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## Remarks of the Outgoing President of the American Bar Association

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# REMARKS OF THE OUTGOING PRESIDENT OF THE AMERICAN BAR ASSOCIATION

WILLIAM G. PAUL\*

## I. INTRODUCTION AND ACKNOWLEDGMENTS

Thank you, Judge Kelly,<sup>2</sup> Justice Breyer,<sup>3</sup> Chief Judge Seymour,<sup>4</sup> Judge Henry,<sup>5</sup> judges, lawyers, and friends. It is a high privilege to address this conference and to have a small part in it. It's my loss not to have been here from beginning to end, because as I look at the program, I can see how outstanding it is and that the subject matter is particularly appealing for the practitioners of the circuit. One of my mentors and the senior partner of our firm, V.P. Crowe, was fond of saying of the Tenth Circuit, "It's the finest court in the land." And Judge Higginbotham,<sup>6</sup> with apologies, it just might be. Having that saying in mind, I was in attendance at this conference one year, and Mr. Justice White did his annual recap of the Term just ended. He began by saying, "I'll give you the bad news first. This Term, the Tenth had the highest reversal rate of all the circuits." So I thought, "Well, I guess that shows the difference between being the finest court in the land and the *highest* court in the land."

I had the privilege of appearing before the Eighth Circuit about three weeks ago at the investiture of a new judge, Kermit Bye,<sup>7</sup> in Fargo, North Dakota—my first trip to Fargo. I was asked to make remarks and I enjoyed it very much. The remarkable thing about the event to me was when the Chief<sup>8</sup> was speaking to the new Judge Bye. He was talking about the other judges of the court who were seated there before him, inviting Judge Bye to come up and be seated with the court. He came to a part where he said, "And we are a very congenial court." The new Judge Bye, who hadn't said a word up to that point said, "Chief, you don't know how relieved I am to hear that."

I wish to acknowledge another mentor of mine, Judge Bill Holloway,<sup>9</sup> who trained me as a litigator at our firm. I've missed him these 32 years as he has served the cause of justice on this great court. I've always said to him, and repeat it again now, "If I'm not doing this job right, Bill, it's your fault. You trained me." And he did.

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\* President, American Bar Association, 1999-2000. Mr. Paul is a partner at Crowe & Dunlevy Law Firm, Oklahoma City, Oklahoma.

2. Judge Paul J. Kelly, Jr., United States Court of Appeals for the Tenth Circuit, Santa Fe, New Mexico.

3. Associate Justice Stephen G. Breyer, United States Supreme Court.

4. Chief Judge Stephanie K. Seymour, United States Court of Appeals for the Tenth Circuit, Tulsa, Oklahoma.

5. Judge Robert H. Henry, United States Court of Appeals for the Tenth Circuit, Oklahoma City, Oklahoma.

6. Judge Patrick E. Higginbotham, United States Court of Appeals for the Fifth Circuit, Dallas, Texas.

7. Judge Kermit E. Bye, United States Court of Appeals for the Eighth Circuit, Fargo, North Dakota.

8. Chief Judge Roger L. Wollman, United States Court of Appeals for the Eighth Circuit, Sioux Falls, South Dakota.

9. Senior Judge William J. Holloway, Jr., United States Court of Appeals for the Tenth Circuit, Oklahoma City, Oklahoma.

Finally, I want to acknowledge one who has been my full partner throughout this year. It's been a busy year—thrilling, exciting, but a lot of hard work—and that's my wife Barbara. Barbara, would you stand, please? [Applause].

## II. JUDICIAL COMPENSATION

My term is about to end. This is the last speech that I will make as President of the American Bar Association before going to our annual meetings in New York and in London. I am reminded of the first act that I undertook as President about a year ago. The decision had just come down from the district court in Washington, D.C., holding that the federal judiciary was entitled to some increase in compensation under prior legislation.<sup>10</sup> I wrote the Solicitor General of the United States on behalf of the American Bar Association, urging him not to appeal that decision because it was imminently correct and sound public policy.<sup>11</sup> Well, he did appeal, and we don't have the decision yet,<sup>12</sup> but we shall hope that that decision is affirmed. The American Bar Association recognizes the inadequacies of the compensation of the federal judiciary, and we do all that we can to support increases.<sup>13</sup> We've learned how tough it is. Linkage to congressional pay is a big issue out there.<sup>14</sup> But some day, some way, somehow, maybe we will overcome.

