General Nathan William MacChesney

By Brunson MacChesney

Professor of Law, Northwestern University

(Professor MacChesney's lecture, and Mr. Fisher's, which appears elsewhere in this issue, are parts of a series on distinguished Chicago lawyers, sponsored by the Law School in recent years.)

This series of talks on distinguished Chicago lawyers would have won father's enthusiastic approval. He was a firm believer in the continuity of culture and the lawyer's role as a leader in society. He had an intense interest in public affairs and felt closely linked to the history and development of this country. In his earlier years, he cast himself as the player of a major part, even the Presidency not being excluded from his ambitions. Having this sense of history and his projected share in its unfolding, he kept detailed records of his activities and preserved many documents reflecting his participation.

Father would also have appreciated this occasion. Convinced of the value of recognition of accomplishment as a stimulus to endeavor, he was both generous in his recognition of others and proud of his own achievements. During his full life, he received many military and foreign decorations, honorary degrees, and civic awards. His delight in their acquisition was parodied in the Chicago Tribune's "A Line O'Type or Two" in 1918.

Nathan, Nathan, we've been thinking
How the world will be perplex't.
When the press omits to mention
Some new title you've annex't.

Father's sense of humor enabled him to enjoy this spoofing. Another humorous piece he kept in his files was a tongue-in-cheek New Yorker article by Alva Johnston entitled "The Fifteen Biggest Men in America." The author's suggested new method for scientifically measuring genius and merit called for the counting of the number of lines in Who's Who biographies. On this basis, Samuel Untermeyer won with 99, Nicholas Murray Butler was a close second with 97, and father was fourth with 87. Elihu Root came in eighth with 82.

Life with my father was not quite as colorful as the menage portrayed by Clarence Day, but it was always interesting and controversial. Father, who was usually called General by most of his friends and acquaintances, had a commanding presence, a forceful personality, and a strong sense for the proprieties. With courtly manners and great charm in personal relationships, he was a genial host and a gregarious man. Possessing an endless fund of stories about men and events, he was a practitioner of the dying art of conversation. Somewhat as it was said of Senator Taft, wherever he sat was the head of the table. It took considerable fortitude to interrupt and disagree with him, but it could be done, and he in fact welcomed and enjoyed spirited disputation.

In his youth, he had been the Western Conference tennis champion and an avid horseman. In his middle years, he kept horses and rode regularly at his Libertyville country place, Riverhill Farm. Throughout his life, he was a teetotaler, even refusing whiskey when he had fainted from the altitude in the Rockies. His convictions on this subject led him to decline an invitation to join Calvert's "Men of Distinction."

He was a voracious reader, especially of history and biography. He also loved detective stories, but his Presbyterian conscience dictated a life-long practice of reading two "serious" books before "indulging" in a detective yarn. He had an amusing habit of annotating biographies with his personal reactions to the incidents described. Coupled with his deeply felt sense of duty was a zest for life, and he savored its humor and pathos. He enjoyed ritual and ceremony on routine as well as more important occasions—whether it was "marching" his family, or any guest would do, to the flagpole at Riverhill Farm to salute the "colors," or at large family gatherings when he would don his Scotch garb, stand on the chair, and toast the clan in water! His letters to intimate friends also revealed his wit and humor. One example is his correspondence over a thirty-year period with Frederick A. Brown of the Chicago Bar.

He demonstrated his physical courage in several tours of riot duty with the National Guard as well as in his army service in three wars. In the Iroquois Theater fire, one of Chicago's great disasters, father, who was at a meeting next door, rushed in to assist in the grim rescue work. But his moral courage was equally significant. He never hesitated to speak out on controversial issues, and never remained silent in the presence of injustice or unfairness. I can remember being at the Union League
Club in the thirties at luncheons with his friends or cli-
ents who would launch vitriolic attacks on Franklin
Roosevelt. Father would vigorously defend the man
whose policies and actions were abhorrent to him.

