one sector and live in the other or vice-versa. However, there is the problem of different currency values, cost of merchandise and other things which have a deadening effect on business and commerce between the two sectors. For example, you use one kind of money when you take the subway to East Berlin and one entirely different exchange when you leave there. It is not hard to make a



change in residence from East Berlin and East Germany to West Berlin and West Germany, but to do so one has to be willing to leave all of his earthly possessions behind and be content to start all over in the free part. I was told that many came each month from the Russian-dominated sector as well as from countries behind the Iron Curtain-- Poland, Hungary, Rumania and even Russia making their perilous way in the most devious and hard manner.

✓ On the whole, I found Germany quite grateful to America for the economic and military help which we are furnishing. They realize that it is our large army and air force stationed in West Germany and in other European countries which is keeping the Russian ambition in check and without which they and all of Europe would be in danger of Communist control.

I went away from Europe with a finer appreciation of our contribution to the N.A.T.O. forces and with a better understanding of the strategy behind our program. So long as we remain in Europe as a strong force, the likelihood of Russia or any other country trying to attack is greatly minimized. It is no longer a question of will America join in the defense of Europe against our enemies. Nato is an actuality, a mutual assistance treaty not only on paper, but any attack on our allies would immediately be an attack on us, and our forces would be involved to fight it out on European soil rather than on our own and we are prepared. Distasteful as is the draft to all of us, I don't see how we could ever provide the armed strength without it, and that is the general feeling of our boys stationed overseas, if my judgment serves me right.

I know you will be pleased to learn that our government takes mighty fine care of its men in the armed forces overseas and their dependents, providing them with recreation facilities of all kinds, including an excellent sports program; post exchanges, P-X's, stacked with the best merchandise of the United States and Europe, smart bars restaurants, hotel facilities for guests and men on leave, all at reduced prices. I paid 75¢ per gallon for gasoline in Germany at a



regular petrol station, whereas my son can buy it from the military filling stations at about 13¢ or 14¢.

One gets a better appreciation of our strength in Europe when he reflects on the airlift that saved West Berlin when it was cut off by the Russians from all supplies from the outside world in an attempt to bring all of Berlin under its domination a few years ago. Even the electric power plant, located in East Berlin, was shut off so that West Berlin was in darkness and without electric power for any purpose for several months. This might have resulted in war had not our airlift brought in food and all other supplies by an ingenious air transportation system which we established. I was told that the Russian blockade finally was broken when Americans flew an entirely new power plant and erected it in West Berlin to replace the one in Russian hands. We saw the simple monument to the airlift in the form of a symbolic concrete <sup>ridge</sup> budge, in front of the Tempelhof Airport upon our arrival in Berlin.

We found Vienna happy and prosperous a year after the Russians finally agreed to conclude a peace pact with Austria. Like Berlin, Vienna was a divided city, occupied by the Russians in one section and the Allied powers in other sectors. Now that all of the "liberation" armies are out of Austria she is free to carry on her own affairs without intervention.

Vienna has a reputation for being a city of culture and gaiety. We found the culture but the gaiety of the past was not too apparent. Viennese love their music. One of the finest buildings in the city is the new <sup>a</sup> Stadtsoper House, a gorgeous structure of limestone and marble recently completed to replace the one bombed out during the war. It was a memorable event to us to attend the production of the R Strauss Opera, "R<sup>o</sup>se Ca<sup>i</sup>volier" in this huge, ornate building.

Sermon entitled, "What is Man", delivered Friday at the regular services of Congregation Beth El, Friday evening, February 6, 1959, at the Toon Town Auditorium, Prairie Village.

Our prayer books quote the psalmist as asking God gravely and reverently: "What is man that Thou takest knowledge of him or the son of man that Thou makest account of him?"

Of course, as used in this context, "man" is a generic word, having reference to all human kind, men and women. The question is a searching and thought-provoking one; it has been the age-old wonderment of people from the dawn of antiquity, perhaps as far back as our ancestral tree will go. I don't doubt but what the hazy brain of the epithicus erectus might have pondered this question when first he climbed down from his arboreal home, stood erect and became the founding father of the human race.

Man is a complex of good and evil, gentle and cruel; he creates, he delves and probes; he loves and hates; he can be hard as nails and compassionate and sweet almost in one breath; he will spend billions of dollars on medicines and medical research to lengthen life and many times that amount on research to find the most destructive weapons and the quickest way of delivering them for the annihilation of his enemy. No wonder the psalmist is perplexed and wonders: "What is man that Thou takest account of him?"

We are told by our rabbis that man is created in the image of God. That to me means that the spark of the divinity is a part of us all, not in the same proportions, nor even in the same intensity. But the spark is there and when it is touched with the proper stimuli, will sometimes drive men to great lengths far beyond the normal call of duty. What sends a medical missionary, like Dr. Sweitzer and many others, into



the wilderness to administer to the physical and spiritual needs of half-civilized natives living in a country thousands of miles from ours, people they do not know and could have only the slightest original interest in; or a man who will risk his life to save a stranger from drowning; or a patriot, aroused by love of country, to withstand the ostracism of entrenched officials to lead his people against an established but cruel government? Is it not a divine spark?

In this age of materialism when so many people think of success only in terms of a Dun and Bradstreet report, it is well to ponder about the more permanent values of life. What makes a community is not the grand freeways and boulevards it possesses, not the beautiful homes and great industries it rears, not the per capita wealth of its populace. These are not important in themselves, they are merely means to an end. What is of real and abiding importance is the kind of people that comprise that community, what is in their hearts and minds, how do they react to their friends and neighbors; do they care; are they willing to share with others not so fortunate as they; do they believe in their character-building organizations to such an extent that they are willing to guide and help young people not only with money but with their own time; will they support their federation and B'nai B'rith lodge; do they want their temples and synagogues to be of real service and influence to such an extent that they will give generously to those institutions?

As man finds the keys to the mysteries of science, can he keep pace with needs of his own soul? We prolong life by the great advances in medical science, the great anti-biotics that give the doctors the



the weapons to fight diseases that they were powerless against only a generation ago; we cross the country in jet planes in four hours; we live in a push-button home of modern comforts undreamed of by our parents.

But again I ask, what about our souls? Sure, we are building all over this prosperous land the finest and most expensive churches and temples, and membership has been on the increase, but is that a genuine spiritual revival or is it merely the reaction of people who can now give without sacrifice and yet have no feeling for religious life, no genuine recognition of the role of God in their success and no inspiration in their homes. If we are to really succeed in America, it must be by people who pass on to their children a real compassion for others, and who stimulate that spark of divinity in them that I mentioned earlier in my remarks.

Now that we have made such vast and important technological advances and have succeeded beyond our wildest imagination in so many directions, we are forced to ask ourselves again what are we doing in the field of improving human relations. We can send a missile from continent to continent, we can thrust a satellite into outer space and we're told we can expect shortly to send a man into orbit and return him to earth safely. These are great achievements. However, I've worked for many years in another area of science; not an exact science by any means, but one that needs more and more development and greater loyalty and devotion--that is in the field of human relations. In this area, as I see it from my point of vantage, as National Vice-President of the ADL, there has been much improvement and the work has many tangible results to its credit and is an ever-growing and expanding field. It

may be strange to say in the last one-half of the 20th Century that men must be taught tolerance and love; that they must be taught to accord to every person the same basic rights and liberties they want to enjoy for themselves. I read a letter last week from one of our prominent ADL leaders from Savannah, Georgia, in which he tells of the devastating effect upon the morale of pupils and teachers when from time to time they have to have a "bomb-break" to search through the school plant to be sure that no dynamite has been placed there. Problems of racial integration have made necessary increased efforts by human relations organizations, such as ADL. As never before, there is a crying need in America for a greater cooperation between the home, the school and the church. Neither institution, working alone, can do the job. If we are to rear a generation of God-fearing, decent citizens, we must give to every child a sense of security that comes from understanding and intelligent fathers and mothers who by their own precept and example point the way towards moral and spiritual values. We're trying to rear Jewish children in Jewish values, but we can't do so if there is not some practices of Judaism in the home, such as the kindling of the Sabbath lights or the Chanukah lights on that holiday, if there is never a prayer of thanksgiving and gratitude at meal-time. These things cannot be permanently impressed if we leave ~~those things~~<sup>them</sup> for the Sunday school and the Temple alone, they must be rooted in the home. We cannot ignore our religion six days a week and expect our children to gain much from a three-hour session once a week.

The role of a religious group in a period of great change is difficult and complex. Clergy and laity alike must face severe problems of social adjustment. Tensions created by great social movements, such



as forced integration of the schools, infiltration of negroes and other minority people into heretofore all white housing areas, efforts of dominant religious factions to use the public schools to further their sectarian beliefs and many others, finds church people facing trying decisions which place a strain on the ethical teachings of their faith. Many times the decisions are made harder because long-standing prejudices must yield to teachings of our prophets and sages that all men are created in God's image and in His sight all are equal, regardless of race, color or economic position. The Prophet Micah asks: "What doth the Lord require of thee, but to do justly, to love mercy and to walk humbly with thy God." With this admonition, the libertarian may interpret what is justice in one way while one not so broadminded might interpret justice as being something entirely different. Thus, we rely on the influence of churches to help us arrive at a correct decision in our attempt to do social justice.

After we have conquered the retrogressive instincts in us, we are then ready to make the real strides forward that will enhance and enrich our lives. The story is told of the man who saw a great building being constructed in a city he was visiting. Curious, he said to one of the workmen, "What are you doing here?" The workman said, "I'm earning two bucks an hour." He asked the next workman the same question, and his reply was, "I'm building a wall." The next one, with great vision and insight, when asked the question, said: "I'm building a great cathedral."

Those of you who are engaged in pioneering this new temple, Beth El, know that you are not just a member of a congregation, but that



you are building an organization that will spread its magnificent influence into the lives and homes of people for years to come. Yours will be the happy privilege and pleasure of having laid the foundation of an organization in Jewish life which will help to answer in a rewarding and enriching way the age old question: "What is man?"



The story of the Congregation seeking a rabbi. A friend said, I know a rabbi you yet employ, he's like Milton, like Moses, like God himself -- Milton was blind; the rabbi can hardly see. Moses stuttered; the rabbi stutters. God is not a man, and you can call the rabbi a man.

\* \* \* \* \*

Story of an old man planting a tree. Why do you, old man, plant a tree? You'll never live to see it grown. -- No, but when I was born, others had built trees that I've enjoyed. When I'm gone, I want others to enjoy the ones I plant.

\* \* \* \* \*

Story of rabbi on Rosh Hashonah, beautiful day, decided to have an early golf game that no one would know about. Hit a hole in one. We're taught we can expect punishment for violating the holy of holy days -- He'll be punished plenty. Yes, he shot the hole in one all right, but who does he dare tell it to?

Delivered to Car Pool Club of Temple B'nai  
Jehuda Sun - 10:30 A.M. 22-59  
WHO IS A JEW?

1. Is one a Jew merely because of the accident of birth?
  - a. Many would like not to be known as Jewish.
  - b. Many deny they are Jewish.
  - c. Many have no Jewish contacts, friends, change their names, etc.
2. What percent of Jewish blood is necessary?
  - a. Hitler decreed every ~~Jew~~ who had one grandparent was a Jew.
  - b. The rabbis say if the mother is Jewish, the child is ~~a~~ a Jew.
  - c. What of the child of mixed marriages who follows the faith of his non-Jewish parent?
3. Are we a race, an ethnic group or a religious group.
  - a. Scientists say we are not a race.
  - b. Am. Council for Judaism, says we are only a religious group.
  - c. Yet, many strong Zoinists may think of us only as a nation, without religious requirements.
  - d. Many who identify themselves as Jews have not religious connection, don't belong to a ~~a~~ synagogue or temple, may be either agnostic or athiestic.
4. Thus, by diverse thinking, some who claim to be Jews have no Judaism and some who claim the faith, Judaism, as their only tie, deny any responsibility for fellow Jews on any other basis.
  - a. Unfortunately, for those who ~~a~~ claim only a religious basis for identification, they cannot sell that to the non-Jew; to him you are like a leopard who cannot change its stripes. I know of a couple of are people who joined other churches and the member of one of these churches asked me "how come one of our Jews joined ~~his~~ church."
  - b. There should be some way by which we could grant a bill of divorcement to those who would like to leave our group and get that bill recognized by the world.

Said George Eliot:

"The Jews are among the aristocracy of every land. If a literature is called rich in the possession of a few classic tragedies, what shall we say to a national tragedy, lasting for 1500 years, in which the poets and actors were also the heroes? Pasternak in Dr. Zhvigo spoke of our foolishness in denying Jesus as our messiah and suffering so grossly for such an error"

5. My definition of a Jew is simple, has its weaknesses, I know but it is the best one I can come up with and cover the vast majority of cases:

A Jew is a person born of a Jewish mother, who identifies himself with Jewish people and Jewish causes or who is not hostile to such identification, or one who voluntarily professes Judaism

Tryon Edwards said:

"The great <sup>ed</sup> of education is, to discipline rather than to furnish the mind; to train it to the use of its own powers, rather than to fill it with the accumulations of others.

Ben Gurion, might not accept my definition but at least you've got some



Response of Joseph Cohen, First Vice-President  
District Grand Lodge No. 2 to the addresses  
of welcome to the 81st Convention of Dis-  
trict Grand Lodge No. 2

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Mr. Chairman, Honored Guests, Fellow  
Delegates and Friends:-

The warmth and geniality of the messages of welcome which have just been extended to the delegates here assembled fills us all with the deepest feeling of gratitude. You have figuratively opened up your arms to us in a typical spirit of Hoosier hospitality, You have extended to us an open hand of friendship.

It is my pleasurable duty, as First Vice-President of District Grand Lodge No. 2 to respond to the splendid addresses of welcome. You have said to us who have traveled many, many miles to be in your midst, some of us who have come as far as the rock-ribbed mountain regions of the Rockies, from the plains of Kansas, and from the teeming industrial centers of Ohio, "Here are the keys of the city. Make yourselves at home. Enjoy yourself<sup>see</sup>."

In response to the geniality of your welcome, I say, on behalf of these delegates here assembled, "We appreciate your splendid welcome. We grasp your extended hand of fellowship, and we assure you that this Convention, as ~~for~~ many ~~years~~ in the past, will, by its serious and worth-while program, be an historic event to South Bend, and to the great state of Indiana."

May I, with pardonable pride, say that this is not just an ordinary convention, nor are the delegates here assembled just ordinary men who have gathered together under the auspices of an ordinary fraternal lodge. Not at all! Every man<sup>who is</sup> here has won that privilege through long service, through self-sacrifice, through devotion, and by a willingness to serve his fellow man without hope of material reward. The very fact that a man may be a delegate to this convention attests to the fact that he has first served his own community as a leader of his own subordinate lodge. Every brother here has been tested in the crucible of human service in his own city, and comes here because he is a representative citizen and Jew. B'nai B'rith offers no glittering rewards to those who share its burdens. Ours is a labor of love devoted to the betterment of mankind.

Ninety miles from here, in your neighboring city of Chicago is being celebrated the "Century of Progress Exposition,"

celebrating and depicting one hundred years of man's advancement in arts, science, invention, etc. It is advertised as a thirty seven million dollar exposition and World's Fair. There is much to be seen in an exposition which would endeavor to depict the manifold advances in every line which have been made during the past century. A hundred years is a long time.

The past century has been one replete with new inventions; with time saving devices, man's burden has been shifted to machines in that period of time, and yet to day in this country there is more suffering, more destitution and more want, proportionately, than there was a hundred years ago.

B'nai B'rith in another decade might celebrate its own Century of Progress Exposition. It will have become a centenarian. This year this great Order is celebrating its ninetieth birthday. What a wonderful thing for humanity and Jewry that this marvelous fraternity should have been born.

In B'nai B'rith's <sup>Exposition,</sup> Ninety Years Of Progress, we could disclose many brilliant events. We could show that B'nai B'rith came into being seventeen years before the first shots of the Civil War were heard. We could depict B'nai B'rith standing steadfast for Jewish rights at a time when this country was afire over the pressing question of the abolition of human slavery.

What a glorious thing it would be to show B'nai B'rith's growth into an international Order spreading the bright light of its seven fold Menorah into the twenty-seven civilized countries of the world, going through the varying periods of peace, war, prosperity and depression, battling everywhere <sup>and on every front</sup> for equality of opportunity for the Jew, fighting clean and hard against discrimination, Anti-Semitism, insisting on the maintenance of spiritual value, holding aloft the torch of enlightenment and better understanding between all races and religions.

You of the Hoosier state who have so graciously welcomed us today might well be proud of your part in this B'nai B'rith's 90 years of progress Exposition.. Those pioneer Jews who came to this territory in the early days of your history and helped build here a splendid commonwealth, <sup>first</sup> ~~first~~ organized their congregations for Jewish worship, and soon afterwards sought contact with other people outside of this



state by organizing into B'nai B'rith lodges. The Jewish community of Evansville has the distinction of being the first Jewish community in Indiana to be accepted into the B'nai B'rith fraternity, Thisbe Lodge having been chartered <sup>June 10,</sup> in 1860.

Woven intimately into the history of every state included in the District is an interesting story of B'nai B'rith's part in its Jewish life.

What a glorious thing it is to turn the pages of B'nai B'rith history and read its glamorous story of worthwhile achievements.

We are meeting here again today, as did our brethren during the past eighty-one years, to take an inventory of the year's activity, to renew friendships and discuss serious problems confronting a sick world, (and they are many) to try to devise ways and means of further aiding and assisting Jewry <sup>wherever</sup> ~~worthy~~ succor ~~is~~ needed.

To these altruistic tasks we shall with renewed vigor re-dedicate and re-<sup>separate</sup> ~~concentrate~~ ourselves. It is in this high minded spirit of love and selfless service that I, on behalf of this great Convention here assembled, respond to these gracious addresses of welcome, ~~and~~ ~~when~~ the final business of this assembly has been transacted and when again our brethren shall turn their faces homeward bound to take up again their task of service in Jewish life, I know that it will then be said <sup>that</sup> another brilliant chapter has been written into the already scintillating history of B'nai B'rith.



Delivered to Cleveland  
to ADR Advisory  
Council 10-14-58

I - Mention Floyd Swenger + Larry  
Thilleman, loyal + devoted B.B. + ADR  
friends whose efforts help to create that  
better world for which we all strive.

Also Symon Horschoff, this session →  
2. Apparently, this session →  
to be devoted to obtaining a better +  
clearer understanding of the ComSec  
Division of ADR - Alex Miller → I am to  
be the instrumentality.

3. We have 27 reg. off covering  
every state in the Union. This may be  
called your Radar system where <sup>your</sup> professional  
listeners + integrators ~~work~~ <sup>work</sup> almost around  
the clock to spot incidents created by bigots  
+ hate-mongers. With nation-wide coverage  
we are able to assemble fact in our Wash  
+ Reg. office and interpret movements + trends

a. For example, we know  
today that anti-semites are stirring up  
trouble for our people in the South by  
concentrating their nefarious propaganda  
on the segregation issue + equating all Jews

as opposed to segregation, well know  
that to do so is calculated to bring  
them into sharp conflict with their friends  
& neighbors who are fighting bitterly, if  
not hopelessly, to avoid integration.  
Kilpatrick - Richmond News - Leader - C. G. Taylor, Rich.

(b) A few short years ago when  
Sen. McCarthy was carrying on his witch  
hunt against Communism we knew  
from our 27 offices - our Radar Stations -  
that Jews were being equated with Commun-  
ists



(c) Our radar stations pick-up the  
trend thru-out the country when incidents  
in the Middle East involve Israel & we know  
at all times the direction of Arab propaganda  
& its intensity

4. These A D L radar stations are also  
information centers for our people & from  
our people to the rest of the nation

a. It is easy to suspect & hate  
people one knows nothing or little about  
You A D L offices have the huge job of  
bringing to the schools & colleges of America  
a true & correct image of the Jew as a decent,  
peace-loving, patriotic citizen whose devotion  
to family, home & country is the Am. seal





1. There has been a growing tendency on the part of religious groups to use the public schools for the promulgation of religious teachings.

a. Recent time problems are familiar to Ohioans. Fairborn in Dayton area, a typical example of such a program that an aroused community was able to change. It is a problem that we've tried to solve in Ohio thru Gorchoffs efforts in conference & cooperation of church officials.

(b) Legislation - In this field every office is constantly in touch with state legislature promoting civil rights legislation in the field of employment, housing, public accommodations, ~~etc.~~ & education. The results are fairly good. Many states have FEPC commissions, some strong some weak, & thru these agencies we can channel discriminatory practices for corrective action.

(c) 25% of reports discriminate



(5)

against Jews - our recent survey showed - Every office puts work in this field in high priority

D. It is amazing the results we get from these offices, <sup>most of</sup> ~~some~~ which <sup>have only</sup> are 1-man & petty & small budget, 15,000 or so a year. How do they accomplish so much? The answer lies in the devotion of about 3000 men & women <sup>through-out</sup> America who serve on our advisory boards, representing every state & community, who give unstintingly & generously of their time & dedication & who are called upon constantly by the professionals to make contacts, to establish liaison, to open doors, delectuate literature, give advice on policy matters, strategy, & ~~teelers~~ & without whose support this agency could not survive

(a) Teel of Va. reg. bd.

(b) Ad L has been attached

many times by anti-semites or  
 out of public life & sometimes by  
~~men~~ ~~the~~ ~~misguided~~ men who  
 feel like that we are obstacles  
 in their way because we have  
 had to oppose them.

(c) But year by year our prestige  
 grows & we are recognized as the out-  
 standing agency in the field of  
 human relations.

American's Dem. Legacy 1. Last <sup>Feb</sup> ~~April~~ we gave  
 award to ~~the~~ the S. Congress for  
 its Civil Rts law

2. Four years before our  
 our 40th anniversary we gave our dinner  
 with the President

3. In Dec. we'll give  
 the award to some ~~some~~ - public - mass  
 media agencies.

When we arrived in  
France, a letter from my  
good friend Rabbi Miller,  
contained the flattering news  
that the illustrious committee  
on award had selected me  
as the person to receive  
the 1949 Dr. J. H. Reber  
Memorial award. This is  
a great honor & one which  
I accept with great humility  
& gratitude.

Working on behalf of  
interfaith & inter-racial  
unity is not ~~an~~ <sup>doing some</sup>  
thing different nor unusual.  
Acting in <sup>perfecting</sup> the very



the p which all go have  
learned in our homes, our  
schools & our churches. It  
is merely the practice of  
of the golden rule which  
our prophets & sages  
have preached ~~throughout~~ <sup>throughout</sup> ~~the~~  
the ages & which is the  
basis of all Christianity,  
Judaism & in fact all  
religions beliefs.

Then, you ask your-  
self, why should there  
be any special ground to  
any person for ~~being~~ <sup>having</sup> done  
such a common place  
thing. Why have a ~~Law~~ <sup>Public</sup>

got things such as this, &  
why bring to this meeting  
a distinguished statesman  
to report us, & why pick  
out someone ~~to~~ upon  
whom to place the laurel  
wreath.

In a utopian society  
there would be no need  
of special emphasis or the  
practice of the golden rule.  
As a matter of course, <sup>in the ideal group</sup>  
would grant to others the  
same treatment & consideration  
as he himself would want  
to receive, there would be  
no hatred by hegets because

on person worship - the  
cross, the other the  
crescent, & still another  
is a quarter of another a  
complete atheist. Each  
man would with <sup>out</sup> prejudice  
<sup>would</sup> find his salvation in  
his own peculiar way, the  
person would be pilloried  
because of his concept of  
the here-after, it was the  
gen. Thos Jefferson who  
said: "I swear eternal  
conflict with every form  
of tyranny that seeks to en-  
slave the mind."

If we are to bring down  
this ideal of human behavior  
we must grant to every man,  
woman & child, the right of



his race, color or creed,  
irrespective of his obscure  
beginning, ~~the~~ equal  
right to advance economi-  
cally, socially & intellectu-  
ally to the full limit of his  
intellect, spirituality &  
energy. Jew-Crisisism of  
the mind must first be  
destroyed so that "man's  
inhumanity to man" will  
disappear and our great  
democracy, founded on the  
theory that all men are  
created equal, will be per-  
mitted to blossom into an  
enduring nation that will  
survive for thousands of  
years without dropping with the

of ruin which has been  
the historical end of  
other great civilizations  
that once flourished on  
the face of the earth. I  
saw some of the ruins  
of those great empires  
this month while in  
Europe & No. Africa. I  
saw them in Egypt, in Greece  
& in Italy & I uttered a silent  
prayer that we in America  
might keep ourselves not  
only militarily strong  
but spiritually great, too,  
so that any attack from any  
source would be rebuffed  
~~so~~ effectively & quickly by our  
people fighting to maintain a

go to a way of life in  
which they had utmost  
confidence & for which  
they would die to maintain

~~Men & women of~~  
good will everywhere are  
striving to break down the  
artificial walls of prejudice  
that separate ~~us~~ because

of race & religion, strong  
<sup>will be</sup> faithfully implemented by fair  
dealing between labor &  
management, wherein each  
person might gain compen-  
sation according to ~~the~~ <sup>equitable</sup>

rules, where all are properly  
housed & fed, where want  
reaches the vanishing point,  
~~where~~ these are the things



we to

If the platform which  
I have <sup>thus</sup> laid down can come  
to fruition then we can  
eliminate Brotherhood Week  
we can forget about awards  
~~for~~ persons working in the  
vineyard of the inter faith  
& inter-racial movement,  
& we can turn our minds  
towards other fields that  
may require the attention  
of purveyors of a better world.

~~I~~ was deeply moved  
when I learned that the  
Committee had selected me to  
receive the Dr. Robin award  
while I was out of the country.  
As some of you well know, I

originated the idea of such  
an award to honor the  
memory of my dear friend,  
Dr. Rubin, <sup>with</sup> whom I had  
worked so long in pursuing  
good-will ~~such~~ activities. I felt  
that an annual award  
would stimulate men &  
women to strive towards  
amity between the races &  
religions. It never occurred  
to me that I would at  
any time be the recipient  
of the award. For really, I  
am sure there are many  
men & women in this great  
community more deserving  
of it than I.

That my old friend, Alf  
Landon, should have accepted  
the ~~award~~ of the committee

to speak to us tonight  
is also a rare pleasure  
& an honor, and I want  
to extend <sup>publicly</sup> my deep appreciation  
to him.

To Rabbi Miller who  
has spear-headed <sup>(the committee's)</sup>  
work since its inception  
five years ago all of owe  
a deep debt of gratitude.  
And to you who ~~have~~ <sup>have</sup> brought  
to share my pleasure at  
receiving this honor I  
give you my heartfelt  
thanks.



Speech delivered in February, 1950, at the meeting held to award the Dr. Julius H. Rabin Award for interfaith and inter-racial activities. At this meeting Joseph Cohen was presented the award for the preceding year and made the following remarks:

When we arrived in France, a letter from my good friend, Rabbi Miller, contained the flattering news that the illustrious committee on award had selected me as the person to receive the 1949 Dr. J. H. Rabin Memorial Award. This is a great honor and one which I accept with great humility and gratitude.

Working on behalf of interfaith and inter-racial amity is not doing something different nor unusual. Actually, it is practicing the very things which all of us have learned in our homes, our schools and our churches. It is merely the practice of the golden rule which our prophets and sages have preached throughout the ages and which is the basis of all Christianity, Judaism and in fact all religious beliefs.

Then, you ask yourself, why should there be any special award to any person for having done such a common place thing? Why have a public gathering such as this, and why bring to this meeting a distinguished statesman to exhort us, and why pick out someone upon whom to place the laurel wreath?

In a Utopian society, there would be no need for special emphasis on the practice of the golden rule. As a matter of course, in the ideal group, men would grant to others the same treatment and consideration as he himself would want to receive. There would be no hatred by bigots because one person worships the cross, the other the crescent, and still another is agnostic and another a complete athiest. Each man would without prejudice find his salvation in his own peculiar way. No person would be pilloried because of his concept of the hereafter. It was the great Thomas Jefferson who said: "I swear eternal conflict with every form of tyranny that seeks to enslave the mind."

If we are to bring closer this ideal of human behaviour, we must grant to every man, woman and child, regardless of his race, color or creed, irrespective of his obscure beginning, equal right to advance economically, socially and culturally to the full limit of his

intellect, spirituality and energy. Jim Crowism of the mind must first be destroyed so that "man's inhumanity to man" will disappear and our great democracy, founded on the theory that all men are created equal, will be permitted to blossom into an enduring nation that will survive for thousands of years and not disappear into the oblivion which has been the historical end of other great civilizations that once flourished on the face of the earth. I saw some of the ruins of those great empires this month while in Europe and North Africa. I saw them in Egypt, in Greece, and in Italy, and I uttered a silent prayer that we in America might keep ourselves not only militantly strong but spiritually great, too, so that any attack from any source would be rebuffed effectively and quickly by our people fighting to maintain a government and a way of life in which they had utmost confidence and for which they would die to maintain.

Men and women of good will everywhere are striving to break down the artificial walls of prejudice that separate us because of race and religion, strong faith will be implemented by fair dealing between labor and management, wherein each person might gain compensation according to equitable rules, where all are properly housed and fed, where want reaches the vanishing point, those are the things that will make democracy work.

If the platform which I have thus laid down can come to fruition, then we can eliminate Brotherhood Week, we can forget about awards to persons working in the vineyard of the inter-faith and inter-racial movement, and we can turn our minds towards other fields that may require the attention of purveyors of a better world.

I was deeply moved when I learned that the committee had selected me to receive the Dr. Rabin award while I was out of the country. As some of you well know, I originated the idea of such an award to honor the memory of my dear friend, Dr. Rabin, with whom I had worked so long in pursuing good-will activities. I felt that an annual award would stimulate men and women to strive towards amity between the races and religions. It never occurred to me that I would at any time be the recipient of the award. Frankly, I am sure there are many men and women in this great community more deserving of it than I.

That my old friend, Alf Landon, should have accepted the invitation of the committee to speak to us tonight is also a rare pleasure and an honor, and I want to extend publicly my deep appreciation to him.

To Rabbi Miller who has spearheaded the committee's work since its inception five years ago, all of us owe a deep debt of gratitude. And to you who came tonight to share my pleasure at receiving this honor, I give you my heartfelt thanks.





Jack Mackay - Half Co - Pres. - new Jew Com  
Dr. Simon Epstein, Detroit - P.P. 108246

Staff - Sid Hayes  
Mona Schlechter

Story of son - found - blue box - in law  
in not exactly a history

Talon - do you read this thing



Talk delivered to Ohio H. Reg. Bd  
9-26-53 at Columbus, Ohio

11-1-53 - Delivered at H. Reg. Bd -  
- Mrs Reg Bd

## Introduction -

1. Columbus is a great B.B. city & it is natural that the Ohio-Ky Reg. would be located here. Ohio - one of the country's great industrial areas - therefore very important that we have a strong staff & a strong board functioning.

a. Salute to Seymour Gorchoff & his fine staff.

b. To Jack Schuff, retiring chairman of this Bd - accepted responsibility as 1 of my Vice-Chairmen of Natl Com. See Com.

c. Home of Dr. Sarah Jacobson Allen Farshoff - for Mrs. Gorchoff  
allmen - almost home of the affable & lovable, Ed. G. Gorchoff  
of way on

I. I accepted chm membership  
of Natl Com Am Com about  
9 months ago.

1. We supervise the 25  
offices throughout Am. which  
seems to further the cause of  
human relations in every state  
of the Union:

a. We spend approx 700,000  
or about 40% of all funds, allotted  
to A.D.L.

2. These offices are not only  
the nerve centers of our great  
orgn, sensitive on the local  
level to all of the ~~changes~~ <sup>needs</sup> of  
our people, but actually more -  
they are really the heart &  
soul of A.D.L.

3. The dedicated men & women  
in & out of B.B. who devote so  
much time in the interest of  
better human relations, representing



a in relation to the matter  
of our people's greater than  
never on day & actually never  
available in form of state money  
value.

if for every town, city &  
county in America, we find  
me & women like yourself  
who naturally have

them, because the great come  
of fortune, my position as  
state chairman puts me in

constant contact with our  
opinion & our leadership.

I know what we're doing &  
Nelle, Dan Francis, Kuyler,  
Attorney, H. Mark, D.C., Dan

them, Dan. She has a right to  
put ourselves on the program  
will be received & will be received

these steps take on the character  
of the form long leadership of the form

II Our A.D. & Co. was divided into 3 depts - (1) Civil Rts; (2) Administration, (3) Community Service - each headed by a prof, with director - each with a separate budget & separate lay. Natl Committee

1. Natl Com. Service Com

a 25 reg. offices + Reg. Bds

III Primary objectives of A.D. & Co. is to fight anti-Semitism wherever & whenever it rears its ugly head

- a. We do so by (a) Legislation
- (b) Education
- (c) Action & Counter action

IV In K.C. we are very conscious now of flood control - since July-1951 when we suffered an unprecedented, destructive flood.

- a. Of course, people can't control the rains - some flood

cost of projects were there -  
waters went over the dikes -  
too much

U. S. Eng. had for years advocat-  
ed the bldg of huge dikes up-  
stream to impound the waters of  
the tributaries. Disputes arose  
between various interests as to  
how the job should be done,  
some want small dams, but  
conservation projects. <sup>wider & deeper channels</sup> Even after  
great flood - Cong. Dec. #1,  
defeated Albert Cole, Rep., for  
re-election & elected Miller, a  
Dem.

1. Fighting anti-Semitism  
is somewhat like flood control -  
people have varying opinions  
on how it should be done, even  
while agreeing to its broad  
objective

2. Though we can't stop people



from hating & we can't make  
people love us, any more than  
we can stop the rains, we can  
build a hate-control system  
which will intercept the damage  
from the perveyors of bigotry &  
prejudice. Then the A.D.P. we  
are bldg. & detes, dems & Redwings  
which, we hope, will contain  
the flood-water distilled by  
the hate-mongers so that  
we will not in this country  
experience a devastating  
inundation such as we suffered  
in Ger. under Hitler.

3, We have found that in  
bldg. this ~~flood~~ hate-control  
system to protect ourselves we  
~~do~~ must at the same time <sup>build to</sup>  
protect ~~the~~ <sup>all</sup> peoples, negroes,  
Catholics, Mexicans, foreign-born,  
all minorities against invasion

of the rights as free Americans  
to enjoy equal opportunity -  
economically, politically & socially.  
That so long as any people in this  
country are oppressed, are denied  
full opportunity to ~~gain~~ a living,  
to raise their families without  
restrictions, to obtain equal education-  
al opportunities to the fullest  
extent of their ability & energy,  
to enjoy housing & public accommo-  
dations on an equal footing  
with every one else, then our  
our right to the good life is  
endangered & our our security  
is threatened.

4- In the field of education  
we are being many times.

1, Our work with colleges

than the Natl Ed. Assn - bearing  
fruit in tearing down discriminatory

Recent survey of 57

2. real education in the school systems - Films on the subject of better human relations

3. K.C.'s deal project

4. Freedom pamphlets series -

5. Radio programs - "Let Me Forget" series

6. Car Cards by the Institute for Democracy -

a. Recent study by I.A.D. at Springfield, Mass. <sup>under</sup> ~~controlled~~ <sup>controlled</sup> conditions ~~that~~ <sup>showed that</sup> there car cards not only were read & operated but actually were remembered longer than coin cards.

7. Workshops on Human Relations in Schools & Colleges - sponsored & aided by our staff

1. <sup>Recently</sup> ~~Let's meet~~ at Milwaukee a ~~course in human relations for public~~





Our Florida ...  
Bolton's comment is much more  
glowing than anything I can  
say, so let me quote it.

(Quote from letter)

IV The debe-works we are bldg  
thru Legislation + litigation is  
also impressive

1. Anti-discrimination laws  
a - Has enacted one - with-  
out enforcement teeth
2. Wash. - a better debarment  
rights act
3. Oregon - a public accommo-  
dations act.
4. F.E.P.C. in 8 - or 9 other states
5. Fair Education Practices acts
6. Segregation cases in Sup Ct  
for more argument in Dee  
a Topeka, Roose work -  
decided last spring on political

7. R. trustees covenant unenforceable

8. Complete sep. of church & state

VI. With all this work we still handle 1000 or more cases of discrimination a year in places of public accommodation, employment & education.

1. Survey of hotel situation in Fla. & find it still bad

2. Constantly working to open employment opportunities for our people with Ins. Co. bonds.

VII. We're not afraid to fight in the open against reactionary people & causes & we find that we gain allies among decent women of good will for our struggle

a. There were many doublets in Baltimore this summer when A.D. L. of B. B. took an active part in protesting the re-appointment of Leo R. Morris to the Baltimore Redevelopment Com. A millionaires' development of



been as + residential destroyed  
he consistently refused to sell  
or rent to Jews. He took the  
lead - Result the apartment was  
defeated. That's a home run on  
behalf of human dignity & it  
served notice + a great many  
others who think that anti-  
Semitism is profitable that they  
are ~~doing~~ <sup>not</sup> in a respectable position  
in the eyes of their fellow  
citizens.