## III. STATUS OF THE ABA

Let me begin by reporting on the status of the American Bar Association. It is in robust health. It is the largest voluntary professional association in the world with over 400,000 members,<sup>15</sup> which is a record, all-time high for the Association. We maintain two offices: the headquarters in Chicago and another office in Washington, D.C. We have 800 staff, 600 are based in the Chicago office and 200 are in the Washington office. The annual operating budget is \$120 million.<sup>16</sup> Eighty million of that is generated internally through dues, registration fees for meetings, sales of publications, and the like. The other forty million is grant money that comes in to the ABA to compensate it for the administration of certain justice programs that are funded by foundations, the federal government, and others.<sup>17</sup>

10. See *Williams v. United States*, 48 F.Supp.2d 52 (D.D.C. 1999) *rev'd*, 240 F.3d 1019 (D.C. Cir. 2001).

11. Letter from William G. Paul, President, American Bar Association, to Seth P. Waxman, United States Solicitor General (Aug. 27, 1999) (on file with the American Bar Association).

12. The District of Columbia Court of Appeals reversed and remanded the district court. *Williams v. United States*, 240 F.3d 1019 (D.C. Cir. 2001).

13. E.g., ABA 2000 Legislative and Governmental Priorities, *Independence of the Judiciary: Judicial Compensation*, at <http://www.abanet.org/poladv/priorities/judcom.html> (last updated July 27, 2001).

14. Congress blocks COLAs [cost-of-living adjustments] for judges when it does not give itself a COLA. Congress has this power because of the now-notorious "Section 140," which was adopted as part of a continuing resolution in 1981. Pursuant to Sec. 140, no COLA for federal judges can take effect without being specifically authorized by Congress...[The ABA] urges Congress to de-link Congressional pay from judicial pay.

*Id.*

15. AMERICAN BAR ASSOCIATION, PROFILE OF THE AMERICAN BAR ASSOCIATION 1 (July 2000), available at <http://www.abanet.org/ftp/pub/media/profile.doc>.

16. See *id.*

17. See *id.*

The policy of the ABA is not made by the President, nor by the Board of Governors. Policy is made by the House of Delegates. This is a 532-member house. It meets twice a year. Primarily, it is composed of delegations from the state bars.<sup>18</sup> So our policy is made by lawyers from all over the country representing, for the most part, the state bar associations of our country. We have a Board of Governors of thirty-seven. That board meets five times a year, and implements the policy passed by the House of Delegates.<sup>19</sup> It functions in some respects like a board of directors of a large corporation.

One of my predecessors said something that I learned to be very true after he had served a while as President of the American Bar. He said, "When I came into office, I tended to think of the ABA much as a huge ocean-going ship that, once underway, was very, very difficult to turn or stop, because the momentum just carried it forward." He then added, "That's not right at all. The ABA is more like 10,000 sailboats." And that's really true. We have over 2,200 constituent entities,<sup>20</sup> and many of them are almost autonomous, such as the Sections.<sup>21</sup> One of the things the President has to deal with is that *one* committee out of 200 that has a controversial program or speaker. The President may get 500 letters protesting. For example, I get all these letters and say, "Gee, I didn't even know that was going on," because, as I say, there are those 10,000 sailboats out there.

What is our primary business? It is to improve the administration of justice. Part of our mission is to be the national representative of the legal profession. I want to do a little recruiting here. I have done recruiting off and on in my career and now I want to recruit for the ABA. I wish that everyone in this room was a member of the American Bar Association, and I know not everyone is. But you should be, because we need every lawyer, every judge, every professor participating in the common work of the profession. That is what the ABA is all about.

Because we are at the Tenth Circuit Judicial Conference, I thought about our Committee on the Federal Judiciary in the ABA. Membership on this committee remains the most sought-after appointment in the ABA and its work among the most important of the ABA. Even though there have been some differences with the leadership of the Senate Committee on the Judiciary, my analysis is that the work of the ABA's Federal Judiciary Committee really hasn't changed, nor has its significance, nor has its relevance. It is very important work, and the Committee works very independently. During the year that I've been President, I have never spoken to a member of the Committee on the Federal Judiciary about any matter pending before them, nor have they spoken to me. They run their business in a very clean, nonpartisan, professional way, and they do a great service for the country.