Although a strong partisan, he was tolerant of the
views of others and understood the motivations for
differing social aspirations. His tolerance encompassed dis-
sent within his own family. In 1941, a Wyoming lawyer
wrote him to comment approvingly on my different poli-
tical faith as a healthy sign of independent thinking.
In father’s reply, after referring to his boyhood spent
among his father’s friends who were all Republicans,
and mostly Civil War veterans, he said:

It never occurred to me to be anything other than a Republican.
However, the old background of life has changed. I have always
been a progressive conservative and have felt that the real prob-
lems we have in this country must be worked out by a constantly
advancing social program. I felt the way to do it was within the
framework of the Republican party. My son thought that was
hopeless. We disagree radically on the approach to many questions.
He still has more faith in the possibility of early reform than, un-
fortunately, I have been able to retain. Fortunately, it does not
affect our personal relations and we have many a good discussion
together regarding these matters.

I can endorse his statement on our personal relations
and “many a good discussion.” In support of his self-
characterization as a “progressive conservative,” I offer
his commencement address at Detroit City College in
June of 1933. Father, then 55 years old, described his at-
titude towards the age in which he lived and defined his
philosophy of life to the depression generation in his
audience.

He begins by quoting Mirabeau, “Nothing is impossi-
able to the man who can will, then do”; and Emerson’s
“Nothing worth while was ever achieved without en-
thusiasm.”

Mentioning his college years (1894-1898), years which
he described as a turning-point in social attitudes, he
said:

During the decade preceding, our people had been a very con-
fident and self-satisfied people. It had been largely a period of rapid
physical development, but one without much social outlook or
sense of duty to human life or its surroundings. . . . [The period]
was “hard” from a social standpoint.
About that time, however, there came a desire for a wider and
broader life and something better than we had known. . . .

After a brief discussion of the Spanish War and the
emergence of Theodore Roosevelt as a practical idealist,
who struggled to purify the politics of the day and to
correct some of the outstanding abuses of business and
industry, he continued:

The young men of that day, too, were inspired by world in-
terest and a faith that things would soon be better. . . . [They]
took a vital interest in political reform and social work,
as evidenced by the founding of city clubs and civic organizations,
and going into residence at social centers springing up all over the
country. . . . The atmosphere was one of hopeful interest as we
drew near the beginning of this century and on through its first
decade (until World War I). . . . We had a feeling that things
could be made better, and that in the not too distant future, and
that we had a part to play in it.

Referring to the generation of his audience, he said:
I am not critical. . . . They sometimes startle me, but on the whole
I think they are an improvement over . . . my generation. I have
one criticism to make . . . [your generation] seems to lack the vital
interest in the things about them, or the sense of personal re-
sponsibility to change them, or the desire to work at that im-
provement which characterized the college man or woman of
the better type in the days before the World War [I].

Commenting on the effect of World War I, the Peace
Conference, and Wilson’s idealism, he said:

. . . a great disillusion had taken place which was to turn the
attention of all America from the high plateau of social and world
service to the illusion of continued progress and social content-
ment through business prosperity which became a new God.

Reflecting on the twenties, he continued:

. . . Perhaps one trouble with the decade has been that . . . na-
tional prosperity [was regarded] as an end in itself instead of a
means to a larger life, deeper contentment, wider social welfare
and greater spiritual values. . . . It should have taught us that the
life of any individual or nation based upon a mere accumulation of
wealth has a foundation of shifting sand.

Analyzing the impact of the machine age and war, he
stressed the importance of idealism in youth and urged
them to hold onto their ideas with enthusiasm through
life; that these youthful ideals were generally right if
their pursuit was guided by experience. He concluded:

Do not be a “poodle dog”; get out and fight for the things in
which you believe and for the things which are worthwhile.
I call you to a life of hard endeavor and of worthwhile accom-
plishment; not to a mere cult of efficiency but to an objective
worthy of life itself. Have faith that better times are ahead and
that you can contribute to them. Work for an adequate social
program that will advance the world toward a goal in which you
believe; a better chance for every child; better opportunities for
the average man; higher standards of morality, of living, and of
outlook; more sunshine and joy for the women and children of
the nation; the abolition of fear in men’s lives; some security for
his livelihood; some assurance against sickness and disaster; a
more serene old age as assured by old age pensions, insurance and
the like; a social program that shall somehow take the nation for-
ward along the way in which you believe it should go.

He ended by quoting one of his favorite philosophers,
Josiah Royce: “The shadows will be behind you if you
walk into the light.”