Conclusion -

~~Story of the watchman on  
the tower at Balahe.~~

I- Let's prevent the flood - con-  
trol story, let me tell you about  
some of the <sup>positive</sup> things that flood-  
control laws has meant besides  
the ~~prevent~~ destruction.

1. Periods of drought - Cities  
have adequate water supply for  
drinking, industry + sanitation
2. Farmers have irrigated fields
3. Less ~~water~~ <sup>water</sup>

II What does ~~hate~~ social  
mean to you?

1. Happier homes.
2. Shelters & restricted areas eliminated
3. Frustrations in employment abolished
4. Crime breeding away oppressed curtailed
5. Juvenile delinquency reduced
6. Higher standard of living for all
7. Democracy a living reality not just a dream.
8. Brotherhood of man a step closer.

OUTLINE OF TALK AT SILVER ANNIVERSARY OF JOSEPH HARTMAN LODGE #1118  
B'NAI B'RITH, PARSONIAN HOTEL, PARSONS, KANSAS, 10/3/54

I. Congratulations - happy and thrilled am I to be with you on the Silver Anniversary of Southeast Kansas Lodge.

a. Thoughts of 25 years ago run through my mind. It seems almost incredible that almost one-half of my life has been spent since you became a link in the B.B. chain. I must have been 27 years old when Dr. Julius H. Rabin and I came to Coffeyville and rode with Joe Hartman to Parsons, Independence, to recruit members for this new lodge.

b. What a joy it has been to work with such stalwarts as Myer Freshman, Bernie Locke, Elias Krigel, throughout the years and to know that without the great devotion of such men as Myer Freshman and Joe Hartman and such a woman as Mamie Krigel, of sainted memory, this tiny lodge would not have survived a quarter of a century. They breathed life and spirit into this organization because they are the kind of people who realize better than anyone else that B.B. is the liason between the small Jewish minorities in isolated communities and the vaster Jewish culture and populations of the United States. While your lodge is small, its importance lies in the fact that you are a vital part of that fraternal chain that binds all Jews together, not only for fellowship and friendship but for self-protection and self-expression.

II. 1929 - that's not long ago, yet it was the last year of prosperity - the year before the Great Depression - a period of comparative peace and quiet about midway between two great World Wars. Jewish security was not seriously threatened anywhere. Henry Ford and his Dearborn Independent had been exposed and Ford had apologized to Jews for his Anti-Semitic propaganda four years before. It was still three years before the arch murderer of six million Jews, Adolph Hitler, had gained control of Germany to lead it to defeat in a great world conflagration. Herbert Hoover, the last Republican President, was still able to glow over our economic condition and boast of two cars in every garage and two chickens in every pot - it was the time of the bootlegger and the speak-easy, the flapper and the Charleston, and the day when "flaming youth" was the national reference to juvenile delinquency - it was still the roaring twenties, as historians still describe it.

III. Much water has gone over the dam since that day - Kansas then was only 75 years old as a territory. Today you celebrate your Silver Anniversary in a year when our State is celebrating its Centennial and in a year when all of us are celebrating the Tercentenary of the arrival of the first Jews in this country. To be sure, this is a golden year for anniversaries.

a. As I read this history of the first 23 Jews to arrive at New Amsterdam in 1654 in a small Dutch vessel, I am thrilled. The then governor, Peter Stuyvesant, didn't want them - he discouraged their staying - made them know they were not welcome. I can, in my mind's eye, see the delegation of Jews lead by Asher Levy conferring with the Governor and insisting on their right, as Dutch citizens,



2.

to remain. With the help and influence of our brothers in Holland, they were permitted to stay, provided that they guaranteed never to become a public charge themselves or any of their children or posterity. They took the pledge and Jews in this country have redeemed that pledge for 300 years - none of them or their descendants - none of us - have ever been allowed to become a public charge.

b. Then I see those fearless, God-loving Jews, petitioning Governor Stuyvesant to be allowed to organize a synagogue for public worship. He hesitated because he feared that, if the Jews were allowed to open a synagogue, he would have to permit the Catholics to build their own church too.

IV. This year, from September to May, 1955, has been proclaimed the Jewish Tercentenary Year in order to afford us the opportunity to show our fellow citizens what we have done for America in return for the asylum given those poor 23 Jews who left Portuguese persecution in Brazil 300 years ago to find a haven where they might worship their God without persecution or proscription. Just as America has blessed us, we have been her most devoted and loyal citizens in peace and in war, in science, medicine, business, social service, and education.

V. B.B. is one of the great gifts of Jews to America - for through this organization we have been privileged to provide some of the greatest services. Our record in World War II, in the Korean War, and in peace through our 200 Hillel Foundations and counselorship, our Youth Services, and our A.D.L. have been a blessing not only to us as Jews but to us as citizens of this great land. Every President of the United States, in the past 50 years, has lauded our work.

VI. I wish I had time to detail some of the work of your A.D.L. As National Chairman of the Community Service Committee, supervising 24 regional offices, I attended a monthly meeting of the Executive Committee in New York, Washington and Chicago. I attended my last meeting in New York just two weeks ago. Here are just the highlights of a few things which came up for discussion and action.

a. Arch propaganda in the United States against Israel and Jews - \$420,000 deposited in a New York bank merely for use during October, November and December. Dorothy Thompson - exchange students, diplomatic corps, paid public relations people - all calculated to crush Israel by turning the minds of the American public against Israel - playing on our sympathies for the Arab refugees who fled at Arab insistence. We are mobilizing all of our resources to combat this propaganda. Hillel Foundations will help.

b. Fort Monmouth - our investigation, the army, 39 out of 42 suspendees were Jews - none found guilty of espionage - most of those tried have been exonerated.

c. Segregation problems - our Southern lodges.

d. Freedom Pamphlet exonerating Joe McCarthy - rejected as politics.

e. Further negotiations with Adenauer, government of West Germany, re-continuation of study of Anti-Semitism in the Reich.

3.

f. Report that our regional offices participated this summer in more than 100 workshop and seminaries on human relations.

g. Denial of visas to Arab countries.

VII. As we enter the 26th year of your Lodge, the 101 year of our State, and the 301 year year of Jewish activity in America, there is much of which to be proud, much to look forward to in the future with hope and confidence that we are gradually and truly making progress in our human relations.

a. Jews in Kansas and in the nation stand high in civic, cultural and social work.

b. Anti-semitism is not fashionable and our young people are more tolerant and understanding of social and human problems than were we 25 years ago.

c. Jews are better organized for their own defense and security than they were 25 years ago and they no longer believe in a "hush-hush" policy against their enemies.

d. Both parties pledge against racial or religious issues in campaigns.

e. Protestant and even Catholic church more cooperative than ever and look upon good public relations as essential.

f. The dignity of the human personality is better understood and respected and a new surge of reliance on our spiritual strength as well as our physical and financial ability finds this nation stronger and better prepared.

VIII. Conclusion - meeting today as we do, between the Rosh Hashonah and Yom Kippur, we naturally thank God for His manifold blessings and pray for a year of life, health and prosperity. May I wish each of you good health and happiness for the coming year and may I say to you, as a lodge 25 years of age, that I hope and pray that you will continue to represent organized Jewish life in Southeastern Kansas and in the words of our ritual, "YaHay Borucha" - be thou a blessing.

Jack released to the Coast Office  
of A.D.H. in March - 1953

## Introduction

I. My appointment to the <sup>national</sup> Chairmanship of the Hill  
Community Service Board, imposes the duty  
of supervising our 25 reg. offices throughout Am.

(a) - We are completely decentralized with part  
of our <sup>national</sup> offices in Chicago & part in N.Y. City.  
Our reg. offices in all parts of this country implement  
our program.

Our reg. bd. members are the backbone of our  
agency without whom our effectiveness would be  
seriously impaired. Thanks & our gratitude to you

(b) - We are engaged in helping to secure  
our civil, social & economic life - not alone as  
Jews but as 1st class Am. citizens. Strangely  
enough, we can do nothing for Jews that <sup>does</sup>  
not help all classes, creeds, races & groups in the U.S.

(c) There are 3 principal divisions of our work

(1) Civil Rights, (2) Program & (3) Community Service.

(d) We are an integrated agency - carrying on  
the war against bigotry, hatred & injustice on <sup>many</sup>  
fronts - thru education - legislation - action &  
contribution

(e) <sup>From</sup> In such a vast program it is difficult to  
select a few <sup>examples</sup> that will not encroach on limited time

July 13 - 1954 - Flood in K.C. - dikes held but water  
too voluminous went over top. Bldg crew - sense  
of <sup>the</sup> <sup>demands</sup> <sup>to</sup> <sup>be</sup> <sup>made</sup> <sup>on</sup> <sup>the</sup>



# I. Politics & Pollution

(a) State mangers conveyed on Chicago to spread their anti semitic propoganda at the political conventions last June

1. We alerted the political leaders - got them to disavow & disassociate themselves from the Gerald L.K. Smith, etc group -
2. Polen kept order: No incidents - small crowds - no publicity. Newspapers cooperated
3. Political parties passed resolutions against injection of religion or racial issues in campaign
4. We helped to get some planks in the platform  
Pro-Israel - F.E.P.C. - on state level

Bojko-ceremoni  
Harold L. Smith  
distrubed - also  
Branch - also  
of front party  
subject

(b) Some are disturbed because so few Jews have been apptd to important places in Eisenhower admin.

Important also - not to get certain appointees

1. We are consulted by the Administration  
a. Confidentially - Richard Aron, counsel for the Senate Sub-Committee on Immigration, who helped draft the reformers McCarran Bill, didn't get apptd as Commissioner of Immigration because our report on him was not favorable.

(b) Col. Wm E. Mearns of Columbus, Ohio, was slated to head the Office of Nuclear Defense. He was





the military might of Arabs than a systematic sales job to Am. public to put each Arab country on an equality with Israel for economic aid & military assistance. Here again, if successful, Russia will be able to destroy Israel, pro-West, <sup>with help</sup> firing a Soviet shot or using a Russian soldier. We must alert Am. to this menace. Before this country favors the Arabs or gives them military aid, we should insist that a fair peace be made between them & Israel.

IV <sup>+</sup> Good Friday, 1952 - in N.Y. City & New Rochelle

Placards to Jewish merchants, circulated by city friends in New Rochelle, bearing inscription: "Close an observation of the anniversary of the death of Christ," Mayor stopped friends' participation. Catholic archdiocese of N.Y. repudiated campaign. We were the agency called upon by our people.

V <sup>+</sup> Attacks on Modern Education

a. We gave to Arthur Morse much of the information he used for his article, last year in McCall Mag. <sup>May, 1951</sup> Results - 100 newspapers, radio & TV shows commented

June - 1952 - Am. Reg. Mag. attacked mod. ed. Stimulated protests by Am. Reg. party. Natl. convention denounced attacks.



N.Y. U~~to~~ set up workshop thruout the county attended by hundreds of school administrators, counteracting the work of Allin Zall's Natl Council for Am. Ed.

VI Arizona now licensing Jewish dentists  
(a) For 27 yrs., before 1948, no Jewish dentist allowed to pass the examinations by the Ariz. licensing board. We protested to Gov + state officials. Three dentists, 1 a Jew, agreed to monitor state boards examinations.

Result - 12 Jews licensed to practice since 1948

VII We handled 1,000 specific cases of discrimination  
in 1 yr. from 10-1-51 to 10-1-52  
50% discrimination pub. housing + pub. accommodations  
35% " " employment  
15% " " education, social + economic

VIII We trying, as ever, to open up employment opportunities.

a. We surveyed last year 243 pub. utilities, 517 insurance companies, 260 hospitals - 25 states

1. Several outstanding banks in N.Y. city have changed their employment policies.

a. Am. Sops Bk. (b) Broadway Sops Bk; (c) Immigrant, (d) Federal + Franklin Sops banks

IX Segregation cases.

a. Our protest of am. so. reg. bd. we filed

(4) It's a Nat'l organ & we cannot have one policy in the No 2 in the No 1, 1 for Greeks & 1 for Barbarians.

1. We take our medicine & stand firm on principle - She reports Jewish Fed. sponsored us by withholding funds.

X We lead in a fight against the McCarran-Walter Immigration bill of last year.

a. Truman vetoed it with an excellent message. Eisenhower has not approved it. It discriminates on the basis of birth origins, giving about 1/2 of the quotas to countries that need at the least, discriminates against negroes, Asiatics, Favours Nazis, Fascists - makes possible for their entrance to the country to pollute our people. Puts naturalized citizens at great disadvantage, liable to denaturalization proceeding & deportation without adequate safeguards.

XI NCRAC withdrawal

1. We oppose totalitarianism in Jewish life as being unwelcome & undemocratic.

2. We didn't leave NCRAC - it left us when it decided to become dictatorial instead of advisory.

3. ADL & A J C. do 90% of Jewish public relations.

4. We don't support NCRAC - Oppose grants.



XIa - The efforts of Leonard Schroeter, reg. dir. of our  
Seattle office state of Wash, since Wed 3-11-53, has  
an effective civil rights & non-segregation law.

XII. Tell story of Hesseder watchmen on the mountain  
tower waiting for the <sup>Messiah</sup> ~~How~~ <sup>steady</sup> job

1. J. D. A. needs many - many projects  
can't be undertaken - regional offices need  
expansion in personnel & number.
2. Call it what you will, an insurance policy,  
a watchmen, a health measure, an investment  
in civil rights & civil liberties, a support to  
democratic living. - the ~~money~~ <sup>money</sup> given to J. D. A.,  
to keep the program of A. D. L. + A. J. C. in full  
fighting armament, is an investment that pays  
rich rewards to all of us & gives us the security  
which all of us now enjoy & which we hope  
to transmit to our children & their children for  
years without end.



Stay! - You call this leaving?

L. A. - Home of fellow commission members,

J. B. Benjamin - veteran, + several fund grantees  
Mrs. Ben Rosenblatt, Pres of Homekeeping Council

Home of these members of my Hall Com  
My reliable + devoted Y-eh - Judge David  
Cohen

My friends! - Mac Kudler +  
Judge Stanley Mosk

From Long Beach - Isaac Sukman



## Introduction

I The well-being of a <sup>minority</sup> group, just as the well being of a ~~commercial~~ <sup>business</sup>, depends upon the good will of the genl public towards that minority group or business establishment. Not many will dispute that statement, I'm sure. We know that we spend large sums of money in our businesses to create a wholesome <sup>franchise</sup> attitude of the public towards the economic venture which provides <sup>our</sup> ~~the~~ leadership. We train our buyers carefully, cultivate our suppliers, constantly lecture to our salesmen and our clerks, insist on mfg & providing good, merchandise that will please our customers, fight any slurs against our stores & factories all because we realize how sensitive we in business are to the whims & attitudes of the people generally.

II The F.D. Agencies, A.D. R & A, etc. are in business on a highway, too. Their bus. is an extension of your own business, each & everyone of you. They are spending four million dollars a yr. to do for all the Jewish people of Am. The very thing you do for yourselves in your own individual





enterprises. The extent to which they succeed <sup>or fail</sup> influences your own success towards ~~big~~ good deal in your own business affairs. Whether you like it or not, there is no escape. You are a Jew in the eyes of the public and the public's attitude influences its action toward you. Of course you may be a "good Jew" or a "white Jew" or "not like all Jews" that "you're different" by some of your close, personal friends who know you well & are closely associated with your business. Probably nobody in this room has had more experience than I with that type of thinking which somehow or other places you in a different category from Jews generally. But, I'm not talking about exceptional Jews who succeed in obtaining acceptance from Gentiles in both business & social life. I'm discussing general problems & attitudes that affect Jews everywhere in America in a mass basis.

As I proceed with this discussion it should become crystal clear to each of you that you have a vital, inescapable



State in what I have agreed, and being  
 to maintain a favorable report for  
 years in this country.  
 III. Matters have been made by  
 can agree, a D. R. and a C. R. to  
 The present status of your in this respect,  
 to this one, H. Mark, you see the interest,  
 I think, to read the records, the A. D. R.  
 published then 2 months ago in the March, the  
 name of the Bulletin under the heading, the  
 year of the Bulletin, U. A. R. Here are some  
 thought presenting facts  
 a very few good public officers,  
 either active or prospective  
 in the hands of an old established party,  
 participation of your in local meetings &  
 finance, in some degree in the movement  
 that promote all character for their own  
 form, in practice, were a state, &  
 of participation in community affairs  
 has been, can check, character people  
 + American, organization





d. They are excluded from social clubs, not generally ~~not~~ invited to the homes of their business & organizational friends for social functions, & therefore are forced to develop exclusively Jewish social relationships. Some of this exclusiveness is of our own making, to be sure, but not a little of it is due to the discouragement which Jews have experienced in trying to widen their social contacts beyond the Jewish fold. Therefore we find that Jews are on an SAT 5 P.M. basis with their non-Jewish citizens. In other words there exists in our great democracy another kind of "5 o'clock shadows".

e. Another recent study completed with A.D.C. assistance at the Meach State College, published in A.D.C.'s Research Reports of March, 1955, had to do with our position in rural areas where most of the population had never hardly met a Jew. In fact in the County studied there was only 1 visible Jewish family yet - a Between 20-25% of the





43 people interviewed stated that Jews are likely to take advantage of you in a business deal, a little less than 1/2 of them said that they would oppose an effort by a Jew to buy the biggest store in town. 3 out of 4 answered that Am. must be on guard against Jews getting too much power + 2 out of 5 said that not too many Jews should be permitted to become doctors, lawyers, + teachers. One-half said it was not alright with them if more Jews moved into my neighborhood.

IV What does all of this information add up to? I've lived Hooloug and have engaged in Jewish + non-Jewish life too actively to ~~be~~ get alarmed. It means that there is just a tremendous amt. of work left for us to do in the field of Jewish public relations and your C. N. K. + Am. J. Com, the 2 J. D. A. agencies are doing a great deal for you. We are making intelligent attacks on this great problem all over and on many, many fronts. Organized Anti-Semitism has been





almost completely neutralized the  
much an appeal that was being  
a David & Goliath, Rev. Samuel Jackson  
Feeney & their ilk find no <sup>in anything</sup> acceptability  
among decent people

c. It is the stereotype of the Jew  
which we are now trying to change - the  
kind of thinking that has become so instilled  
in popular thinking as to equate Jews generally  
with greed, exclusivity, socially retrograde  
able, ~~the~~ <sup>the</sup> ~~Communist~~ & left wingers

d. This we are doing in the field of  
legislation, education, labor, churches, social  
welfare & now we are even developing a  
Program with leaders in business & industry.  
Through every media of publicity, films, T.V.,  
newspapers, magazines, this intense work  
with public agencies & people, thru unorthodox  
reminders, film festivals, and institutes we are  
trying to change this old stereotype

e. Because we believe that discrimination  
of one kind, whether of a racial or economic  
class, ~~is~~ is the breeding spot for more  
discrimination we are carrying on an intense  
Program to combat ~~the~~ discrimination. We  
hope to convince fair-minded people that



It is un-American & undemocratic to exclude Jews from social clubs in our cities. We know that it is in these big cities and middle-sized cities - social clubs that the power structure of the community meets - makes important decisions from attitudes. If this ~~is~~ bad stereotype of our people could be eliminated we could do away with the "5 o'clock shadow" and Jews would be able to make their contribution to the altar of democracy without having to battle uphill against foolish & disheartening pre-conceptions. Who knows how many more Dr. Sacks & Dr. Einstein we might contribute to the public welfare if unnecessary obstacles were removed from our pathway.

V I, J. D. A. agencies, A. D. L. & Am. J. Com. do earnestly believe this is well within the range of possibility - and not in the dim, remote future - but within a generation or two. The Zushes 100 years ago were just as much a bad stereotype as we are. Today, their great undertakings & publicly to be known as a Zusher is a term of approbation. Today, if you are





told that a man is a Zueker  
 you think of him immediately as  
 a person of high moral conduct, peace  
 loving & righteous. Is not the Jew really  
~~entitled~~ to that kind of a stereotype rather  
 than the ~~so~~ ugly one he now has?

VI I come here to talk to you about  
 our aims, objectives & program. I also come  
 to ask you to reconsider your allocation towards  
 financing this vast program of building good  
 will. Conscious I am of the fact that there  
 has been some resentment towards our agency  
 because we withdrew from the partnership which  
 we entered into several years ago with the now  
 defunct S.N. JCRC at Houston. That started out  
 to be a real ptg soon developed into strictly an  
<sup>unsatisfactory</sup> financial arrangement wherein the JDA agency  
 furnished most of the money without the right  
 to control or direct the program or personnel.  
 When compared with an experience in our own  
 25 regional offices and staff & Natl Com  
 of A. D. L. & Am. J. Com came to the conclusion  
 we were not getting our money's worth  
 & that the committees were not getting either  
 the program or the service we thought they  
 great areas was entitled to. He gave a  
 year's notice & we withdrew. He did not





suggest that the S. N. J. C. R. C. had to go out of business as it voluntarily voted to do a few months after our notice was given and before the time had expired as given in the notice. When we learned that the S. N. J. C. R. C. was terminating its activities, A. D. L. moved quickly to fill the void, ~~filling~~ <sup>establishing</sup> a regional office in Houston several months earlier than had been our original plan. We now have a very capable director, Ted Freedman, heading up that office. Reports from him & from the communities where he is working his presence felt indicate that our efforts & program is being recognized as most effective. Our Am. J. Com. office in Dallas, in existence longer, also is making a fine contribution towards bldg better public relations. In judging our actions I trust you will understand that we did not withdraw from S. N.

J. C. R. C. to save money - we did so to give better service to the communities we represent & we are satisfied that our decision is being vindicated.

VIII What is the obligation of the Ft. St. City Fed towards J. D. C.? You have invited us to participate in your fund-raising



effects and inferentially, you tell your subscribers that you, the Federation, will deal fairly & adequately with each agency, seeing to it that when the funds are divided each agency will be fairly & equitably dealt with. It is on that representation that J.D.A. & all other agencies agreed to join with you in a federated effort. If they are not dealt with fairly, you have no right to expect them to be bound by your federation & if they have to withdraw from a federation they should not be blamed nor should pressure be exerted on the people who are willing to help carry on an independent campaign on its behalf.

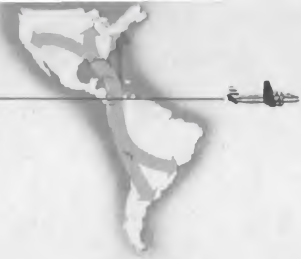
Our statistics show that Federations & Welfare Funds throughout the U.S. contribute approximately 3% of these total funds to J.D.A. - some more - some less - but an average of 3%. Ft. Worth raised \$ \_\_\_\_\_ in 1954. It should have given \$ \_\_\_\_\_ to be average - it gave only \$ \_\_\_\_\_. Even in the face of decreasing cents raised by Fed. throughout Am. in the past 5-6 years the contributions to J.D.A. have risen





due to a reallocation on the part  
 of community leaders that our  
 work is of prime importance to main-  
 taining the kind of public good will so  
 necessary for Jewish survival & progress.  
 People don't cut appropriations to their police  
 & fire depts even in times of economic  
 stress nor do they <sup>cancel</sup> <sup>their</sup> <sup>fire</sup>  
 & public liability insurance when business  
 is bad. In times of great prosperity, such  
 as we are now experiencing, you must  
 see to it that your community deals fairly with  
 the well agencies that are constantly on  
 guard to protect your good name and that  
 of your children, and ~~that~~ <sup>that</sup> a devoted  
 lay, volunteer army of thousands of men  
 & women <sup>throughout this country</sup> working under expert, dedicated  
 professional direction, want your community  
 to do only its fair share towards creating  
 the kind of a stereotype of the Jews of  
 which we may all be justly proud.





Doble Aquí

AIR MAIL

CORREO AEREO



Fold Here

Fold Here

Doble Aquí



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COMMUNITY SERVICE REPORT

JOSEPH COHEN, CHAIRMAN

I believe it is important that from time to time this Committee <sup>RECEIVES</sup> ~~reviews~~ an accounting of the activities and problems of the Community Service Division. The desirability of such an accounting is emphasized because of the responsibility this Division has in administering 27 regional offices and, in the course of doing so, disbursing more than three quarters of a million dollars. This is a big business we are running - even in these days of shrunken dollar values; and the vast organization we supervise, given the forceful interaction between an excellent national and regional staff, enables us to exercise the kind of impact which is certainly the equal and probably the superior of any like organization on the American scene.

As a matter of fact, so successful has our regional office structure been that a number of other national organizations have paid us the ultimate compliment of attempting to duplicate our successes. During the past few years, we have noted the American Jewish Committee, the Jewish Labor Committee and the American Jewish Congress intensively building their regional office structures. The National Community Relations Advisory Council has been urging local Jewish communities to establish Community Councils and to become members of the NCRAC. In all fairness, I must report that these efforts by other organizations have met with considerable success although it is my belief that the ADL still enjoys an over-all position of primacy.

Nevertheless, we must be aware of these developing trends. If we are to continue to be an important organization, to command respect and to receive the funds needed for our work, we cannot afford the luxury of being complacent about

our status. We are in the kind of dynamic position in the American Jewish community where you have to walk quickly to stand still and you have to run hard to make progress.

This is the kind of self-appraisal which led us to launch our leadership development campaign at the beginning of the current year. For, although our current leadership is strong and representative, it is necessary constantly to cultivate new leadership on an intensive, planned basis. In doing so, of course, we must observe the caveat that in our zeal to acquire new strength we do not weaken or discard the strength we already have.

You will be glad to know that in the several months since this leadership development effort was launched, the campaign has gained considerable momentum and in several areas I can report real progress already achieved.

Our first task was to orient our own staff and leadership to this program. To this end, Ben Epstein, Arnold Forster, Alex Miller and Oscar Cohen met successively last spring with staff and leadership in New Orleans, Los Angeles, San Francisco and Chicago. This past summer our East Coast regional and national staff people outlined leadership development plans at Camp B'nai B'rith.

In order that the task of leadership development be carried on systematically, our Division director, Alex Miller, has prepared a comprehensive outline of suggested techniques through which new leadership can become interested and involved in this program. Our objective is to involve individuals of influence and affluence in our Regional Boards or National Committees.



One of the better techniques we have used is to request a key community leader to play host to a number of top people at his house. In the informal, friendly atmosphere of the home these individuals meet with one of our national ADL people and have a chance to get a deep understanding of our work. One of the many cities this technique has been ~~emphasized~~ <sup>EMPLOYED</sup> successfully is Milwaukee, Wisconsin. Ben Epstein visited there some months ago and met with a select group of 40 in a private home. So great was the interest and so captivated was the group by Ben's personality and fund of information, that it was after 1:00 a.m. before the meeting ended. The payoff came just a couple of weeks ago when our Wisconsin director Sidney Sayles advised us that many of these same people responded enthusiastically to an invitation to join the Regional Board.

In <sup>A</sup>variation of this same technique, Lester Waldman toured the Plains States area, meeting with key groups in Omaha, Des Moines, Wichita and other cities. In Kansas City, I <sup>acted as</sup> hosted a luncheon at which Lester told the ADL story and won considerable support from key individuals whose interest in our work at best might have been described as indifferent. In Los Angeles, <sup>20% rise to JSA</sup> it was a cocktail party at which Alex Miller spoke and which added several key people to our Pacific South West Board. Here in Chicago, the luncheon technique utilizing Arnold Forster and Ben Epstein has been quite successful.

It is not always possible to develop interest in or even to find places on a Regional Board covering a wide geographic area. There are many individuals who find it difficult to identify themselves with regional problems in contrast to local ones or for that matter to travel to Board meetings in distant cities.

Cleveland, Ohio presented this kind of a problem to us. While there are many key people favorably disposed towards ADL in that city, a number of them could not or would not devote the travel time to participate in meetings of the Ohio-Kentucky Regional Board. We therefore arranged for a meeting of these leaders a couple of weeks ago in Cleveland. The meeting was beautifully arranged by Seymour Gorchoff, our regional director, and was hosted by two key leaders in Cleveland, Lloyd Schwenger and Larry Williams. Paul Sampliner and Ben Epstein attended as national representatives and thoroughly charmed the group. As a result, we now have a strong Cleveland ADL Board which is a sub-section of our over-all Ohio-Kentucky Board and which will be meeting regularly.

Another excellent technique is that of involving key community leaders in an important local project. In Washington, D. C. last spring under the leadership of Board Chairman Milton Kronheim and regional director William Korey, we arranged an inter-faith baseball game featuring the Washington Senators and the Detroit Tigers. In this project not only were leaders of the Jewish community involved but, also, key individuals of Protestant and Catholic groups as well. The project went a long way towards integrating our office operation into the power structure of Washington, D. C.

I want to emphasize, however, that we have only begun to scratch the surface in this campaign. There are many areas where we do not have our share of representative Jewish leaders. There is no need here to list the cities or cite the reasons why we have not made as much progress as desirable. During the year ahead we plan to concentrate on these areas. We will need the help of all of you in this campaign and I am certain you will respond when

called upon. For on the success of this endeavor rests in no small measure the future of the Anti-Defamation League.

I do not propose in this report to list for you a detailed account of the achievements of the Community Service Division. So many of you are intimately familiar on a day-to-day basis with the work and accomplishments of individual regional offices that I take it for granted that you relate the impressive contributions made in your <sup>own</sup> area to the equally impressive contributions made in every other region of these United States.

Rather, I would share with you some of our substantive problems; to indicate those matters which are foremost among the concerns of our Regional Boards.

One of the problems which is of utmost concern, to judge by the tremendous amount of mail we receive and the frequency with which it pops up on Regional Board agendas, is that of "Separation of Church and State." While our position is a clear one, it is not an easy one to put into effect in most of the United States where the Jewish community represents but a miniscule percentage of the population. We have followed a policy of allowing the utmost latitude to various Regional Boards in interpreting national policy and deciding how much of it can be put into effect at any one time in a specific area. I am delighted that we have established a special nation-wide committee to study this problem; to re-examine our position and our strategy. The recommendations of this committee will be most helpful to our Regional Boards.

It would be difficult to chart the degree of interest in the problems



stemming from Israel and the Mid-East as reflected in the deliberations of our Regional Boards. Not only has the situation been extremely fluid but the reaction to it has been exceedingly spotty in the various areas of the United States. Certainly, during the early months of this year, there was tremendous concern evidenced in Jewish communities everywhere when it appeared possible that sanctions might be employed by the United States government. Following the successful conclusion of this aspect of the problem, there seemed to set in a period of complacency - even apathy. Perhaps it was the reaction to the period of tension. Perhaps a feeling grew up that Israel seemed secure. Perhaps it was due to the general public ~~fastening~~ <sup>FASTENING</sup> its interest on other problems - desegregation, the penant races, summer vacations, the clash between East and West, Sputnik. At any rate, we witnessed in most of our offices and Regional Boards a sharp drop in the number of problems reported to us and a corresponding falling off of requests for positive program aids. Only in a few areas where there are large centers of Jewish population or where there has been unusual activity on the part of Arab propagandists or their friends, has interest continued at a high level.

Certainly, in one section of the United States there has been so much preoccupation with other problems that there has been relatively little attention devoted to the problems of the Middle-East. I refer, of course, to the South where our regional offices and Boards have been caught up in the swirl of tensions generated by the clash over the issue of desegregation. There is no need for me to go into a discussion of this vast and complex problem. Other sessions of this meeting are being devoted to a complete examination of this topic. I do, however, want to pay my tribute to our Southern leadership

and professionals who, despite all the pressures, have been able to carry on quiet effective programs in many areas of the South - exposing bigots - strengthening the hand of law enforcement officials - cooperating with school boards, church groups and other agencies in preparing communities for the desegregation process. When the final history of these turbulent days is written, we in the League will be proud of the solid, significant contribution we have made to <sup>the solution of</sup> this difficult problem.

One of our main concerns has been the violence, the anarchy, the mob rule which has obtained in a number of communities in transition. Inevitably, anti-Semitism has been evidenced in each tension-packed situation. It is our feeling that if the violence can be ameliorated much anti-Semitism will be avoided. As one constructive proposal, Alex Miller suggested the following plan which originally appeared as a letter in the New York Times, was reprinted in a dozen Southern newspapers and has been endorsed by several of the agencies working in the South today.

## Comments on School Crisis

*The following letters are representative of the mail The Times has received discussing the integration problem in Little Rock.*

### To Prevent Mob Violence

TO THE EDITOR OF THE NEW YORK TIMES:

Your editorial in The Times of Sept. 25 which states that Federal troops would not have been required in Little Rock if local and state police had carried out their duties properly presents an eminently sound and logical position.

In reviewing mob action which has occurred in so many cities during the past several years as violent overtones of the desegregation process, it is disheartening to note the failure of law enforcement officials to profit by these experiences. The same mistakes have been made in city after city.

The pattern has been disconcertingly alike in Clinton, Baltimore, Levittown, Nashville and Little Rock. A crowd gathers near the house or school which is being desegregated. The crowd consists of diverse elements: segregationists, teen-agers (in the mental as well as the chronological sense) and the curious. The police treat the crowd with tolerance, apparently indifferent to the jeers, catcalls, curses and even occasional brickbats. The only police requirement seems to be that the crowd stay behind certain rather loosely defined lines.

Apparently, the police in each city hoped that this kind of non-inflammatory treatment would gradually melt the crowd away. It never does.

### Transmutation of Crowd

Instead, by a kind of alchemy the

crowd becomes transmuted into an angry mob. The alchemist, can be an outside agitator, a self-appointed local leader, a hysterical woman or a group of Negroes suddenly coming into view.

Violence erupts. Negro youngsters are beaten. A police sergeant is felled by a hurled rock. A dynamite blast destroys a school, or, in the extreme, as in Little Rock the disorders are so great that the Chief Executive must send in Federal troops.

Only then, after the damage is done, is the police action finally taken which actually should have been the first order of business. This procedure is a simple one:

Allow no more than three persons to congregate within a mile of the school or house about which the crisis swirls.

During the time the tension exists let the police enforce the simple rule of "keep 'em moving." Allow no crowds to gather on any public property within the city limits without a proper permit.

Prevent parades or caravans from using public thoroughfares without a permit.

If the police in the various cities had employed these preventive tactics I am certain that the violence and disorders we have witnessed would have been greatly ameliorated. I trust that police in other cities which eventually must go through the desegregation process will finally learn from the bitter experiences of the past three years.

ALEXANDER F. MILLER.

New York, Sept. 25, 1957.

1 ←  
2 ←  
3 ←



IN NASHVILLE TENNESSEE, our South Eastern Regional Office worked intensively for several months in helping prepare that community for the desegregation process. Through a contact on the School Board, training institutes for teachers were set up and with the help of the Program Dept. we arranged for Assistant Superintendent HANSON of WASHINGTON D.C. to give the course. You will recall him as the author of our FREEDOM PAMPHLET "MIRACLE OF SOCIAL ADJUSTMENT". We ALSO WORKED CLOSELY WITH THE POLICE AND THE NEWSPAPERS IN HELPING THEM READY THEMSELVES AND THE COMMUNITY FOR THE CHANGE.

WHEN THE TROUBLE BROKE OUT WE HAD A MAN ON THE SCENE — AS WE DID IN LITTLE ROCK — FEEDING the authorities BACKGROUND INFORMATION on JOHN KASPER AND OTHER BIGOTS WHO CAME CROWDING IN.

The headlines of the daily press have focused rightfully on the dramatics of the Nashville and Little Rock situations. It may have caused some of us to overlook the fact that desegregation is no longer a Southern problem - it is a national one. While in the South the process of change revolves around schools, in the North the problem is that of housing. With economic advancement, with the encouragement of the decisions by the United States Supreme Court, Negroes are bursting forth from the ghettos to which they have been confined and are seeking decent homes in decent neighborhoods. This change is happening in virtually every city of the North. And this is of direct concern to us because frequently Jews are caught up in the complexities of this problem as real estate developers, as landlords, as tenants and as neighbors. Not only do they turn to us for advice but, also, our aid is frequently sought in these situations by Negro organizations like the Urban League and by Christian-centered organizations like the Society of Friends, the Methodists and the National Council of Churches.

It has been somewhat disheartening, although not surprising, to note that Jews have reacted to the thought of Negroes moving into their neighborhood with the same fears of economic loss, the same prejudices, the same intolerance as other members of the white community. Perhaps we have taken it too much for granted that we Jews because we are the people of the Book with our passion for justice - because we have suffered from persecution during the 2,000 years we have been in the Diaspora - because we have gone through the trauma of the dreadful Hitler era - that we ~~Jews~~ have thereby had our intolerance burnt away.

We have always described with justified pride the program<sup>s</sup> for creating better understanding which we have worked out with Methodists and Lutherans, YWCA's and PTA's, schools and service clubs. Isn't it time then that we devote some of the fine techniques we have developed, some of the wonderful material we have printed towards educating our own group? Can we continue to ask other groups to cleanse themselves of bigoted practices without assuring them that we have taken the same steps to fight bias among our own?

If we are successful we have made a vital contribution towards improving the democratic climate of the entire country. If we do not achieve complete success, then at the least, ~~when our sins come back to haunt us,~~ we can face our friends in the general community without embarrassment, secure in the knowledge that we have made the effort. This is not an easy task I am recommending but in the year 1957 it is a vital and important one.