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18. *See id.* at 3, 4.

19. *Id.* at 4.

20. *Id.* at 6.

21. Mr. Paul refers to the separate entities within the ABA dedicated to formulating the organization's policy in specific areas of law. *See id.*; *see also*, AMERICAN BAR ASSOCIATION, OVERVIEW OF AMERICAN BAR ASSOCIATION ACTIVITIES (Aug. 1999) (on file with the American Bar Association), available at <http://www.abanet.org/ftp/pub/media/overvw2.doc>.

Now, let me talk about some of the things that are high on the agenda at the ABA and to which we've devoted our activities this year. After that, I'm going to include a couple of items that were my personal initiatives that I have pursued this year.

#### IV. JUDICIAL INDEPENDENCE

Judicial independence is one of the principal areas of focus of the American Bar.<sup>22</sup> Why? Because our free society and the rule of law are dependent on this principle. If we lose judicial independence, we've lost our rights and freedom.

The bulwark of freedom in this country is the federal judiciary. I've learned this year that this is not something that you just talk about now and then as a high-sounding principle. It requires constant vigilance. It's amazing how often the independence of the judiciary is attacked. The most visible attack this year, in my term, came in a speech by Governor Davis of California. He has since retracted it and modified it, but in Washington, D.C., at a meeting of the Washington Press Corps, Governor Davis said, "The judges I appoint in California should follow the agenda on which I was elected, otherwise democracy doesn't work."<sup>23</sup>

On behalf of the American Bar Association I wrote him a letter and I sent a copy of the letter to every newspaper in California.<sup>24</sup> I said, "Governor Davis, what you have said is exactly how democracy does *not* work. If you want to destroy freedom, then have the judges pursue the short-term political agendas of the day, and freedom is gone. And haven't you heard about the third and independent branch of government?"<sup>25</sup>

Well, he knew he shouldn't have said it, and he did back up,<sup>26</sup> but that's my point, vigilance is required. There are always short-term pressures on judges to do something that somebody wants done, but if it's not the law, a judge can't do it. We have to protect that independence of the judges, so they can follow the law.

My predecessor, Phil Anderson,<sup>27</sup> devoted his year to the concept of judicial independence, and he had two symposia and a conference on that subject. Those were enriched by the very active participation of Justice Breyer, Justice Kennedy, and Justice O'Connor.

22. See, e.g., ABA Standing Committee on Judicial Independence, *About the ABA Standing Committee on Judicial Independence*, at <http://www.abanet.org/judind/aboutus/home.html> (last visited Nov. 14, 2000); see also American Bar Association 2000 Legislative and Governmental Priorities, *Independence of the Judiciary: Erosion of the Process*, at <http://www.abanet.org/poladv/priorities/judero.html> (last visited Nov. 14, 2000).

23. Robert Salladay & Dan Freedman, *Davis: Judges I Name Should Agree With Me or Resign*, S.F. EXAMIN., Mar. 1, 2000, at A1 ("[Judges] are there to reflect the sentiments that I expressed during the campaign.... Representative government only works when appointees reflect the views of the elected officials who put them in office.").

24. Letter from William G. Paul, President, American Bar Association, to the Honorable Gray Davis, Governor of California (Mar. 2, 2000) (on file with the American Bar Association).

25. Mr. Paul's letter states,

A fundamental principle of our democracy is that the Judiciary is an independent and co-equal branch of government.... The public expects its judges to put aside their own partisan political views and to make impartial decisions based on the rule of law rather than on the transitory popular will of the political branches or the people. Citizens understand that impartial judicial decision-making protects their freedom and preserves the integrity of our democratic institutions.

*Id.*

26. See Steve Lawrence, *Davis Backs Off On Judges' Loyalty Test*, S.F. EXAMIN., Mar. 2, 2000.

27. Phillip S. Anderson, President, American Bar Association, 1998-1999.

In preparation for those conferences, a survey was done,<sup>28</sup> and I want to share some of the findings. The purpose of the survey was to measure the degree of public trust and confidence in our justice system.<sup>29</sup> Many different institutions of the country were measured. Among the law-related, judicial-related systems, the highest marks—and they were very high marks—were given to the Supreme Court of the United States. Almost as high marks were given to the federal judiciary. The state courts did not rank as high as federal courts. Near the bottom, next to last, was the legal profession. Surprisingly, the only group that rated lower than the legal profession was the media.<sup>30</sup> They were at the bottom. So at least we can say to the media, “We did a little better than you did.”