These commencement remarks throw light on his per-
sonality and help explain his motivations and activities.
Before discussing his career, a brief survey of his family
background and youthful influences may contribute to an
understanding of his development. The immediate
background is professional, and, over a longer period,
there is a tradition of conviction, dissent, and anti-
establishment.
Father was a descendant of Scotch Presbyterians who, having been expelled from Scotland and then from Northern Ireland for adherence to their faith, emigrated in 1688 to Virginia. His grandfather, Nathan MacChesney, after whom he was named, was an officer of the Virginia militia in the War of 1812. Paid for his war services by a land grant located near Galesburg, then part of Virginia, his grandfather was one of the founders of Knox College. His father, Alfred Brunson MacChesney, studied at Knox, and completed his education at the University of Michigan Medical School in 1853. He was awarded an M.A. degree at Knox in 1857. Practicing medicine in Quincy and Alton before the Civil War, his homes were stations on the “underground railway.” In 1860, his first wife, Elizabeth Hudnut of Philadelphia, died in Alton. Subsequently, as a member of the Illinois Volunteers, Dr. MacChesney was a Lieutenant-Colonel and surgeon on General Grant’s staff during the Civil War. In the course of this service, he met the woman who was to become his second wife, my English grandmother, Henrietta Milsom. She was the daughter of a clergyman who taught Greek at Oxford and who was sympathetic to the abolitionist cause. Her two brothers were serving in the Union Army, and she had come over to nurse one of them when he was fatally injured at the Battle of Atlanta.

After the war, she studied medicine at the old Northwestern Medical School for one year. The school having then decided to exclude women, she transferred to Michigan, graduating in 1873. After graduation, she worked in out-patient clinics on New York’s East Side. Father, years later, took pride in making the motion, as trustee, for readmitting women to Northwestern’s Medical School. In 1876, she married my grandfather, who had practiced surgery in Chicago after the Civil War. Their first child, my father, was born in 1878 on Chicago’s West Side. Her second child, Alfred Brunson MacChesney, Jr., died in his seventh year. Another brother, Chester MacChesney, survives.

Childhood influences, in addition to Republicans and Civil War veterans, included well-known figures from the then Western frontier who were family friends and acquaintances. Buffalo Bill (Cody), one of them, excited the envy of father’s contemporaries when Cody drove his wagon to his Wild West show at the World’s Fair of 1893 in Chicago, with Annie Oakley, the famous markswoman, in the back seat with father, then in his early teens.

At the age of seven, an experience which father often recounted with relish was a trip to New York with his father to attend Grant’s funeral. They rode in the funeral procession in a carriage which had been used by George Washington for his inauguration. The carriage is now in the Smithsonian. The then owner of the carriage was a military friend of Grant’s, Captain Richardson. Richardson occupied a large mansion at 23rd and Broadway, at which father and grandfather stayed for a week. Grandfather testified, after Richardson’s death, in a suit brought by his former housekeeper to establish herself as his common-law wife. When asked on cross-examination why he felt she did not have this status, grandfather replied that there had been a sign at the front door saying “the woman who runs my house and presides at the table is my housekeeper, and is not, and does not expect to be my wife. Richardson”!

Father went to the Chicago public schools for his primary education, graduating from Hyde Park High School, the family having moved to the South Side. For health reasons, he went west for his college education. He completed his undergraduate work in 1898 at the College of the Pacific. He was a student instructor at the University of Arizona the following year. During these years, he was a Chautauqua lecturer and press correspondent. Riding in the open spaces and the frontier atmosphere of the period were vivid memories which fortified father’s life-long faith in individualism and self-reliance.

Returning to Chicago in 1899, he took his first year of law at Northwestern University. Wigmore was one of his teachers, and remained a friend, and associate in numerous enterprises, for many years. Father wrote: “He has influenced me more than any other law teacher.” Transferring to the University of Michigan, he graduated from the Law School in 1902. He maintained an active interest in the schools he attended, and they, in turn, recognized his efforts by conferring honorary degrees.

Father met my mother, then Lena Frost of Riverside, at Michigan where she graduated in 1901. Subsequently, she did a year’s graduate work at the University of Berlin and taught at the Friends Academy in New Bedford. They were married in 1904, and for nearly fifty years enjoyed a happy and fruitful partnership. My mother was a person in her own right with a good mind. She had a delightfully subtle sense of humor, which enabled her to “handle” father easily and skillfully. She shared his interest in civic affairs. Nonetheless, her major efforts were directed to assisting her husband’s career, family, and ambitions, and to these she gave a full measure of devotion.