Finally, it is ~~continually~~ a source of satisfaction to me to note the ingenuity and the fresh approaches constantly being sought by our regional directors in their attempts to cope with our very complex and difficult problems. Frequently, some of the best suggestions for new programs, fresh looks, bright ideas arise where they should - in the grass roots - from our regional Boards and directors. → SEE ATTACHED

For example, at the meeting of the Plains States Regional Advisory Board, of which I am a member, held last May 5th in St. Joseph, Missouri we spent considerable time in discussing the need for an intensification of ADL's effort to reach into rural areas. It is not surprising that this problem merited such attention in our region. The Plains States Region, including as it does Iowa, Nebraska, and Kansas, is probably the most purely rural of our 26 regions.



FOR EXAMPLE OUR PACIFIC  
SOUTHWEST OFFICE MADE A FINE  
CONTRIBUTION WORKING WITH THE CIVIL  
RIGHTS DIVISION IN THE FIELD OF DISCRIMINATION  
IN EMPLOYMENT, YOU WILL RECALL THE  
SURVEY COMPLETED SOME WEEKS AGO SHOWING  
THE HIGH INCIDENCE OF DISCRIMINATION  
AGAINST JEWS BY MANY LARGE FIRMS  
AND EMPLOYMENT AGENCIES IN THE  
LOS ANGELES AREA.

I would also like to point to  
two significant Public Relations achievements.  
Last Thursday, our Wisconsin office arranged  
for a luncheon to be tendered to our  
national director by the Governor of that State.

And at our Southwest ~~meeting~~ Regional  
Board meeting ~~in Texas~~ held in Austin  
Texas, just a week ago Senator LYNDON  
JOHNSON was the main speaker. His speech  
made headlines across the country and also  
was used on a nation-wide TV Program.

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Following Greater Kansas City, the largest city in our area is Omaha, with a population of approximately 300,000. Iowa, which is the most fully urbanized of the three states, has just recently reached the 50-50 dividing point between rural and urban.

Many of us have dismissed the importance of rural public opinion in the formulation of national policy. The so-called "farm vote" holds a balance of power in the program of both major political parties. Issues surrounding immigration, union legislation, civil rights, are frequently compromised, if not diverted, by the need to cater to the rural vote. We must bear in mind that the Senators from Nebraska, have an equal vote in Congress with the two Senators from the State of New York.

Another fallacy frequently repeated suggests that because of the sparseness of Jewish population in rural areas, there is no rural anti-Semitism. However, I need only quote from a study done in the State of Michigan in 1954 to prove that this is not accurate. "Rural dwellers seem more unfavorably prejudiced than city dwellers." "Rural dwellers show a more widespread acceptance of common stereotypes about Jews." "A major contributing factor is the lack of opportunity in rural areas for face-to-face contacts with Jews." "Rural hostility toward Jews is more latent than active; opportunities for expressing such hostility are limited." "This study also found that rural dwellers in Southern and Mid-Western states are more prejudiced than those in the North and East." when we examine the subscription lists of Gerald L. K. Smith or that of our Kansas contribution to the field of bigotry, Gerald Winrod, we are aghast at how large they bulk in the rural areas.

The problem is additionally important since all our cities have a continuous



influx of people of rural origin. These individuals, confused by the necessity to adapt to a new way of life, have employed stereotyping as a mechanism to control their environment. In the competition for jobs and housing, it is a comfort to the farm boy to bring into play his latent prejudices and to dismiss his competitors as "kikes," "niggers," and "greasers."

Out of our rural hinterland comes a large percentage of our teachers. I suspect that the midwest has contributed more than its share of personnel to Madison Avenue. It would be interesting to survey the number of newspapermen currently employed by metropolitan dailies who trace their origins to Ottumwa, Iowa, or Elmdale, Kansas.

During the course of our meeting, Dr. Max Milner, a member of our Regional Board, Hillel Counselor at Kansas State College in Manhattan, Kansas, and Professor in the Department of Milling Industries, reported on the role of the land-grant college in relation to the communication of ideas to the rural areas. Dr. Milner pointed out that one of the unique features of the American agricultural system is the rapid communication of theory into technology through the liaison of the state agricultural college, county agent and farmer. In other countries, universities are removed and aloof from the practical problems of the farm dweller. The county agent has increased in importance as his job has been given a wider diffusion. Today, the county agent not only advises the farmer on when to plant and how to plow, but also tells him how to invest, how to dress, how to recreate, how to raise his children, and frequently, what attitudes he should adopt. The state college, through its network of county agents, home demonstration workers, 4-H movements, Future Farmers of America, etc., have a profound impact on the rural scene and are considered by Dr. Milner



to be the key to a far-reaching rural program. Dr. Milner also pointed out that county agents and home demonstration workers were hungry for new program material. Many of these have regular radio and television programs and, in Kansas, are reliant on the program director of the Kansas State College radio station for appropriate materials. He urged an increasing awareness of the role of the state agricultural colleges to create a changing climate of opinion among American farmers.

Our regional director, Sol Littman, ~~has carefully made the rounds of rural newspapers.~~ He has pointed out that ~~the~~ rural farm weeklies, such as Capper's Farmer, is the single most influential factor in molding public opinion in rural areas. These weeklies have circulations frequently topping a million. Interviews with their editors have indicated that, while they are largely technology oriented, their editors are anxious to use human relations material where feasible. However, he discovered that most of ADL's published materials and news releases are primarily aimed at large metropolitan newspapers and are virtually unusable by rural weeklies. He also learned that there were many important opportunities of programming with rural areas which had been consistently missed. The state and county fairs are a major source of education and communication with rural dwellers. Dr. John E. King, President of Kansas State Teachers' College in Emporia, has recently advised us that rural schools should be given special attention by the ADL in order to make our school materials meaningful in that setting. We have barely begun to make inroads in important farm organizations such as 4-H, FFA, Farm Royal, Farmers Union, Grange and many other farm organizations equal in national importance to the NAM, or the Boy Scouts of America. They are on our horizons but not within our grasp. It was for these

reasons that we passed the following resolution:

WHEREAS the rural population in America still accounts for 13% of our total population and since the agricultural states have a political influence vastly more significant than their numbers would suggest, and since the rural population frequently bulks large in the population of every major city, and since latent prejudices frequently become more explicit following a rural to urban move,

THEREFORE BE IT RESOLVED that the Anti-Defamation League of B'nai B'rith create a special department to concern itself entirely with the problem of contacting and programming with rural organizations. The present Department of National Organizations is unquestionably too diversified to assist in making an effective break-through in this important area. In addition, existing departments within the Anti-Defamation League structure should devote a significant portion of their time and energy to creating materials and news releases focused on rural channels of communication and avoid the assumption that rural public opinion is negligible, unreachable, or unworthy of our effort.

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# MEMORANDUM

ANTI-DEFAMATION LEAGUE, 338 Securities Building, Omaha, Nebr., JA. 4735

To Joseph Cohen  
From Sol Littman  
Date: September 20, 1957  
Subject:

On September 12, 1957, Alex Miller requested that I forward to you a copy of the resolution passed at our Regional Board Meeting in St. Joseph, concerning the need for an ADL Department to concern itself with the problems of contacting and programming with rural organizations. He also asked that I prepare a brief statement supporting the resolution. I understand that you will be presenting the resolution at the Executive Committee Meeting in Chicago on October 26.

My best wishes to you and your extremely interesting family.

*Sol*

cc: Alexander Miller  
Lester Waldman



PLAINS STATES REGIONAL BOARD MEETING  
St. Joseph, Missouri  
May 5, 1957

R E S O L U T I O N

W H E R E A S:

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/ / / / / / /

## THE NEED FOR A RURAL ADL PROGRAM

At the meeting of the Plains States Regional Advisory Board on May 5, 1957, at St. Joseph, Missouri, we spent considerable time in discussing the need for an intensification of ADL's effort to reach into rural areas. It is not surprising that this problem merited such attention in our region. The Plains States Region, including as it does Iowa, Nebraska, and Kansas, is probably the most purely rural of our 26 regions. Following Greater Kansas City, the largest city in our area is Omaha, with a population of approximately 300,000. Iowa, which is the most fully urbanized of the three states, has just recently reached the 50-50 dividing point between rural and urban.

We must bear in mind that, like most national organizations with headquarters in the urban East, it is rather difficult for us to conceive of America as a vast hinterland containing millions of people, rather than visualizing it as the New Yorker magazine did a number of years ago when it printed its famous map showing the United States as consisting of New York City and Los Angeles. Many of us have glibly dismissed the importance of rural public opinion in the formulation of national policy. This is a fallacy which needs correction. The so-called "farm vote" holds a balance of power in the program of both major political parties. Issues surrounding immigration, union legislation, civil rights, are frequently compromised, if not diverted, by the need to cater to the rural vote. We must bear in mind that Senators Hruska and Curtis of Nebraska, have an equal vote in Congress with the two senators from the much more populated state of New York.

Another fallacy frequently repeated suggests that because of the sparseness of Jewish population in rural areas, there is no rural anti-Semitism. However, I need only quote from a study done in the state of Michigan in 1954 to prove that this is not accurate. "Rural dwellers seem more unfavorably prejudiced than city dwellers." "Rural dwellers show a more widespread acceptance of common stereotypes about Jews." "A major contributing factor is the lack of opportunity in rural areas for face-to-face contacts with Jews." "Rural hostility toward Jews is more latent than active; opportunities for expressing such hostility are limited." "This study also found that rural dwellers in southern and mid-western states are more prejudiced than those in the north and east." When we examine the subscription lists of Gerald L. K. Smith or that of our Kansas contribution to the field of bigotry, Gerald Winrod, we are aghast at how large they bulk in the rural areas.

The problem is additionally important since all our cities have a continuous influx of people who have left their rural origins. These individuals, confused by the necessity to adapt to a new way of life, have employed stereotyping as a mechanism to control their environment. In the competition for jobs and housing, it is a comfort to the farm boy to bring into play his latent prejudices and to dismiss his competitors as "kikes," "niggers," and "greasers."

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2. We completed a second survey this year on Resort Discrimination About 25% of the resorts in Am. discrim. We're using this info to buttress our fight for leg. opposed to discrim in pub. accommodations. In those states with such leg. we found the least discrim.

3. Breaking down barriers in education -

- a. "Crack the quota" campaign success
- b. Conference of educators - codes of fair practice
- c. College consultant review - conf. of educators in our institution

4. Christian Friends Bulletin goes to ~~30,000~~ <sup>45,000</sup> ~~members~~ <sup>preachers</sup> in Am.

5. Institutes on Human Relations in colleges, camps, etc

3. Integration - segregation conflict has it anti-Semitic overtones

a. Our Atlanta office had a part in preparing the school & city officials for the desegregation process, beginning last Feb when Art Lewis, superintendent, briefed these officials on a plan. Dept of Schools Boss invited an S. E. off. to act as consultant at the Teachers' Workshop, Sept.

1. John Kasper + reversal of his anti-integration + anti-semitic friends, Ace Carter + Jesse Mabry of Birmingham, Edw. Fields of Atlanta + Lounsவில் Joe Beanharris of Chicago, Bill Hendrix of Fla, Peter Kauer of Dayton, O + John Mercurio of L.A. - were some of the people who were opposed by Kasper.

- a. Quote from Art Leven's report  
2. We heard from so. Jews of the terrible atmosphere prevailing in the so.  
3. The F.B.I. in Wash. uses our fact-finding facilities

#### VI On the positive side -

1. Educational programs
2. Our pamphlets, books, films, etc.
3. Camping programs with 30 denomin. & inter-denom. groups

#### VII - Arab problems AMERICAN JEWISH ARCHIVES



1. Aware of limitation of time at a Breakfast or luncheon meeting  
I'll get down to the business of telling you what we're doing to protect your interests & that of all Jews in Gen.

2. We work on a broad program of action based upon these general lines

(a) Fighting discrimination

1 - Employment - economic boycott - cost of our people in industry, especially in the white collar, clerical kind

(a) ~~to~~ the results of our investigation thru files of 3 employ agencies in L.A.

2. Hotel & resort discrimination -

(a) 25% of all resorts discriminate against us

(b) Atty gen'l & bar + med. ass'n + other groups alerted

3 - Private clubs - where power structure meet - Middletown U.A.

4 - 5<sup>th</sup> Shadow

(b) Education

Crack the quota - conferences

3. Crash program to launch a satellite to watch Russians - based on fear + hate  
a. Our program of human relations  
b. Camp - churches - colleges - teaching human relations



4. White Citizens Council  
1. Detroit - anti Semite  
2 - As W.C.C. manifest some



V. Besides having the honor of serving as Nat'l V.P. of A.D.L., I am in ch. of the Com. Sec. Com. supervising 27 regional offices throughout Am. - one of the fine ones being here in Houston managed by Tel Freedman, as reg. director

a. Time will not permit a review of our entire program. The best I can do is to illustrate a few examples as indicative

1. Discrimination against Jews in employment has been 1 of our persistent problems.

a. Our Reg. Office in L.A. made a survey that reg. based upon info from the files of 3 private employ. agencies

1. Employers used a code to refer to minority people not wanted - "5B" was the code No for Jews in 2 of these agencies + in the 3rd "X" was the Code No

We revealed 200 firms, many holding Gov't contracts - notified the Pres's Com on Gov't Contracts + got action - Gov. Goodwin Knight instructed his State Labor Commissioner, under whose jurisdiction the employ. agencies come, to confer with our Staffing

V. Pres. Nixon recently sent a directive to the heads of 26 prin. Fed. contract agencies instructing them to deny gov't contracts to those contractors who violate the non-discrimination prov. of the contracts.



Talk delivered to Econ  
7 Ind. Hill B. B. Brown  
at Indianapolis 2-20-55

I Much has been said & written  
about the Ind. Am. Dream. Many different  
interpretations have been given as to ultimate  
objectives of the Am. people. What they  
hope for, what they strive to attain and  
the best direction to go to achieve our  
highest aims.

1. The composite desires of a country  
is nothing more than an extension of  
the longings of the average ~~citizen~~ <sup>leader</sup>. If you  
understand the aspirations of the individual <sup>leaders</sup>  
in society it has been said that you  
can then fairly well interpret the Natl aim

II Basically, what the individual citizen  
strives to attain is 2-fold -

1. Economic Security
  2. Acceptance as a person
- When the individuals are threatened*





with loss or impairment of these 2 basic goals, the whole fabric of national security is in danger. I hope to elaborate on this theme as we go on.

(b) Our wise founding fathers knew only too well that a Nation could not succeed unless people were made secure in their property <sup>rights</sup> and in their human rights. Accordingly, they ~~wrote~~ wrote into our constitution a provision that the right of contract shall be inviolate and they spelled out the human rights in the 1st 10 amendments, known as the Bill of Rights.

III. It is far easier to protect property than human rights. Property is usually tangible and otherwise measurable in money value.

1. Human rights deal with such intangibles as the right to "equal protection of the law" "due process" - religious liberty - freedom from search



and seizure as Roosevelt-Church  
calls it the Four Freedoms, Freedom  
from Fear - Want - Freedom of Religion &  
Freedom ~~from~~ <sup>of</sup> Speech

2. Just because the law gives to  
every man equality, it does not  
follow from experience that each  
is protected equally in reality

3. These basic human rights would  
be whittled away, watered down or  
greatly diluted were it not for the  
constant vigilance of organizations  
within this democracy which act as  
the watch<sup>man</sup> on the tower, constantly  
alert against any discrimination against  
any class, group, race or religion  
which would afford an opening wedge  
to a break-down of these rights

4. For ~~to~~ more than 111 years our  
B.B. has been one of the great agencies in





American life which has acted as our  
sentinel to guard against any invasion  
of the rights of our people. Starting  
at a time when there were only 25,000  
Jews in the U.S., B.B. has been our  
Agency to represent us wherever and  
whenever an attempt has been made  
to whittle down our basic rights as  
Americans

5. For 41 years B.B. has had  
its A.D.R. as its defense and educational  
arm to fight the battle of Democracy  
for Jews. Asking for nothing more  
than equality of treatment with  
every other segment of our citizenry,  
A.D.R. has been willing to accept no  
less for citizens of the Jewish faith

a. Whether we are fighting to  
protect from religious discrimination  
such figures as Anna Rosenberg or Lada Prishky  
or to prevent the swain of a V-Roundtable



*in flight*



candidate or a Gov. Ribicoff or <sup>whether</sup>  
we are insisting on fair treatment to  
some obscure Jew in a small city,  
your A.D.L. can be counted on to  
deliver a job for our people

IV, A.D.L. is the hand-maiden of  
those who want to see this Art.  
Am. Dream come true. That is the  
reason that our offices in Wash,  
D.C., the National Capital, can have  
such an excellent relationship  
and high standing with the men  
& women in every branch of gov't  
service, regardless of Party. That  
is the reason why ~~the~~ the Pres. of  
the U.S., the cabinet, Senators &  
Rep., Judges & high dignitaries,  
of every kind will attend an affair  
sponsored by B.B. or A.D.L., as  
they did at our 40<sup>th</sup> Ann. a year ago  
& as they do everytime we choose to  
invite them.



a. A. D. R. gives <sup>direct</sup> ~~complete~~ service  
to the communities of 47 states, through  
over 25 Regional offices. <sup>About 2500</sup>  
lay leaders form the 25 regional advisory boards.  
These offices are manned by  
carefully selected personnel, men  
who are well trained to put our  
program into action in their areas.

a. Through these offices, which  
we like to call our circulatory system,  
there are literally thousands of schools  
<sup>systems</sup> & colleges that are receiving & using  
our literature, our films, our slides,  
our booklets & pamphlets calculated  
to teach people better human  
relations. Workshops on human  
relations have been stimulated  
not only in the schools but also  
for police depts & public health  
nurses. We are teaching people  
the art of living together in amity  
with varying faiths, races & cultures.





We are teaching teachers, police & nurses, and how to cope properly with the complex problems of these people

(4) We never run out of work to do in our field.

1. Racial discrimination has been surveyed by our N. E. office, our Miami office, our Denver office, our Miami office, our L.A. office & efforts to enact legislation to prevent it has been tried & is still being stressed.

2. Employment discrimination still persists in many areas of our country show. The planning ever more intense work among business & industrial leaders.

3. Educational discrimination is on the wane due to our work the quota campaign. But there is still much that can be done.





The Sup. Ct. decision on  
411. Desegregation has been a  
great blow against a system that  
has degraded a whole race of our  
citizens. The Sup. Ct. decision was  
over due, all of us acclaim it  
as of greater importance than the  
Woodlawn decision that probably  
hastened the end of slavery.

a. Desegregation is proceeding  
without too much difficulty in  
all states North of the Mason-Dixon  
line but there is a great ferment  
in the South where the white  
leadership is determined to maintain  
the old system.

† The position of Jews in the  
South has become precarious. Bigots  
& rabble rousers attempt to equate  
Jews with the element in favor of  
desegregation. Anti-Semitism is  
aroused. Over a D. L. regional office



are called upon to ~~to~~ give great  
 aid to the small & large Jewish  
 communities who find themselves for  
 the first time the victims of bigotry  
 & hate mongers.

Here then is a direct threat  
 to our people ~~who~~ in their  
 economic security and their  
 acceptance in society.

¶ The fact that A. J. L. is a Neil O'Connell  
 supervised by at the top by highly  
 competent staff & a lay Commission  
 of leaders in civic & community life,  
 gives it a coordination and  
 cohesion unlike any other agency  
 in the Jewish public relations field.  
 Each of our 25 regional offices has  
 the benefit of the experience and  
 intelligence of the whole agency.  
 Unlike most C. R. C., which act



*in flight*



independently & without supervision  
from above, our Regional Offices  
have to square with each other  
and their results on a com-  
parative basis

VI I told you earlier in my  
talk that A. D. K. gives direct  
service to 47 states. Perhaps you  
wondered what state in the U.S.  
is not receiving direct service  
from us. Unfortunately, it is your  
own - Indiana.

a. We have withdrawn from  
participation in all C.R.E. offices

Experimentally, we went into them  
only to find that our program was  
not being fostered properly. We had  
no control & no responsibility to us.  
The withdrawal in K.C., S.H. & Ind.

(H) We are now trying to  
decide as to the best way by which  
we can give Indiana A. D. K. service





We are here today to consult with you. Do you prefer field service out of Chicago or some other regional office. Does Ind. prefer a full-fledged regional office located within the state. Is there a need? Is Ind. C.R.C. full-filling all of your needs? We want no blanket of A.D.R. service in any state.

VII If the vision of our great founding fathers is to be realized, if we to continue our steady progress towards their lofty goals, if every citizen is to be made secure in his economic rights, to be compensated in accordance with his talents, energy & ability, if every person, Jew & Gentile alike, white, yellow & black, is to be given respect, honor and advancement commensurate with his character, merit and contribution to society, then our human relations agencies, such as A.D.R. must be prepared to take an ever more important part in leading the way

"GOOD WILL"

By Joseph Cohen

(Delivered May 19, 1955, to Fort Worth Jewish Welfare Federation)

Introduction

I. The well-being of a minority group, just as the well-being of a commercial business, depends upon the good will of the general public towards that minority group or business establishment. Not many will dispute that statement, I'm sure. We know that we spend large sums of money in our businesses to create a wholesome, favorable attitude of the public towards the economic venture which provides our livelihoods. We train our buyers carefully, cultivate our supplies, constantly lecture to our salesmen and our clerks, insist on manufacturing <sup>and</sup> or providing good merchandise that will please our customers, fight any slurs against our stores and factories, all because we realize how sensitive we in business are to the whims and attitudes of the people generally.

II. The JDA agencies, ADL and AJC are in business in a big way, too. Their business is an extension of your own business, each and every one of you. They are spending four million dollars a year to do for all the Jewish people of America the very thing you do for yourselves in your own individual enterprises. The extent to which they succeed or fail influences your own success towards building good will in your own business affairs. Whether you like it or not, there is no escape. You are a Jew in the eyes of the public and the public's attitude influences the action toward you. Of course, you may be a "good Jew" or a "white Jew" or "not like all Jews" that "you're different" by some of your close, personal friends who know you well and are closely associated with you in business. Probably nobody in this room has had more experience than I with that type of thinking which somehow or other places you in a different category from Jews generally. But I'm not talking about exceptional Jews who succeed in obtaining acceptance from Gentiles in both business and social life. I'm discussing general problems and attitudes that affect Jews everywhere in America on a mass basis.

As I proceed with this discussion, it should become crystal clear to each of you that you have a vital, inescapable stake in what JDA agencies are doing to maintain a favorable respect for Jews in this country.

III. Studies have been made by our agencies, ADL and American Jewish Council to determine the present status of Jews in cities comparable to this one, ~~Fort Worth~~ <sup>Houston</sup>. You'll be interested, I know, to read the results. The ADL published them two ~~months~~ <sup>years</sup> ago in the ~~March~~ issue of its Bulletin under the heading, "The Jews of Middletown, U.S.A." Here are some thought-provoking facts:

a. Very few hold public offices, either elective or appointive.

b. If the town's economic power is in the hands of an old entrenched group, participation of Jews in local banking and finance, in law firms and in the businesses that provide the clientele for these law firms, is practically non-existent.

c. <sup>Jews</sup> They rank high in the amount of participation in community affairs--Red Cross, Community Chests, charities, lodges and business and professional organizations.

d. They are excluded from social clubs, not generally invited to the homes of their business and organizational friends for social functions and therefore are forced to develop exclusively Jewish social relationships. Some of this clannishness is of our own making, to be sure, but not a little of it is due to the discouragement which Jews have experienced in trying to widen their social contacts beyond the Jewish fold. Therefore, we find that Jews are on an 8:00 A.M. to 5:00 P.M. basis with their non-Jewish citizens. In other words, there exists in our great democracy another kind of a "5 o'clock shadow".

e. Another recent study completed with ADL assistance at the Michigan State College, published in ADL's Research Reports of March, 1955, had to do with our position in rural areas where most of the population had never hardly met a Jew. In fact, in the county studied there was only one visible Jewish family, yet--

1. Between 20 - 25% of the 430 people interviewed stated that Jews are likely to take advantage of you in a business deal.



A little less than one-half of them said that they would oppose an effort by a Jew to buy the biggest store in town. Three out of four answered that America must be on guard against Jews getting too much power, and two out of five said that not too many Jews should be permitted to become doctors, lawyers and teachers. One-half said "it was not all right with them if more Jews moved into my neighborhood."

IV. What does all of this information add up to? I've lived too long and have engaged in Jewish and non-Jewish life too actively to get alarmed. It means that there is just a tremendous amount of work left for us to do in the field of Jewish public relations and your ADL and American Jewish ~~Council~~, the two JDA agencies, are doing a great deal for you.

a. We are making intelligent attacks on this great problem all over and on many, many fronts.

b. Organized anti-Semitism has been almost completely neutralized to such an extent that writings and ravings of a Gerald L. R. Smith, Rev. Winrod, Father Feeney and their ilk find no acceptability or influence among decent people.

c. It is the stereotype of the Jew which we are now trying to change--the kind of thinking that has become so imbedded in popular thinking as to equate<sup>a</sup> Jews generally with greed, dishonesty, socially unacceptable, communists and left wingers.

d. This we are doing in the field of legislation, education, labor, churches, social welfare and now we are even developing a program with leaders in business and industry. Thus every media of publicity, films, television, newspapers, magazines, through intensive work with public agencies and people, their workshops, seminars, film festivals and institutes we are trying to change this stereotype.

e. Because we believe that discrimination of one kind, whether of a social or economic class, is the breeding spot for more discrimination we are carrying on an intensive program to combat discrimination. We hope to convince fair-minded people that it is un-American and undemocratic to exclude Jews from social clubs in our cities. We know that it is in these big cities--and middle-sized cities--social clubs that the power structure of the community meets

makes important decisions, form attitudes. If this bad stereotype of our people could be eliminated, we could do away with the "5 o'clock shadow" and Jews would be able to make their contribution to the altar of democracy without having to battle uphill against foolish and disheartening pre-conceptions. Who knows how many more Dr. Salks and Dr. Einsteins we might contribute to the public welfare if unnecessary obstacles were removed from our pathway.

V. The JDA agencies, ADL and American Jewish Council earnestly believe this is well within the range of possibility--and not in the dim, remote future--but within a generation or two. The Quakers 100 years ago were just as much a bad stereotype as we are. Today, through their great undertakings and publicity, to be known as a Quaker is a term of approbation. Today, if you are told that a man is a Quaker, you think of him immediately as a person of high moral conduct, peace loving and righteous. Is not the Jew really entitled to that kind of a stereotype rather than the ugly one he now has?

VI. I came here to talk to you about our aims, objectives and program. I also came to ask you to reconsider your allocation towards financing this vast program of building good will. Conscious I am of the fact that there has been some resentment towards our agencies because we withdrew from the partnership which we entered into several years ago with the now defunct SWJCRC at Houston. What started out to be a real partnership soon developed into strictly an unsatisfactory financial arrangement wherein the JDA agencies furnished most of the money without the right to control or direct the program or personnel. When compared with our experience in our own 25 regional offices, our staff and National Commission of ADL and American Jewish Council came to the conclusion we were not getting our money's worth and that the communities were not getting either the program or the service we thought this great area was entitled to. We gave a year's notice and we withdrew. We did not suggest that the SWJCRC had to go out of business as it voluntarily voted to do a few months after our notice was given and before the time had expired as given in the notice. When we learned that the SWJCRC was terminating its activities, ADL



moved quickly to fill the void, establishing a regional office in Houston several months earlier than had been our original plan. We now have a very capable director, Ted Friedman, heading up that office. Reports from him and from the communities where he is making his presence felt indicate that our efforts and program is being recognized as most effective. Our American Jewish Council office in Dallas, in existence longer, also is making a fine contribution towards building better public relations. In judging our actions I trust you will understand that we did not withdraw from SWJCRC to save money--we did so to give better service to the communities in Texas and Oklahoma, and we are satisfied that our decision is being vindicated.

VII. What is the obligation of the Fort Worth Federation towards JDA? You have invited us to participate in your fund-raising efforts and inferentially you tell your subscribers that you, the Federation, will deal fairly and adequately with each agency, seeing to it that when the funds are divided each agency will be fairly and equitably dealt with. It is on that representation that JDA and all other agencies agreed to join with you in a federated effort. If they are not dealt with fairly you have no right to expect them to be bound by your federation, and if they have to withdraw from a federation, they should not be blamed nor should pressure be exerted on the people who are willing to help carry on an independent campaign on its behalf.

Our statistics show that Federations and Welfare Funds throughout the United States contribute approximately 3 percent of their total funds to JDA--some more--some less--but an average of 3 percent. Fort Worth raised \$ 200,000 in 1954. It should have given \$ 6,000.00 just to be average--it gave only \$ 1,000.00 . Even in the face of decreasing amounts raised by Federations throughout America in the past five or six years the contributions to JDA have risen due to a realization on the part of community leaders that our work is of prime importance to maintaining the kind of public good will so necessary for Jewish survival and progress. Governments don't cut appropriations to their police and fire departments even in times



of economic stress nor do you cancel your fire and public liability insurance when business is bad. In times of great prosperity, such as our people are now experiencing, you must see to it that your community deals fairly with the national agencies that are constantly on guard to protect your good name and that of your children. A devoted lay, volunteer army of thousands of men and women throughout this country, working under expert, dedicated professional direction, want your community to do only its fair share towards creating the kind of a stereotype of the Jews of which we may all be justly proud.



I would like to tell you something new, give you some fresh angle, startle you with a novel observation, stimulate imagination to great heights of eagerness but that is next to impossible in this day of the greatest tourist season ever enjoyed in Europe.

But I can describe one man's reaction to these sights and I can give you some information about places that are constantly in the news but which have only recently been open to travel to the American public and where history is now being written. I mean West Berlin and West Germany, Vienna and brave little Israel, our dependable ally in the Middle East, standing alone amidst nine huge bullying Arab nations that swear to bring about her ultimate downfall while she stands mockingly strong daring them to try.

We visited eight countries in toto, seven in Europe and Israel situated at the bridge between Europe and Asia. England was our first stop. From London we took trips into the beautiful countryside which in many respects looks like our own New England states, particularly, New York, Connecticut and Massachusetts. I thrilled at the site where King John was compelled to sign in 1215 the Magna Carta, the first great document of Anglo-Saxon freedom. Our guide was a great student of English history and his description of the gathering of the Lords and Barons at Runymede to demand this concession from the unwilling king was almost in the dramatic manner of the "You Were There" TV programs. When he told of the noblemen awaiting the arrival of the king and the latter's refusal to attend and the message sent back to the king that if he didn't come they would go and get him, I could feel the tenseness of that day when the people first rebelled against unrestrained monarchy.

We then went to the town of Bray on Avon where we were first introduced to the story about the Famous Vicar of Bray who during the Protestant Revolution changed his faith three times from Protestant to Catholic, then when the town went Protestant again, back to that faith and again to Catholic when another change occurred. But, as the poem says, he remained, as he <sup>desired</sup> ~~wanted~~, always to Vicar of Bray.



On the mantle of the fireplace of the quaint English inn in Bray where we dined was a quotation placed there during the dark days of the Second World War when England stood alone against the might of conquering German hordes, with Churchill defying them to try to invade his tight island homeland. It said "Fear knocked at the door. Faith answered. Noone was there." Isn't that a great piece of philosophy? Fear will disappear if you have faith. Faith in your God, faith in yourself. Our guide added this one: "Don't spoil today's blue skies with tomorrow's dull clouds."

The Crown Jewels in the London Towers, built by the Normans in the eleventh century with a moat around it was worth seeing if only for the purpose of giving you some idea of the pomp and splendor of a British coronation. Diamonds 25 and 50 carats in size were a commonplace. We were amused at a tiny crown on display there when we were told that Queen Victoria had it made for her use when the regular sized crown proved too big and gave her headaches.

I visited the Lincoln Inn of Courts, one of the ancient Inns of Courts where British lawyers have been trained for centuries. We were shown the great beautiful dining hall where the students and members of the bench and bar dine daily. The keeper proudly showed me a framed letter from General Eisenh<sup>ow</sup>er thanking the Inn for making him a "bencher" upon his visit there. Another pride was the huge law library maintained there.

When we entered the Inn we first met a young dark skinned man whom we asked for directions. He promptly offered to and did take us to the office. As we walked with him we learned that he was from Ceylon, a student of law at the Inn. He said there were students enrolled from all over the World, particularly the British Empire.

I was interested to know of the educational qualifications for entry into Law School. All that is required is the completion of a four year course in a secondary school, not a college degree as we require in America. However, a young man finishing the law school does not enter into practice immediately but usually undertakes an apprentice or internship with older lawyers for a year



or more. Requirements in France are practically the same I learned from a French lawyer friend.

While I'm on the subject of the law, I would like to tell you of my visit to the French law courts in Paris. My friend first went to the locker room put on his ornate black robe with a white ruffle in front and then took me from one level of courts to the next, starting with the Court of ~~Corsation~~ <sup>Cassation</sup>, which is equivalent to our United States Supreme Court and passes on only the law, not facts of a case. Then to the intermediate courts of appeal, which review the trial court's decisions and which may reverse or modify them on law or facts with the same authority of a nisi prius court of original jurisdiction in our state.

Trial by jury is unknown in France except in major criminal cases. I saw one criminal case on trial with six jurors sitting on one side and six on the other with a witness standing at a rail giving his testimony in French in the middle of the room, facing the 3 red-robed judges. It seems as though the witness were permitted to speak his testimony without questions or cross-examination. I learned that cases are pre-tried by written statements obtained before actual trial and that little cross-examination occurs unless the witness varies his statements.

Surprising to me was the large number of women wearing the legal robes. They were all over the crowded corridors talking to clients and witnesses, as were the men lawyers, and were engaged actually in the courts. There are about twenty per cent women lawyers in France and my friend said they were very intelligent and industrious and were particularly helpful in the preparation of cases. He might have been prejudiced in their favor in view of the fact that his wife is a practicing avocat, too.

We are familiar with the English classification of the bar into Barristers, Solicitors & Proctors. In France there is also a distinct classification, <sup>a</sup>Notaries and <sup>2</sup>Avocats. <sup>2</sup>Notaries are something greatly more than what we think of when we mention the name. They have the lucrative probate practice, drawing of wills and trusts, and the handling of real estate conveyances and other legal documents. Only when there is litigation are the avocats called in. Advocats cannot even draw a will, but they



Esleech

Fidelity Union Skin

can consult with reference thereto and do prepare wills for their clients who must then copy the will in his own handwriting at his home and when so done, a will is sufficient without signatory witnesses. It is the same as our holographic wills, only it may be probated at any time without limitation.

I said at the outset that this is a great year for European travel. I didn't run into Paul Ditzen myself but our traveling companions, the I. D. Rubins of Kansas City, Missouri, reported meeting them at Heidelberg, Germany. We did, however, get the surprise of our trip when we turned around to see Jimmie and Helen Howell and Carl and Ruth Rice shopping in the famous Flee Market of Paris. Meeting friends from home is always a pleasure when you are traveling, but to meet four of your old neighbors from the 22nd and Washington Blvd. area is something extra special. It gave me almost as much pleasure as a letter from my office telling me that my partner, Charlie Schneider, had gotten a \$60,000.00 verdict in a damage suit which he tried in my absence in Kansas City, Mo.

We left England with a renewed and revitalized appreciation of the English people, their love of tradition and history, their loyalty and the throne and love of the prevailing monarch, Queen Elizabeth, and her husband, the Duke of Edinburgh. I'll not tell you of Windsor Castle or other great castles which mark the countryside, reminding us of the feudal days when the castles served as the governing spot and the military fortress of the area. Parliament, Westminster Abbey and Hyde Park are standard places to visit on any sight-seeing tour. Those of you who might be going to the American Bar convention in London in May will want to spend a lot of time on the British Isles.

Hyde Park is worth mentioning further because of its reflect<sup>e</sup> so typically the great affection which the English have for the institution of free speech and free press. My wife and I went over to Orator's Corner in Hyde Park merely to spend a few minutes lis-

MADE IN U.S.A.



tening to the speeches that were going on in at least 5 or 6 different places. We got so interested in the discussions that we were late getting back to our hotel for dinner. One orator had his own platform and billboard. He was a darkskinned lawyer from one of the colonies. He was lambasting the government over the Suez crisis and was being heckled by various people in the audience and in turn was being defended by others, some in good humor, others very serious.

In another place, two Arab students were discussing the Israeli problem in the Middle East from the biased point of view of Arabs. When they finished, a by-stander from Australia took them on and by the most persuasive facts I had ever heard on Zionism, and I think I've heard much, completely devastated their positions to the amusement and education of the crowd.

At still another spot, there was a fiery Irishman talking on the old subject of Irish freedom, and when the hecklers tried to drown him out he shook his fist and said: "You ask me why I don't go back to Ireland, if I love it so much. I'll tell you what I'll do. If the English will get out of Ireland, I'll get out of England."