#### V. LEGAL SERVICES CORPORATION

Another major area of activity this last year was support for the Legal Services Corporation. This is the federal agency that furnishes legal services to the poor, those who could not afford it otherwise. You know, if you have a serious legal problem, having access to legal service is a necessity of life. It ranks up there with food, clothing, and shelter, and the only way the poor are going to have legal services is through the survival and the ongoing life of the Legal Services Corporation. We battle for funding every year. Every year there are some who want to abolish it and there are others who want to cut it. This year the battle has gone well and prospects are pretty good. The funding might actually increase some this year, from 250 million to 275 million dollars.<sup>31</sup>

#### VI. MORATORIUM ON THE DEATH PENALTY

Another area of high-level activity this year has been the pursuit of the ABA policy calling for a moratorium on the death penalty.<sup>32</sup> There has been a tremendous increase in the debate and discussion on this subject. One thing that gave the moratorium great impetus was action taken by Governor Ryan of Illinois, a death penalty state. Governor Ryan supports the death penalty but, by executive order, he declared a moratorium on the death penalty in Illinois.<sup>33</sup> Why? He said, “Since the death penalty was reinstated, we’ve had twenty-five people in Illinois facing the death penalty. Twelve were executed and thirteen were released because they were

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28. AMERICAN BAR ASSOCIATION, PERCEPTIONS OF THE U.S. JUSTICE SYSTEM (Feb. 1999) (on file with the American Bar Association).

29. *See id.* at 1, 2.

30. *See id.* at 7.

31. Congress appropriated \$329 million for fiscal year 2001. President Bush has called for the same appropriation for fiscal year 2002. Patricia Manson, *Tide Turning in LSC's Favor*, CHI. DAILY L. BULL., Mar. 2, 2001, at 1.

32. *See American Bar Association Legislative Issues 29*, at <http://www.abanet.org/ftp/pub/govaffairs/legiss.pdf> (current through Oct. 2000).

Recommend that each jurisdiction imposing capital punishment not carry out the death penalty until it implements policies and procedures that are consistent with ABA policies intended to (1) ensure the fair and impartial administration of the death penalty, and (2) minimize the risk that innocent persons may be executed. (2/97)

*Id.*

33. *See Exec. Order 2000-4*, 24 Ill. Reg. 7439 (Mar. 10, 2000).

innocent. Those odds are not acceptable. The system is broken and we've got to fix it." So he declared a moratorium.

There is a lot of evidence that the system is broken. There is a lot of evidence in capital cases that defendants don't have competent counsel. If I were appointed to represent someone in a capital case, they wouldn't have competent counsel, because I don't know the criminal law.

In our state of Oklahoma, we had a situation of great courage and credit to the federal judiciary. There was a man on death row whose innocence was later established.<sup>34</sup> He was granted a new trial by Judge Frank Seay,<sup>35</sup> who was asked, "Is that defendant innocent in your view?" He said, "I don't know. And nobody knows until he's had a fair trial. He didn't have one, and I'm going to give him a new trial."<sup>36</sup> And he did. Judge West<sup>37</sup> gave a great speech about that.<sup>38</sup> I gave a copy of his speech to our people in the ABA who work on the death penalty moratorium as a really good fact situation to talk about to prove the value and wisdom of a moratorium.

I want to say here—and I've said this in everything written down by the ABA on the death penalty this year—the ABA neither opposes nor supports the death penalty. We have an absolutely neutral position on that.<sup>39</sup> That's a matter for each state to determine. Thirty-eight of our states have a death penalty. The ABA's position is, if we are going to have the death penalty, then let's have it administered fairly, with due process, with competent counsel, and without discrimination as to its infliction based on race or ethnicity.<sup>40</sup> That's our position. [Applause].