Admitted to the Illinois Bar in 1902, father started the practice of law with Frederick Becker under the firm name of MacChesney and Becker. Dean Wigmore had advised him to practice by himself and not to enter any of the then larger law firms. Father in later life often told me he thought this was poor advice for big city practice even in 1902. This decision was undoubtedly crucial, contributing both to his independence and prominence. He was never temperamentally fitted to be an “organization man.”
Father's legal career can be divided conveniently into periods for purposes of discussion. The first period, from 1902 until 1917, when he went on active military service, was one of growth in professional matters and of increasing reputation as a leading citizen in political, civic, bar association, and military affairs. Upon his father's death in 1903, he inherited large real estate holdings in Chicago, and much of his early practice was in the property field. He was active in trial work, defending a variety of personal injury cases and handling taxation and condemnation matters for railroads and public utilities. He also did a considerable amount of appellate work in Illinois and other states. One example is North v. Illinois, 201 Ill. App. 449 (1916), a test case in which father appeared for the University of Illinois and helped secure a ruling that the Workmen's Compensation Act did not apply to educational institutions.

At this time he also acted as counsel for various banks and insurance companies, and other businesses. Within five years of graduation, he became general counsel for the Chicago Real Estate Board, and subsequently the first general counsel for the National Association of Real Estate Boards, which he helped organize and represented until he became a full-time referee in bankruptcy in 1947. On behalf of the realty interests of others and of his own, he tried many assessment cases, and represented realtors and builders in other matters. Throughout his career, he appeared frequently before legislative bodies, state and federal, on behalf of real estate interests. He was also counsel for California and Arizona fruit growers' associations on interstate commerce questions.

Despite these demanding and absorbing professional interests, he devoted time and effort, normally set aside for recreation and relaxation, to a bewildering variety of civic activities. Their chief significance for present purposes is to reveal his enormous energy, his willingness to work, and his sense of duty and social conscience, as well as ambition, that spurred him on. In his youth, he had seriously considered the ministry as a career, and he later served as a Presbyterian layman in various church activities. During his first years of practice, he worked in social centers as well as being a director of the United Charities, and other similar organizations. In the pre-World War I period, he served as chairman of several committees of the Republican Hamilton Club and the non-partisan City Club. These committees fought the proposed terms of telephone and public utility franchises, and engaged in many civic struggles involving taxation, special assessments, and the city council.

In 1909, he was secretary of the Lincoln Centennial Commission appointed by Mayor Busse. He delivered the address on Lincoln on behalf of the bar before the Supreme Court of Illinois, and edited a volume: Abraham Lincoln: The Tribute of a Century, which included the principal addresses delivered during that year in Illinois and throughout the world. Woodrow Wilson, then President of Princeton, delivered the principal Chicago address, and other contributors included Adlai E. Stevenson I and Rabbi Hirsch, grandfather of Dean Levi of the University of Chicago Law School.

Concurrently with these other activities, father had been interested in military matters since joining the Illinois National Guard just before being called out for guard duty in the Pullman strike of 1894. Governor Aligfeld had publicly ordered the guard not to use firearms, and many were stoned. Father's disapproval of that order was more than matched by his feeling about the Pullman Company's social attitudes. Some years later, father called on Pullman's president to obtain an additional contribution for the United Charities to assist its laid-off employees. The employees were receiving many thousands of dollars of relief, and the company was contributing $500 a year. The president refused, saying: "The company recognizes no obligation to its employees except to pay the wages contracted for while in the employ of the company."

As a volunteer in the Spanish-American War, initially with a regiment that was part of the "Rough Riders," he first became acquainted with Theodore Roosevelt and Leonard Wood, with whom he was to be later associated politically. Between that war and World War I, he served with the Illinois National Guard, becoming Judge Advocate General in 1911. Upon his entry into U.S. Army service in 1917, he was retired by order of Governor Lowden with the rank of Brigadier General in the National Guard. It was the title thus acquired that led to the familiar appellation of "General" to which I have referred.

Prior to our entrance into World War I, he worked with the War Department on legal aspects of the relationship between the National Guard and the regular army. He wrote an article on the constitutional questions involved in this relationship for the Pennsylvania Law Review (64 U. Pa. L. Rev. 347, 449 [1916]), and argued the test case of Stearns v. Wood (236 U.S. 75 [1915]) in which General Order No. 8 of the Secretary of War, ordering the guard to conform to federal requirements, was challenged. He also worked on the Selective Service Act, and, after his entry on active duty, argued a test case (Frank v. Murray, 248 F. 865 [8th C.C.A., 1918]), which upheld the application of military law to a draftee from the date of draft, instead of from the date of the oath of enlistment applicable to volunteers.