So everyone has a chance to blow off steam, say anything on any subject he wishes, criticize the government and be protected by the bobbies who stand around so long as he does not commit a criminal breach of the law.

Of interest to me as an American, too, was a visit to Sulgrave Manor, the Northamptonshire home of George Washington's ancestors. A tour through this old, two-story Colonial type home is proof that the Father of His Country sprang from a<sup>re</sup> aristocratic Anglo-Saxon blood who lived gently and well in England just as our first President did at Mount Vernon.

Have you ever wondered as to the mechanism and organization known as Lloyds of London, the famous insurance exchange where the great institution of the modern insurance industry was born? I had a curiosity to visit this world-renowned place and learn at first hand more about it. Through an insurance contact in Kansas City, I was



able to meet one of the brokers whose firm places United States insurance risks with Lloyds and from him I learned some interesting facts and was shown through the present exchange floor which, incidentally, will soon be replaced by a new one in larger quarters nearby.

As you all probably know, Lloyds of London originated in Lloyd Coffee Shop as a mutual or reciprocal marine insurance group, composed of ship owners who insured each other's ship's and cargoes against the perils<sup>risks</sup> of the sea, each person in the group accepting a certain percent of the liability. From the beginning in \_\_\_\_\_ the Lloyd's Exchange has grown to such proportions as to rightfully enjoy the reputation of being willing to accept and insure against any risk whatsoever. In a single day the Exchange will underwrite an average \$30,000.00 in insurance risks involving premiums proportionately as large.

Contrary to popular belief, Lloyds of London is not an insurance company. Rather, it is an aggregate of individual syndicates whose members must qualify with unexempt property of from one-fourth of a million dollars upwards, be people of tested character who are prepared to pay insurance losses out of their own property should their professional underwriter, who manages the syndicate, prove to have exercised bad or unlucky judgment in accepting a risk. However, we need not shed too many sympathetic tears for these syndicate members for the reason that they are well insulated and every year make handsome profits.

If you have an insurance risk you want covered, the procedure involves contacting a broker; he, in turn, goes on the floor of the Lloyd's Exchange, contacts the leading underwriter there in the type of risk involved. If the latter agrees to take a certain part of the risk, say ten to twenty per cent, it is easy to get the other syndicates to accept smaller parts



until the entire one hundred per cent of the risk is underwritten at a premium fixed by the expert first contacted whose judgment carries so much weight and influence with the others. No corporate entities exist on the Lloyd's Exchange, it is all individual responsibility.

I will not dwell on our visits to Holland and Belgium. These are lovely countries, industri<sup>2</sup>us, thoroughly democratic. Both were invaded by Hitler without cause and previously by the Kaiser in 1914 and the people in those countries do not speak too kindly of the Germans. In fact there is a suspicious feeling there as well as in France, that the re-arming of West Germany may again result in arousing the militaristic feeling of the Germans to a point where they may again, in a generation or two, make another bid for world domination. The Dutch and the Belgians are small, freedom loving people, who are now enjoying, along with all of Europe, great prosperity.

We flew from Amsterdam on K L M to Nuremberg, Germany, where we were joined by my son, Barton, a member of the Wyandotte County Bar Association, and his wife, for the week end. Bart is legal officer of the 33rd. Battalion of the 3rd. Armored Division and should be practicing here next summer or fall after his discharge from the Army. Bart had to go back to field maneuvers, but we did have the pleasure of touring West Germany in his little 4-cylinder 1952 Mercedes Benz that he had purchased for \$500.00.

All that you have heard about the beauty of the German countryside was confirmed by us. Hitler's autobahns, or super highways, are the finest in Europe and compare with our turnpikes. Though he built them primarily as highways for his mechanized armies, their use as peace-time roads make Germany far ahead of any country, including our own, in good means of automobile communication. Secondary roads are narrow and winding and should be avoided in Germany but if you stay on the autobahns you'll have a delightful tour. I am happy that our own Federal Government has recently voted to subsidize an improved and enlarged highway system in America to meet the present-day demand for roads that will equal the advances in speed and comfort of



current automobiles.

We visited, besides Nuremberg, Munich, Frankfurt, Heidelberg, Weisbaden and West and East Berlin. It is almost incredible the terrific destruction which the Allied bombers wrought on Munich, Frankfurt and Berlin and one wonders why the German people continued to fight during the last year of the war when defeat was inevitable to any sane leader. These cities not only were bombed at night but during the day time, too.

I asked several German people that question. The most rational answer was that Hitler told the German people that they were not fit to live if they lost the war and then promised them a secret weapon that would turn defeat into victory and they believed him. One German businessman said that documents had been discovered since the war that confirmed the fact that the Germans were working on the atomic bomb at the same time as we. I had read of that before and I thanked God that we had made the discovery first as I would have shuttered at what our reaction would have been had the atomic bomb been exploded in New York City first instead of Hiroshima and how well would we have been treated had victory gone to the Germans instead of to us.

The Germans are enjoying great industrial and economic prosperity. Cities scarred by bombs show block after block of cleared places where the rubble was taken away or where part of the building can be used, the useable part remains as a stark reminder of the power of nuclear weapons. Frankfurt, seat of our military staff in Germany, seemed to be furthest along in its recovery program. We stayed at the lovely Frankfurterhof Hotel which was practically leveled by bombing raids, but which has been restored to its pre-war style and appearance with all modern conveniences, including American type shower outlets, something rare, indeed, in that country. Munich is also a thriving city where trade goes on with alacrity. As one of the great cities of Germany, it, next to Berlin, got the real fury of our air attacks and this destruction is apparent everywhere. Temporary shopping centers, though, are giving way to a



program for permanent structures on a large scale basis. We found Munich the best place to shop in Germany.

Berlin is a different story. Entirely surrounded by Russian-held country, it is an inland island, about 2/3 of which is in Allied hands, and the other 1/3, East Berlin, dominated by the Communists. This is a sore topic to the Berliners who have trouble rationalizing the Yalta agreement of Roosevelt, Churchill and Stalin that permitted this eventuality. The city is divided into 4 sectors, British, American, French and Russian. We went through the Brandenburg Gate that divided West Berlin from East Berlin. It so happens that the best and most beautiful government buildings, the university, the stock exchange and leading hotels were in the East Berlin sector. They are still shambles from the destruction of our flyers, as the Russians have done little as yet to restore the damage. One sees the rubble and damage to the once-beautiful structures and one has no difficulty in equating the destruction with the historic Vandals or Genghis Khan. Though little building has occurred under Russian influence in East Berlin, we did see a block of large business buildings constructed as a *façade* against bombed-out buildings to their rear.

Instead of building homes for the many who need them in East Berlin, the Russians have completed a huge, gorgeous memorial in East Berlin to the memory of the liberation of the country by the Russians. We were told that this memorial cost \$16,000,000. How much more impressive it would have been to have seen that amount of money go into apartment buildings where people could enjoy housing they so sorely need.

There is now easy communication between East and West Berlin. Many people work in one sector and live in the other or vice-versa. However, there is the problem of different currency values, cost of merchandise and other things which have a deadening effect on business and commerce between the two sectors. For example, you use one kind of money when you take the subway to East Berlin and one entirely different exchange when you leave there. It is not hard to make a



change in residence from East Berlin and East Germany to West Berlin and West Germany, but to do so one has to be willing to leave all of his earthly possessions behind and be content to start all over in the free part. I was told that many came each month from the Russian-dominated sector as well as from countries behind the Iron Curtain-- Poland, Hungary, Rumania and even Russia making their perilous way in the most devious and hard manner.

On the whole, I found Germany quite grateful to America for the economic and military help which we are furnishing. They realize that it is our large army and air force stationed in West Germany and in other European countries which is keeping the Russian ambition in check and without which they and all of Europe would be in danger of Communist control.

I went away from Europe with a finer appreciation of our contribution to the N.A.T.O. forces and with a better understanding of the strategy behind our program. So long as we remain in Europe as a strong force, the likelihood of Russia or any other country trying to attack is greatly minimized. It is no longer a question of will America join in the defense of Europe against our enemies. Nato is an actuality, a mutual assistance treaty not only on paper, but any attack on our allies would immediately be an attack on us, and our forces would be involved to fight it out on European soil rather than on our own and we are prepared. Distasteful as is the draft to all of us, I don't see how we could ever provide the armed strength without it, and that is the general feeling of our boys stationed overseas, if my judgment serves me right.

I know you will be pleased to learn that our government takes mighty fine care of its men in the armed forces overseas and their dependents, providing them with recreation facilities of all kinds, including an excellent sports program; post exchanges, P-X's, stacked with the best merchandise of the United States and Europe, smart bars restaurants, hotel facilities for guests and men on leave, all at reduced prices. I paid 75¢ per gallon for gasoline in Germany at a



regular petrol station, whereas my son can buy it from the military filling stations at about 13¢ or 14¢.

One gets a better appreciation of our strength in Europe when he reflects on the airlift that saved West Berlin when it was cut off by the Russians from all supplies from the outside world in an attempt to bring all of Berlin under its domination a few years ago. Even the electric power plant, located in East Berlin, was shut off so that West Berlin was in darkness and without electric power for any purpose for several months. This might have resulted in war had not our airlift brought in food and all other supplies by an ingenious air transportation system which we established. I was told that the Russian blockade finally was broken when Americans flew an entirely new power plant and erected it in West Berlin to replace the one in Russian hands. We saw the simple monument to the airlift in the form of a symbolic concrete ~~ridge~~ *ridge*, in front of the Tempelhof Airport upon our arrival in Berlin.

We found Vienna happy and prosperous a year after the Russians finally agreed to conclude a peace pact with Austria. Like Berlin, Vienna was a divided city, occupied by the Russians in one section and the Allied powers in other sectors. Now that all of the "liberation" armies are out of Austria she is free to carry on her own affairs without intervention.

Vienna has a reputation for being a city of culture and gaiety. We found the culture but the gaiety of the past was not too apparent. Viennese love their music. One of the finest buildings in the city is the new Staatsoper House, a gorgeous structure of limestone and marble recently completed to replace the one bombed out during the war. It was a memorable event to us to attend the production of the R Strauss Opera, "Rose Caçvolier" in this huge, ornate building.



1  
Should change to  
the 1957  
all over  
Jewish life - 1957

Delivered 1-20-57 at Annual  
meeting of Cong. Ohev Shalom, 74 Sandusky,  
I.C.E.

I. This is the beginning of a new year -  
a time of contemplation, ~~self~~ self analysis  
& self-acting.

This annual meeting of Cong. O. A.  
furnishes a splendid time for K.E.,  
Jews to indulge in the luxury of  
appraising themselves & the world in  
which they live.

What we are today, the place <sup>to</sup> where  
which we have arrived, the route  
by which we have come are fit subjects  
of discussion.

II. In spite of chaotic events in  
Europe & the Middle East profanely  
& tragically affecting us both as <sup>and</sup> ~~first~~  
citizens & as Jews, the end of 1956  
gives us much to be proud of, some  
triumphs to glow over & many hopeful  
signs for the future.

1. The ~~war~~ <sup>went</sup> thru a bitter presiden-  
tial battle, ending with an overwhelming  
victory for Ike Eisenhower.

a. Am people, in their customary  
& traditional way accepted the results  
of the election with equanimity, closed  
ranks behind the admin & supported his  
foreign policy.

b. ~~For~~ as Jews, it meant  
that the Am. people in 1956 had reached  
a new emotional maturity.

1. Anti-semitic propaganda

was at its lowest ebb.

a. A.D.L. took decisive action to prevent the injection of racial & religious bias in the campaign.

1. By getting each party to pledge in advance against it.

2. When it appeared, largely denied at V of Richard Nixon, A.D.L. issued a natl release to its 27 reg. offices, denouncing this type of election propaganda & stating that all both pres & V-pres candidates were free from such prejudice.

a - A.D.L. received letters from Pres Eisenhower & Dem Candidate Adlai Stevenson congrat. our forthrightness & opposing the bigots.

b. Thus 1956 produced another milestone in the long <sup>hard way</sup> road to an America free from taints of anti-semitism.

2. The past year produced another triumph in Jewish-Am. life -

a. The stratification of Jews into nationalistic groupings practically reached the vanishing point. Let me explain what I mean & what significance I attach to this phenomena.

1. Until the Great Depression, until about 1930-31, Jewish life in Am. was dominated by Western European Jewry - those & their descendants who came from Germany, Spain, Holland, ~~Austria~~ Austria & Hungary, as opposed to those from E. Europe - Poland,



Russia & the other Slavic countries.

Beginning with the thirties, there emerged in Am Jewish life such an inter-relationship in many, business, social & economic life of all Jews that the distinctions between the Jews based on national origins began to weaken & then gradually disappear so that when we reach the end of 1956, Jews are no longer referred to as German Jews, Polish Jews, Hungarian Jews but only as Jews.

by each other

b. Thus 1956 saw the end of a division in Jewish life based on old country origins & the emergence of the Am Jew as the composite of all Jews - with origins

3. Another 1956 triumph in Jewish life in Am is the first, still too meager, turn away from ~~secularization~~ <sup>secularization</sup> of Jewish life & the turn towards more of a spiritual & religious life.

a. Reports from our youth in high schools & colleges indicate a greater awareness of & devotion to organized religious life - towards the synagogue & the temple - away from reliance on strictly material things & on self, to greater love & appreciation for what our Pres Eisen-berger calls the spiritual values of the human being.

b. New bldgs for synagogues & temples are springing up all over the country with a willingness on the part



of our people to give of their wealth for such structures while at the same time they make unprecedented contributions to U. J. A., Israel Bonds, local, national & international causes.

4. Some myopic, short-sighted people may deny the professionalization of Jewish spiritual, religious, social & philanthropic life but for my part I believe that 1956 provided a banner year in which Jewish life reached another new triumph because we have learned the value of synthesizing the work of professionals with the laymen.

1. More rabbis, professionals, have deepened & strengthened Jewish life in America
2. More social service workers in our ranks have made for a stronger more viable Jewish community in the field of youth work, care of the needy & the aged, better medical care, strengthening of our social structure in numerous ways.

3. This growing corps of professionals have helped to build Jewish life in America to its present enviable position of tremendous solidarity, vigor, resources & usefulness. — without them I am certain that there would have set in a decadence & deterioration, with attending apathy, that in an abundance of freedoms, might have resulted in an accelerated pace of assimilation which might have doomed Jews as a people & Judaism as a religion to oblivion.

4

5. 1956 saw another triumph for our people - the lifting of the iron curtain in Poland, Hungary + for a while <sup>in Africa</sup> Morocco, so that Jews were & are permitted to ~~escape~~ <sup>escape</sup> to other countries where they are safer & more secure.

6. The 6th & greatest triumph in 1956 for Jews was the outstanding <sup>in arms</sup> victory of Israel against Egypt in the Sinai Desert & in the Gaza Strip.

a. I would like for a short time to dwell on the tremendous significance of that victory not only to the Israelis & to Jews generally but what the campaign probably ~~means~~ means when viewed in the long light of history.

a. My lovely wife & I left Israel only 14 days before Israel troops struck in an offensive defensive maneuver.

b. We fully understood the need for & inevitability of the conflict. She toured from 1 end of Israel to the other - a land 8,000 sq miles, 1/10 the size of Kas, 375 miles long, 20-40 miles wide.

c. She knew of the terror of the Fedayeen gang of guerrilla & murderers ~~at~~ <sup>in</sup> the West. The world probably would not have been so appalled had not 2 great world powers - Great Britain & France, joined in the assault.

d. It uncovered a gigantic plot by Russia to control the Med East.



5  
f. It woke up Am. to the great danger of this penetration  
g. Whose controls the Med. East controls the world

h. The new Eisenhower doctrine, tho. not going as far as some of us might desire, is calculated to bring stability to the Med East + curb Russian influence there

i. For the 1st time the U.N. has a force of 10,000 troops in the Med. East to maintain order. Israel's demand for assurance by U.N. that the latter will take over the Golan Heights + the Gulf of Aquaba, with U.S. backing, will probably result in a larger U.N. army.

III I have dwelled on the asset side of the 1956 ledger. Of course, there are liabilities - losses + frustrations but I like the form of positive thinking as against <sup>the</sup> negative approach + for that reason I shall skip that side.

IV The new year, 1957, is now being written, ~~you~~ <sup>we</sup> can all ~~try~~ <sup>help</sup> to make it another good year

a. Don't just be a hotel guest on the road of Jewish life, Don't just take a free ride & then criticize the dinner of the chaperone a mistake

b. ~~Let's~~ Let's help our rabbis, our officers of the congregation, attend services, participate in our D.B. activities; give



6  
your support to our Federation; join those who are ~~seeing~~<sup>aiding</sup> Israel to achieve self-sufficiency & a free democratic life; don't just pay dues, get in & help & encourage the leaders who undertake our responsible duties; make a substantial contribution to our help fund so that the warmth & glow of this congregation & our rabbi may be felt in J. D. K., where so many of our people live.

And last but not least, remember that each of us is part of the gentile community, that we are citizens of ~~the~~ this great America, take a part in your schools, your Com. Ch. & United Com. Campaign and thus we will ~~not~~ have the satisfaction of knowing that ~~not only~~ we are good Jews in the broadest & most acceptable meaning of that word.

Wally

I New year - analysis

1. 1956 general comp. ended bigotry as usual
2. Am Jew - no longer
3. *Her, etc*
4. Professional fees
5. Lifting of iron curtain
- 6 - Oct 24 - Israel - U.N. peace force

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THE PLAINTIFF HAS A CLAIM

*By Joseph Cohen*

*Received 5-18-53  
Spring meeting of  
Res. Claims Assn.  
at Iambler  
K.C.*

1. I'm happy to have been given this opportunity to discuss the adjustment of claims from the standpoint of the practicing lawyer. It was for that reason that I chose as my subject, "The Plaintiff has a Claim," because obviously to the lawyer the injured party is transformed in his mind from a mere claimant to a plaintiff as he contemplates the preparation of his client's suit. *It is common place to say that*

2. There are usually two sides to every argument. Inasmuch as most of our claims arise from motor car accidents I believe you will agree that there is frequently room for argument as to cause in this type of cases, especially those arising out of intersection accidents. Probably most accidents would and could have been avoided had both sides exercised caution and ~~xx~~ care ~~xxxxxx~~ in the operation of their respective automobiles. In contemplating the settlement of cases and surely when the lawyer gets ready actually to do battle in the courtroom for his client he must take into consideration that there will be something ~~to say~~ on both sides before the jury will finally be called upon to make the final verdict. That barbaric unfair doctrine of contributory negligence, the darling of the defense bar, will give him many sleepless nights before he has finally heard the jury's verdict. *decisions*

3. Before the lawyer has filed his case he generally will write the defendant and tell him of his employment by the injured party and advise him to turn the letter over to his insurance carrier for attention, if he carries liability insurance. Of course, if the defendant is some well known business man or a big corporation he will assume that the question of insurance or financial responsibility will give him no worry but if, on the other hand, the economic position of the defendant is unknown or questionable, let me tell you it is a great relief to all of us at the bar to get a call from one of you indicating that some insurance company has turned over the matter to you to investigate and adjust. Then our hope will be that we will find substantially more than a mere ~~\$ 5,000-10,000~~ ~~policy~~ 5,000 policy ~~is~~ but, if our case is one involving substantial injuries we cherish the hope that the limitations are several times those figures. Some states, recently joined by Colorado and Kentucky, will permit the plaintiff, on proper notice, to inquire as to the extent of the coverage so that he might make proper conclusions with reference thereto in the consideration of a settlement offer.

4. Most lawyers, I believe, have come to prefer to talk settlement of their claims with lawyer-adjusters rather than lay adjusters largely for the simple reason that the legally trained adjuster more often approaches the task of settling claims in a workmanlike way most likely to appeal to the attorney. I do not mean to say that lay adjusters are not qualified for the job. In fact, I have dealt with many lay adjusters who handled their work with such skill as to be the envy of many a lawyer. On the other hand, the lawyer ~~knows~~ *adjuster* from his studies that he must recognize the fact that there may well be ~~two~~ *two* sides to any claim and that even if his investigation discloses much that makes his side look good he does not fail to give proper recognition to the force of those witnesses, as well as the plaintiff himself, who see facts from an entirely different angle and who honestly believe, just as much as does the opposition, that the defendant and not the plaintiff was at fault.

5. What I think is needed by claims men, as well as lawyers, is objectivity--that is, the ability to judge the value of your case realistically and without wishful thinking. Before you can exercise genuine objectivity you must have all the facts available. No lawyer nor claims adjuster is competent to set a reserve on his case nor to arrive at an offer of compromise and settlement until he has made a thorough investigation of every fact of his case. I recently talked to the ~~bar of~~ *the* ~~greater~~ *the* K. C. area assembled



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for Law Day at the U. of K. C. as a part of a panel on Jury Persuasion. In that talk to the bar gathered from several states and particularly our surrounding area I stressed the point that to be a good trial lawyer required above all the simple ingredient of hard work. There is no substitute for it in the trial of cases before a court of jury because there is no other way by which the lawyer can learn all of the facts and law of his litigation. By the same token, claims men have exactly the same responsibility.

6. From our point of vantage, we know quite well the value of our case by the time we are approached by the adjuster for settlement or by opposing counsel for an offer of compromise. We make it a practice to submit our medical reports to the adjusters and attorneys if we think they are genuinely desirous of terminating the litigation. There are only a very few with whom we have learned not to try to do business because we have learned that they never really want to arrive at a fair settlement and as to them we either make it a practice to see them briefly if not at all and certainly not to give them any documentary exhibits that they will only use to their own advantage in the long run. I recently told one of these ~~absolutely~~ <sup>absolute</sup> claims men that I thought he was wasting our time ~~as the years had proven that he never had a genuine interest in adjusting matters with us, and the other members of our firm also~~ <sup>because our experience with him over many years had proven that he never had a genuine interest in adjusting matters with us, and the other members of our firm also</sup> have him properly pegged. This type of adjuster is a hangover from the old school of adjusters who believed that anything was fair in love and war and claims adjusting, the old type that used to be classified as the railroad claim agents group of thirty years ago, who would stoop to any trick or device to beat some widow or injured workman of his just due.

7. I believe I recognize in the adjustment field <sup>of today</sup> a real change for the better. The insurance companies are much more amenable to fair adjustments now than they were thirty years ago when I first entered the practice of the law. When I make that statement I have to stop and think whether there hasn't been a change for the better by the legal fraternity, too, which is learning more all the time from experience and study that they can get along better with the insurance companies if they approach their task with more recognition of the fact that the adjustment of cases requires give and take on both sides.

8. Many cases would never reach the litigation level if the adjusters and investigators in the field were given adequate authority to make realistic offers. All of us have learned the hard way that you can't operate a "one price" store and expect to settle cases. The negotiations always seem to proceed on the basis of haggling and bargaining wherein the lawyer submits a price considerably in excess of what he would really take and the claims adjuster starting with an offer far less than he expects to pay. Somewhere inbetween these two extremes lies the twilight zone wherein will be found the real value of the case. Frankly, I deplore the necessity of entering into that kind of haggling and I inherently dislike it. However, much as I would prefer to submit my best offer at the beginning and stand or fall on it, I recognize that all progress in this world is made by a series of compromises and that in the long run perhaps in the field of claims we too, make progress as he hammer out the negotiations on a "give a little, take a little basis."

9. I have often wondered, as have many of my colleagues of the legal profession, as to the <sup>validity</sup> ~~stupidity~~ <sup>of the</sup> ~~of~~ <sup>the</sup> ~~head~~ <sup>the</sup> ~~claims~~ <sup>palace</sup> men representing the home office where the final authority must come. Adjusters will come to our office, confer at length with our men, take copies of our medical reports,

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make propositions of settlement, offers and counter-offers, then when the amount ~~x~~ has been practically agreed upon, ~~a~~ state that they will make the recommendations to their home office, then <sup>a week or two later will</sup> to call us up or come over and see us and sheepishly bemoan the fact that they were unable to get the authority requested. Of course, that has a tendency to put not only the adjuster on the spot but certainly the lawyer himself because more than likely ~~he~~ has conveyed the offer to his client, ~~and~~ used his influence to get the client's acceptance and at the same time whetted his appetite for the conclusion of the case, only to be embarrassed by having to ~~later~~ tell him the claims adjuster couldn't deliver on his offer because the home office wouldn't go along. The claims man in the field, making the contacts with witnesses, principals and opposing lawyers, should be granted the authority to consummate settlements up to certain limitations ~~and~~ his recommendations should be accorded great weight and turned down only under the most palpable circumstances. If he is only an ~~x~~ investigator, then he should not go further than ask the lawyer if he will submit an offer of settlement that he <sup>in turn might</sup> will transmit to his superior, making it clear from the outset that he has no further authority. Then, if the offer is within the range of reasonable, the home office might either accept the same or send someone to negotiate further who is armed with the necessary authority to finish the job.

10. Looking back over three decades of experience, I find that the men who have made a successful career out of the adjustment business, <sup>to</sup> those who have retained their jobs with big companies and who have advanced in better positions through the years or who have built up their own private adjustment businesses, have been those who exercise the kind of objectivity that I mentioned at the beginning of this ~~ix~~ lecture. You don't get your companies in a maze of litigation if you have tried to settle cases for their true value. These experienced people, have been the ones who were not afraid to tell their companies that certain cases were serious, that substantial sums should be paid rather than stand trial, and who have given to their companies every thread of testimony, favorable ~~or~~ otherwise, pointing out the the pitfalls and difficulties that have to be overcome, and then recommending the payment of a sum that will make it possible to dispose of the cases. These men stay in the business year in and year out, picking up the business of the timid little men who hesitate to make a realistic recommendation for fear that the head office <sup>has</sup> may not like it. ~~This much is certain, that you will be criticized much more for a failure to make a fair appraisal of the value of a case after a big recovery in court than you will be if the file discloses that you recognized the dangers inherent in the case before it went to trial and did your best to convince the home office thereof.~~ <sup>if determining a big recovery is obtained</sup>

11. We are settling more of our cases with claims men all the time because the caliber of the adjuster has improved. Just last week we disposed of a case for \$5250.00 because of local adjuster, an experienced career adjuster, called me up and made a genuine <sup>ly</sup> serious attempt to do so without the necessity of litigation. He had evaluated the case quite well, perhaps better than our men had done at the outset because our asking price was considerably larger. Yet, after his realistic offer was made and we conveyed it to our client after having given it a great deal of prior consideration, we realized that the offer was fair and should be accepted. Had this adjuster been timid to the extent of not wanting to "stick his neck out" for fear of his company's unfavorably reaction we would have filed the case within a few days and the company would have been put to the additional expense of litigation and, I'm satisfied, would have paid as much as the settlement figure, if not more, in

Joseph and Barton Cohen Papers. MS-778, Box 2, Folder 1. American Jewish Archives, Cincinnati, Ohio.



12. Frankly, I believe that the best friend of the legal profession is the eager beaver claims adjuster who wants to make a better deal with an injured person than he is reasonably entitled to make. Hoping to effect a settlement for a bargain price, from his standpoint, the adjuster offers a ridiculously low figure to start with and then inches up only under the most distressing circumstance to the point where the claimant immediately recognizes that he isn't going to get anywhere trying to make a direct settlement by himself. Therefore, he turns to a member of the bar for legal services that will aid him in obtaining an adequate amount. I used to get quite provoked at some of the chinchy offers that were made to some of the clients who came to our office to employ us to handle their cases. Upon more mature reflection, I have come to believe that these unfair offers have actually been "blessings in disguise" to me for had the adjuster approached the client with anywhere near a reasonable sum that client would have been lost to me forever because he would have taken the reasonable offer and I never would have had an opportunity to earn the fee. Therefore, I no longer wring my hands in indignation when I hear of such bad adjustment practices.

13. I recall a few years ago one of the bigger insurance companies had a young, bright lawyer at the head of its claims department who could never see but one side to a claim. If his doctors reported a conclusion that the injured man was well or had only a small percentage of permanent partial disability, it was practically impossible to arrive at a settlement that didn't adopt those findings. The result of his policy was to drive many clients to our office with workmen's compensation claims against this company. Even when these claims reached the trial level this head claims attorney stood his ground, making us try each and every case, which we did. And in almost every case we received awards that were almost always a liberal compromise between what the defendant's doctors testified and what the claimant's doctors said. This claims attorney was a toughie but from our standpoint we couldn't complain as we were on the receiving end of a lot of good business we would not have gotten otherwise. It wasn't too long afterwards that he was transferred to Texas to a smaller office with less authority and shortly thereafter a much more liberal adjustment policy was instituted in Kansas City which cut down very materially on the number of cases which came to our office.

14. Of course, there are times when it is good policy to stand your ground and refuse to make settlement and even to take the position that a counter-claim should be processed should litigation be started. The mere fact that there has been an accident and someone is injured does not impose liability on your side. As a claims man, you would be remiss in your duty to your company if paid out its money to buy settlements from people who should be on the paying side themselves. Lawyers themselves do not want to handle cases where the scales are balanced so far against their client's cause as to make recovery doubtful, if not impossible, but on the other hand the number is few and far between of cases where all of the facts point to only one conclusion. Lawyers do not like to file "nuisance cases" because as a rule they can devote their time to much more profitable business. On the other hand, I am sure that too many cases are filed by attorneys based upon only what their client has told them without first undertaking an independent investigation of the facts which would have disclosed the weakness of the client's position and then, having once filed, the lawyer does try to salvage the case by a settlement that will at least return him the court costs and the expenses incurred which in effect is a settlement on a nuisance basis.

15. There are not many secrets that I could give to you that you don't already know probably better than I. But this I can declare to you in all sincerity, that if you want to dispose of your cases with lawyers by settle-



ments ~~can~~ make a fair offer that approximates at least the lower level of the amount which you believe a jury would award in a trial. The lawyer then is confronted with the realistic decision to make as to whether to risk his cause to a jury where he might get nothing or no more than what you have offered without trial or take a chance of getting more. For example, if he might expect a verdict of \$15,000. with reasonably good luck and you make an offer of \$10,000.00 the lawyer no longer is gambling as to whether he receives nothing or \$15,000; he is gambling only to obtain another \$5,000, which means he is putting up two dollars to win only one. Under those conditions, your offer becomes so attractive and the odds so bad that the pressure is on the attorney to check the matter back to his client for a decision and as a result thereof the settlement is usually effected because the lawyer no longer can conscientiously advise his client to reject the offer even though it is on the low side. The claims attorney who can maneuver into such a position must be willing to make his best bid and then sit back and let the economics of the case do the rest.

16. I stress the necessity for fair and equitable adjustments because they are at the very core of successful claims work. To illustrate again what I mean. Just last month a young couple touring through Illinois had an accident with another car under circumstances that made the latter car liable for the damages. Within a few hours an adjuster for the company came to their hotel where they had registered, ~~because these could not proceed on because of the damaged vehicle.~~ He had the damage appraised by the local garage, had the young women examined by a local doctor who told her that she suffered nothing more than minor ~~bruises~~ bruises. He then made an offer of the full amount of the property damage plus \$100.00 for the personal injuries. The young couple preferred not to settle then and there, preferring instead to wait a while to consult with their K. C. doctor and with their own lawyer who happened to be yours truly. Though the sum offered for the personal injuries was obviously on the low side and probably should have been \$300 to \$500 anyway, I could not conscientiously advise them not to accept the offer because to have done so would have been bad economics. In that instance, then, my advise had to be to take the settlement as offered which was done and the case closed. Had that adjuster ~~tried to have taken advantage of the fact that this young couple was away from home,~~ <sup>and this</sup> ~~inclined to want to make a speedy settlement,~~ <sup>and this</sup> offered them less than the full amount of their loss plus something for the personal injuries we ~~would have~~ <sup>would have</sup> felt ~~to~~ inclined to take the case and try for a much higher recovery.

*In conclusion may I say that*

17. The public has a right to expect fair treatment from the insurance companies which sell ~~the~~ policies for premiums and when a loss occurs due to the negligence of the policy holder it is the duty of ~~the~~ latter's insurance company to try to recompense the injured party on a fair ~~and~~ basis. Giving due allowance for genuine differences of opinion, it is the duty of both the bar and the claims adjusters to try to harmonize those differences to the end that the increasing tide of litigation now flooding the courts be cut to a minimum ~~by~~ by sincere and fair efforts at compromise settlements. Viewed in this broad light, your professional and mine can render a great public service by approaching our mutual problems with intelligence and understanding. After all, ~~we~~ we do have very much in common.

## WE SALUTE

Among our numbers and one of our founders is an outstanding individual, well known for his claim ability, humanitarianism and civic achievements. His dedication to the claims' profession and claim men is well known, not only in this area, but nationwide. He probably has a first name acquaintance with more persons in the industry than anyone else to our knowledge. He has championed right and the young and many of us owe a large measure of our success to A. G. "Art" Hawthorne who is never too busy to listen to our problems and advise us from his Farmers Almanac.

While Art is one of the "Old Guard" in the claims business he has young ideas and the fire burns brightly in his desire to achieve. He founded the widely known Universal Adjustment and Inspection Company which he operated for many years. He fought a battle for the Missouri Adjuster a number of years ago when he represented most of the major companies and another for the Kansas Adjusters in recent years. He was the first and longtime only honorary member of the National Association of Independent Insurance Adjusters which he helped establish and maintain as a splendid and honorable organization. He now enjoys and is honored in the position of Vice-President for Claims with the Alliance Mutual Companies of McPherson, Kansas.

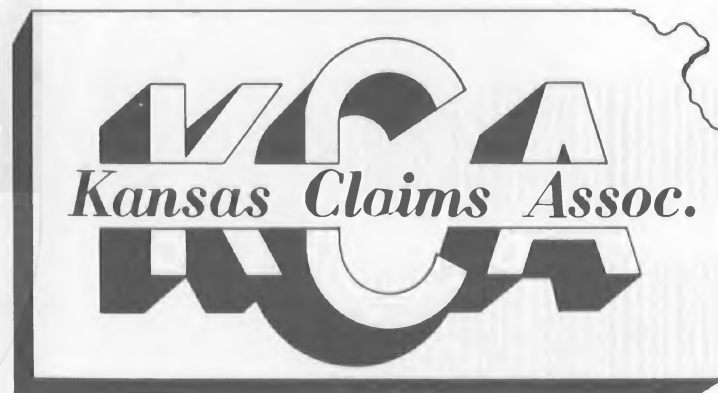
Art will be reaching his 65th milestone on June 19, 1956 and we extend our heartiest congratulations and wish him many more to come.

Art, to you the best of wishes and good health and it is a privilege to know you.

The Membership

# SPRING MEETING

*May 18, 1956*



## TOWN HOUSE

7th and State

Kansas City, Kansas

PROGRAM

GREETINGS

It is a real pleasure to welcome you to our Third Annual Spring Meeting. I take a personal pleasure in presenting to our guests, our co-sponsors from the University of Kansas City School of Law and our members, a program provided by the diligent and untiring effort of one of our best Program and Arrangement Committees.

A good claim man becomes better by study, his own experience and also by active participation in claim and insurance programs such as this.

The Kansas Claims Association is striving to be first in the development and participation in such activities. Let us now rededicate ourselves to carry with us, through this meeting and the months to come, these purposes:

1-Let our Association instruct and impart to the younger, the experience and advice of the older and to lead in the right paths.

2-Let each of us and this Association strive to merit and establish the true status of Insurance Claim Men in our Companies and Industry as a whole.

3-Let us take our place in avoiding the nationalization or socialization of the Insurance Industry.

4-Let us serve well and with integrity the Companies we represent and aid them in their public relations.

Make this your meeting and the friendliest yet. The more hands you shake, the better I will like it. Come again and often.

John P. Aderholdt  
President

8:30 A.M. - Registration - Lobby of Town House

9:00 A.M. - Executive Committee Meeting  
Headquarters Suite 1401

10:00 A.M. - Parlor C -  
Invocation - John Hoon, DD, Washington  
Avenue Methodist Church

Address of Welcome - Hon. Paul Mitchum,  
Mayor

Business Meeting - Election of Officers

Noon - Luncheon - Junior Ball Room

1:15 P.M. - Speakers - Parlor C & D

1- Dr. Curtis M. Elliott  
University of Nebraska

2- Joseph Cohen  
Cohen & Schnider  
Attorneys, Kansas City, Kansas  
"The Plaintiff Has a Claim"

3- To be announced

4- Dr. Harry Epstein, MD  
Pittsburg, Pennsylvania  
"The Rehabilitation of Injured Cases"

6:15 P.M. - Social Hour - Suite 1401

7:15 P.M. - Banquet and Installation of Officers -  
Junior Ball Room

Speaker -  
Hon. Douglas Hudson, Attorney  
"De Minimis Non Curat Lex"



# Doctor Fees Blamed in Rise of Trial Costs

## Wasservogel Defends Lawyers in Report on Injury Cases

By Robert S. Bird

Former Supreme Court Justice Isidor Wasservogel, reporting on an official study of lawyer fees in personal injury cases, blamed the "exorbitant demands" of physicians who testify in court for part of the mounting expense of negligence litigation.

He opposed the Appellate Divisions' proposal to limit lawyers' fees in personal injury cases to 35 per cent of the amount recovered, and proposed instead a sliding scale of fees.