## VII. INS DETENTION OF IMMIGRANTS

Another area of emphasis for the year has been improvement of the treatment of detained immigrants. We have a really tough law that hasn't been on the books too long.<sup>41</sup> We lawyers, and certainly judges, take the law as we find it, but under that

34. See *Williamson v. Reynolds*, 904 F. Supp. 1529 (E.D. Okla. 1995).

35. Judge Frank Seay, United States District Court for the Eastern District of Oklahoma, Muskogee, Oklahoma.

36. *Williamson*, 904 F. Supp. at 1576-77. In the Epilogue portion of the opinion, Judge Seay explained, "While considering my decision in this case I told a friend, a layman, I believed the facts and law dictated that I must grant a new trial to a defendant who has been convicted and sentenced to death.

My friend asked, "Is he a murderer?"

I replied simply, "We won't know until he receives a fair trial."

God help us, if ever in this great country we turn our heads while people who have not had fair trials are executed. That almost happened in this case.

*Id.* at 1577.

37. Senior Judge Lee R. West, United States District Court for the Western District of Oklahoma, Oklahoma City, Oklahoma.

38. Judge Lee R. West, Remarks to the National Conference of Christians and Jews 16-20 (Feb. 24, 2000) (transcript on file with Judge West).

39. See, e.g., News Release, American Bar Association, *ABA President-Elect Calls For a Moratorium on Federal Death Penalty, Urges Lawyers to Review Death Penalty Systems in Their States*, at <http://www.abanet.org/media/jul00/barnettdeath.html> (July 10, 2000).

40. See *id.*

41. E.g., *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, § 303(a), 8 U.S.C. § 1226 (Supp II 1996) (providing for the arrest, detention, or removal of aliens by the Attorney General, whose decision may not be reviewed by any court).

tough law, things are happening that are contrary to the spirit of fair play and due process in this country. The ABA has been active to try to turn that around.

### VIII. ETHICS 2000 AND MULTIJURISDICTIONAL PRACTICE

On professional subjects, we've spent a lot of time working on updating the Rules of Professional Conduct. We have a committee called Ethics 2000 that will report in about a year to update those rules.<sup>42</sup> Also, we have a newly authorized Commission on Multijurisdictional Practice.<sup>43</sup> There is an increasing hue and cry for the lawyers of one state to be able to practice in other states in a more convenient manner than is now the case. We have a commission just appointed with a mandate to make a report within a year.<sup>44</sup> So we have that to look forward to.

### IX. MULTIDISCIPLINARY PRACTICE

Before moving to a couple of things that I've worked on personally this year, I mention the issue of Multidisciplinary Practice, MDP. Many say that it is the most significant issue the profession has faced in decades. What is MDP? Multidisciplinary Practice is the practice of law through an entity that includes non-lawyer professionals as well as lawyers; that is, a firm that delivers both legal and non-legal services, but in which lawyers are members and in which lawyers are sharing fees.

This is a very controversial and difficult issue. We've worked on it for two years. One of the best events that we had, by way of educating ourselves, was a town hall meeting at our mid-year meeting in Dallas.<sup>45</sup> The town hall meeting was moderated by Judge Pat Higginbotham. He did a fabulous job. [To Judge Higginbotham] After the meeting, Judge, we got so many compliments about the way you handled it, how well it was done, and how much people learned that the issue is on the agenda for the House of Delegates at our New York meeting.

I have the recommendation of the ABA's Commission on Multidisciplinary Practice<sup>46</sup> before me, and I'll summarize it briefly. Recommendation One: Lawyers should be permitted to share fees and join with non-lawyer professionals in a practice that delivers both legal and non-legal professional services. But, Recommendation Two: Recommendation One must be implemented in a manner that protects the public and preserves the core values of the legal profession, including competence, independence of professional judgment, protection of

42. ABA Center for Professional Responsibility, *Ethics 2000—Commission on the Evaluation of the Rules of Professional Conduct*, at <http://www.abanet.org/cpr/ethics2k.html> (last visited July 15, 2001). The Ethics 2000 Commission has issued its May 2001 Report, which may be viewed online. *See id.*

43. *See* News Release, American Bar Association, *Incoming ABA President Martha Barnett of Tallahassee Creates Commission on Multijurisdictional Practice*, at <http://www.abanet.org/media/jul00/barnettat.html> (July 10, 2000).

44. *See id.*

45. *See* American Bar Association, *Dallas 2000 Midyear Meeting, February 9-15*, at <http://www.abanet.org/mdp/> (last visited July 15, 2001). The audio broadcast of the Town Hall discussion, moderated by Judge Patrick E. Higginbotham, is available at <http://www.abanet.org/mdp/media/aba2-13-00.ram>.