With his military interests, he was a strong advocate of preparedness. Prior to our entrance into World War I, he supported Theodore Roosevelt and General Leonard Wood on preparedness, took military training at Plattsburg and volunteered to serve in the proposed Roosevelt division overseas. As is known, President Wilson vetoed Roosevelt's proposal. Subsequently, Wood charged he was not being sent overseas for political reasons and went to Washington for a showdown with the then
Secretary of War, Newton Baker. At the time, father was on active duty in the War Department, and was just leaving Baker's office when Wood appeared with an aide. Baker asked father to stay with him during the interview. The incident has been much discussed in biographies of Wood and Baker. Father always supported Secretary Baker's sincerity in his position that General Wood could not effectively serve under General Pershing, even though father believed Wood's going abroad would have been good for the morale of allied troops as well as our own.

As one of the first volunteers in the new Judge Advocates' Reserve Corps, he was commissioned, and ordered to duty in June of 1917. He served first as a judge advocate in the Central Department, and subsequently in France in a similar capacity on General Pershing's staff. A special citation from Pershing and other military honors recognized his military services. His experience abroad affected his thinking on international and defense issues between the World Wars.

Returning to Chicago in 1919, he resumed his practice and civic activities. Many of his former clients had left him, never to return. Gradually, he rebuilt his law practice, now more generally centered in real estate. He no longer tried cases as frequently as before. Continuing as general counsel for the National Association of Real Estate Boards, he argued numerous appeals throughout the country and in the Supreme Court of the United States in defense of the so-called model "MacChesney Act" for a state real estate broker's license law. The test case in the Supreme Court was *Bratton v. Chandler* (260 U.S. 110 [1922]). The court below had held Section 8 of the Tennessee model act violative of due process as calling for secret evidence in license proceedings. Father procured a unanimous ruling that the section properly construed did not violate due process. He also argued successfully in many state supreme courts the validity of the trade term "Realtor," a term which Mencken ridiculed as a status symbol in *The American Language* but which father defended vigorously as a method for improving business practices.

In addition to representing others, he was heavily involved in real estate developments of his own. The collateral pledged on loans for these developments was lost, along with the property, in the stock market crash of 1929. This personal financial disaster and the depression changed the nature of his practice. Many of the smaller businesses and banks which he had previously represented were either merged into larger organizations represented by others, or failed. Despite these reverses, he remained active, as counsel for bondholders and protective committees, in handling numerous reorganizations of real estate developments. The impact of New Deal legislation on real estate was also another area of new activity. An example was his appearance before the Federal Trade Commission as spokesman for all of Chicago's real estate interests to contest the application of the Securities Act to various realty transactions.

Concurrently with these professional endeavors, he continued to play a prominent role in civic affairs. In the years after World War I, he became a member of the Plan Commission, the Crime Commission, the Committee of Fifteen, and the Air Board, all of Chicago, among other civic organizations. He was director of the City Club for six years, as well as serving on the Board of the Illinois Children's Home and Aid Society.

With the advent of the European War in 1939, father volunteered once again for active duty. Called out in 1942, he served as a Judge Advocate at Fort Sheridan and on travelling Courts-Martial in the region. In the winter of 1943, he was sent to Alaska for a special Court. In subsequent speeches, he hinted at contacts with the Russians there. On this trip, a plane's oxygen supply had failed, and father's life-long lung trouble was aggravated. Shortly thereafter, he was retired under a new Army regulation discharging Colonels over age 60.

Soon after his return to civilian life, he was appointed by Judge Barnes as a Referee in Bankruptcy, succeeding Walter Schaefer. Referees were then on a fee basis, and bankruptcies were at a minimum, so, concurrently, he maintained his law office, now chiefly devoted to representation of the National Association of Real Estate Boards. Never again to be really well as a result of his Alaskan trip, the strain of maintaining two offices seriously undermined his health. He also served as Special Master for Judge Barnes in several cases during this period. When Referees were put on a full-time salary basis in 1947, father was appointed by Judge Barnes to a six-year term, and he closed his law office with mixed feelings of relief and regret.