### Wants a 50 Per Cent Top

This would start at 50 per cent of amounts up to and including \$2,000, 40 per cent of amounts up to and including \$10,000, and 33 1/3 per cent of the amount if it exceeds \$10,000.

Emphasizing that one reason for the mounting expense of litigation in negligence cases is the high cost of getting physicians to come to court and merely state the facts concerning their treatment of accident victims, he said:

"The exorbitant demands sometimes made by physicians and other experts whose testimony is a necessary part of

practically any negligence case is an expense item which greatly hinders the prosecution of many minor personal-injury claims.

### Says Minimum Is \$100

"It is the expressed opinion of many of the practicing members of the negligence bar, based on actual experience, that an attending physician will not come to court to testify to facts as to conditions found and treatment given for less than approximately \$100.

"A 'specialist' or 'expert' called to render an opinion or to answer the hypothetical question which is necessary to establish causal relationship frequently exacts an amount far in excess of this \$100 fee of the general practitioner.

"Thus, the medical profession, in effect, has become an adjunct to the negligence branch of the legal profession to such an extent that their demands upon attorneys, together with other necessary legal costs of preparation and litigation, if coupled with a general 35 per cent limitation as compensation for an attorney in all cases, will result in justice being throttled and thwart the efforts of a compe-

tent and reputable branch of the bar to render an invaluable and necessary service to the public."

### Asks Change in Rules

Other recommendations made by Justice Wasservogel in his capacity as Special Referee appointed by the Appellate Divisions of the First and Second Departments six months ago to study the fee question, were:

The rescinding of present rules requiring the printing of records and briefs.

A new rule requiring attorneys in negligence actions to file a "closing statement" giving details of costs, expenses, amounts of recoveries or settlements, and their own fees.

Creation by bar associations of a permanent system of inspection of plaintiffs' complaints against lawyers on fee questions.

### Got Lawyers' Views

As Special Referee, Justice Wasservogel held hearings and otherwise solicited the opinions of bar groups and lawyers generally on the proposal of the Appellate Divisions to flatly limit fees in negligence cases to 35 per cent of the amounts recov-

ered except in "unusual circumstances."

He found in his forty-five-page report that most bar associations and lawyers opposed the Appellate Division proposal although a minority appeared to be agreeable to some modified form of limitation.

Tracing the development of the legal fees philosophy from its beginning in early Roman times to the current practices in this country, he held that "contingency fee" idea is compatible



Herald Tribune—Rosenberg

### Former Supreme Court Justice Isidor Wasservogel

with the American system of enterprise, and that courts have the power to impose limitations on fees if they so desire.

But he found that the present court proposal is too indefinite in its wording, is economically impracticable to apply and is not needed. He pointed out that the legal work entailed in a case involving a small recovery might be almost as great as that in a large one, and he noted that costs of litigation are rising all along the line for lawyers as well as litigants.

He asked the Appellate Division to sponsor a joint conference of bar associations and medical societies with the aim of "alleviating the heavy financial burden placed upon attorneys by physicians whose testimony in court is required."

Also, he urged a greater use of the power of subpoena to bring physicians into court.

In a perusal of retainers filed by attorneys in negligence cases between April 1, 1954, and March 31, 1955, Justice Wasservogel found that of a total of 137,967 retainers in New York City and seven other counties, 109,394 provided for 50 per cent fees. Actually, he said, many of these lawyers accepted smaller fees after the recovery or settlement was made.



"GOOD WILL"

By Joseph Cohen

(Delivered May 19, 1955, to Fort Worth Jewish Welfare Federation)

Introduction

I. The well-being of a minority group, just as the well-being of a commercial business, depends upon the good will of the general public towards that minority group or business establishment. Not many will dispute that statement, I'm sure. We know that we spend large sums of money in our businesses to create a wholesome, favorable attitude of the public towards the economic venture which provides our livelihoods. We train our buyers carefully, cultivate our supplies, constantly lecture to our salesmen and our clerks, insist on manufacturing or providing good merchandise that will please our customers, fight any slurs against our stores and factories, all because we realize how sensitive we in business are to the whims and attitudes of the people generally.

II. The JDA agencies, ADL and AJC are in business in a big way, too. Their business is an extension of your own business, each and every one of you. They are spending four million dollars a year to do for all the Jewish people of America the very thing you do for yourselves in your own individual enterprises. The extent to which they succeed or fail influences your own success towards building good will in your own business affairs. Whether you like it or not, there is no escape. You are a Jew in the eyes of the public and the public's attitude influences the action toward you. Of course, you may be a "good Jew" or a "white Jew" or "not like all Jews" that "you're different" by some of your close, personal friends who know you well and are closely associated with you in business. Probably nobody in this room has had more experience than I with that type of thinking which somehow or other places you in a different category from Jews generally. But I'm not talking about exceptional Jews who succeed in obtaining acceptance from Gentiles in both business and social life. I'm discussing general problems and attitudes that affect Jews everywhere in America on a mass basis.



As I proceed with this discussion, it should become crystal clear to each of you that you have a vital, inescapable stake in what JDA agencies are doing to maintain a favorable respect for Jews in this country.

III. Studies have been made by our agencies, ADL and American Jewish Council to determine the present status of Jews in cities comparable to this one, Fort Worth. You'll be interested, I know, to read the results. The ADL published them two months ago in the March issue of its Bulletin under the heading, "The Jews of Middletown, U.S.A." Here are some thought-provoking facts:

a. Very few hold public offices, either elective or appointive.

b. If the town's economic power is in the hands of an old entrenched group, participation of Jews in local banking and finance, in law firms and in the businesses that provide the clientele for these law firms, is practically non-existent.

c. They rank high in the amount of participation in community affairs--Red Cross, Community Chests, charities, lodges and business and professional organizations.

d. They are excluded from social clubs, not generally invited to the homes of their business and organizational friends for social functions and therefore are forced to develop exclusively Jewish social relationships. Some of this clannishness is of our own making, to be sure, but not a little of it is due to the discouragement which Jews have experienced in trying to widen their social contacts beyond the Jewish fold. Therefore, we find that Jews are on an 8:00 A.M. to 5:00 P.M. basis with their non-Jewish citizens. In other words, there exists in our great democracy another kind of a "5 o'clock shadow".

e. Another recent study completed with ADL assistance at the Michigan State College, published in ADL's Research Reports of March, 1955, had to do with our position in rural areas where most of the population had never hardly met a Jew. In fact, in the county studied there was only one visible Jewish family, yet--

1. Between 20 - 25% of the 430 people interviewed stated that Jews are likely to take advantage of you in a business deal.



A little less than one-half of them said that they would oppose an effort by a Jew to buy the biggest store in town. Three out of four answered that America must be on guard against Jews getting too much power, and two out of five said that not too many Jews should be permitted to become doctors, lawyers and teachers. One-half said "it was not all right with them if more Jews moved into my neighborhood."

IV. What does all of this information add up to? I've lived too long and have engaged in Jewish and non-Jewish life too actively to get alarmed. It means that there is just a tremendous amount of work left for us to do in the field of Jewish public relations and your ADL and American Jewish Council, the two JDA agencies, are doing a great deal for you.

a. We are making intelligent attacks on this great problem all over and on many, many fronts.

b. Organized anti-Semitism has been almost completely neutralized to such an extent that writings and ravings of a Gerald L. R. Smith, Rev. Winrod, Father Feeney and their ilk find no acceptability or influence among decent people.

c. It is the stereotype of the Jew which we are now trying to change--the kind of thinking that has become so imbedded in popular thinking as to equate Jews generally with greed, dishonesty, socially unacceptable, communists and left wingers.

d. This we are doing in the field of legislation, education, labor, churches, social welfare and now we are even developing a program with leaders in business and industry. Thus every media of publicity, films, television, newspapers, magazines, through intensive work with public agencies and people, their workshops, seminars, film festivals and institutes we are trying to change this stereotype.

e. Because we believe that discrimination of one kind, whether of a social or economic class, is the breeding spot for more discrimination we are carrying on an intensive program to combat discrimination. We hope to convince fair-minded people that it is un-American and undemocratic to exclude Jews from social clubs in our cities. We know that it is in these big cities--and middle-sized cities--social clubs that the power structure of the community meets



makes important decisions, form attitudes. If this bad stereotype of our people could be eliminated, we could do away with the "5 o'clock shadow" and Jews would be able to make their contribution to the altar of democracy without having to battle uphill against foolish and disheartening pre-conceptions. Who knows how many more Dr. Salks and Dr. Einsteins we might contribute to the public welfare if unnecessary obstacles were removed from our pathway.

V. The JDA agencies, ADL and American Jewish Council earnestly believe this is well within the range of possibility--and not in the dim, remote future--but within a generation or two. The Quakers 100 years ago were just as much a bad stereotype as we are. Today, through their great undertakings and publicity, to be known as a Quaker is a term of approbation. Today, if you are told that a man is a Quaker, you think of him immediately as a person of high moral conduct, peace loving and righteous. Is not the Jew really entitled to that kind of a stereotype rather than the ugly one he now has?

VI. I came here to talk to you about our aims, objectives and program. I also came to ask you to reconsider your allocation towards financing this vast program of building good will. Conscious I am of the fact that there has been some resentment towards our agencies because we withdrew from the partnership which we entered into several years ago with the now defunct SWJCRC at Houston. What started out to be a real partnership soon developed into strictly an unsatisfactory financial arrangement wherein the JDA agencies furnished most of the money without the right to control or direct the program or personnel. When compared with our experience in our own 25 regional offices, our staff and National Commission of ADL and American Jewish Council came to the conclusion we were not getting our money's worth and that the communities were not getting either the program or the service we thought this great area was entitled to. We gave a year's notice and we withdrew. We did not suggest that the SWJCRC had to go out of business as it voluntarily voted to do a few months after our notice was given and before the time had expired as given in the notice. When we learned that the SWJCRC was terminating its activities, ADL



moved quickly to fill the void, establishing a regional office in Houston several months earlier than had been our original plan. We now have a very capable director, Ted Friedman, heading up that office. Reports from him and from the communities where he is making his presence felt indicate that our efforts and program is being recognized as most effective. Our American Jewish Council office in Dallas, in existence longer, also is making a fine contribution towards building better public relations. In judging our actions I trust you will understand that we did not withdraw from SWJCRC to save money--we did so to give better service to the communities in Texas and Oklahoma, and we are satisfied that our decision is being vindicated.

VII. What is the obligation of the Fort Worth Federation towards JDA? You have invited us to participate in your fund-raising efforts and inferentially you tell your subscribers that you, the Federation, will deal fairly and adequately with each agency, seeing to it that when the funds are divided each agency will be fairly and equitably dealt with. It is on that representation that JDA and all other agencies agreed to join with you in a federated effort. If they are not dealt with fairly you have no right to expect them to be bound by your federation, and if they have to withdraw from a federation, they should not be blamed nor should pressure be exerted on the people who are willing to help carry on an independent campaign on its behalf.

Our statistics show that Federations and Welfare Funds throughout the United States contribute approximately 3 percent of their total funds to JDA--some more--some less--but an average of 3 percent. Fort Worth raised \$200,000 in 1954. It should have given \$6,000.00 just to be average--it gave only \$1,000.00. Even in the face of decreasing amounts raised by Federations throughout America in the past five or six years the contributions to JDA have risen due to a realization on the part of community leaders that our work is of prime importance to maintaining the kind of public good will so necessary for Jewish survival and progress. Governments don't cut appropriations to their police and fire departments even in times



of economic stress nor do you cancel your fire and public liability insurance when business is bad. In times of great prosperity, such as our people are now experiencing, you must see to it that your community deals fairly with the national agencies that are constantly on guard to protect your good name and that of your children. A devoted lay, volunteer army of thousands of men and women throughout this country, working under expert, dedicated professional direction, want your community to do only its fair share towards creating the kind of a stereotype of the Jews of which we may all be justly proud.



## THE DOCTOR GOES TO COURT

By Joseph Cohen of Kansas City, Kansas

So you have been asked to be an expert medical witness. If you are experienced in medical legal testimony, then what I have to say tonight may be old stuff to you. But if you only occasionally grace our courtrooms as expert witnesses, I may then have in the lecture to follow a great deal of information which may prove valuable. On the other hand, even if you are an experienced witness, you may find a number of things in this paper which will help to explain the examination and cross-examination, the objections thereto and the drama that is part of every trial.

I firmly believe that one of the reasons why so many physicians and surgeons shy away from the courtroom, aside from the question of economics involved, is because they do not fully understand and appreciate the role of the medical expert in litigation. After they have apparently given a forthright chronological report of the history, the chief complaints, the clinical examination, the x-ray examination, the treatment given to the patient, the diagnosis and prognosis, some physicians consider it, not only annoying and aggravating, but a show of unnecessary hostility when the attorney on the other side of the case undertakes to explore the truth and the reasonableness of that testimony by means of a vigorous, searching and minute cross-examination.

If we understand at the outset that the principal purpose of litigation is to arrive at the truth, and that counsel on both sides of the case are trying as skillfully as they know how to present the facts to the judge or jury in the most favorable light to his client, then you will have no difficulty in understanding the judicial courtroom process.

If you find the lawyers difficult at times, remember that they, too, are sometimes baffled at the difference between the hospital room statements of the medical profession as opposed to the courtroom statements which they hear from the witness stand. It is sometimes very hard to understand why a patient will be prescribed a course of treatment for an ailment by the doctor who will be heard to testify for the defense that there is nothing wrong with a claimant because that doctor can find no objective evidence of disability. Why, wonders the attorney, will



he prescribe massage and physiotherapy for an ailing back, and then take the witness stand later on and testify that there was nothing wrong with the patient?

As we enter the atomic age with the complexities of our modern civilization, our highly mechanized industries, speeding motor cars and jet propelled planes, we encounter a greatly increased number of cases involving personal injuries. Thus, the role of the physician as an expert witness becomes more and more important.

I believe it makes sense when I say that a physician has no right to decline to give his services to a patient involved in litigation, and at the same time expect to be favored with that patient's medical business and that of his family and friends when they are not involved in litigation. Leaving out of consideration the fact that the medical profession is not immune from compulsory process to bring them into court, a method seldom used for obvious reasons, there is a strong moral obligation on the physician to deal fairly with his patients and with the courts.

Once we break down the confidence of the people in the judicial process, without offering them a better substitute, we tear down the structure of democracy which has given us the highest standard of living and more civil rights and liberties than are enjoyed by any other people on the face of the globe.

The medical profession has a monopoly which cannot be invaded. If we are to keep a free, voluntary society, if we are to stop tendencies toward socialization, if we are to avoid concentrating the medical legal work in the hands of a few, and not always the most competent in the field, it becomes highly important that each man or woman in the medical profession be willing to come to court and testify.

I can say to you men of the medical profession that you are going to find in the future a much better prepared bar in the medical legal field than we have had in the past. Negligence and workmen's compensation cases comprise by far the largest amount of litigation in the courts. The lawyers are learning that they must have specialized



skill and training in this field if they are to do a good job on behalf of their clients. Many of us have for years delved into the medical books and journals in the preparation of our cases in order that we might meet on more equal ground the doctors whose opinions we must test in the crucible of litigation.

Now a number of the leading universities are holding seminars on the graduate level for practicing attorneys, and in connection with the seminars, many leading men of the medical profession are giving of their time and talent to the education of the bar. My son who is a second-year student at Harvard Law School tells me that this year the third-year law students go to the Harvard Medical School where members of the faculty lecture to them on medical legal testimony. One of the leading universities in this field is Texas University and another leader is Tulane. Our own law school at the University of Kansas City also is holding annually a three to five day lecture series given by recognized men in the medical profession.

Therefore, I say to you that the younger lawyers are coming out better prepared from the law schools than before, and we older practitioners are trying not to lag behind. I would like to see the University of Kansas Medical School make a distinct contribution in this field. If it would sponsor a course for law students and practicing attorneys, there would be reciprocal advantages both to the bar and the medical profession and, of course, to the public.

Your function in the judicial process, as medical experts, is to give your best opinions, based upon your education, knowledge and experience, on the subject matter before the court. Anybody can testify as to what you prescribed and did for the patient but only you can testify as to why you did it.

Before you are permitted to testify as an expert, counsel offering you as his witness must qualify you. To do so, he inquires as to your educational background, when you received your degree or degrees, when you started to practice, whether you are a specialist or a general practitioner, what professional organizations you belong to, and some-



times whether you have held official positions in those organizations, your post-graduate training, and the states where you are licensed to practice. The purpose of eliciting your qualifications is not then to determine your skill or want of skill nor to parade before the court or jury the vastness of your medical learning but merely to lay the groundwork or foundation which will permit you to testify as an expert. A. T. & S. F. R. Co. vs. Sage, 49 Kan. 524.

Many times you will hear opposing counsel say that he waives the qualifications of the witness. Such a waiver may dispense with the necessity of having you testify as to your educational background. On the other hand, opposing counsel may prefer to qualify his expert witness in order to show the court or jury that he has brought into the courtroom a person of unusual training and the judge will permit him to do so even though the qualifications have been waived. If you are a specialist in your field, the lawyer will want to show the extent of your specialized training. Having qualified, you are then permitted to testify what you have seen, heard or done for the patient, the history, complaints, diagnosis, treatment and prognosis. You may be asked for your opinion as to the permanent nature of the disability or whether it is of a temporary nature or has been entirely cured. If there is permanent disability, you may be asked in a workmen's compensation case to give your opinion as to the percentage of disability which the injured workman has suffered.

Such a question always deals in the inexact field of opinion. However, for the purpose of the law, you are asked to assume and take into consideration the amount of work which an ordinary, normal, well workman might perform in the general field of labor, and then determine the percentage of loss the injured workman has suffered from his ability to do and perform general manual labor. No one realizes more than I do the great responsibility which such a question poses to every man in the medical profession who is asked to make such a rating.

Our courts have said that a medical expert need not answer questions with certainty. All he need do is give his opinion. Roark vs. Greene, 61 Kan. 299.



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Your opinion on cross-examination may be tested by opposing counsel in a number of different ways depending upon his resourcefulness, ingenuity and skill. You may be asked whether you agree or disagree with certain statements appearing in recognized medical books and authorities, and for that purpose counsel may read to you excerpts from such books. These medical books are not admissible in evidence to establish the declarations or opinions which they contain (State vs. Baldwin, 36 Kan. 1). However, the Supreme Court said in Stout vs. Bowers, 97 Kan. 33, 36:

"One of the recognized methods of testing the knowledge of an expert witness who founds his opinions on standard medical authorities is to read from those authorities upon the subject in question and interrogate him as to whether his opinions coincide with those expressed in the books and whether there is not a conflict between the opinions he then gives and the views expressed by the authorities upon which he relies for information."

Before you have completed your direct or cross-examination on the witness stand, you may be asked a hypothetical question. Such a question must include only facts which have been established in the evidence directly or by inferences fairly deducible from established facts. Counsel may not assume the existence of matters material to the formation of a correct opinion about which no testimony has been given previously. Davis vs. Travelers Insurance Company, 59 Kan. 74; Western Union vs. Morris, 67 Kan. 410. However, counsel may base his hypothetical question on weak and inconclusive testimony of one or more witnesses or inferences properly deducible therefrom. Roark vs. Greene, supra.

It is not necessary that the hypothetical question incorporate all facts supported by the evidence nor need it include all facts or all theories advanced by the adversary. New York Life vs. Daerksen, 75 Fed. 2d 96. Counsel for plaintiff may frame his hypothetical question on facts and theories tending to support his thesis, and he cannot successfully complain if defense counsel in his hypothetical question incorporates only the facts and theories which he desires to support. Wingfield vs. McClintock, 85 Kan. 452.

When you are confronted with a hypothetical question, it is well that the physician bear in mind that he is asked to assume the



truth of the facts stated therein, and to give his opinion based thereon without interpolating or questioning these facts. It is unimportant so far as that hypothetical question is concerned whether you disagree with the facts or the theory upon which it is predicated. You have a right to rely on the skill of opposing counsel to bring out and stress both sides of the case. Many physicians inexperienced in courtroom tactics find such hypothetical questions difficult and want to argue with counsel about the facts stated therein. Often times they have had to be admonished by the court not to do so but to answer the question as propounded.

It has been my experience that the most effective medical expert testimony is given by the physician who is frank and honest and who will concede points to the opposition when they are entitled to such a concession. A recent survey made by one of the legal publications shows that the least effective expert was the one who finds it impossible to concede any point to the other side for fear that he will weaken his own opinion before the court or jury. Our court has said that an expert witness is to be given such credence and weight as the court or jury believes he is entitled to. Santa Fe vs. Thul, 32 Kan. 255, Baird vs. Shaffer, 101 Kan. 585.

Objections by opposing counsel to a hypothetical question must be specific and must point out to the court specifically in what way the question is deficient. Usually he will point out that it incorporates certain facts not proven or misstates proven facts or makes inferences not justified from the established proof. Only such specific objections may be considered by the court. Young, inexperienced lawyers often must learn this rule the hard way after their general objections are overruled by the court. Linscott vs. Hughbanks, 140 Kan. 353, 357.

A medical expert need not feel under tension when subjected to cross-examination. Nor should he take offense if counsel tries to weaken the effectiveness of his testimony. Perhaps the soundest and safest attitude is that which men of science should always adopt. That is that you are aiding the triers of the facts to arrive at the truth.



While you would be less than human if you did not want to see your opinion prevail in a courtroom and perhaps you would be lacking in a good sense of justice if you did not seek to persuade a jury or court to adopt your opinion, on the other hand, having given your opinion, you have performed your full duty and you must then leave the advocacy to the lawyers.

X-rays, cardiograms, incephlograms, and other mechanical aids to diagnosis and treatment are common to your profession, but are not so well known by the bar and certainly not well understood by the layman. X-rays and cardiograms have to be taken and interpreted by men with special skill in that field. Therefore, unless your qualifications indicate that you possess such skill, you may not be permitted to testify as to what the x-rays or cardiograms reveal. On the other hand, if you intend to testify concerning x-ray or cardiographic findings, the x-rays and cardiograms must be brought into court, properly identified and introduced in evidence so that you may be subjected to cross-examination thereon, and in order that opposing counsel might have the films examined by other men in the profession to test your correctness thereon. Lefebvre vs. Western Coal Co., 289 P. 456.

I might say here that these diagnostic aids are so common to your profession now that if you fail to use them in cases treated by you where indicated you may be subjected to a claim of malpractice and it will be no defense for you to claim that the patient did not request that you use an x-ray or take a cardiogram. That was the finding of our court in the case of James vs. Grigsby, 114 Kan. 627, where the physician was charged with malpractice in the setting of a broken leg without the use of an x-ray.

Hospital records are always important in a law suit. These are admissible in evidence only when the physician, internes and nurses identify the records as a record made by them in the course of the hospitalization of the patient. Howman vs. Coyle, 124 Kan. 492, 495. In order to avoid such a circuitous manner of establishing the veracity of the hospital records, counsel many times will agree between themselves



that the record may be introduced in evidence without such qualifying proof.

Those who operate the hospitals for the benefit of the public must realize that they, too, are part of the judicial system in this democracy, and even though there is some hardship imposed upon hospitals and some expense, too, it is not asking too much to request that they bring, through their librarians and record clerks, these records into court for examination and testimony. As for myself, I try to see to it that the record clerk is reimbursed to the extent of her taxicab fare when she comes to court with the record and I am sure that every thoughtful lawyer would consider that a minimum requirement of cooperation on his part.

Your own private records in these cases are also admissible in evidence, and you must be prepared to bring them into court with you for the purpose not only of refreshing your own recollection about the case, but you must also be prepared to allow opposing counsel to examine records in the hope that he might find therein something contradictory of what you have previously testified to.

Because you are a member of a busy profession, that of administering to the weaknesses and ills of humanity, does not give you any immunity from compulsory process. But an attorney should and must respect the demands made on your time, should give you notice of the time when you will be needed, and will excuse you from attending at the specified hour if an emergency makes your attendance impossible. On the other hand, your cooperation is needed and should be whole-heartedly given in order that the judicial branch of government might function properly.

There is adequate power in the law that can compel you to attend after you have been served with a subpoena, but I assure you that no lawyer would deem it a pleasant task to send the sheriff after an expert witness who adamantly refuses to obey the process served on him. I learned as a young lawyer by bitter experience that an unwilling, uncooperative medical witness can do you more harm than good if he is

compelled to come to court against his will. Having subpoenaed a doctor to testify in a deposition at Wichita, and being confident that he could testify only one way because he had already given a statement and signed a death certificate as to the cause of the man's death, I insisted that the physician give his testimony.

I probably would have not done so had this physician not insisted on the payment of an unreasonable fee in advance of his testimony. You can imagine how surprised I was when the physician made a complete about face in his testimony stating that after full consideration of all the facts in the case, he had decided that the death was not due to food poisoning, but was due to some other cause. Probably I would have been smarter had I paid the unreasonable fee demanded by this unscrupulous practitioner.

Privileged communications. Section 60-2805, General Statutes of Kansas, 1949, sets out the various professional groups who are not privileged to testify concerning communications arising in the course of their professional conduct, such as attorneys and clients, priest and parishioner, physician and patient, etc. It states that a physician or surgeon is incompetent to testify concerning any communication made to him by his patient with reference to any physical or supposed physical disease, defects or injuries, or the time, manner or circumstances under which the ailment occurred or concerning any knowledge obtained by a personal examination of any patient without the consent of the patient. However, it further provides that if a person without objection on his part testifies concerning any such communication, the physician communicated with may also be required to testify on the same subject as though the consent had been given.

That means that you as a physician or surgeon cannot testify as to these communications which come to you in the course of your professional undertaking, but if the patient files a claim or brings a law suit and testifies concerning his condition, then you can be compelled also to testify thereto because the privilege is then waived. After a patient's death, the heirs or personal representatives may



waive the objection. State vs. Pullman, 85 Kan. 237, 238; Gorman vs. Hickey, 145 Kan. 54, 61, 63. On the other hand, if no heir or personal representative of the deceased objects to your testimony, you may testify for the reason that this law is not a privilege given to the physician, but it is a privilege given to the patient. Doty vs. Ice Company, 118 Kan. 323, Kirsch vs. Federal Life Insurance Company, 149 Kan. 309, 313.

Malpractice. The obligation of a physician and surgeon is merely to use such skill and foresight in the practice of his profession as is generally used by men in the profession. A physician does not impliedly contract to cure his patients. Tefft vs. Wilcox, 6 Kan. 46. In case of doubt on which of two courses to follow, all the physician is required to do is to use his best judgment, and he does not guarantee that he will get good results, and if he has bad results he is not subject to civil liability. James vs. Grigsby, 114 Kan. 627; Paulich vs. Nipple, 104 Kan. 801. In the case of Rainey vs. Smith, 109 Kan. 692, our court said that an action for malpractice would lie where a wrong diagnosis was made of the plaintiff while she was pregnant. On the other hand, an honest mistake in diagnosis made where you do not treat the patient does not render you liable. In the case of Bugg vs. Security Benefit Association, 173 Kan. 522, a physician was sued for damages for having erroneously diagnosed cancer to a breast. He did not perform the operation for the removal of the breast and our court said he could not be held liable for this woman's damages because the woman had voluntarily had the breast removed by someone else which was the proximate cause of her injury.

However, in the case of Russell vs. Newman, 116 Kan. 268, the Supreme Court ordered a new trial where the jury granted the plaintiff only nominal damages for injuries arising when a sponge was left in an incision after removal of a kidney in spite of the fact that the plaintiff was testimony that no injury was suffered by her as a result thereof. The court said that the patient was entitled to just nominal damages for such a mistake.



On the other hand, I want to advise you physicians and surgeons that you cannot collect your fee for services rendered where the claim of malpractice is successfully raised. Abbott vs. Mayfield, 8 Kan. App. 387. However, my experience proves that you do not have too much to worry about from this angle in Kansas for the reason that want of skill in treatment, diagnosis and operation on a patient is a matter which only men of your profession may testify as to in court. Waddell vs. Wood, 158 Kan. 469. Except in rare and very unusual circumstances is it possible to get any physician to take the witness stand against a brother member of his profession where that question is at issue. It is not the purpose of this paper to delve into the ethics or propriety concerning the screen of protection which the men of your profession throw around each other when your skill is being tested by the judicial process.

If a case can be proven against you, you are liable in civil damages not only for your own mistakes but for the mistakes of the technicians, assistants and nurses in your employ, but you are not liable for any carelessness or negligence by the nurses, attendants or assistants in the hospital where your patients are sent. *Until the Menninger case, decided 2 weeks ago,* Non-profit hospitals, such as those operated in Kansas City, Kansas, *are* immune to civil liability for damages arising out of the negligence of their employees (Nicholson vs. Hospital Association, 97 Kan. 480), but the employees themselves may be subjected to claims, but this is seldom done because in most cases the employees are not financially responsible and do not carry insurance against such liability. *Menninger case overruled previous decisions.*

After almost 29 years of a busy trial practice, much of it in the field of negligence and workmen's compensation, where I come in contact with and listen to the testimony of many doctors, I have learned to classify them not as honest or dishonest, stupid or brilliant, forthright or inconclusive, but rather as pessimists and optimists. When I give to the men in your profession proper understanding and sympathy, I realize that the classification of pessimists and optimists is about as good a classification as one can find.



The pessimists are the best kind of expert medical witnesses from the plaintiff's point of view. He will take a rather dreary look at the patient's chances for recovery, finds good reason for the complaints which the patient makes of pain and suffering, and agrees that the percentage of disability which the plaintiff will suffer will be great. The plaintiff's bar loves these pessimists.

The optimists work for the insurance companies and big corporations. The patient is never as sick as he says he is. His complaints of pain and disability are not sustained by the findings. He believes that if the patient would just forget about his pain and go back to work, he would recover sooner. As an optimist he sees no reason why the injured patient should not be doing a full day's work or in any event he minimizes the percent of the disability which the injured workman or plaintiff has suffered. A few weeks or a few months under the benign treatment of the optimist and the patient is as good as ever ready to take his place in industry as if he had never been hurt. You can well understand why the insurance companies and corporations love the optimists.

It is not up to me to sermonize on this point. If I told you that I believed that the plaintiff's doctors, or shall I say the pessimists, are the more realistic, you might well conclude that I prefer to believe the patient. As a matter of fact, we are dealing with a human equation wherein we must recognize the fact that various people have different thresholds of pain, some are more persistent than others in overcoming disability and some may endure physical defects and handicaps without yielding to the temptation to complain.

On the other hand, I am satisfied by my experience that there is an element of neurosis in almost every case of trauma and disease and that the physician must treat the mind as he treats the body to the end that after he has cured a physical defect he does not create a mental aberration.

I am happy to say that I have a healthy respect and admiration for the members of your fine profession in this community, the pessimists and optimists alike, as I have found practically all of you with whom I have come in contact faithful and loyal to your profession and your patients, friendly and helpful, doing an excellent job in upholding the finest tradition of your great profession.

WYANDOTTE SOCIETY MEMBERS HEAR TALK BY A LAWYER.

The Role of Medical Testimony Is Explained by Joseph Cohen, Who Says Attorneys Seek Only the Truth.

KE Times 1-20-54

Members of the Wyandotte County Medical society learned last night of the responsibilities, rewards and pitfalls of testifying as expert witnesses in the courtroom.

Joseph Cohen, a Kansas City, Kansas, lawyer, spoke to the group at a meeting at the City-County Health Center.

"Some physicians consider it annoying and aggravating, when an attorney undertakes to explore the truth . . . by minute cross-examination, Cohen said. "If we understand that the principal purpose of litigation is to arrive at the truth . . . then you will have no difficulty in understanding the judicial courtroom process."

Wants Questions Answered.

Cohen told of the necessity of establishing a physician's qualifications to inform the jury, of the resort by counsel to established medical books to prove points, and the use of hypothetical questions, which he said should be answered as propounded, without question.

"The most effective testimony is given by the physician who is frank and honest and who will concede points to the opposition when they are entitled to such a concession," the speaker said.

After twenty-nine years of practice, Cohen said, he has learned to classify testifying physicians into two groups—pessimists and optimists.

Pessimists Favor Plaintiff.

"The pessimist will take a rather dour look at the patient's chances for recovery, find good reason for the complaint and agree that the percentage of disability will be great," Cohen said. "The plaintiffs bar loves these pessimists.

"The optimists work for the insurance companies and the big corporations. The patient is never as sick as he says he is. The optimist believes that if the patient would just forget about his pain and go back to work, he would recover sooner."

In order to prepare lawyers more fully in medical legal work, Cohen said, several schools, including the University of Kansas City, hold annual seminars with men of the medical profession as instructors. He recommended that efforts be made to have such a program instituted at the University of Kansas Medical Center.

TO LEGAL SESSION IN WICHITA

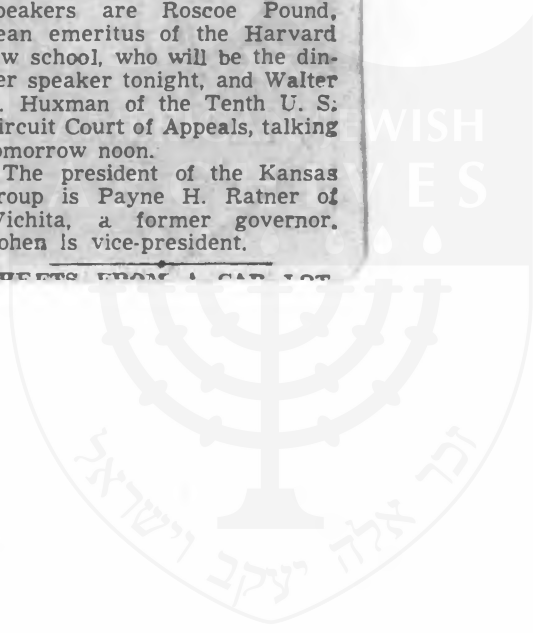
Two-Day Event Will Be Attended by Plaintiff's Attorneys.

Several lawyers from Greater Kansas City will attend a 2-day convention opening today at Wichita for attorneys specializing in negligence and workman's compensation cases. Convening will be the Kansas Association of Plaintiffs' Attorneys and the National Association of Claimants' Compensation Attorneys.

The only lawyer from this area on the program is Joseph Cohen, scheduled for this afternoon with a discussion of medical-legal testimony. William A. Smith, justice of the Kansas Supreme court, will speak on newest developments in Kansas negligence cases. Among other speakers are Roscoe Pound, dean emeritus of the Harvard law school, who will be the dinner speaker tonight, and Walter A. Huxman of the Tenth U. S. Circuit Court of Appeals, talking tomorrow noon.

The president of the Kansas group is Payne H. Ratner of Wichita, a former governor. Cohen is vice-president.

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## THE DOCTOR GOES TO COURT

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The medical profession has a monopoly which cannot be invaded. If we are to keep a free, voluntary society, if we are to stop tendencies toward socialization, if we are to avoid concentrating the medical legal work in the hands of a few, and not always the most competent in the field, it becomes highly important that each man or woman in the medical profession be willing to come to court and testify.

I can say to you men of the medical profession that you are going to find in the future a much better prepared bar in the medical legal field than we have had in the past. Negligence and workmen's compensation cases comprise by far the largest amount of litigation in the courts. The lawyers are learning that they must have specialized



skill and training in this field if they are to do a good job on behalf of their clients. Many of us have for years delved into the medical books and journals in the preparation of our cases in order that we might meet on more equal ground the doctors whose opinions we must test in the crucible of litigation.

Now a number of the leading universities are holding seminars on the graduate level for practicing attorneys, and in connection with the seminars, many leading men of the medical profession are giving of their time and talent to the education of the bar. My son who is a second-year student at Harvard Law School tells me that this year the third-year law students go to the Harvard Medical School where members of the faculty lecture to them on medical legal testimony. One of the leading universities in this field is Texas University and another leader is Tulane. Our own law school at the University of Kansas City also is holding annually a three to five day lecture series given by recognized men in the medical profession.

Therefore, I say to you that the younger lawyers are coming out better prepared from the law schools than before, and we older practitioners are trying not to lag behind. I would like to see the University of Kansas Medical School make a distinct contribution in this field. If it would sponsor a course for law students and practicing attorneys, there would be reciprocal advantages both to the bar and the medical profession and, of course, to the public.

Your function in the judicial process, as medical experts, is to give your best opinions, based upon your education, knowledge and experience, on the subject matter before the court. Anybody can testify as to what you prescribed and did for the patient but only you can testify as to why you did it.

Before you are permitted to testify as an expert, counsel offering you as his witness must qualify you. To do so, he inquires as to your educational background, when you received your degree or degrees, when you started to practice, whether you are a specialist or a general practitioner, what professional organizations you belong to, and some-



times whether you have held official positions in those organizations, your post-graduate training, and the states where you are licensed to practice. The purpose of eliciting your qualifications is not then to determine your skill or want of skill nor to parade before the court or jury the vastness of your medical learning but merely to lay the groundwork or foundation which will permit you to testify as an expert. A. T. & S. F. R. Co. vs. Sage, 49 Kan. 524.