46. ABA Commission on Multidisciplinary Practice, *Report to the House of Delegates and Recommendation*, at <http://www.abanet.org/cpr/mdpfinalrep2000.html> (July 2000).

confidential client information, loyalty to the client, conflicts of interest, and pro bono obligations.<sup>47</sup>

Our House of Delegates is merely advisory, since rules of professional conduct are made by the supreme courts of each state. But, over the years, what the ABA has recommended in these areas has become the rule universally because of the hard work that is done on it and because of the intensive debate. So I think that whatever our House of Delegates does will probably set the pattern. It's going to be a spirited and interesting debate.<sup>48</sup>

I have not taken a position on the issue. I have pushed to get it resolved in July at our annual meeting. Two years of work on it is enough. There is a lot of feeling that we should take six more months. I don't think we will know any more about it in six months than we know now. It's just a matter of never liking to make a hard decision any sooner than you have to. But events are outrunning us and we need to determine which way we are going to go, and get busy doing it.

#### X. LIVE TO MAKE A DIFFERENCE

Next, I want to say how important these conferences are, how they impact our lives. Let me tell you this personal experience. At this conference some years ago, one of the speakers in a plenary session was Rabbi Harold Kushner, the author of *When Bad Things Happen to Good People*<sup>49</sup> and other books. I heard him speak and I thought he was terrific. One of the things he said that made an indelible impression on me was, "People aren't afraid of dying. They're afraid of never having lived."<sup>50</sup> When I addressed the ABA nominating committee, as candidates customarily do, I quoted that phrase. I said I wanted to see our profession live, and "live to make a difference," and I described the areas where I thought a difference could be made. Well, I did get elected, and so I set to work, as I promised to do in that speech.

#### XI. RACIAL AND ETHNIC DIVERSITY

The first and principal area where we can and must make a difference is increasing racial and ethnic diversity at all levels of the legal profession.<sup>51</sup> Working with our ABA staff and volunteers, we devised an action plan, 100 percent voluntary. One of my requirements from the beginning was to lay out some programs, each and every one of them 100 percent voluntary. If someone doesn't like what we're doing, then I want to be able to say, "Well, then don't be a part of

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47. *Id.*

48. At the 2000 Annual Conference, which took place a few days after Mr. Paul's speech to the Tenth Circuit Conference, the House of Delegates rejected the Commission's original recommendation and adopted a revised version that does not allow for fee-sharing with non-lawyers or non-lawyer control of entities that practice law. See ABA Commission on Multidisciplinary Practice, *The House Adopted Revised Recommendation 10F*, at <http://www.abanet.org/cpr/multicom.html> (July 13, 2000); see also News Release, American Bar Association, *American Bar Association Rejects Sharing of Fees With Nonlawyers and Nonlawyer Ownership or Control of Entities That Practice Law*, at <http://www.abanet.org/media/jul00/hodrelease.html> (July 11, 2000).

49. RABBI HAROLD S. KUSHNER, *WHEN BAD THINGS HAPPEN TO GOOD PEOPLE* (1981).

50. E.g., Rabbi Harold S. Kushner, Opening Convocation Address at Wake Forest University, *What's the Point of Being Religious?* (Sept. 4, 1997), at <http://www.wfu.edu/www-data/wfunews/kushtext.htm>.

51. See American Bar Association, *Diversity Initiative 1999-2000*, at <http://www.abanet.org/leadership/diversity.html> (last visited July 15, 2001).

it. Nobody is forcing anybody to do anything. These are simply things that must be done, and if you want to help, then help.”

Why is racial and ethnic diversity important? It goes beyond equality of opportunity. It goes beyond matters of discrimination. It really relates to the survival of our way of life. Look at the demographics. Our nation is thirty percent people of color today. We will be fifty percent in a few decades. California already is. Our profession is 92.5 percent white.<sup>52</sup> Our profession must reflect the society it serves in order to serve it. Our profession is the connecting link between society and the rule of law. From the ranks of the profession come the judges, the magistrates, the prosecutors, the defense counsel, and the staff that run the machinery of the rule of law. If we don't reflect that society then those who are not included will lose respect for it. They cannot help but say, “This is not my system. I'm not part of it. Why should I respect it?” Our system is based on public trust and confidence. To maintain that public trust and confidence, to keep it, we must see this profession increase racial and ethnic diversity.

