

- ✓ The independence of the judiciary came under attack.
- ✓ The need for legal assistance to the indigent increased.
- ✓ A search was under way for better means of handling ever-escalating court caseloads.

Question: Was the year: ___1996? ___1963? ___1937?

Clues: The State Bar Association was keenly active in devising constructive means of addressing these issues.

The President hailed from the Syracuse firm of Bond Schoeneck & King.

Answer: All of the above.

I am following in the footsteps of William F. FitzPatrick, who became President over a quarter of a century ago, and George H. Bond, who was President 60 years ago this year.

The common areas of consideration during each of our tenures are not coincidental occurrences. Nor are we recycling issues without resolving them. While the specifics and the conditions that gave rise to these concerns have differed over the years, each has involved concepts that are fundamental to the functioning of the legal process. These principles have been — and will continue to be — the subject of debate.

A look into our history shows an Association consistently and persistently striving for improvement in the profession and justice system to meet current concerns while ensuring that basic rights are not eroded. We can learn from and build on the efforts of prior generations of Association memberships.

Our 1937 predecessors jumped into action just weeks into the new year when President Bond convened a special session of the Executive Committee. The subject was President Franklin D. Roosevelt's proposal for reorganization and expansion of the U.S. Supreme Court. The result of the meeting was a resolution, overwhelmingly confirmed by the membership, opposing the proposal as an affront to judicial independence, the separation of powers of government, and ultimately the protection of the

PRESIDENT'S MESSAGE



M. CATHERINE RICHARDSON

liberties of citizens. Noting that members of the Bar are sworn to uphold the Constitution, to strive for the "maintenance of justice pure and unsullied," the resolution cited the duty of the profession to oppose all proposals "which tend to lower public confidence in our highest tribunal." The Association's action, Bond related, was heard all over the country by the profession, the public and lawmakers. The association also published nontechnical accounts of recent Supreme Court decisions and underlying principles of law, to counteract the uninformed public discussion. The subsequent report of the Senate Judiciary Committee reflected the essence of the resolution.

Citing continuous battles in preserving the balance of powers of government and lawyers' substantial roles in those efforts, Bond commented that the active participation of lawyers in public affairs is both a privilege and an obligation. "We are summoned to tasks developing far beyond the routine of our day's work. We are called to high adventure and vast opportunities for serving our fellow citizens." Action through bar associations, he concluded, provides an effectiveness not possible by individual effort.

Once again, during President FitzPatrick's term, the Association rallied for an independent judicial decisionmaking process. This time, we opposed an amendment presented by the Council of State Governments that would have enabled the states to form a Court of the Union consisting of the 50 States' Chief Judges to reverse any judgment of the Supreme Court relating to rights reserved to the states or the people by the Constitution. As the Committee on Federal Constitution found in its report on this and other amendments, "This machinery for sectional and nonjudicial determination of all constitutional issues contrasts sadly with the wisdom of what it would replace — an independent federal judiciary.

Bashing of both the bench and bar remains in vogue today among entertainers, the media, politicians, and lawmakers. In just the past year, we have experienced high-profile incidents of attacks on judges because of disgruntlement over decisions based on the laws on the



books, and lawyers have been blamed for just about every ill that has befallen society. I suppose that the trend toward making quick hits against the profession is not surprising in this age of blame and the saturation of 24-hour news and sound bites. However, that does not mean that we should excuse unjust criticisms and tasteless jokes. We have responded to correct misinformation and to speak out on behalf of the profession. We have continued our efforts to educate New Yorkers of all ages as to rights, responsibilities, constitutional and statutory protections, and how the legal process works for the public. My past work as a teacher tells me that this initiative needs not only our ongoing action as a State Bar Association, but also intensive grassroots efforts, by every lawyer in this state.

History also reveals that this Association has been a veteran of the movement to provide legal services to the poor in both criminal and civil matters. Sixty years ago, legal aid societies existed in Buffalo, Rochester, Utica, Albany, New York and Westchester County and committees were maintained by a few bar associations. The Committee on Legal Aid urged additional efforts to develop legal assistance services statewide, including the creation of bar committees where no services existed, legal clinics at law schools, and increased awareness among the bar regarding the need for volunteer attorneys. To put this objective into action, the Association requested that Vice Presidents compile lists of attorneys in their districts willing to undertake pro bono representation in criminal and civil matters. The Association already was on record approving the principle of public defenders in criminal cases where appropriate.

The momentum did not cease over the years. During 1963, the Association pursued enactment of legislation to provide counsel for defendants accused of crime in federal court; urged local bar associations to consider means of improving provisions for indigent representation in their communities; and presented forums and written information to spur discussion about the major methods of defense. The importance of these initiatives was underscored in the Supreme Court's landmark right-to-counsel ruling that year in *Gideon v. Wainwright*.

Proposals for court reorganization were being crafted and debated 60 years ago to reduce delay and confusion and enhance case management. Among bellwether ideas raised by practitioners and government officials were modifications in appellate practice, jurisdiction, and methods of selecting judges, and reorganization of courts — including the consolidation of certain New York City courts (a harbinger of 1963), and merger of the Supreme, County and Surrogate's Courts (a concept long proposed

but yet to be realized). It also was heartening to see a recommendation "in accordance with the general objective of improving the caliber of petit juries... that women be authorized to serve as jurors under the same qualifications and exemptions as men."

Over 30 years ago, the Association supported the significant reorganization of the court system statewide and the addition of judges in congested areas. The result — the first restructuring in more than a century — included the consolidation of a plethora of New York City courts into Civil and Criminal Courts, the birth of the Family Court, retooling of administrative procedures, and the institution of training conferences for the judiciary. Additionally, the Association educated thousands through programs and publications on the newly enacted Civil Practice Law and Rules, Uniform Commercial Code, revised Corporation Law, and other provisions. "Much improvement has been made, and will be made in the administration of justice," President FitzPatrick commented, "but this, again, requires a continuing effort on the part of the Association and the sincere cooperation of the members of the Bar."

He would not be surprised that we are still hard at work seeking to improve the justice system by initiating recommendations and providing our views on the feasibility of proposals of others. Our efforts include pursuing amendments to make the application of statutes more practical, as seen in our proposals on discovery, service of process, among others. We also undertake analyses of systems, as evidenced by our work on case management and the jury system.

A trip into the pages of the past provides mementoes of lessons learned. Each generation of the bar has combated efforts to "adjust" the balance of powers and fundamental rights. Each generation has made its mark in bettering the justice system. Yet none could devise the ultimate solutions that would put these problems to rest once and for all.

That was not for lack of trying. President Bond envisioned more attacks on the foundations of the law in the years ahead, and considered an ever-ready defense as a vital and ongoing role of the Association. President FitzPatrick foresaw continuous efforts to enhance the functioning of the legal process. This is a positive, not frustrating, pursuit, he observed, noting that too much certainty creates a slippery slope to rigidity, to the dictatorial.

The evolving and fluid nature of the law does not allow us to cast our statutes and rules in bronze, but it does enable us to reshape provisions to meet contemporary conditions, to rectify injustices, and to renew and redouble efforts in the public good. That is an irresistible challenge. ◀