Many times you will hear opposing counsel say that he waives the qualifications of the witness. Such a waiver may dispense with the necessity of having you testify as to your educational background. On the other hand, opposing counsel may prefer to qualify his expert witness in order to show the court or jury that he has brought into the courtroom a person of unusual training and the judge will permit him to do so even though the qualifications have been waived. If you are a specialist in your field, the lawyer will want to show the extent of your specialized training. Having qualified, you are then permitted to testify what you have seen, heard or done for the patient, the history, complaints, diagnosis, treatment and prognosis. You may be asked for your opinion as to the permanent nature of the disability or whether it is of a temporary nature or has been entirely cured. If there is permanent disability, you may be asked in a workmen's compensation case to give your opinion as to the percentage of disability which the injured workman has suffered.

Such a question always deals in the inexact field of opinion. However, for the purpose of the law, you are asked to assume and take into consideration the amount of work which an ordinary, normal, well workman might perform in the general field of labor, and then determine the percentage of loss the injured workman has suffered from his ability to do and perform general manual labor. No one realizes more than I do the great responsibility which such a question poses to every man in the medical profession who is asked to make such a rating.

Our courts have said that a medical expert need not answer questions with certainty. All he need do is give his opinion. Roark vs. Greene, 61 Kan. 299.



P.S. A. M. 3003

Your opinion on cross-examination may be tested by opposing counsel in a number of different ways depending upon his resourcefulness, ingenuity and skill. You may be asked whether you agree or disagree with certain statements appearing in recognized medical books and authorities, and for that purpose counsel may read to you excerpts from such books. These medical books are not admissible in evidence to establish the declarations or opinions which they contain (State vs. Baldwin, 36 Kan. 1). However, the Supreme Court said in Stout vs. Bowers, 97 Kan. 33, 36:

"One of the recognized methods of testing the knowledge of an expert witness who founds his opinions on standard medical authorities is to read from those authorities upon the subject in question and interrogate him as to whether his opinions coincide with those expressed in the books and whether there is not a conflict between the opinions he then gives and the views expressed by the authorities upon which he relies for information."

Before you have completed your direct or cross-examination on the witness stand, you may be asked a hypothetical question. Such a question must include only facts which have been established in the evidence directly or by inferences fairly deducible from established facts. Counsel may not assume the existence of matters material to the formation of a correct opinion about which no testimony has been given previously. Davis vs. Travelers Insurance Company, 59 Kan. 74; Western Union vs. Morris, 67 Kan. 410. However, counsel may base his hypothetical question on weak and inconclusive testimony of one or more witnesses or inferences properly deducible therefrom. Roark vs. Greene, supra.

It is not necessary that the hypothetical question incorporate all facts supported by the evidence nor need it include all facts or all theories advanced by the adversary. New York Life vs. Daerksen, 75 Fed. 2d 96. Counsel for plaintiff may frame his hypothetical question on facts and theories tending to support his thesis, and he cannot successfully complain if defense counsel in his hypothetical question incorporates only the facts and theories which he desires to support. Wingfield vs. McClintock, 85 Kan. 452.

When you are confronted with a hypothetical question, it is well that the physician bear in mind that he is asked to assume the



truth of the facts stated therein, and to give his opinion based thereon without interpolating or questioning these facts. It is unimportant so far as that hypothetical question is concerned whether you disagree with the facts or the theory upon which it is predicated. You have a right to rely on the skill of opposing counsel to bring out and stress both sides of the case. Many physicians inexperienced in courtroom tactics find such hypothetical questions difficult and want to argue with counsel about the facts stated therein. Often times they have had to be admonished by the court not to do so but to answer the question as propounded.

It has been my experience that the most effective medical expert testimony is given by the physician who is frank and honest and who will concede points to the opposition when they are entitled to such a concession. A recent survey made by one of the legal publications shows that the least effective expert was the one who finds it impossible to concede any point to the other side for fear that he will weaken his own opinion before the court or jury. Our court has said that an expert witness is to be given such credence and weight as the court or jury believes he is entitled to. Santa Fe vs. Thul, 32 Kan. 255, Baird vs. Shaffer, 101 Kan. 585.

Objections by opposing counsel to a hypothetical question must be specific and must point out to the court specifically in what way the question is deficient. Usually he will point out that it incorporates certain facts not proven or misstates proven facts or makes inferences not justified from the established proof. Only such specific objections may be considered by the court. Young, inexperienced lawyers often must learn this rule the hard way after their general objections are overruled by the court. Linscott vs. Hughbanks, 140 Kan. 353, 357.

A medical expert need not feel under tension when subjected to cross-examination. Nor should he take offense if counsel tries to weaken the effectiveness of his testimony. Perhaps the soundest and safest attitude is that which men of science should always adopt. That is that you are aiding the triers of the facts to arrive at the truth.



While you would be less than human if you did not want to see your opinion prevail in a courtroom and perhaps you would be lacking in a good sense of justice if you did not seek to persuade a jury or court to adopt your opinion, on the other hand, having given your opinion, you have performed your full duty and you must then leave the advocacy to the lawyers.

X-rays, cardiograms, incephlograms, and other mechanical aids to diagnosis and treatment are common to your profession, but are not so well known by the bar and certainly not well understood by the layman. X-rays and cardiograms have to be taken and interpreted by men with special skill in that field. Therefore, unless your qualifications indicate that you possess such skill, you may not be permitted to testify as to what the x-rays or cardiograms reveal. On the other hand, if you intend to testify concerning x-ray or cardiographic findings, the x-rays and cardiograms must be brought into court, properly identified and introduced in evidence so that you may be subjected to cross-examination thereon, and in order that opposing counsel might have the films examined by other men in the profession to test your correctness thereon. Lefebvre vs. Western Coal Co., 289 P. 456.

I might say here that these diagnostic aids are so common to your profession now that if you fail to use them in cases treated by you where indicated you may be subjected to a claim of malpractice and it will be no defense for you to claim that the patient did not request that you use an x-ray or take a cardiogram. That was the finding of our court in the case of James vs. Grigsby, 114 Kan. 627, where the physician was charged with malpractice in the setting of a broken leg without the use of an x-ray.

Hospital records are always important in a law suit. These are admissible in evidence only when the physician, internes and nurses identify the records as a record made by them in the course of the hospitalization of the patient. Bowman vs. Coyle, 124 Kan. 492, 495. In order to avoid such a circuitous manner of establishing the veracity of the hospital records, counsel many times will agree between themselves

that the record may be introduced in evidence without such qualifying proof.

Those who operate the hospitals for the benefit of the public must realize that they, too, are part of the judicial system in this democracy, and even though there is some hardship imposed upon hospitals and some expense, too, it is not asking too much to request that they bring, through their librarians and record clerks, these records into court for examination and testimony. As for myself, I try to see to it that the record clerk is reimbursed to the extent of her taxicab fare when she comes to court with the record and I am sure that every thoughtful lawyer would consider that a minimum requirement of cooperation on his part.

Your own private records in these cases are also admissible in evidence, and you must be prepared to bring them into court with you for the purpose not only of refreshing your own recollection about the case, but you must also be prepared to allow opposing counsel to examine records in the hope that he might find therein something contradictory of what you have previously testified to.

Because you are a member of a busy profession, that of administering to the weaknesses and ills of humanity, does not give you any immunity from compulsory process. But an attorney should and must respect the demands made on your time, should give you notice of the time when you will be needed, and will excuse you from attending at the specified hour if an emergency makes your attendance impossible. On the other hand, your cooperation is needed and should be whole-heartedly given in order that the judicial branch of government might function properly.

There is adequate power in the law that can compel you to attend after you have been served with a subpoena, but I assure you that no lawyer would deem it a pleasant task to send the sheriff after an expert witness who adamantly refuses to obey the process served on him. I learned as a young lawyer by bitter experience that an unwilling, uncooperative medical witness can do you more harm than good if he is



compelled to come to court against his will. Having subpoenaed a doctor to testify in a deposition at Wichita, and being confident that he could testify only one way because he had already given a statement and signed a death certificate as to the cause of the man's death, I insisted that the physician give his testimony.

I probably would have not done so had this physician not insisted on the payment of an unreasonable fee in advance of his testimony. You can imagine how surprised I was when the physician made a complete about face in his testimony stating that after full consideration of all the facts in the case, he had decided that the death was not due to food poisoning, but was due to some other cause. Probably I would have been smarter had I paid the unreasonable fee demanded by this unscrupulous practitioner.

Privileged communications. Section 60-2805, General Statutes of Kansas, 1949, sets out the various professional groups who are not privileged to testify concerning communications arising in the course of their professional conduct, such as attorneys and clients, priest and parishioner, physician and patient, etc. It states that a physician or surgeon is incompetent to testify concerning any communication made to him by his patient with reference to any physical or supposed physical disease, defects or injuries, or the time, manner or circumstances under which the ailment occurred or concerning any knowledge obtained by a personal examination of any patient without the consent of the patient. However, it further provides that if a person without objection on his part testifies concerning any such communication, the physician communicated with may also be required to testify on the same subject as though the consent had been given.

That means that you as a physician or surgeon cannot testify as to these communications which come to you in the course of your professional undertaking, but if the patient files a claim or brings a law suit and testifies concerning his condition, then you can be compelled also to testify thereto because the privilege is then waived. After a patient's death, the heirs or personal representatives may

waive the objection. State vs. Pullman, 85 Kan. 237, 238; Gorman vs. Hickey, 145 Kan. 54, 61, 63. On the other hand, if no heir or personal representative of the deceased objects to your testimony, you may testify for the reason that this law is not a privilege given to the physician, but it is a privilege given to the patient. Loty vs. Ice Company, 118 Kan. 323, Kirsch vs. Federal Life Insurance Company, 149 Kan. 309, 313.

Malpractice. The obligation of a physician and surgeon is merely to use such skill and foresight in the practice of his profession as is generally used by men in the profession. A physician does not impliedly contract to cure his patients. Tefft vs. Wilcox, 6 Kan. 46. In case of doubt on which of two courses to follow, all the physician is required to do is to use his best judgment, and he does not guarantee that he will get good results, and if he has bad results he is not subject to civil liability. James vs. Grigsby, 114 Kan. 627; Paulich vs. Nipple, 104 Kan. 801. In the case of Rainey vs. Smith, 109 Kan. 692, our court said that an action for malpractice would lie where a wrong diagnosis was made of the plaintiff while she was pregnant. On the other hand, an honest mistake in diagnosis made where you do not treat the patient does not render you liable. In the case of Eugg vs. Security Benefit Association, 173 Kan. 522, a physician was sued for damages for having erroneously diagnosed cancer to a breast. He did not perform the operation for the removal of the breast and our court said he could not be held liable for this woman's damages because the woman had voluntarily had the breast removed by someone else which was the proximate cause of her injury.

However, in the case of Russell vs. Newman, 116 Kan. 268, the Supreme Court ordered a new trial where the jury granted the patient only nominal damages for injuries arising when a sponge was left in an incision after removal of a kidney in spite of the fact that there was testimony that no injury was suffered by plaintiff as a result thereof. The court said that the patient was entitled to more than just nominal damages for such a mistake.



On the other hand, I want to advise you physicians and surgeons that you cannot collect your fee for services rendered where the claim of malpractice is successfully raised. Abbott vs. Mayfield, 8 Kan. App. 387. However, my experience proves that you do not have too much to worry about from this angle in Kansas for the reason that want of skill in treatment, diagnosis and operation on a patient is a matter which only men of your profession may testify as to in court. Maddell vs. Wood, 158 Kan. 469. Except in rare and very unusual circumstances is it possible to get any physician to take the witness stand against a brother member of his profession where that question is at issue. It is not the purpose of this paper to delve into the ethics, or propriety concerning the screen of protection which the men of your profession throw around each other when your skill is being tested by the judicial process.

If a case can be proven against you, you are liable in civil damages not only for your own mistakes but for the mistakes of the technicians, assistants and nurses in your employ, but you are not liable for any carelessness or negligence by the nurses, attendants or assistants in the hospital where your patients are sent. Non-profit hospitals, such as those operated in Kansas City, Kansas, are immune to civil liability for damages arising out of the negligence of their employees (Nicholson vs. Hospital Association, 97 Kan. 480), but the employees themselves may be subjected to claims, but this is seldom done because in most cases the employees are not financially responsible and do not carry insurance against such liability.

After almost 29 years of a busy trial practice, much of it in the field of negligence and workmen's compensation, where I come in contact with and listen to the testimony of many doctors, I have learned to classify them not as honest or dishonest, stupid or brilliant, forthright or inconclusive, but rather as pessimists and optimists. When I give to the men in your profession proper understanding and sympathy, I realize that the classification of pessimists and optimists is about as good a classification as one can find.

The pessimists are the best kind of expert medical witnesses from the plaintiff's point of view. He will take a rather dreary look at the patient's chances for recovery, finds good reason for the complaints which the patient makes of pain and suffering, and agrees that the percentage of disability which the plaintiff will suffer will be great. The plaintiff's bar loves these pessimists.

The optimists work for the insurance companies and big corporations. The patient is never as sick as he says he is. His complaints of pain and disability are not sustained by the findings. He believes that if the patient would just forget about his pain and go back to work, he would recover sooner. As an optimist he sees no reason why the injured patient should not be doing a full day's work or in any event he minimizes the percent of the disability which the injured workman or plaintiff has suffered. A few weeks or a few months under the benign treatment of the optimist and the patient is as good as ever ready to take his place in industry as if he had never been hurt. You can well understand why the insurance companies and corporations love the optimists.

It is not up to me to sermonize on this point. If I told you that I believed that the plaintiff's doctors, or shall I say the pessimists, are the more realistic, you might well conclude that I prefer to believe the patient. As a matter of fact, we are dealing with a human equation wherein we must recognize the fact that various people have different thresholds of pain, some are more persistent than others in overcoming disability and some may endure physical defects and handicaps without yielding to the temptation to complain.

On the other hand, I am satisfied by my experience that there is an element of neurosis in almost every case of trauma and disease and that the physician must treat the mind as he treats the body to the end that after he has cured a physical defect he does not create a mental aberration.

I am happy to say that I have a healthy respect and admiration for the members of your fine profession in this community, the pessimists and optimists alike, as I have found practically all of you with whom I have come in contact faithful and loyal to your profession and your patients, friendly and helpful, doing an excellent job in upholding the finest tradition of your great profession.



- Jack MacKay - Natl. Com. Rec. Mem. Comm.  
- Fed. Res. + Mouse Rehder  
- <sup>1st</sup> Smith Epsten -

# "A Layman Looks at the RAB,"

Community Service Comm.

I I didn't know until last Sat, when I met Ted Kayles in Chicago, that I was to do a double feature - Certainly I didn't then know what subject was assigned to me. Instead of "A Layman Looks at the RAB," I thought my principal guy tonight could be summed up in the title "A Layman Meets the RAB"

1. I would rather meet you than try to tell you my observations as to the role of the RAB members in the A.D.F. program

II We have 25 reg. offices, serving every state & we have 25 RAB.

a. The RAB membership rep. a cross-section of Am. Jew. life, drawn from towns, cities, suburbs, coast roads.

b. They rep. every segment +  
strata of life - rich, poor - bus  
+ prof., public + govt servants,  
teachers, professors - doctors -  
labor-management - all interested  
in fostering better human relations -  
fighting anti-Semitism

c. It's a great army of Jews,  
mobilized as volunteers, under the  
guidance of professionals, banded  
together on the basis of enlightened  
self-interest to promote the cause  
of our gov. democracy by forging  
the tools that make democracy  
work

III A B L celebrate its 40<sup>th</sup>  
yr of service Nov 20-23 at Wash

1. Started by Sig. Levington  
then a gov. atty from Bloomington, Ill,  
as strictly a voluntary, non-profits.  
movement to eradicate common type



- of anti-Semitism then, plus  
a. Vulgar Jewish jokes in vaudeville  
b. Reference to Jews in crime news & unsavory items  
c. Social discrimination

2. Until Hitler, it was a paper organization, with an address & a program that the B. B. could act on a limited basis. -

3. No program of education -  
No tie-up with other organs.

Just a volunteer fireman,  
answering an occasional alarm  
when some bigot made an  
outrageous statement or act against  
our people - Henry Ford - Dearborn Indep.

IV It was soon found out, after  
Hitler, that the preservation  
of Jewish rights in America  
was too big & too involved to  
be handled out of a cheap  
sheet.

go to the country

1. The Reg. office structure is a development since the World War II + principally in the past 5 yrs. - 700,000 of ~~our~~ 1,800,000 spent in 1953.

2. We found out the successful Reg. directors could not function without the active participation of interested laymen so we've recruited - men + women of good will to join these Bds

3. You are not only the eyes + ears of A.D.L. in your <sup>respective</sup> localities - you are <sup>the</sup> circulatory system as well thru which our program is implemented at the grass roots

a. Reading the "Personally Yours" bulletin of your Region is proof ~~and~~ of the way in which



many of you in your own communities are assisting in putting our program to work in your schools & colleges, your police depts, public health nursing depts, churches, youth camps, city & state govt's etc.

Esau Kahode, L. Harry Hovensack, Rudy Regal  
b. I said you were the Eyes &

Ears & Circulatory System - you are more - the very heart of ADR - because our prof. staff, regardless of concepts & competence, could not function effectively if you did not actively aid & assist them in bringing to fruition an extensive program - too great for any staff we can now afford to put train & put into the field  
Value of service by volunteers of RAB impossible to calculate in money

If there were some way of tabulating  
the real money value of the work  
of RA B. members it would mean  
that for the  $1\frac{3}{4}$  million dollars  
A.D.L. spends annually there must  
be 5-10 million dollars spent by  
Bd. members in time of inestimable  
value + not an inconsiderable  
amt. in actual cost

IV Not only ~~are~~ are the RA-Bs  
the Eyes, Ears, & Circulatory System  
& the Heart of A.D.L. - but more  
the board members are the very  
Soul & Spirit of A.D.L. They  
ultimately determine the policy  
which we follow through the  
nation

a. On segregation in Public  
Schools we battled 2 yrs. with  
our fine So. Reg. Bd who didn't  
want us to fight with the U.S. Dep. of



b They pointed out the B B &  
A. D. R. <sup>was</sup> Only Jewish agency  
recognized in the South - they  
were in danger socially &  
economically <sup>even physically</sup> when he took  
a stand that was contrary to  
the recognized mores of the people

c. The composite thinking  
of the RABs thruout Am & our  
Nat Com was against the the  
attitude of Am So. Bd. -

d. At their last RAB meeting  
they have now voted to go along  
with our Natl policy - ~~3 dissenting~~  
votes

VI - As you discern, this laymen  
then looks at the RABs with  
great reverence & respect, as Natl  
ch. of Com. Service Com, I convey  
our tremendous thanks to you who  
have gathered here tonight to

further re-utilize the ~~new~~ <sup>meaning</sup>  
of our program in your Region  
B.B + A.D.R. now lead by  
2 young dynamic leaders - Phil  
Klutznick + Henry Schultz - both  
in middle forties -  
With an army of <sup>devoted</sup> men +  
women like yourselves behind them  
A.D.R. + B.B. - 110 yrs this month -  
with scale the heights of greater  
service to our people, to our <sup>gods</sup> ~~country~~,  
to our God.



## BACKGROUND FINANCIAL DATA FOR TULSA

### I. Present Financial Position of JDA agencies.

JDA's income since 1948 has dropped from \$5,000,000 to \$3,400,000. But this cut of \$1,600,000 is closer to \$2,500,000 in real dollars and in terms of meeting programmatic needs by the agencies, because of the decrease in purchasing power and increased costs in this period. In order to provide essential services and meet urgent needs for programs and assistance, the agencies incurred a total deficit of \$465,000 from 1948 through 1952. This meant that operating capital was depleted by this amount, in order to carry on programs which could not be financed out of current income.

### II. Explanation of Operating Capital

(NOTE: This information is to be used only if the question is raised about reserves. It is to be dealt with as a matter of operating capital. The facts follow:)

ADL has operating capital of \$180,000 and endowment bequests totaling \$104,000, adding up to \$284,000. We must have at least \$100,000 on hand at the beginning of any given month to meet current obligations - rent, salaries, travel, and other regular costs. The remaining \$184,000 carries the agency for periods when cash income does not come in from welfare funds, which happens at varying times during the year according to when the welfare funds receive payments on outstanding pledges. Just as in any business, a certain amount of cash must be on hand to carry the agency, since there is no guarantee of a stipulated sum available in any given month. This \$184,000 would carry ADL for about six weeks of operations.

AJC, operating similarly, has \$345,000 as operating capital. (There also is a special Building Fund of \$250,000, earmarked only for this purpose.) When you deduct the \$100,000 which must be on hand for current bills during any given

30-day period, \$245,000 remains as operating capital, which would carry AJC for not more than seven weeks.

If either agency did not have this minimum amount of operating capital, I can tell you that there would be many months when the agencies literally would be unable to carry on any work at all.

III. Communities which have adjusted their JDA support this year:

Philadelphia - funds dropped last year - readjusted JDA's allocation from \$75,000 for 1953 to \$87,500 for 1954, as a first step towards adequate support.

Los Angeles - funds dropped - readjusted JDA from \$93,000 to \$98,000.

Newark - which raised the same amount as the previous year, went from \$24,300 to \$33,500.

Minneapolis - had allocated \$10,200 out of \$682,000 in 1952, dropped in total fund-raising to \$655,000 and readjusted JDA's support by allocating \$15,000 for 1953.

IV. Communities which increased JDA allocations in 1953:

Columbus, Ohio - raised from \$25,000 to \$27,500 (4.9% of total funds)

Milwaukee - from \$22,500 to \$23,500 (2.7%)

Houston - from \$13,250 to \$16,750 (3%)

Memphis - from \$8,750 to \$10,000 (2.8%)

V. Some special cities worthy of note:

Greensboro, N. C., raised \$385,000, allocated \$30,000 - 8.4%

Seattle - raised \$353,000 - allocated \$20,000 - 6%

Portland, Ore. - raised \$315,000 - allocated \$15,000 - 4.8%

Dayton, Ohio - raised \$274,000 - allocated \$9,000 - 3.3%



VI. How does Tulsa's support compare with that of other communities?

On a national average, communities throughout the country allocate 3% of their total funds raised to JDA. As noted above, some allocate up to 10%.

Cities raising approximately the same funds as Tulsa:

Youngstown raised \$285,000 - allocated \$9,800 or 3.4%

Dayton raised \$274,000 - allocated \$9,000 or 3.3%

Norfolk raised \$212,000 - allocated \$6,400 or 3%

VII. What is the JDA quota request for Tulsa?

In 1952, Tulsa raised .26 of one percent of the total funds raised in the country. If your community were to allocate this proportion of the budgetary needs of the JDA agencies of \$5,000,000, you should vote \$13,000 to JDA this year.

Since it would be unrealistic to expect this adequate measure of support this year, Tulsa should allocate at least an average share of support, based on the 3% national average contributed to JDA. This would be a minimum of \$8,600. We should get at least \$4,500 this year as the first step toward this average support.

NOTES for TULSA JDA PRESENTATION - JOSEPH COHEN

It is a privilege to appear before you in behalf of the Joint Defense Appeal of the Anti-Defamation League of B'nai B'rith and the American Jewish Committee. I welcome this opportunity to come to Tulsa and to discuss with you the use which has been made by ADL and AJC of the funds contributed to them by Tulsa and other communities all over the country, and to detail the urgent needs which require increased support for these programs.

I am an officer in my welfare fund and I know that when beneficiary agencies come before us, there are many questions which come into my mind. I am sure that the same questions occur to you when you consider these important institutions and causes. It seemed to me, therefore, that it would be most valuable for you if I could pose some of these questions myself, in connection with the JDA agencies, and answer them in detail.

I. What is the basic goal of ADL and AJC?

We are all aware that we are fortunate to be living in a democratic country, where the principle of equality for all people, regardless of religion, race or national origin, is a basic principle. But we all know that principle doesn't become a reality just because it is stated in our Bill of Rights and our Declaration of Independence. It has to be surrounded with safeguards. It has to be watched over in every area where the strong can take advantage of their strength to abuse the weak.

Making the ideals of democracy become reality, not only for us as Jews, but for all Americans, is the fundamental goal of ADL and AJC. We cannot survive unless we have a climate of opinion in which Jewry can



survive. To this extent, therefore, supporting ADL and AJC is in our own enlightened self-interest, for our own personal security and the future safety and happiness of our families and our children. This work must be a primary obligation, for only to the extent that we are strong and secure in America can we support Israel, rescue and care for our unfortunate brethren in other lands and maintain our own hospitals, community centers and religious institutions here in America.

II. How do ADL and AJC work toward this goal?

Obviously, I cannot go into every one of their programs, for they are many and in almost every case, they involve a number of various techniques, scientific research and public information combined with education, civic action, community service, foreign affairs and close working relationships with church, business, labor, women's rural, youth, governmental and other officials and organizations.

But I would like to give you the highlights of just a few recent achievements of ADL and AJC.

1. Discrimination - that is a real problem that affects each one of us and our families. What is it worth to you to know that a summer resort or a hotel you go to will not exclude you because you are Jewish? What is it worth to you to know that your son and daughter can pick the college or medical school they want to attend without meeting a Jewish quota? What is it worth to know that you can buy a house freely in a desirable neighborhood, without the fear that a real estate-man will inform you that the area is restricted? What is it worth to you to know that when your son looks for a job in a field for which he has been specially trained, he won't be turned down because he is Jewish?

How much is that worth to you? \$5,000? \$25,000? \$100,000?

The question is silly, because those rights are priceless. They're beyond measurement in dollars and cents. Those are rights, however, that AJC and ADL are working to secure and in many cases have succeeded in securing for us and our children.

a. In education - ADL has cracked the "quota" against Jewish students in colleges and universities all over the country. Working together with the American Council on Education, the top education group in the country, ADL started five years ago to sponsor conferences of college presidents and administrators, to discuss the problem and to map programs by which the colleges themselves have undertaken responsibility for this effort. As a result of this program, some 450 colleges today have eliminated discriminatory questions from their application blanks.

b. In employment - the JDA agencies have spearheaded campaigns throughout the country for fair employment legislation. In addition, ADL recently completed a survey of banks, public utility companies and insurance companies which discriminate against Jews, and now are working with many of these firms to get them to revise their policy and to consider all applicants on merit.

2. What are we doing to expose and counteract anti-Semitic bigots and professional rabble-rousers?

I am sure you all know the outstanding job the JDA agencies have been doing to bring these professional anti-Semites out into the open, to challenge their propaganda, and to make known their backgrounds and motives to governmental agencies, to school and community groups. ADL's latest published survey on bigotry, "The Troublemakers," is recognized as the one



most valuable source of such information by all human relations agencies, government officials and molders of public opinion. One of the most revealing stories in this book was about Arab League propaganda in America, and today all evidence compiled by ADL and AJC shows clearly that a new international tie-in has been forged between Arab leaders and native American bigots. Allen Zoll, notorious American anti-Semite, visited the Middle East last Fall and met with Egyptian Premier Naguib of Egypt, the former Grand Mufti EL Husseini, Nazi War criminal, and a score of other Arab leaders. Now Zoll and his wealthy wife are creating, with Arab blessings, a so-called "American-Arab Institution." And Conde McGinley, who publishes a venomous anti-Semitic newspaper called "Common Sense," ran a front-page atrocity story recently accusing the Jews of killing 850,000 Arabs. This and other publications by bigots are often sent to Congressmen and State legislators. Whenever they are, the JDA agencies immediately contact our government officials, present detailed information about the publishers and give the facts to dispute their propaganda.

3. How are we eliminating anti-Jewish bias in Christian church literature?

Each of us knows this problem. Our Jewish community in America totals 3.2% of the total population. We live in a predominantly Gentile world, whether on the American or world scene. The influence of the Church in American life continues to grow, with increased membership and an ever-widening importance in determining the opinion climate of its membership. Right now at Yale Divinity School a survey is in process, financed by the AJC, reviewing the vast body of Protestant literature - magazines, books, Sunday School texts - ready by more than 30,000,000 adults and children - to uproot biased references to Jews and Judaism. Many of us can look back

to our childhood and recall the phrase "Christ-killer," and recall the confusion and wonder that we experienced when we heard it. Already, as the result of a 10-year JDA program, working closely with both Protestant and Catholic church leaders, false stories of the Crucifixion are being corrected and positive stories on Judaism and the Jewish heritage are being printed in Christian magazines and books. What is it worth to us - to our friends - to know that our children or our grandchildren won't bear the brunt of those words, that, despite the old saying, can hurt?

4. What are we doing to promote understanding among all Americans?

This is perhaps one of the most heartening and encouraging aspects of the JDA program. ADL and AJC have done a magnificent job to promote inter-cultural education, to train teachers, policemen, social workers, industrial leaders from vice-presidents right down to foremen in the shops, all those who work directly with people, how to understand and cooperate with people of all races and religions, how to create real, living human relations together. I'd like to tell you, off the record, about one particular phase of this program, because it indicates what happens when you refuse to be cowed by those who say you just can't do something, and because it shows the importance of the human relations approach of the JDA agencies. The inter-group education program met with increasing resistance at first from conservative Catholics, who felt it was atheistic. We converted this source of attack into an ally, though, by involving the Catholics themselves in inter-group programs. And we have succeeded. We have stimulated a real concern on the part of Catholics for this work. Concrete evidence is that ADL initiated and supports an inter-group workshop each summer at Catholic University in Washington, which is the only university in America which is chartered by the Vatican.



In addition, with AJC's planning and programming assistance, a workshop in human relations was set up at St. Louis University, a Catholic institution, two summers ago. AJC helped plan curricula, secure expert instructors, find material, stimulate attendance among teaching priests and nuns and Catholic laity as well as representatives of other faiths. The test of this success is that the Catholics involved in it spread the word, and Loyola University in Los Angeles followed with its human relations workshop last Summer. Boston College has inaugurated a Human Relations Department. Now all of these workshops are permanent institutions and in addition, a national human relations training center has been organized at St. Louis University.

All of this work already is paying dividends in better understanding and closer working relations between Catholics and Jews in human relations programs and in civic and communal welfare.

5. How about the way Jews are becoming identified with Communism in the past few months?

In the last year, each and every one of us, I know, had occasion to feel a personal sense of discomfort, on picking up our daily paper, when we saw another Jewish name featured in the spy trials. The same sequence of Jewish names featured in the press 20 years ago undoubtedly would have led to editorial and press comment labeling the Jews as Communists. I am sure that we all watched for reactions with a twinge of anxiety. The fact that such identification was not made reflects the close work by the JDA agencies for many years with newspapers and public opinion molders, to sensitize their handling of such news. Four decades of effective work by AJC and ADL were

paying dividends . . . good dividends. What is this worth to your community and mine, to your friends and mine?

In addition to this, however, the JDA agencies have met the Communist menace with forceful, positive action. They have exposed Communist strategy by revealing its falsehoods, by showing that Communists are not concerned with civil liberties. They work continually to remove for all time the false equation that "Jew equals Communist," they present the facts about Communism, show its complete incompatibility with Judaism.

6. Now - their foreign affairs program. You may wonder where that fits into community relations work? We know that anti-Semitism is exportable, and that what happens to Jews anywhere must concern us. Our agencies have continually been alert to the dangers of Communist anti-Semitism and to reborn Nazism and German anti-Semitism. In its recently published public survey on Neo-Nazism in Germany, the third in a series, AJC traced the infiltration of former Nazis into government agencies and respectable political parties, and revealed that, for the first time since the end of World War II, open anti-Semitic agitation had reappeared on the German scene. On a positive level, Edwin Lukas, Director of AJC's Civil Rights Department and an expert in community relations, went to Germany last year at the special request of the High Commissioner's office. He helped organize a German human relations agency, which coordinates communal and religious groups, and assisted in the planning for a nation-wide conference on community relations and human rights, the first in more than 20 years.

In another area of the world which concerns us greatly, the JDA agencies do an important public relations job in behalf of safeguarding Israel and building up the country as a vital spiritual and cultural center and as the bulwark of democracy in the Middle East. Just last month, when



Jacob Blaustein retired as President of AJC, he received this telegram from David Ben Gurion : "Please transmit to my dear friend Blaustein my sincere admiration for his services to Jewry and to Israel during his five years Presidency your Committee. He acted bravely as American patriot and proud Jew."

Much of this work is of such a nature that it cannot be publicized and must be considered off-the-record. It involves conferences with high government officials, including the White House, the State Department and the Department of Justice. The agencies have helped to create a favorable public opinion for Israel in the United States, and the value of this effort on their part has been recognized time and again in letters and testimonials by Israeli government officials. They also have helped the Israeli Embassy to secure refutations of anti-Israel articles in the American press and magazine. We have arranged for Israeli spokesmen to appear on some of the most influential, non-Jewish platforms in America and we have seen that speakers are heard in behalf of Israel in communities where strong anti-Israel, Arab speakers have been presented. The agencies have used their effective nationwide resources to enlist Congressional support for aid-to-Israel legislation, especially important in the South and the Mountain States, where the Jewish population is small. Here it invariably has been representatives of ADL who succeeded in getting Congressional expressions of support for Israel.

What is the reputation and standing of these agencies on the American scene?

This is part of the aspect of their achievements, because as a result of their work, ADL and AJC are recognized by Protestant and Catholic groups and by all civic organizations as established experts on problems affecting group relations everywhere. Local, state and federal government agencies

often call in the JDA agencies first, not only on question of anti-Semitism, but for advice, consultation and aid on community problems generally. Their outstanding record of service to the community and the nation has been possible because of their carefully integrated programs and their comprehensive approach to the problems that confront the community. Their staffs include community relations specialists, attorneys, researchers, public relations experts, radio, television and movie specialists, writers, experts on working with labor, veterans, church, women's, business and youth groups.

The National Education Association turns to the JDA agencies for help in defending the public schools against bigoted attacks, because the JDA agencies can furnish excellent guidance in community relations programs. The U.S. Department of Defense asks for radio programs, posterns and other material for sailors, soldiers and airmen all over the world, because we have the skills, know-how and knowledge to adapt these materials for specialized use. The Methodist Women of America financed the writing and publication by a JDA agency of a book on human rights. The AFL and CIO ask for assistance in making a movie, preparing a booklet on discrimination. UNESCO finances a survey on legislation against employment discrimination in America. The Catholic Youth Organization of Chicago and the Protestant United Christian Youth Movement join with ADL in sponsoring an ADL-produced color cartoon for children on human rights. Just recently, a new ADL dramatic radio series "Decision" began on ABC network stations all over the country. It cost us only \$17,000, but we are getting free radio time worth at least a million dollars to bring the story of the free world, fight for freedom into American homes from coast to coast.

I could go on and on, and tell you about so many more programs. Can



any of these achievements be estimated in dollars and cents? Can we put a price tag on the security and dignity guaranteed by these advances for our children?

This time, I'm asking you the questions. But, I'll answer these myself, too. Because it is obvious we can't. But what we can do, is see that AJC and ADL are able to continue this progress, to consolidate the gains they already have made and to go on and make new ones in our behalf.

### III. Why can't they do this?

The answer is simple. Because of missing dollars. Because of insufficient funds, ADL and AJC have been forced to cut, curtail and postpone many urgently needed programs.

### IV. What are some of the unmet needs in 1954?

1. As I told you, a magnificent job has been done cracking the quota in our colleges. But we all know the shameful story of medical school bias against Jews. The American Council on Education has been ready for four years to undertake a research project on discrimination in medical and other professional schools, and to work with the ADL on remedial action to end these quotas. But we cannot go ahead because ADL doesn't have the \$60,000 needed as its share of the project.

2. Within the past six or seven years, with the rapidly changing political climate in America, there have sprung up a number of well-organized, articulate, well-financed, extreme right-wing groups. These are obviously possible vehicles for professional anti-Semites. It is more and more important that we have day-to-day knowledge of their activities and their associations. We must extend our investigative facilities all over the country, to cope with this growing menace. But we don't have the minimum \$70,000 needed.

3. I mentioned the successful work with Yale Divinity School to eliminate anti-Jewish bias in Protestant church literature. But we also need to survey Catholic lesson materials. Fordham University is now developing a project with AJC for such a study. Whether it can go ahead depends on whether AJC can provide the \$8-10,000 required.

4. The value of television and films cannot be underestimated in their effect on reinforcing the average American's feeling against unfair treatment of people because of race or religion. ADL's prize-winning film on prejudice, "The High Wall," has been seen by some 15,000,000 people. The instantaneous success of AJC's TV spots on human relations has led to a demand by TV stations for many more. ADL had opportunities to do films with the Boy Scouts of America, the National Association for Mental Health and the American Red Cross. Screen treatments already have been planned. In all these cases, the JDA agencies secure millions of dollars worth of free radio and television time to bring the message of good human relations into millions of American homes. But we don't have the \$150,000 needed to take advantage of all these opportunities.

5. Today there are grave threats to our civil liberties - attacks on public schools, censorship of books and movies, attempts to infringe on our free speech, press and assembly. These are fundamental dangers to our American free institutions. If anything happens to them, none of us can feel safe or secure. At the same time, we still have discrimination in education, employment, housing, resorts. AJC and ADL have the experience and the skills to continue their meaningful progress in fighting for our civil rights and civil liberties. But we don't have the \$70,000 needed for effective programs in this vital area.