Let me tell you some of the things we did this year, although a massively complex problem can't be fixed in one year. In 20 years maybe you could declare a degree of victory, but it would take at least that. The main thing is it takes a lot more resources, a lot more work, a lot more time, and a lot more effort than we have been giving it.

This year, the ABA established a scholarship fund.<sup>53</sup> We set a first-year goal of a million dollars. In five months we met our goal and in ten months we had \$1.3 million. We had 1200 applications for these scholarships. One of the most refreshing experiences you could imagine is to review those applications to see what those young people, members of minorities, have written about why they want to be lawyers.

We were only able to grant 20 scholarships.<sup>54</sup> Each scholarship is \$15,000: \$5,000 a year for three years. The scholarship recipients are dynamite, gangbusters people. Now we're trying to leverage on the power of the scholarship program. We have asked law schools to match the scholarship with a tuition waiver or a partial tuition waiver. In the Tenth Circuit, the University of Tulsa has done just that. I was there describing our request to have law schools match these scholarships and on the spot, Dean Martin H. Belsky said, “We'll do it.”

We have a judicial clerkship program.<sup>55</sup> You know law clerks are special people, leaders in our profession. They tend to become judges. They tend to become

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52. AMERICAN BAR ASSOCIATION, RESOURCE GUIDE: PROGRAMS TO ADVANCE RACIAL AND ETHNIC DIVERSITY IN THE LEGAL PROFESSION 9 (July 2000)(on file with the American Bar Association), available at <http://www.abanet.org/leadership/recmenu.html> [hereinafter DIVERSITY RESOURCE GUIDE].

53. See ABA Leadership, Legal Opportunity Scholarship Fund, at <http://www.abanet.org/leadership/legal.html> (last visited July 15, 2001); see also News Release, American Bar Association, *ABA President William G. Paul Creates ABA Legal Opportunity Scholarship Fund*, at <http://www.abanet.org/media/aug99/scholarship.html> (Aug. 10, 1999).

54. See News Release, American Bar Association, *Twenty Students to Receive the First Legal Opportunity Scholarships by ABA President William G. Paul*, at <http://www.abanet.org/media/jul00/scholarsweb.html> (July 7, 2000).

55. See ABA Division for Bar Services: Connecting Leaders and Resources, *An interview with ABA President William G. Paul* (discussing Minority Judicial Clerkship Project), at <http://www.abanet.org/barserv/paul.html> (last visited July 15, 2001) [hereinafter *Paul Interview*].

partners in law firms. They tend to become civic leaders. If we could bring the level of minority judicial clerks up to the level of the proportion that minorities bear in the general population, it would be a wonderful thing and it would be a great leadership move. We've had beginnings in that area this year. In the Northern District of Illinois, Judge Marvin Aspen<sup>56</sup> ran a wonderful summer internship program: twenty-two minority students working with the judges and magistrates in Chicago, a great program.<sup>57</sup>

Corporate America is moving out aggressively as well. They are moving aggressively to diversify their law departments and moving aggressively with their law firms, saying, "It is important to us that you recognize the importance of diversity and we want the law firms that do our work to recognize it. We want to know what you're doing, and if you're not doing enough, we'll find another law firm." This message is out there.

We had a colloquium in Aspen, Colorado,<sup>58</sup> bringing together three working groups: legal academicians as one group, corporate counsel as a second group, and leaders of law firms and bar associations as a third group; all to work on an action plan for things realistic and achievable by year end. One of the action plan items was to produce a resource guide. That has been done and it has a number of best practices and reputable programs in it that we hope will be picked up and replicated around the country.<sup>59</sup>

## XII. INTERNATIONAL LAW

There is a second area, which to me is one where the profession could "live to make a difference." That is to increase our level of activity and our focus in the international arena. The ABA has been very active there. One of its proudest achievements has been the Central and East Europe Law Initiative, CEELI.<sup>60</sup> That program is about ten years old now and is focused on the countries that were part of the former Soviet Union. Hundreds and hundreds of U.S. lawyers and judges have gone to Central and East Europe, pro bono. They have contributed their time—sometimes up to a year—to help those countries write constitutions and statutes and establish court systems, bar associations, and law schools. It's a magnificent story because all of those countries wanted a western-type rule of law democracy, and we were invited in. I thought we ought to expand on that model, so I asked our Board of Governors to create a similar council for Latin America and for Africa.<sup>61</sup> I have

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56. Chief Judge Marvin E. Aspen, United States District Court for the Northern District of Illinois.