The remainder of his active professional career was thus spent in the role of a judge, and he enjoyed the service and devoted his energies to the task despite the declining health which resulted in his death at the age of 76 in 1954. When his term expired in 1953, he was given a testimonial luncheon by the lawyers who had appeared before him, and other legal friends. Among those who wrote on this occasion in praise of his service were Herbert Hoover, Otto Kerner, Jr., Henry P. Chandler, Floyd Thompson, and John T. Chadwell. The latter wrote:

There is no lawyer in Chicago whom I hold in higher regard or for whom I feel greater respect than yourself. Your long and distinguished career is an example to younger lawyers and will be for many years to come.

Mr. Chandler said, in part:

It is only just to acknowledge the high plane on which you conducted the office. . . . You have set an example in the office of Referee the influence of which I am convinced will not be lost.

Father's conception of the duties of a lawyer included participation in professional activities such as the Con-
ference of Uniform Law Commissioners and bar associations. He practiced what he preached. In organized bar work, he was Chairman of the Committee on Amendment of the Law as well as of other committees of the Chicago Bar Association. In his later years, he was an elected member of their Board of Managers. In the Illinois State Bar Association, he undertook various committee assignments. In 1915, at the age of 37, he was elected as the 38th President of that Association, being then the youngest man to have been elected to the office.

During his administration of that office, he demonstrated his constructive imagination and executive vigor by establishing several new departures. He inaugurated the annual testimonial dinner for the Justices of the Supreme Court, now given jointly with the Chicago Bar Association, and hoped to start as an annual feature the first dinner given in honor of the visiting deans and professors of the Association of American Law Schools. A more controversial action was his invitation on behalf of the State Bar to Theodore Roosevelt to speak on preparedness. Roosevelt at that time had also been agitating for the recall of judicial decisions and was not unreceptive to the 1916 Republican nomination for President. Announcement of the invitation set off an enraged outcry among some prominent members of the Association, Lessing Rosenthal and Charles Hamill being among them. Roosevelt was referred to as an anarchist, and the kindest thing said about father's invitation was that it was in very poor taste. Fifteen members resigned in protest, but, according to father, all save one returned quietly.

Joining the American Bar Association in 1906, he served on numerous committees throughout his life. In 1925, he was vice-president for Illinois. In the thirties, he became the Chairman of the Section of International and Comparative Law, and then of the Real Property, Probate and Trust Law Section. He was also a member of the House of Delegates.

In 1938, he was a candidate for President of the American Bar Association. Frank Hogan of the District of Columbia, however, was chosen, and the third 1938 candidate, Charles Beardsley of California, was elected the following year. An examination of the extensive correspondence on that race in his files suggests he would have been a better president than a candidate. Father was not the 'hail-fellow-well-met' type of mixer, and he had taken various stands which had made enemies. For example, in 1912, at the Milwaukee meeting of the Association, he was a leader in the successful fight to maintain the membership of three negroes who had been elected in regular course during the previous year. The Executive Committee had voted subsequently to cancel their election. The then U.S. Attorney-General, George W. Wickersham, father and others supported a proposal which accepted the three already admitted as members but, in return for their retention, a race question on future applications would be required.

In 1927, in his address as Chairman of the Conference of Bar Association Delegates at the Buffalo meeting, he spoke of the decline in influence of the bar and attributed it to undue subservience to clients, especially to business interests, and called on the bar to reassert its independence and individualism. With the prohibition law clearly under reference, he went on to criticize the bar and the bench for their failure to observe the law.

In 1937, at the Kansas City meeting, he opposed the American Bar Association's position against ratification of the pending Child Labor Amendment. Speaking later that year to the Nebraska State Bar Association, he decried the partisan political character of the Kansas City meeting and the tendency of some A.B.A. leaders to be class advocates. He called on the organized bar to appraise fairly social legislation and maintain a position of disinterested leadership on public questions.

Whether issues or personal factors were mainly responsible for his defeat, it was a great disappointment at the time. The experience did not, however, make him bitter. He was grateful for the warm support of his candidacy by the academic branch of the profession, the Illinois Bar, most of the Chicago Bar, and by many practitioners throughout the country as well. What he lacked was the votes of the state delegates.