6. There is an urgent need to extend the great services that AJC has rendered Jewry throughout the world. We know that the threats to Jewish security abroad come from the same anti-democratic forces which challenge the entire free world. Thus, wherever Jews are in jeopardy, we as Americans and as Jews, must be concerned. When we resist all assaults against the security and lives of our fellow Jews, we safeguard the security of the free world and the lives of our families and our fellow citizens. We need to support the basic rights and security of Jews in the Near East and Africa, to provide to Latin American Jews the aid and counsel with which they can organize their own civic defense programs, to maintain eternal vigilance over the twin menaces of neo-Nazism and Communist anti-Semitism. Jewish communities in Europe also need our continued help in combatting anti-Semitism and creating better community relations programs. We should continue our efforts to work out a program of proper relationship between Israel and the American Jewish community. The JDA agencies have the experience and contacts to succeed in each of these areas. But all of these vital programs must wait, because we are missing the \$87,700 needed for them.

These are only a few of the missing dollars. They must be of deep concern for us, because they stand in the way of significant advances which will benefit us and our families. I say, can we afford this?

V. What are some specific problems that face us in 1954?

There are a number of areas of conflict and tension throughout the world, which call for the serious attention and action of our community relations agencies. They are problems which affect our security and our rights, as Americans and as Jews.

I have already mentioned some of them in discussing missing dollars -

the threats to Jewish security abroad which deeply affects our own safety, the need for developing further our efforts to create a favorable public opinion in America towards Israel and to support governmental grants-in-aid, as well as promoting Israel as a bulwark of democracy in the Middle East.

In discrimination, we need to reduce discrimination against Jews in the professions, both in graduate schools and in employment. We still face the need for removing restraints on equal opportunities for Jews in housing and resorts, for continuing to crack quotas against Jewish students in colleges.

Currents and conflicts on the religious scene also affect us, with people gravitating toward conservatism and fundamentalism in religion, with acrimonious religious controversy on the political scene. The JDA agencies have worked closely with Christian groups, and this relationship has been of great value to American Jewry in promoting united efforts in human relations and creating better understanding.

One important problem is the new political strategy being developed by professional anti-Semites. They are using politics to spread their bigotry on the national scene, appealing to supernationalistic elements and stepping up their smear of Jews as Communists or Communist-influenced. They are trying to latch onto a third party movement for 1956, which is supported by extreme right groups, which appeal for "return to constitutionalism;" "save America from creeping socialism," "freedom of choice," etc. The anti-Semites and the so-called "Jewish angle," highlighting prominent Americans of Jewish background as agents of a super-government. They also are attacking the United Nations and UNESCO, even comparing the colors of the UN and Israeli flags for some hidden significance.



Anti-Semitic propaganda against the McCarran Immigration Act has been trying to stir up anti-alien sentiment. When they attack the critics of the act, they minimize or ignore the opposition of Protestant and Catholic groups, which have joined with ADL, AJC and other Jewish organizations in fighting the discriminatory and anti-democratic provisions of this immigration act.

These are all problems that affect each of us deeply. Many of them are symptoms of the fear and suspicion that is so prevalent in the country today. We vitally need the careful, reasoned, experienced approach of AJC and ADL to meet these problems effectively, to combat and expose the propaganda, to counteract the lies, to tear down barriers to first-class citizenship for us all, to create a climate of opinion where hatred of any group by another will be an impossibility.

But we who count on AJC and ADL for this work in our behalf, must show AJC and ADL that they can count on us. We must make available the funds they need to carry forward these programs.

-MORE-

Tulsa

VI Tulsa's relationship to JDA

Frankly, gentlemen, your allocation to the Joint Defense Appeal is a tremendous source of embarrassment, to the JDA, to your own contributors and to the community at large.

What do I mean by this?

As a matter of record, AJC and ADL spent \$3,400,000 in 1953. If other cities in the country had contributed the same proportion of support as Tulsa, the JDA agencies would have had only about \$530,000 to spend on program, or \$265,000 each for AJC and ADL. This \$530,000 would permit about one-third the program of one of the agencies.

This means, of course, that other communities in the country are carrying your share of the responsibility for financing these programs. Tulsa is getting the benefit of a \$3,400,000 program, without assuming an equitable share of support for it. I have already detailed some of the missing dollars to show that the JDA agencies should be spending a minimum of \$5,000,000 a year to do an adequate job and to fulfill urgent unmet needs. But the Tulsa allocation doesn't begin to represent support even for present expenditures.

In communities all over the country, where JDA receives a national average of 3% and sometimes from 5 to 10% of the total funds raised by the welfare fund, Tulsa is used as an example to show why allocations to JDA should be considerably less. Community leaders claim that if JDA is



#  
 J. D. A. spends about 3,600,000 per year  
 Chicago 350,000  
 N. Y. City 2,000,000  
 Average Fed city gives 3% - 3 out  
 of each \$100 given  
 He spends 90% of funds spent in Jewish  
 public relations fund & do 90% of work  
 1. Tulsa raised 286,000 last yr - gave less  
 than 1/2 of 1%  
 2. Federations can't claim to raise funds for  
 vel courses without treaty all fairly.  
 3. He's partners - Honor teacher related  
 4. It's fair to say to a contribution of \$100 that  
 only \$50 goes to the largest fund-raising effort  
 outside of U.S.A. in Am - or 1,000 contribution  
 that \$5,000 vel we get  
 5. Com. chests started to desertigate when  
 agencies such as Red Cross withdrew  
 6. He should have \$600,000

satisfied to take five-tenths of one percent of Tulsa's total funds raised, then their community shouldn't carry the burden for Tulsa's lack of support, especially since we all get the same benefits from the AJC-ADL programs. This embarrasses JDA and actually costs us money in many communities, where the Council of Jewish Federations and Welfare Funds sees to it that the Tulsa allocation is heralded as a standard of giving to JDA, and money is whittled off JDA allocations.

Here in your own community, your inadequate support to JDA is a source of embarrassment to your own contributors, as well as to JDA. By including the JDA as a partner in your campaign, you are telling your contributors that they are carrying an adequate and fair share of responsibility for supporting AJC and ADL. Actually, as you well realize, this is not an accurate interpretation of the facts. Your allocation of \$1,500 represents at best a token. Of the top 150 cities contributing to JDA, Tulsa's proportionate share of five-tenths of one percent of your total funds of \$286,000 last year is the lowest. Not one other community has this low level of support to JDA. If you had supported JDA on an average level, based on the 3% national average allocation received by JDA, Tulsa would have allocated \$8,600, or almost six times the amount voted in 1952.

At this time, I think it would be unreasonable to consider JDA's allocation request from Tulsa in terms of an "increase." I am asking you to adjust the long-standing inequity in the JDA-Tulsa relationship. The basic issue is that you have never given an adequate measure of support to JDA, although you have had all the benefits of programs that were made possible by the contributions of other communities.



1. Anti-Dissemination laws -
  - a. ~~to~~ ~~Washington~~ - new civil laws
  - b. Oregon - equal public accommodations
  - c. Arizona - dental lab span excluded Jews
  - d. Res. - F.E.P.C.

2. Unmasking the K.K.K

3. Fair Education Practices Acts

4. Crash the Quota Campaign -  
 Survey of 57 colleges by A. W. [unclear] Payper office  
 shows progress

5. Survey of Florida & New Eng. resorts

~~R. [unclear]~~

2 - Arab Propaganda -

1. Use of refugee problem
2. Dorothy Thompson - friends of Near East
3. Ulster Zöll
4. Prize by Israel + Embassy
1. Conde W. Kinley - Common Sense -

charged Jews of Israel with massacre of 850,000  
 Arabs - Refutations to leaders in & out of Congress  
 2. Conference with Henry Lane, Ray Carlson  
 of life & time last month

3 - Phog Allen of K.U. at Leona Club - Boulder, Colo

- 4 - 1000 cases of dissemination
- 5 - Opening doors of employment - surveying banks, law

If this kind of arrangement existed in a business partnership, I know that neither you nor I would permit it to be called a partnership. I think you must agree that if you here today were acting as legal counsel for the JDA, the word partnership would hardly be adequate to describe the relationship that has existed between JDA and the Jewish Community Council in Tulsa over the past years.

I ask you, therefore, to adjust your standard of giving, to adjust this inequity, so that JDA can be included as a true partner in your federation. I ask you to do what most communities have been doing right along, and what many others have now begun doing. Philadelphia, for instance, has adjusted its JDA allocation from \$75,000 for 1953 to \$87,500 for 1954; Newark, from \$24,300 in 1952 to \$33,500 for 1953; Minneapolis, from \$10,200 to \$15,000 - and a number more I could cite. These communities are now starting on the road to fair and equitable support, by readjusting their standard of giving. And in almost every case, the welfare fund either had raised the same or less funds as the previous year.

It seems to me, gentlemen, that the choice is yours, to decide whether or not this work is worthy of your support. Obviously, the policy of the JDA has been to remain and participate within the welfare fund structure in America. It is up to you to determine whether the JDA shall be included as a partner in the Jewish Community Council for an adequate measure of support, representing an adjustment of JDA's unequal status here over a long period of years - or whether the JDA should not be included in it at all.

###



I appreciate opportunity to talk to you about  
of D.A. agencies your take contribution to  
this fight cause shows a want of information

on the subject  
1. I give much time to it to away from my  
law practice & bank & from home because I feel  
unless we achieve our objectives the security of  
Jews in our democracy endangered

II Eternal vigilance is the price of liberty" - Patrick Henry

Our laws may provide for equality but in reality  
we obtain equality only by constant vigilance  
thereon

1. We are engaged in a battle against bigotry  
& intolerance that can only be won by the hearts &  
minds of men.

2. We do our work on many fronts, thru  
democratic methods - Education, Legislation - Action  
Counter-action

Education -  
a Workshops for teachers, nurses, police, industry  
b School systems - colleges use our material  
c Press - Veterans groups - foreign language groups  
d Allen Zell & the his Council for Am Education  
e Radio - TV  
Legislation -

1954  
1975

File  
Lester  
file

# Higher Loyalties

(Speech delivered before Naturalization class of 21 on 2-2-54 at 2 P.M. U.S. Court H. - I.C.K. - Judge Mallory, presiding)

I Congrat. to you & who successfully processed your petitions for naturalization, no platitudes when I tell you that citizenship in this democracy is a precious thing for which men have fought & died <sup>for almost 180 years</sup> with the firm conviction that they were battling & bleeding for something worth more than life itself. <sup>One cause of the decline of great empires was the loss of peoples' loyalty to their rulers.</sup>

II While I extend to you my sincere felicitations on your new citizenship, I cannot help contrasting your position today with the 21 Am. P.O.W. who last week in Korea renounced their loyalty to this country to embrace Communism. All of us sensed a feeling of deep shock when it dawned on us that 22,000,000 of our American soldiers could be so misled by <sup>false</sup> propaganda against their country as to be led to believe that they would be better off under the <sup>so</sup> <sup>Indes</sup> <sup>of</sup> <sup>Communism</sup>



Impact of Israeli Events on the United States

Mr. Klutznick referred to the report made to the National Executive Committee at its meeting in October regarding the public statement issued by him protesting the withdrawal of American economic aid from Israel. He indicated that subsequent to the issuance of that statement, a delegation of Jewish leaders were invited to meet with the Secretary of State. Included in the delegation, Mr. Klutznick reported, were Senator Irving Ives and Congressman Jacob Javits of New York, Mrs. Rose Halpern representing Hadassah, Mr. Matthew Brown of Boston, a member of the Administrative Committee of the American Jewish Committee, Mr. Bernard Trager, Chairman of the NCRAC, Mr. William Rosewald, Vice-President of the Council of Jewish Federations and Welfare Funds, Louis Lipsky of the American Zionist Emergency Council and other representatives of Zionist and religious groups.

Mr. Klutznick stated that the group made it clear that they supported the administration's policy of striving for peace between the Arab States and Israel, but objected to the move to withdraw economic aid which constituted, in their opinion, an unfriendly act toward a friendly nation. He stated also that the delegation made it clear that they disapproved of the Israel position in the Kibya incident, but that in and of itself did not warrant the unprecedented action of the American State Department.

Mr. Klutznick reported that the Secretary of State was extremely sympathetic with the representations made at the conference, but gave no assurance with respect to the future course of American policy.

Mr. Klutznick stated that the subsequent re-instatement of economic aid to Israel alleviated the tension in the situation. He indicated that he would continue, in his capacity as President of B'nai B'rith, in consultation with the B'nai B'rith Board of Governors and the ADL, to express his opinion on important American issues affecting the Jewish community. He stated that such expressions would be made without fear or partisanship, but only with the best interests of America and the Jewish community in mind.

Mr. Schultz pointed out that the National Committees which customarily met the day preceding the National Commission meeting would meet on Monday, November 23rd, following the adjournment of the National Commission meeting. This, he indicated, would enable them to implement the decisions and discussions which took place during the Commission meeting. He further called the Commission's attention to the Freedom Forum to take place on Sunday afternoon and Sunday evening. He expressed the hope that the high level of the Freedom Forum on Saturday evening would be continued during the two sessions to follow.

Mr. Schultz also outlined plans for the 40th Anniversary Dinner to take place Monday evening, November 23rd, and expressed his deep gratitude to all who had participated in planning that affair. Mr. Schultz also expressed his gratitude to members of the National Commission for their work and cooperation during the past year.

Meeting adjourned 12:15 P.M.

1. That kind of brain-washing way they subjected to that they would turn their backs on their families, friends & country + accept the false prophecies of another form of gov't that feeds on exploiting the weaknesses without mentioning the strengths. I do deplore their weak characters.

2. I cannot find it in my heart to condemn the Am. boys. Rather I have a deep sense of sympathy for them. Months & years in prison camps where they have been told <sup>in exaggerated terms</sup> of our racist & religious tensions, our slums & poverty, our inequalities have had its influence on these boys who somewhere along the line were not taught the higher loyalties of life so as to build in them the kind of <sup>strong</sup> character needed to withstand such bludge-  
ments

3. Not only do we sympathize with these weak boys but our hearts go out to their fathers & mothers & families who have been denied a hero's place in their hearts & who yet think of their sons as having committed crimes



For the office of Secretary and National Director, Benjamin R. Epstein.

Nomination seconded, elected unanimously.

Mr. Dannenbaum pointed out that the Nominating Committee was of the opinion that the National Executive Committee should be increased to enable the election of ten elected members instead of seven as heretofore. Thereupon, Mr. Dannenbaum asked for unanimous consent that the provision of the By-Laws providing for notice of amendment be waived and he thereupon moved that Article VII Section 1 be amended striking the word seven and including in its place the word ten. Motion seconded, adopted unanimously.

On behalf of the Nominating Committee, Mr. Dannenbaum, in addition to the officers of the National Commission, the president and secretary of the Supreme Lodge, as provided by the By-Laws of the National Commission, nominated the following for membership on the National Executive Committee:

Bernard Nath, Chairman  
Paul H. Sampliner, Vice-Chairman  
William P. Bloom  
Joseph Cohen  
Hon. David Coleman  
Hon. Henry Epstein  
Harold Lachman  
Hon. David A. Rose  
Max J. Schneider  
Mrs. Albert A. Woldman

Nominations seconded, elected unanimously.

Honorary Life Member, Hon. A. K. Cohen

Nomination seconded, elected unanimously.

On behalf of the Nominating Committee, Mr. Dannenbaum submitted the following names for membership on the 1953-1954 Nominating Committee:

Paul H. Sampliner, Chairman  
Jacob Alson  
William P. Bloom  
Hon. David Coleman  
Hon. Henry Epstein  
Frank R. S. Kaplan  
Herbert Levy

Nominations seconded, elected unanimously.

The Chairman expressed his deep gratitude to Mr. Dannenbaum and the Nominating Committee for their thoughtful consideration to the task of the Nominating Committee in selecting officers and members for the National Commission for the ensuing term. He indicated that in his opinion they had performed their job well and deserved the gratitude of the entire National Commission.

equal ~~to~~ worse than treason. They are the real  
sufferers.

III Keats, the Eng. poet, in a poem about  
Ireland in its days of storm & strife, says

"They fed our hearts on fantasies  
Hearts grown brutal from the force  
More substantial in our enemies  
Than in our loves"

1. He must not be ~~frustrated~~ motivated by  
what we hate so much as we are by  
what we love. What are the things  
in America that make us love our  
country & our govt. Are they worth  
preserving. Are they worth the blood, tears  
& sweat of a Korea or World War II? That  
is the question

a. In the <sup>popular</sup> musical play, So Pacific, there  
is that wonderful slow story of the 49 Am nurse  
& the somewhat older planter, LaBeque, an  
epic from a small French city because he  
challenged a bully dictator & had to flee.  
In the island happening that was part of  
the So Pac our troops need a



The following names were submitted for membership on the National Commission for a one-year term 1953-1954:

Melvin Block	Jersey City, New Jersey
Hon. Henry Epstein	New York, New York
Edward Goldberger	New York, New York
Benjamin Greenberg	New York, New York
Harold Lachman	Chicago, Illinois
Ralph Lazarus	Cincinnati, Ohio
Herbert Levy	Chicago, Illinois
David H. Litter	New York, New York
Bernard Nath	Chicago, Illinois
Paul H. Sampliner	New York, New York
Max J. Schneider	New York, New York
Hon. Henry E. Schultz	New York, New York
Hon. Meier Steinbrink	Brooklyn, New York
Col. Melvin Schlesinger	Denver, Colorado
Frederick M. Straus	Chicago, Illinois
Samuel Tarshis	Seattle, Washington
Edmund Waterman	New York, New York
Louis Zara	New York, New York

It was moved and seconded that the candidates for membership on the Committee be elected. Motion adopted unanimously.

Mr. Dannenbaum, on behalf of the Nominating Committee, submitted for the office of Chairman of the National Commission the Hon. Henry Edward Schultz.

Nomination seconded, elected unanimously.

For the office of Honorary Chairman, the Hon. Meier Steinbrink.

Nomination seconded, elected unanimously.

For the office of Honorary Vice-Chairmen: Barney Balaban, A. G. Ballenger, Hon. A. K. Cohen, Hon. Herbert H. Lehman, Leon Lowenstein, Benjamin Samuels and Jesse Steinhart.

Nominations seconded, elected unanimously.

For the office of Vice-Chairmen: Maurice N. Dannenbaum, Jefferson E. Peyser and Edmund Waterman.

Nominations seconded, elected unanimously.

For the office of Executive Vice-Chairman, Richard E. Gutstadt.

Nomination seconded, elected unanimously.

For the office of Treasurer, Jacob Alson.

Nomination seconded, elected unanimously.

guide who knows the little islands nearby. They ask LeBeque, the pilot, to guide them so that they could reach part of the Jap fleet. They tell him why they're against the Japs. He replies unconcerned "You tell me what you're against. I'm not interested in that. It's not my job."

IV There must be more substance in our loves than in our hates. We must be for things - not just against. What are some of the things we believe in?

1. Equal opportunity for all people - to work, earn, accumulate & enjoy the fruits of labor + talents. High standard of living

a My parents were immigrants - my father a barber, then ~~small~~ merchant, I sold news papers on streets. Late ~~in~~ Pres. Eisenhower I had to grow up & learn that I was a poor boy.

2. Civil rights + liberties -

1. Free speech & press - <sup>to the</sup> McCarthy <sup>country</sup> <sup>substance</sup>
2. Freedom of worship <sup>standing</sup>
3. Freedom of locomotion <sup>anywhere in 48 states</sup>



He pointed out that the National Finance Committee in accordance with sound fiscal policy, recommended that the National Commission authorize expenditures for 1954 at a rate approximating the income for 1953 and therefore, recommended that the National Commission approve of an operating budget for 1954 of \$1,800,000 with the understanding that expenditures for all purposes are not to exceed that amount.

He pointed out, however, that the National Finance Committee would make no recommendations as to allocation of the total amount of \$1,800,000 among the several divisions. That problem, he said, can be resolved only after an exhaustive survey of the entire structure of the agency, which could deal with some of the following problems:

1. The proper proportions to be divided between the Program Division and the Community Service Division.
2. Appropriate provisions for contingencies and new developments which occur during the course of the year.
3. Determination as to whether the structure of the agency is appropriate to keep pace with changes in emphasis, social conditions and the best purposes of the ADL.
4. The problem of providing greater flexibility in the budget.

Concluding, Mr. Greenberg stated that the recommendation of the National Finance Committee was that the National Executive Committee undertake a complete examination of the structure of the agency in any manner that it deems proper and reach a decision as to amount to be allocated to each of the divisions no later than January 15, 1954. It is further recommended, he said, that all divisional committees be afforded an opportunity to participate in the study and in the deliberation of the National Executive Committee.

#### Report of Nominating Committee

Mr. Maurice Dannenbaum, chairman of the Nominating Committee, reported on behalf of his committee consisting of Joseph Cohen, Edward Goldberger, Bernard Nath, David A. Rose, Max J. Schneider and Jesse Steinhart. He indicated that the committee had exchanged suggestions by mail and had given several hours of careful deliberation to its nominations for 1953-54. He stated that their chief concern was that of giving strong leadership and deliberate counsel to the administration of the Anti-Defamation League's policy and program during the ensuing year. Mr. Dannenbaum further pointed out that as a result of constitutional changes made by the Supreme Lodge of B'nai B'rith, the elected members of the ADL National Commission had been increased from sixteen to eighteen members. He stated that even the increased number did not make it possible to recognize the many men and women who were deserving of election to the National Commission.

V You are now full citizens of U.S. - 1st class citizens - we have no 2nd class or 3rd class citizens

1. You have every right & privilege of native born citizens & you have the same identical obligations & duties:

a. To bear arms, if necessary

b. To study issues & candidates & cast your vote for the best interest of America

c. If you are dissatisfied, you may work for a change in city, state or national govt by legal means & to express yourself on these issues

d. To be friendly & good neighbor is the essence of good citizenship

VI America has world leadership today. It needs the strength, encouragement & support of all of its citizens, native & naturalized, to maintain that leadership. In fact, the hope of the world, the promise of a good future, depends on how well we collectively & each of us individually measure up to the demands



Mr. Greenberg stated that contributions from District Grand Lodges decreased approximately \$50,000 the first ten months of 1953 while contributions from Women's District Grand Lodges increased during that period by approximately \$26,000 over 1952.

Mr. Greenberg estimated expenditures for 1953 of \$1,786,000 as follows:

National Administration	\$ 161,006
Civil Rights	287,898
Community Service	726,453
Program	312,139
Production	99,184
B'nai B'rith Youth Service Appeal	<u>200,000</u>
Total	\$1,786,680

He stated that working capital of the organization as of December 31st, 1953 will be approximately \$157,000 and the Endowment Fund of the organization will be approximately \$112,000.

Continuing, Mr. Greenberg analyzed expenditures after elimination of allocations to B'nai B'rith Youth Services, the Denver adjustment and allocation to three non-ADL offices as totalling \$1,567,000 expended for ADL activities. Of this amount, 45% went to the Community Service Division, 20% to the Program Division, 19% to Civil Rights, 10% to Administration and 6% to Production.

Analyzing the figure of \$1,567,000 by types of expense, Mr. Greenberg listed the following:

Compensation to Personnel	\$1,063,000	68%
Rent	70,000	4½%
Telephone, stationery, postage, insurance, office services	126,000	8%
Meetings and Conferences	51,000	3%
Travel	91,000	6%
Projects	164,000	10½%

He reported that the staff of the League which consisted of a group of well-trained and devoted people included as of October 31, 1953, 94 professional people and 102 clericals. He stated that a professional survey had been made of the entire welfare program of the organization and that many recommendations for changes and modernization of the welfare program had been made. These items included social security coverage and adjustments of the retirement plan. These will be considered in detail by the National Finance Committee and recommendations will be made by the Finance Committee to the National Executive Committee.

Mr. Greenberg reported that a study of activities and needs of the ADL for the calendar year 1954 would require a budget of \$2,500,000 and suggested that the National Commission by appropriate resolution approve of this amount so that representations could be made to the American Jewish community of the total needs of the ADL through the Joint Defense Appeal.

Harry M. Washington  
Clerk

Before  
The Honorable Arthur J. Mellott  
Chief Judge.  
February 2, 1954 - 2:00 p.m.  
Tuesday,

\* \* \*

Kansas City, Kansas

United States District Court  
For the District of Kansas

NATURALIZATION PROCEEDINGS

# AMERICAN JEWISH ARCHIVES

## NATURALIZATION CLASS - Miss Elnora Pearson, Class Instructor

Mike Mikesich  
Hamilton Buntin Gillies Wilson  
June Winifred Wilson  
Mary Ann Cotcher  
Noreen Cotcher  
Susan Karen Miller  
Andres Ochoa  
Shizue Matsushita  
Jacobco Gutierrez  
Rina McCullough

Jose Cruz Rocha  
Nasario Hernandez  
Amelia Lopez  
Julia Mai Nally  
Ines Filomene Russell  
Theone Litsos  
Martha Fisher  
Renee Marguerite Suzanne Coe  
Ignatius Gonzalez Coyazo

### PROGRAM

Opening of Court.....Court Crier  
Invocation.....Rev. Vernon W. Becker  
London Heights Methodist Church  
Selection.....Vocal Group  
Northwest Junior High School  
Motion.....Jack C. Stewart  
U. S. Department of Justice  
Ruling on Motion.....The Honorable  
Arthur J. Mellott  
Oath to New Citizens.....  
Harry M. Washington, Clerk  
Address.....Joseph Cohen  
Presentation of Naturalization Certifi-  
cates, Flags, Pamphlets and Scrolls  
Selection.....Vocal Group  
Benediction.....Rev. Vernon W. Becker

### OATH TO NEW CITIZENS

"I (repeat own name) hereby de-  
clare, on oath, that I absolutely and  
entirely renounce and abjure all alle-  
giance and fidelity to any foreign  
prince, potentate, state, or sovereign-  
ty of whom or which I have heretofore  
been a subject or citizen; that I will  
support and defend the Constitution and  
laws of the United States of America  
against all enemies, foreign and do-  
mestic; that I will bear true faith and  
allegiance to the same; that I will  
bear arms on behalf of the United  
States or perform noncombatant service  
in the Armed Forces of the United  
States when required by law; and that  
I take this obligation freely without  
any mental reservation or purpose of  
evasion: So help me God."

The flags are being presented on  
behalf of the Wyandotte Post of  
the American Legion by Mr. Virgil  
Wood.  
\*\*\*  
"The Flag Code" pamphlets are being  
presented on behalf of the James  
Ross Chapter of the Daughters of  
the American Revolution by Miss  
Bessie Miller.  
\*\*\*  
Scrolls are being presented on behalf  
of the Shawnee Chapter of the Daugh-  
ters of the American Revolution by  
Mrs. Charles Hassig.  
\*\*\*  
The vocal ensemble is under the  
direction of Miss Dixie Lou  
O'Connor, instructor in vocal  
music at Northwest Junior High  
School.  
\*\*\*  
Mrs. Clinton Clouse, President,  
Kansas City, Kansas Naturalization  
Council.  
\*\*\*  
Organ furnished by Jenkins Music Co.



So you have been asked to be an expert medical witness. If you are experienced in medical legal testimony, then what I have to say tonight may be old stuff to you. But if you only occasionally grace our courtrooms as expert witnesses, I may then have in the lecture to follow a great deal of information which may prove valuable to you. On the other hand, even if you are an experienced witness, you may find a number of things in this paper which will help to explain the examination and cross-examination, the objections thereto and the drama that is part of every trial.

I firmly believe that one of the reasons why so many physicians and surgeons shy away from the courtroom, aside from the question of economics involved, is because they do not fully understand and appreciate the role of the medical expert in litigation. After they have apparently given a forthright chronological report of the history, the chief complaints, the clinical examination, the x-ray examination, the treatment given to the patient, the diagnosis and prognosis, some physicians consider it not only annoying and aggravating, but a show of unnecessary hostility when the attorney on the other side of the case undertakes to explore the truth and the reasonableness of that testimony by means of a vigorous, searching and minute cross-examination. If we understand at the outset that the principal purpose of litigation is to arrive at the truth, and that counsel on both sides of the case are trying as skillfully as they know how to present the facts to the judge or jury in the most favorable light to his client, then you will have no difficulty in understanding the judicial courtroom process.

If you find the lawyers difficult at times, remember that they too are sometimes baffled at the difference between the hospital room statements of the medical profession as opposed to the courtroom statements which they hear from the witness stand. It is sometimes very hard to understand why a patient will be prescribed a course of treatment for an ailment by the doctor who will be heard to testify for the defense that there is nothing wrong with a claimant because that doctor can find no objective evidence of disability. Why, wonders the attorney, will he prescribe massage and physiotherapy for an ailing back, and then take the witness stand later on and testify that there was nothing wrong with the patient.



As we enter the atomic age<sup>with</sup>, the complexities of our modern civilization, our highly ~~recognized~~<sup>mechanized</sup> industries, speeding motor cars and jet propelled planes, ~~make for~~<sup>we encounter</sup> a greatly increased number of cases involving personal injuries. Thus, the role of ~~a~~<sup>the</sup> physician ~~of an~~<sup>as</sup> expert witness becomes more and more important. I believe it makes sense when I say that a physician has no right to decline to give his services to a patient involved in litigation, and at the same time expect to be favored with that patient's medical business and that of his family and friends when they are not involved in litigation. Leaving out of consideration the fact that the medical profession is not immune from compulsory process to bring them into court, a method seldom used for obvious reasons, there is a strong moral obligation on the physician to deal ~~thoroughly~~<sup>fairly</sup> with his patients and with the court. Once we break down the confidence of the people in the judicial process, without offering them a better substitute, we tear down the structure of democracy which has given us the highest standard of living and more civil rights and liberties than are enjoyed by any other people on the face of the globe.

The medical profession has a monopoly which cannot be invaded. If we are to keep a free, voluntary society, if we are to stop ~~tenancies~~<sup>discrimination</sup> toward socialization, if we are to avoid ~~concentrating~~<sup>concentrating</sup> the medical legal work in the hands of a few and not always the most confident <sup>persons</sup> in the field, it becomes highly important that each man or woman in the medical profession be willing to come to court and testify.

I can say to you men of the medical profession that you are going to find in the future a much better prepared bar in the medical legal field than we have had in the past. Negligence and workmen's compensation cases comprise by far the largest amount of litigation in the courts. The lawyers are learning that they must have specialized skill and training in this field if they are to do a good job on behalf of their clients. Many of us have for years delved into the medical books and journals in the preparation of our cases in order that we might meet on more equal ground the doctors whose opinions we must test in the crucible of litigation. Now a number of the leading universities are holding seminars on the graduate level for practicing attorneys, and



in connection with the seminars, many leading men of the medical profession are giving of their time and talent to the education of the bar. My son who is a second-year law student at Harvard Law School tells me that this year the third-year law students go to the Harvard Medical School where members of the faculty lecture to them on medical legal testimony. One of the leading universities in this field is Texas <sup>and another leader is</sup> University and Tulane. Our own law school at the University of Kansas City also is holding annually a three to five day lecture series given by recognized men in the medical profession. Therefore, I say to you that the younger lawyers are coming out better prepared from the law schools than before, and we older practitioners are trying not to lag behind. I would like to see the University of Kansas Medical School make a distinct contribution in this field. If it would sponsor a course for law students and practicing attorneys, there would be reciprocal advantages both to the bar and the medical profession, and of course, to the public.

Your function in the judicial process, as medical experts, is to give your best opinions, based upon your education, knowledge and experience, on the subject matter before the court. Anybody can testify as to what you prescribed and did for the patient, but only you can testify as to why you did it.

Before you are permitted to testify as an expert, counsel offering you as his witness must qualify you. To do so, he inquires as to your educational background, when you received your degree or degrees, when you started to practice, whether you are a specialist or a general practitioner, what professional organizations you belong to, and sometimes whether you have held official positions in those organizations, your post graduate training, and the states where you are licensed to practice. The purpose of eliciting your qualifications is not for the ~~purpose of then determining~~ <sup>to</sup> your skill or want of skill nor to parade before the court or jury the vastness of your medical learning, but merely to lay the groundwork or foundation which will permit you to testify as an expert.

Many times you will hear opposing counsel say that he waives the qualifications of the witness. Such a waiver may dispense with the



necessity of having you testify as to your educational background. Many times opposing counsel will prefer to qualify his expert witness in order to show the court or jury that he has brought into the courtroom a person of unusual training, and the judge will permit him to do so even though the qualifications have been waived. If you are a specialist in your field, the lawyer will want to show the extent of your specialized training. Having qualified, you are then permitted to testify what you have seen, heard or done for the patient, the history, complaints, diagnosis, treatment and prognosis. You are then usually asked for your opinion as to the permanent nature of the disability or whether it is of a temporary nature or has been entirely cured. If there is permanent disability, you will be asked in a workmen's compensation case to give your opinion as to the percent of disability which the injured workman has suffered. Such a question always deals in the inexact field of opinion. However, for the purpose of the law, you are asked to assume and take into consideration the amount of work which an ordinary <sup>normal,</sup> ~~by~~ well workman might perform in the field of labor, and then determine the percentage of loss in the injured workman has suffered from his ability to do and perform general manual labor. No one realizes more than I do the great responsibility which such a question poses to every man in the medical profession who is asked to make such a rating. ~~I will have more to say about this field later on.~~

Our courts have said that a medical expert need not answer questions with certainty. All he need do is give his opinion. Roark vs. Greeno, 61 Kan. 299.

Your opinion on cross-examination may be tested by opposing counsel in a number of different ways depending upon his resourcefulness, ingenuity and skill. You may be asked whether you agree or disagree with certain statements appearing in recognized medical books and authority, and for that purpose counsel may read to you excerpts from such books. These medical books are not admissible in evidence to establish the declarations or opinions which they contain (State vs. Baldwin, 36 Kan. 1). However, the Supreme Court said in Stout vs. Bowers, 97 Kan. 33, 36:

"One of the recognized methods of testing the knowledge of an expert witness who founds his opinions on standard medical authorities is to read from those authorities <sup>upon</sup> the ~~final~~ subject in question and interrogate him as to whether his opinions coincide with those expressed in the books and whether there <sup>is</sup> not a conflict between the opinions he then gives <sup>and</sup> the views expressed by the authorities upon which he relies for information."



MADE BY B 2 V

Before you have completed your direct or cross-examination on the witness stand, you may be asked a hypothetical question. Such a question must include only facts which have been established in the evidence <sup>surely</sup> or inferences <sup>fairly</sup> thoroughly deducible from established facts.

<sup>Counsel</sup> They may not assume the existence of matters material to the formation of a correct opinion about which no testimony has been given previously. Davis vs. Traveler's Insurance Company, 59 Kan. 74; Western Union vs. Morris, 67 Kan. 410. However, counsel may base his hypothetical question on weak and inconclusive testimony of one or more witnesses or inferences properly deducible therefrom. Roark vs. Green, supra.

It is not necessary that the hypothetical question incorporate all facts supported by the evidence nor need it include all facts or all theories advanced by the adversary. New York Life vs. Daerksen, 75 Fed. (2) 96. Counsel for plaintiff may frame his hypothetical question on facts and theories tending to support his thesis, and he cannot successfully complain if defense counsel in his hypothetical question incorporates only the facts and theories which he desires to support. Wingfield vs. McClintock, 85 Kan. 452.

When you are confronted with a hypothetical question, it is well that the physician bear in mind that <sup>he is</sup> you are asked to assume the truth of the facts stated therein, and to give <sup>his</sup> your opinion based thereon without interpolating or questioning these facts. It is unimportant so far as that hypothetical question is concerned whether you disagree with the facts or the theory upon which it is predicated. You have a right to rely on the skill of counsel to bring out and stress both sides of the case. Many physicians inexperienced in courtroom tactics find such hypothetical questions difficult and want to argue with counsel about the facts stated therein. Often times they have had to be admonished by the court not to do so, but to answer the question as propounded.

It has been my experience that the most effective medical expert testimony is given by the physician who is frank and honest and who will concede points to the opposition when they are entitled to such a concession. A recent survey made by one of the legal publications shows that the least effective expert was the one who finds it impossible



to concede any point to the other side for fear that he will weaken his own opinion before the court or jury. Our court has said that an expert witness is to be given such credence and weight as the court or jury believes <sup>he</sup> it is entitled to. Santa Fe vs. Thul, 32 Kan. 255, Baird vs. Shaffer, 101 Kan. 585.

Objections by opposing counsel to a hypothetical question must be specific and must point out to the court specifically in what way the question is deficient. Usually he will point out that it incorporates certain facts not proven or mis~~states~~<sup>states</sup> proven facts or makes inferences not justified from the established proof. Only such specific objections may be considered by the court. Young, inexperienced lawyers often must learn <sup>this rule</sup> the hard way after their general objections are overruled by the court.