57. See DIVERSITY RESOURCE GUIDE, *supra* note 51, at 74; see also News Release, United States District Court for the Northern District of Illinois, *Court Part of Pilot Program to Attract Minority Law Students* (Feb. 10, 2000), at <http://www.ilnd.uscourts.gov/PRESS/rel210a.htm>.

58. See *Paul Interview*, *supra* note 54 (discussing a diversity working group program that met in Aspen, Colorado, October 14-16, 1999).

59. See DIVERSITY RESOURCE GUIDE, *supra* note 51.

60. See American Bar Association, *Central and East Europe Law Initiative*, at <http://www.abanet.org/ceeli/home.html> (last visited July 15, 2001).

61. The Latin American Law Initiatives Council ("LALIC") and the Africa Law Initiative Council ("AfLIC") have only recently been created and no published material relating to them is available. The ABA contact person for LALIC is Macarena Tamayo-Calabrese, who can be reached at (312) 988-5135 or [mcalabrese@staff.abanet.org](mailto:mcalabrese@staff.abanet.org). The ABA contact person for AfLIC is Lisa Dickieson, who can be reached at (202) 662-1971 or [dickiesL@staff.abanet.org](mailto:dickiesL@staff.abanet.org).

just made the appointments to those councils. I'm pleased to say that Justice Breyer agreed to serve as a member of the Latin America Council. He will add great, great power to the work of that Council, as Justice O'Connor has done in CEELI, where she has been for ten years. I asked Judge Robert Henry to serve on the African Council and he agreed to do so. [To Judge Henry] I'm so pleased, Judge Henry, that you're willing to offer your considerable talents to that work.

So we have high hopes that U.S. lawyers can make their contribution to the establishment of the rule of law throughout the world, and we are going to increase our focus in Latin America and Africa, as we have in Central and East Europe. We already have an Asian Law Council.<sup>62</sup> Justice Kennedy is a member of that Council. It is fairly new, about two years old. They started working in China, but their work was interrupted when, regrettably, the Chinese Embassy in Belgrade was bombed.

### XIII. JUDICIAL LEADERSHIP

I want to conclude with this thought: The bar looks to the judiciary for leadership, and always will. To have a judge chairing or serving on a bar committee greatly enriches and empowers its work. So judges, keep on working hard at your day job, dispensing and administering justice, but also lead us, support us, and participate as active members of the bar, including the ABA. A good example of that came to me at this meeting. I visited very briefly with the Chief Judge of the District of Wyoming,<sup>63</sup> who was telling me about a magnificent program that they have in his court where they bring in young people from foreign countries for a summer program. It just has enormous power. If something like that could be replicated throughout the country, it would be such a magnificent and wonderful thing.

I want to mention a name here, Judge Tom Greene.<sup>64</sup> Judge Greene has maintained his dedication to the work of the ABA throughout his career, including throughout his service on the bench, and we're grateful for it. So, to Judge Tom Greene I say this, Judge Green, may the Almighty multiply your kind. [Applause].

### XIV. WILLIAM G. PAUL'S VISION

One more twenty second thought: I've previously written and spoken about a personal vision of mine, about five things I'd like to see in the future of our profession.<sup>65</sup> I close today by reciting the last and fifth of those, which is something I will not live to see, but I hope you young lawyers and young judges will. That is to see the American legal profession valued, respected, and revered by the American people, as it ought to be. Because, after all, there is a nobility of purpose about the profession and the work that it does. Thank you so much for having me here. Thank you, Judge Kelly.

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62. Ms. Dickieson is also the ABA contact for the Asia Law Initiative Council (ALIC).

63. Chief Judge William F. Downes, United States District Court for the District of Wyoming, Casper, Wyoming.

64. Senior Judge J. Thomas Greene, United States District Court of the District of Utah, Salt Lake City, Utah.

65. See William G. Paul, *A Vision For Our Profession*, 86-Jun A.B.A.J. 8 (2000).