A medical expert need not feel under tension when subjected to cross-examination. Nor should he take offense if counsel tries to weaken the effectiveness of his testimony. <sup>Perhaps</sup> Possible the soundest and safest attitude is that which men of science should always adopt. That is that you are aiding the trial <sup>ers</sup> of the facts to arrive at the truth. While you would be less than human if you did not want to see your opinion prevail in a courtroom and perhaps you would be lacking in a <sup>good</sup> ~~fast~~ sense of <sup>justice</sup> ~~roughness~~ if you did not seek to persuade a jury or court to adopt your opinion. On the other hand, having given your opinion, you have performed your full duty and you must then leave the advocacy to the lawyers. <sup>encephlo</sup> X-rays, cardiograms, ~~inse~~ograms, and other mechanical aids to diagnosis and treatment are common to your profession, but are <sup>not</sup> so well known by the bar and certainly not well understood by the layman. X-rays and cardiograms have to be <sup>taken and interpreted</sup> ~~tested~~ by men with special skill in that field. Therefore, unless your qualifications indicate that you possess such skill, you will not be permitted to testify as to what the x-rays or cardiograms reveal. On the other hand, if you intend to testify concerning x-ray or cardiographic findings, the x-rays and cardiograms are to be brought into court, properly identified and introduced in evidence so that you may be subjected to cross-examination thereon and in order that opposing counsel might have the film examined by other men in the profession to test your correctness thereon. I might say here



that these diagnostic aids are so common to your profession now that if you fail to use them in cases treated by you <sup>where</sup> ~~were~~ indicated you would be subjected to a claim of malpractice, and it will be no defense for you to claim that the patient did not request that you use an x-ray or take a cardiogram. That was the finding of our court in the case of James vs. Grigsby, 114 Kan. 627, where the physician was charged with malpractice in the setting of a broken leg without the use of an x-ray.

Hospital records are always important in a law suit. These are admissible in evidence only when the physician, interns and nurses identify the records as a record made by them in the course of the hospitalization of the patient. In order to avoid such a circuitous manner of establishing the veracity of the hospital records, counsel many time will agree between themselves that the record may be introduced in evidence without such qualifying proof. Those who operate the hospitals for the benefit of the public must realize that they, too, are part of the judicial system in this democracy, and even though there is some hardship imposed upon hospitals and some expense, too, it is not asking too much to request that they bring, through their librarians and record clerk, these records into court for examination and testimony. As for myself I try to see to it that the record clerk is reimbursed to the extent of her taxicab fare when she comes to court with the record, and I am sure that every thoughtful lawyer would consider that a minimum requirement of cooperation on his part.

Your own private records in these cases are also admissible in evidence, and you must be prepared to bring them into court with you for the purpose not only of refreshing your own recollection about the case, but you must also be prepared to allow opposing counsel to examine records in the hope that he might find therein something contradictory of what you have previously testified to.

Because you are a member of a busy profession, that of administering to the weaknesses and ills of humanity, does not give you any immunity from compulsory process. But an attorney should and must respect the demands made on your time, should give you notice of the time when you <sup>will be</sup> ~~are~~ needed, and will excuse you from attending at the specified hour if an emergency makes your attendance impossible. On



the other hand, your cooperation is needed and should be <sup>whole heartedly</sup> ~~totally~~ given in order that the judicial branch of government might function properly. There is adequate power in the law that can <sup>compel</sup> tell you to attend after you have been served with a subpoena, but I assure you that no lawyer would deem it a pleasant task to send the sheriff after an expert witness who adamantly refused <sup>s</sup> to obey the process served on him. I learned as a young lawyer by bitter experience that an unwilling, uncooperative medical witness can do you more harm than good if he is compelled to come to court against his will. Having subpoenaed a doctor to testify in a deposition at Wichita, and being confident that he could testify only one way because he had already given a statement and signed a death certificate as to the cause of <sup>the</sup> this man's death, I insisted that the physician give his testimony. I probably would have not done so had this physician not insisted on the payment of an unreasonable fee in advance of his testimony. You can imagine how surprised I was when the physician made a complete about face in his testimony stating that after full consideration of all the facts in the case, he had decided that the death was not due to food poisoning, but was due to some other cause. Probably I would have been smarter had I paid the unreasonable fee demanded by this unscrupulous practitioner.

Privileged communication? Section 60-2805, General Statutes of Kansas, 1949, sets out the <sup>various</sup> very professional groups who are not privileged to testify concerning communications arising in the course of their professional conduct, such as attorneys and clients, priest and parishioner, physician and patient, etc. It states that "a physician or surgeon is incompetent to testify concerning any communication made to him by his patient with reference to any physical or supposed physical disease, defects or injuries, or the time, manner or circumstances under which the ailment occurred or concerning any knowledge <sup>examination</sup> obtained by a personal of any patient without the consent of the patient. However, it further provides that if a person without objection on his part testifies concerning any such communication, the physician communicated with may also be required to testify on the same subject as though the consent had been given.

That means that you as a physician or surgeon cannot testify as to these communications which come to you in the course of your professional undertaking, but if the patient files a claim or brings



a law suit <sup>and</sup> testifies concerning his condition, then you can be compelled also to testify thereto because the privileged is then waived. After a patient's death, the heirs or personal representatives may waive the objection. State vs. Pullman, 85 Kan. 237, 238; Gorman vs. Hickey, 145 Kan. 54, 61, 63. On the other hand, if no heir or personal representative of the deceased objects to your testimony, you may testify for the reason that this law is not a privilege given to the physician, but it is a privilege given to the patient. Doty vs. Ice Company, 118 Kan. 323, Kirsch vs. Federal Life Insurance Company, 149 Kan. 309, 313.

Malpractice. The obligation of a physician and surgeon is merely to use such skill and foresight in the practice of his profession as is generally used by men in the profession. A physician does not impliedly contract to cure his patients. Tefft vs. Wilcox, 6 Kan. 46. In case of doubt on which of two courses to follow, all the physician is required to do is to use his best judgment, and he does not guarantee that he will get good results, and if he has bad results he is not subject to civil liability. James vs. Grigsby, 114 Kan. 627; Paulich vs. Nipple, 104 Kan. 801. In the case of Rainey vs. Smith, 109 Kan. 692, our court said that an action for malpractice would lie where a wrong diagnosis was made of the plaintiff while she was pregnant. On the other hand, an honest mistake in diagnosis made where you do not treat the patient does not render you liable. In the case of Bugg vs. Security Benefit Association, 173 Kan. 522, a physician was sued for damages for having erroneously diagnosed cancer to a breast. He did not perform the operation for the removal of the breast and our court <sup>said</sup> he could not be held liable for this woman's damages because the woman had voluntarily had the breast removed by someone else which was the proximate cause of her injury.

However, in the case of Russell vs. Newman, 116 Kan. 260, 268, the Supreme Court order <sup>ed</sup> a new trial in that case where the jury granted the patient only nominal damages for a injuries arising when a sponge was left in an incision after removal of a kidney in spite of the fact that there was testimony that no injury resulted to the plaintiff as a result thereof.



The court said that the patient was entitled to more than just nominal damages for such a mistake.

On the other hand, I want to advise you physicians and surgeons that you cannot collect your fee for services rendered where the claim of malpractice is successfully raised. Abbott vs. Mayfield, 6 Kan. App. 387. ~~On the other hand~~, <sup>However</sup> my experience proves that you do not have too much to worry about from this angle in Kansas for the reason that want of skill in treatment, diagnosis and operation on a patient is a matter which only men of your profession may testify to in court. Waddell vs. Wood, 158 Kan. 469. Except in rare and very unusual circumstances is it possible to get any physician to take the witness stand against a brother member of his profession where that question is at issue. It is not the purpose of this paper to delve into the ethics of propriety concerning the screen of protection which the men of your profession throw around each other when your skill is being tested by the judicial process.

If a case can be proven against you, you are liable in civil damages not only for your own mistakes but for the mistakes of the technicians, assistants and nurses in your employ, but you are not liable for any carelessness or negligence by the nurses, attendants or assistants in the hospital where your patients are sent. Non-profit hospitals, such as those operated in Kansas City, Kansas, are immune to civil liability for damages arising out of the negligence of their employees, but the employees themselves may be subjected to claims, but this is seldom done because in most cases the employees are not financially responsible and do not carry insurance against such liability.

After almost 29 years of a busy trial practice, much of it in the field of negligence and workmen's compensation, where I come in contact with and listen to the testimony of many doctors, I have learned to classify them not as honest or dishonest, stupid or brilliant, forthright or inconclusive, but rather as pessimists and optimists. When I give to the men in your profession the proper understanding and sympathy, I realize that the classification of pessimists and optimists is about as good a classification as one can find. The pessimists are the best kind of expert medical witnesses from the plaintiff's point of view. He will take their ~~their~~ <sup>a</sup> rather dour look at the patient's chances



for recovery, finds good reason for the complaints which the patient makes of pain and suffering, and agrees that the percentage of disability which the patient will ~~be~~ suffer will be great. The plaintiff's bar loves these pessimists.

The optimists work <sup>for</sup> the insurance companies and big corporations. The patient is never as sick as he says he is. His complaints of pain and disability are not sustained by the findings. He believes that if the patient would just forget about his pain and go back to work, he would recover sooner. As an optimist he sees no reason why the injured patient should not be doing a full day's work or in any event <sup>he minimizes</sup> the percent of the disability which the injured workman or plaintiff has suffered. A few weeks or a few months under the treatment of the optimist and the patient is as good as ever ready to take his place in industry as if he had never been hurt. You can well understand why the insurance companies and corporations love the optimists.

It is not up to me to sermonize on this point. If I told you that I believed that the plaintiff's doctor, or shall I say the pessimist, are the more realistic, you might well conclude that I prefer to believe the patient. As a matter of fact, we are dealing with a human equation wherein we must recognize the fact that various people have different thresholds of pain, <sup>some</sup> are more persistent than others in overcoming disability and some may endure physical defects and handicaps without yielding to temptation <sup>to</sup> or complaining. On the other hand, I am satisfied <sup>by</sup> my experience that there is an element of neurosis in almost every case of trauma and disease and that the physician must treat the mind as he treats the body to the end that after he has cured a physical defect he does not create a mental aberration. <sup>H</sup> I am happy to say that I have a healthy respect and admiration <sup>for</sup> the members of your fine profession in this community, the pessimists and optimists alike, as I have found practically all of you with whom I have come in contact faithful and loyal to your profession and your patients, friendly and helpful, doing an excellent job in upholding the finest tradition of your great profession.

Introduction.

Greetings to Mr. St. Assis  
Lawrence <sup>Bus</sup>Goldman, May or  
Nathan Karchman, Judge Bob  
Arenson + Lou Krametz.

Stanis -

"I'm getting mighty tired of you, too"  
Died at 15 as of May!  
Whats' it cost to see your dad  
staved my errands better you?"

Body -

I came down here from K.C.  
to talk to you about a serious  
development which is bound  
to effect the future of our grt  
defense arm, the A.D.L., + in a  
larger sense the entire B.B.  
+ the whole field of Jewish com-  
munity relations.

1. A.D.L. started in 1913
2. Max growth after 1935 - Miller



**COLONIAL**  
SPRINGFIELD MO.

**SEARS**  
DENVER COLO.

**PLAZA**  
KANSAS CITY MO.

**SENATOR**  
KANSAS CITY MO.

**ZARAH**  
GREAT BEND KANS.

**STAMEY**  
MITCHENSON KANS.



LARRY S. BECK.

W. B. CROSS



*"Hospitality at its Best"*

Joseph and Barton Cohen Papers. MS-778, Box 2, Folder 1. American Jewish Archives, Cincinnati, Ohio.

2

3. It's big bus - - - \$25 regional offices, several 100 employees, budgets a little less than 2 million annually

4. It has done a magnificent job for Am. Jewry in the 39 yrs of its existence

a. For example, here are just a few of the things done last summer by our Plains-States Off. at Omaha - servicing - Kas - Neb - Ia.

#1 - Road

#2 - midwest Reg. off. at Chicago - with steel expansion

#3 3/4 Workshop in Unaccanta U of K.C.

#4 - Crack the Quota

#5 - FEPC - Leg. - litigation - publicity - public opinion

#6 - [unclear]



(3)

7. Political parties denounce injection of race issues

8. Joining with other Church groups - Labor groups, Veterans groups

II - Ten yrs ago we ~~joined~~ helped to create the N.C.R.A.C. - as a coordinating advisory body in this field -

A.D.L. - A.J. Cong of Am  
H. Cong - A.J. Cong - Am Heb  
Con - Jewish War Veterans +  
local Com. Relations Councils

1. N.C.R.A.C. has done a fairly good job - always advising by  
age & advice - not compulsion  
or coercion - We were not  
always happy with it but

we ~~go~~ could work in areas of age &  
go our own way & follow our  
own indep. ~~these~~ philosophy

~~as we often did~~  
in this very different field.

(4) 2. N.C.R.A.C. was H. Yonasky's answer to the attempt 10 yrs ago of the C.J.R. for centralized authority in the field

3. There is in human ~~life~~ <sup>organizational</sup> life a tendency to reach out for gifts & gifts to power - the desire to control to dominate

a. A few leaders - well meaning perhaps but not always conscious of the voluntary nature of Jewish community of life in Am. - never gave up this desire in the N.C.R.A.C.

b - You hear a lot about avoiding waste, duplication, overall planning - coordination - integration - catch words, sketches, checkers - One agency, A. I. L. - its by national & regional bds - anxious always to get the most for our money, the most efficient way





⑥  
E. Last month - 9-8-52 - 10<sup>th</sup>  
annual meetg of NCRAC <sup>assembly</sup> ~~plenum~~,  
adopted what it called a  
compromise plan which still  
made NCRAC the <sup>central</sup> authority  
in this field + called for a div-  
ision of wk. along the Mason  
line

III - He withdrew - B.B. expenditure  
bd. has approved plan -

A.G.C. has withdrawn

1. He will not permit A.D.L. to  
be dismembered. Fighting anti-  
semitism is a war.

2. Our plan of voluntary  
cooperation among ~~the~~ organizations  
doing wk. in the field was rejected

3. A.D.L. cannot allow the authority  
of its Nat'l Com. to be subordinate  
to another, new, still untaxed group  
in this field.



4. Instead of eliminating my waste,  
the div. of wh would be extremely  
costly - Mar Sam admits I won't  
save money - He thinks it also  
won't be ~~as~~ as effective as our  
present all-inclusive A.D.P.

5. Of course, J.W.V. - An Het Cong,  
A J Cong - 4 of a Het Cong are for  
it - It would take from A.D.P.  
+ a J.C. + give to them -

" J.D. appeal struggles now  
to get adequate funds for its 2  
agencies. Now we are confronted  
with a fight which - based  
further to affect our fund-raising  
ability. Some professionals  
of local fed. + C.R.C.s will try to  
spunk us or will seek to get funds  
for an expanded, functional N.E.R.C.  
conclusion -

I. You will hear more of this  
controversy - you should know the facts.

It's a fight between grants + it  
has to be done

(8)

CGN77 & CRE will be arrayed against us & a.j.e.

2. - We're not entitled to have to fight a ~~civil~~ <sup>of inter-racial</sup> war among ourselves & at the same time fight, as we have for 39 years, to preserve our own civil rights & liberties from the attack of anti-semites who will find pleasure in the knowledge that A.D.L. also <sup>has to</sup> ~~was~~ fight from within to maintain its own strength.

3. A.D.L.'s power comes from the loyal lodges & the thousands of B'nai B'rith members & friends who know that we are serving Am. Jewry well & efficiently & who with confidence that our lay boards & prof. staff are doing an excellent job in preserving for us & our posterity those great rights & privileges which make Am. Jewry the freest, most powerful & most generous in the dem.





Tuskegee Institute was counting lynchings  
in a South that respected no negro right  
to vote: Here the negro vote was regarded  
as obtainable for a price

III Tolerance was still all we asked  
<sup>towards</sup> religious beliefs 25 yrs ago - All  
Smith of N.Y. had just been defeated  
by Herbert Hoover in a campaign when  
people were fanned into religious hate at the  
stimulated falsehood that the Catholics  
Pope would take over ~~the~~ the govt if Al  
Smith were elected.

1. Then it was a common thing to  
inject both racial & religious issues in political  
campaigns. Jewish candidates as well as Catholics  
were the victims. When Pres Wilson capt'd  
Brandeis to Aug Ct - Byots said it Jews couldn't win in such  
1954.

IV It has the situation in 1954,  
a. Attempts to fan religious hatred into  
rebuffs - Byots tried to equate Dwight D.  
Eisenhower as a Jew as they did Roosevelt  
without too much notice at Chicago with



Colleges have been opened to Negroes  
since the Sweatt decision.

1. Young people are more ~~democratic~~ <sup>democratic</sup>  
than their parents.

a. Story of student body at  
Alabama U. insists that the negro  
students sit anywhere they desire in  
the stadium.

2. Illustrative of the current thinking  
is the reversal in one yr. of our Southern  
Reg. A. D. R. Bd. of on segregation.

a. I took prominent part in that  
matter.

3. All they want to know in organized  
baseball is not color or race today -  
can he play ball.

4. Segregation in armed forces eliminated.

5. Courts have a new attitude, reflecting  
popular concern for our democracy. They  
strike down discrimination in public facilities  
& accommodations readily now. Thanks to  
present legal situation.

6. We have the beginning of an FEPC or anti-discrimination law in Kes
7. We have Judge Hastie on U.S. Ct of App, 3rd Circuit + Cordell Messers + Judge A. B. Howard <sup>and Myles Stevens</sup> doing such a good job that people are learning that virtue + intelligence is not the monopoly of any race  
a - before the Hon of a D & Freedom Town
8. K.K.K outlawed in South - anti-meat laws
9. Tuskegee Institute reports no lynchings in 1953 or in 1952
- 10 - In 1949 I integrated the Com Chant drive w/ K.P.K. -
11. Legislation speeds up recognition of minority rights.



¶ Yes - we've come along way - but  
we still have quite a distance to travel  
if we are really to ~~live~~ <sup>live</sup> together → peace  
& harmony

a. The talk no longer of just tolerance -  
now we speak of protecting and  
defending everyone's civil rights & civil  
liberties. It isn't respectable or fashionable  
to berate people on acct of their race or religion.

b. Looking ahead to 1979 - 25 yrs  
hence I believe we can hope for great  
~~steps~~ <sup>steps</sup> forward then anytime in our history

1. The post-1960s spoke of "more  
substance in our commitments, than in our loves."

2. We are reversing that ill trend

3 - 1979 will find us wondering  
how we could have tolerated segregation  
in public schools & housing 90 yrs after  
the Civil War.

4. Negroes will be elected to public office  
not only in Districts predominantly negro  
but ~~in~~ on their merits as public servants

5. White people won't become panicky  
when a negro buys in their neighborhood  
a Rose ~~will~~ merely bad testimony.
6. Hospitals will have integrated med  
staffs treating whites & blacks without  
regard to racial considerations

VI All of these things are not just a part  
of one man's dream for a democratic America  
They are minimum requirements necessitated  
by our recognition that good human relations  
~~is~~ is basic to successful govt, to economic  
progress & to world peace.

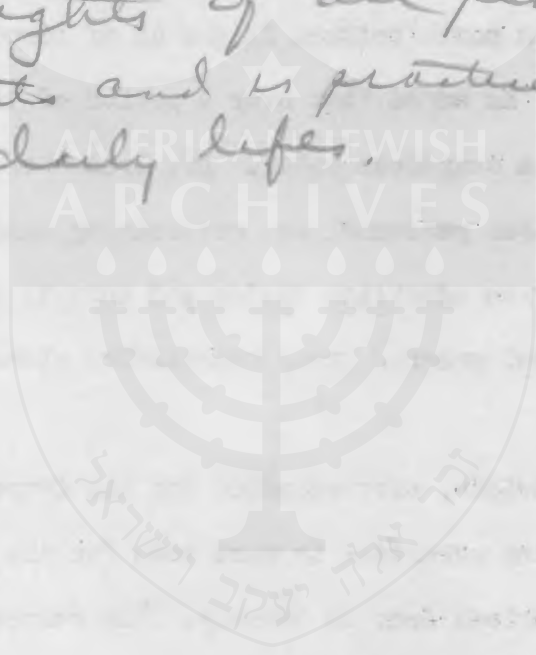
a. Teaching of human relations thru  
workshops, seminars, literature is the function  
of the A.D.L., the Churches, labor unions, govt,  
NAACP. Just as we teach people to read  
& write we are developing our techniques for  
a better understanding of the problems of  
living together as people.

VII The tyranny of Communism has failed  
because it is ~~based~~ <sup>predicated</sup> on a God-less society  
based on materialism. It fails to recognize  
the dignity of the human spirit, the immortality



of human rights and scoffs at that  
intangible thing which ~~we call~~ ~~people~~  
people to fight and die for a cause -  
love ~~of man~~ for man as a human being.

We shall deserve our homes, our  
children & our gods so long as mutual  
respect for the rights of all people remain  
in our hearts and is practiced by all of  
us in our daily lives.



INAGURIAL SERVICES  
of

N. A. A. C. P. OFFICERS and EXECUTIVE BOARD MEMBERS.

SUNDAY AFTERNOON

JUNE 10, 1954

3:30 P. M.

Master of Ceremonies

Rev. E. W. Newton.

Opening Song

"AMERICA".

Invocation

Rev. I. H. Henderson, Jr.

Selection

Friendship Choir.

Address

Att. Joseph Cohen.

Guest Number

Formal Installation

Rev. Pugh.

Rev. I. H. Henderson.

Musical Number

Eighth Street Baptist Young  
Adult Choir.

3 Minute Remarks:

Rev. E. A. Freeman.

Mayor Clark E. Tucker.

Rev. Roy Reed.

Mr. George C. Harrison.

Musical Selection

Friendship Choir.

3 Minute Remarks:

Mr. James H. Brown

Mr. James Yount.

Mr. R. B. Brown.

Finance Committee

Mr. Roosevelt Butler.

Musical Selection

Young Adult Choir.

Committee— Mr. Solomon Gate, Rev. Ayles Stevens, and Mr. Shellie McLendon.



## LOCATING WITNESSES

There are two subjects missing from the curriculum of the law schools which every embryonic lawyer finds that he must learn the hard way after he has received his L.L.B. and has passed his bar examinations. We are not taught in any course that I ever heard of how to locate witnesses, nor are we taught in any course on the curriculum as to how to obtain clients. These two matters you have to pick up in the school of experience.

The subject which I have been asked to lecture about is "Locating Witnesses." While many of the casualty insurance companies have manuals on this subject, these documents are not available to the ordinary practitioner. ~~While I have had~~ <sup>While I have had</sup> a rich experience in the handling of personal injury and property damage litigation, mostly on the side of the plaintiff, but with considerable experience on the defense, too, I learned about the importance of gathering accurate facts long before I entered the practice of law, as I spent seven years as a reporter for ~~The~~ Kansas City Star before I gave up journalism for the law, and that experience has been of great value to me.

The value of a witness is illustrated by the old story which many of you have heard about Rastus who was brought before the criminal court and arraigned on a charge of stealing chickens. He was asked by the court if he had counsel, and the court being advised that he could not afford to employ an attorney inquired:

"Would you like to have the court appoint an attorney to represent you?"

Rastus pondered the question very deliberately and then looked up innocently to the court and said:

"Your Honor, if it's all the same with you, I'd rather have a witness."

The typical casualty case with which all of us are familiar is that of the accident which occurs in a city at an intersection of streets. A car traveling north at a high rate of speed is struck by an eastbound car also traveling at a high rate of speed which claims the right of way. The drivers and passengers in both cars are severely

Fidelity Union Skin

injured or there is a death; the parties are taken by city ambulance to various hospitals or to a funeral home, the police or state highway patrol or sheriff's office <sup>is</sup> called and arrive at the scene; large crowds gather and console the injured people and try to make them comfortable until the ambulances can take them away. There is confusion and excitement. The officers on the scene may or may not take measurements, pictures ~~and skidmarks~~ and notes ~~skidmarks~~, and they may or may not obtain the names of witnesses.

If there is public liability insurance on the vehicles involved, the insurance companies are notified and their adjusters and investigators start to reconstruct the scene and the occurrence on paper. The injured parties likewise employ their counsel to protect their interests. There is a mad scramble by opposing counsel and investigators to get on the job first and see the witnesses before the other side does so. This is an important race against time and the counsel ~~the~~ <sup>or</sup> investigator <sup>or who</sup> wins this particular race ~~and~~ usually has a distinct edge in ~~his~~ <sup>the</sup> litigation on the laggart.

How do you locate witnesses? There are two general categories. One, the official sources, and, two, the unofficial sources.

The official sources are the police department, the sheriff's office, the state highway patrol, the coronor and perhaps the hospitals. A good starting point in any investigation leading to the locating of witnesses is to get the official reports of the law enforcement agency which was on the scene of the accident. If these official reports are thorough and contain the names and address of witnesses, you are indeed fortunate. If they are scant and meager, they may be of little assistance to you other than <sup>furnishing</sup> ~~getting~~ you the names and addresses of the driver of the other car and his passenger and the motor license registration number.

If the names and addresses of witnesses are available from these reports, you then will find it easy, to get started on your investigation. But oftentimes the names are misspelled or the addresses are inaccurate and you may have only a lead that you must run down in order to locate that witness. The telephone directories and the city directories and the criss-cross directories which are available



will often help solve the location of a witness. If these sources bear no fruit, it is sometimes advisable to call people of similar names listed in the telephone books, as oftentimes they are related or are acquainted with the people bearing their own name and can give you a clue as to their whereabouts. If the trade, profession or business of the witness is known, it is sometimes possible to locate the witness through his labor union, his trade or professional group. Men and women working in the same field quite often are acquainted with one another or can tell you the names of those who can help you to locate your witness.

Witnesses sometimes are located through the coronor's office, <sup>as</sup> ~~of~~ an official inquest as to the cause of death may have been held, making available a transcript of the testimony of witnesses, or perhaps the County Attorney's office, or the Prosecutor's Office, as you call him in this state, may disclose material witnesses. If arrests have been made and prosecution carried on in police court, the record of that tribunal may be valuable to you. ¶ If the vehicles involved in the accident were towed to a garage, you may hit "pay dirt" by interviewing those at the garage and the crew of the garage which towed in the damaged cars. This source may not reveal the location of a witness to you, but it is certain that you can make good use of photographs of the damaged vehicles if you get there before the repairs have started. This photographic evidence may be more valuable than the oral testimony of witnesses, as it may furnish indisputable proof of some of the facts in the case which you must try to establish.

¶ Do not overlook talking to the police, deputy sheriffs and highway patrolmen who might have been sent to the scene, and you might find good reward for your effort in talking to the ambulance crew, interns, nurses, funeral home attendants who may have learned the names of witnesses who came out of curiosity or sympathy to the hospital or the morgue or who went to the officials making inquiry.

A number of years ago we represented a group of people who were on the way to Topeka to attend a church conference. Another car going in the same direction, in attempting to pass this car, cut sharply to the right and struck the left front part of our client's



car, causing the driver to lose control thereof and resulting in the automobile going into a ditch. Our clients were severely injured. The offending driver did not stop, and we had no way of knowing who he was. It was a good case of liability and an excellent case of injuries, but we did not know who to sue. Our people were taken to a Topeka hospital. ¶ We started on what we were afraid might be a hopeless investigation. We went to the hospital in Topeka where our clients had been taken and made inquiry as to whether anybody had come to visit these people. We were told that a man had come in the next day and asked about the condition of the injured people and left his name and address with the hospital. We contacted this man and he told us he had gone to the hospital because he was interested in the case in that he had pursued the hit and run driver but finally lost track of him, but he did jot down the license number of the offending car, which he gave to us. ¶ We found out that the car was owned by a Kansas City, Missouri businessman who admitted that he was driving to Topeka on the day in question, but vehemently denied that he was a hit and run driver. We sued him on behalf of our clients. ¶ Our witness in the meantime had joined the Merchant Marine and when the case came up to trial, we had another job of locating ~~our witness~~ <sup>him</sup>. We learned from his parents that he was at San Francisco and would be shipped out within a few days. We got in touch with lawyers in that city; they got in touch with our witness; we served notice to take depositions on board the ship on which this witness was serving. His testimony proved strong enough to convince the businessman's insurance company that they should make a substantial settlement of the cases. ¶ There was one other important link which we found in this case which probably also had a great deal to do with the settlement. We located a former office employee of this businessman who recalled that after the businessman returned from his trip to Topeka, he had made the statement that he was worried because he thought he might have been involved in an accident.

The unofficial sources for locating witnesses are as numerous as the ingenuity of the lawyer and investigator make them. If you will use your good sense and natural resource and couple that with time and



energy, you may be abundantly rewarded. Canvass the neighborhood where the accident occurred. Don't be afraid to ask questions, but in doing so, be as tactful and disarming as possible. If you represent an injured person, do not be hesitant to say that your client is a badly injured workman who is in the hospital unable to give you any help in locating witnesses.

Usually people want to be helpful, and they are somewhat flattered at being asked to be of assistance, and that tendency may overcome the natural desire of many people not to become involved in any litigation. If they did not see the accident, they may have heard someone make reference to the accident, and that person may be your witness or may lead you to someone who can shed light on the case.

The newspaper article may contain valuable information, or if the case is a serious one, the newspaperman who wrote the article may have been to the scene of the accident and may have the names of witnesses or himself may be valuable as a witness. Newspapermen often take pictures which may or may not have been published, and this you might find valuable.

Occasionally there is in the crowd that gathers around an accident an amature<sup>er</sup> photographer who will take pictures of the scene of the accident and the appearance of the scene immediately following the occurrence of the collision. Locating that photographer might prove quite a project in itself, as it did for us in a recent case that occurred near Merriam, Kansas, wherein both the occupants of one of the cars ~~was~~<sup>were</sup> killed and we were called upon by the widow of one of the deceased men to represent her. We talked to the deputies in the Sheriff's office and looked at the official reports and talked to the County Attorney at Olathe, who merely had heard by a telephone call about an amature<sup>er</sup> photographer who had pictures that were available. His telephone number he gave to us and as the result thereof, we ~~feel that we have~~ made great strides towards supplying the necessary proof in this case.

In trying to locate witnesses, it is important to try to find out the exact time an accident occurred. If it is at an intersection, there may be people waiting to catch a bus or a streetcar, or there may

have been a bus or streetcar at the intersection at the time of the accident or one may have arrived shortly thereafter. Sometimes the bus operators in their line of duty will obtain the names of witnesses and turn them in to the company. The cooperation of the tramway company may be enlisted to give you the name of the operator or operators who would be scheduled to arrive at that intersection at the time involved. The company carefully schedules every trip and they can tell you within a close approximation this information. Even if no report was turned in by the bus or streetcar operator, that operator himself may have valuable information. <sup>A</sup> It has paid dividends at times to go to that very intersection <sup>at the time and week of the</sup> on, the day of the accident involved and wait for a bus or a streetcar and talk to the people ready to board the same or those already in the bus or streetcar in an endeavor to learn if any of them saw the accident which occurred at that intersection or who may know any facts with reference thereto. You may learn sometime that a street repair crew or a sewer flushing gang from the City Street Department or Health Department was working in close proximity to the intersection and the names and addresses of that crew might be learned from the official source and an attempt made to find a witness among them.

An insurance company manual to its investigators, which I read recently, suggested that perhaps an advertisement in the personal column of a newspaper might reveal the name of a witness to an accident. Years ago when I was a much younger <sup>and inexperienced</sup> lawyer, I learned from bitter experience that advertising in that manner might not be so good. In the case of a serious injury to a young woman who was getting off of the streetcar who claimed that the streetcar had moved just as she was about to alight, throwing her to the ground, I inserted an ad in the Kansas City Star. I thought the ad had really paid off when I got a telephone call from a man who gave his address as Sixth and Main Street in one of the flop houses. He was willing to see me, and I made an appointment to interview him that afternoon. He told of seeing the young woman step from the streetcar at Thirty-ninth and Troost, and as she was doing so, the streetcar moved forward and she <sup>to the operator at the</sup> was thrown to the ground and injured. He did not give his name <sup>time</sup> because



*Eschbach*  
*Frederick O. Simon*  
I had to leave. It all sounded very convincing. The streetcar company took the man's deposition and he gave as good a description of that accident as anyone might want, and, of course, my case of liability was made and I was ready to get a big verdict.

I was entirely unsuspecting even when the witness reported to me a day or two before the trial in the Federal Court at Kansas City, Kansas, that he had been subpoenaed to appear at the trial by the defendant. Innocently, I called him to the witness stand and he reiterated the story much as he had told it in his deposition. On cross-examination, the clever attorney for the streetcar company took out several sheets of paper from his portfolio and began asking the witness if he had not testified for the plaintiff in a series of cases which he ~~had~~ <sup>have</sup> claimed to <sup>ad</sup>witness during the past two years. In all, this witness had testified <sup>in</sup> at forty-two cases which he claimed to have been an eye witness to during the preceding two years. I was astounded! Instead of being helped by this witness, my case had been ruined, I thought. When the embarrassing cross-examination was concluded, I stood before this witness, put my hands akimbo on my hips, looked him straight in the eye for a moment, then raised my hand and pointed my finger <sup>accusingly</sup> at him and in a voice ringing with indignation, I said to him:

"How much did the streetcar company pay you to offer yourself as a witness in this case?"

There were violent objections from the attorney for the streetcar company which, of course, were sustained, as they should have been. When the witness left the stand, I immediately moved to dismiss the case without prejudice. The federal judge granted my motion after making quite a speech about perjured testimony and commending my stand in the case. But it is an interested <sup>ing</sup> sidelight that after the case was dismissed and as I was leaving the court room, the members of the jury gathered around me and said I had made a mistake in dismissing the case because they were convinced that the streetcar company had had something to do with wrecking my case, by this man's testimony. Of course, that was nonsense, but apparently the one indignant question which I had asked had had the desired result.

MADE IN U.S.A.



Estee  
Fidelity Union Skin

Another source of witnesses are the Circuit Court or District Court's records and the records in the Workmen's Compensation Bureaus. These records may indicate that the plaintiff has had a great deal of litigation and that the injuries claimed in the lawsuit at hand may have been the basis of previous claims. Such a search should always be made by the defendant or insurance company.

I do not know whether it is within the province of this lecture to discuss the locating of expert witnesses. Physicians, engineers, chemists, accountants, surveyors, automotive mechanics, etc. In the ordinary automobile collision case, which forms the basis of the majority of our litigation, an automotive mechanic who has tested the speed and breaking <sup>power</sup> ~~down~~ of cars can be useful in giving you the stopping time within which an automobile can be stopped going at a given rate of speed. Where you have skidmarks it may be important to know whether the marks were made by the vehicle or vehicles involved or it may be necessary to have expert opinion as to the action of automobiles under certain circumstances. Where the stopping time of a streetcar or a <sup>train</sup> ~~tram~~ is involved, a streetcar operator or railroad engineer may have to be located. This is not always easy, because men who are in the employ of the streetcar company or of a railroad do not want to take sides in litigation which may affect their own security. You may have to find a retired streetcar operator or railroad engineer and this can be <sup>accomplished</sup> oftentimes by talking to other streetcar men or railroad engineers or talking to the business agent of their labor unions. The latter oftentimes can give you some very valuable leads <sup>on</sup> or who you might obtain as an expert witness. Obtaining expert medical witnesses is not always easy for a claimant or a plaintiff, because the average physician prefers not to become involved in a litigation which takes him away from his private practice, or he prefers to sell his services to an insurance company or employer who will send him the surgical and medical cases from which he can make much larger fees. On the other hand, there are a substantial number of good expert medical witnesses whose practices are secure and who are naturally sympathetic to injured people who will examine the



patients and testify. Their names can best be obtained from experienced lawyers who represent claimants in personal injury litigation. They can also give you the names of those physicians who testify regularly and consistently for the defense. ¶ One of the most novel expert witnesses <sup>whom</sup> which we used ~~in the past year~~ in a case in our office was a former automobile racing driver who had engaged in auto racing on the speedways, including the Indianapolis Speedway. We needed someone who could testify as to the action of a speeding car on a dirt road in order to refute certain charges made by the defense. We located this witness by asking various people if they knew of any such person. His testimony proved valuable, and the jury gave us a verdict of \$15,000.00 for the death of a young man, which is the limit under Kansas law. That verdict was ~~recently~~ upheld by the Supreme Court of our state and the judgment and interest has now been paid.

There is no substitute for hard work in the preparation of a lawsuit. To the person willing to work many sources of testimony are revealed. If you have exercised your ingenuity and your resourcefulness and still are unable to locate witnesses, there is no fault to be found. People interpret what they see in different ways. In locating and talking to witnesses, be sure that you get all sides of the controversy. Do not just locate the witnesses who may be favorable to you. It is just as important to know what facts the other side has as to know your own side, for if you are forewarned, you may be forearmed.

If you know all the facts on both sides of the case, you can work out a better settlement before trial, or if a settlement is impossible, you can achieve the results you desire through the trial because you will not be confronted with surprises that come to you when the other side, through its diligence, has uncovered witnesses which you have failed to find.

I have not attempted to exhaust this subject. To do so would be impossible and would require more than one lecture. I have merely indicated the basic sources and methods by which witnesses are usually located. On this foundation, you will be able to build your own structure.