As a Commissioner on Uniform State Laws for forty-six years, having been appointed by Governor Deneen in 1908, father was, successively, President of the Illinois group, Chairman of the Executive Committee of the National Conference from 1920 to 1922, and national President from 1922 to 1925. His files on the subject are voluminous and reveal much on the methods of the Conference, such as its difficulties in getting adequate financing, its delays, and the scrupulous care with which the Uniform Acts are prepared. He enjoyed the debates and thought the close collaboration of practicing lawyers and such noted professors as Williston, Freund, the Llewellyns, Austin Scott, and Deans Bates, Havighurst, Prosser and Stason, to mention only some of them, to be extremely valuable.

He was a strong believer in the importance of the Conference's work, and wrote frequent articles and delivered many addresses on the subject. His major paper, given as the presidential address in 1916 to the Illinois Bar Association, and subsequently reprinted in pamphlet form, was entitled: Uniform State Laws—A Means to Efficiency Consistent with Democracy. Throughout this and the other papers and addresses, there is strong emphasis on the theme that only by the vigorous action of state governments in meeting social problems could the balance of federalism be maintained. Otherwise, there would be inevitable expansion of the federal government and a consequent decline in individualism and local responsibility. If the states were to be prevented from act-
ing on constitutional grounds, then the federal government must and should act.

His views on the issue of federalism were an important part of his political philosophy. He was not a supporter of states' rights in a vacuum. For example, he criticized the Supreme Court for invalidating the District of Columbia's minimum wage legislation in the *Adkins* decision (261 U.S. 525 [1923]). Nor did he merely criticize. In 1916, he and Thomas L. Parkinson wrote briefs supporting the Child Labor Amendment which were used by the National Child Labor Committee in conjunction with *Hammer v. Dagenhart*. He was also active in the drafting of the Uniform Child Labor Act, and other social legislation in the Conference of Commissioners. To some degree, his views on these questions included a belief in the states as laboratories for social experimentation, akin to Justice Brandeis' well-known philosophy on this matter. He had a Jeffersonian belief in the diffusion of power as a means of preserving democracy and averting dictatorship.

Despite this belief, he also had a realistic understanding of the pressures brought to bear, and the reasons why it was even more difficult to reach agreement on the non-commercial uniform state acts which involved reform or social progress. He nonetheless retained his faith and struggled to achieve reform and social objectives through uniform state action.

In his activities as a commissioner, he demonstrated an objectivity and balance that were characteristic. A few examples must suffice. In the drafting of the Public Utilities Act, funds for conference work were furnished by the industry and efforts were made to keep the source of the funds secret. Father insisted on announcing the source, and, in correspondence with other commissioners, urged particularly careful scrutiny of the provisions and the submission of the drafts to disinterested academic authorities. In the consideration of the Uniform Sale of Securities Act, he expressed disapproval of the negative attitude of investment bankers and their lawyers, and called for specific suggestions from them for improvement. During the protracted drafting of the Uniform Corporation Act, he favored effective regulation of management interests and criticized, for example, the inadequate protection minority shareholders were receiving under existing law. This viewpoint was consistent with his public protests in 1913 and 1917 against corporation bills sponsored by the Chicago Bar Association which he and others charged were too lax and one-sided.

Although general counsel for the National Association of Real Estate Boards, one of his principal clients, he never hesitated to espouse what he considered the public welfare in questions before the Conference affecting their interests. Professor Brainerd Currie has kindly called my attention to one example. In debate on the Model Power of Sale Mortgage Foreclosure Act, he opposed inclusion of any provision for deficiency decrees. In the debate, he argued forcefully that such decrees were "economically wrong and socially undesirable" and were only effective in entrapping the unwary.

His objectivity and essential fairness were not confined to conference or organized bar action. Throughout his association with the real estate interests, he retained his faith in the lawyer's role as policy advisor rather than technician. In his early years, he advised the local Board not to fight workmen's compensation and to recognize labor's right to organize. At the national realty convention of 1917, he criticized severely the practice of inserting in leases clauses attempting to waive servicemen's statutory rights.

Nor was his willingness to cross swords with powerful groups confined to legal matters. Shortly after World War I, he was one of the founders of and the counsel for the Public Health Institute, organized to provide low-cost medical services for venereal diseases. Constantly harassed and bitterly opposed by organized medicine, the Institute was finally forced to close in the thirties.

Education and scholarship was another area in which father was deeply involved. He taught short courses on international and constitutional law and legal ethics at the University of Illinois for several years, and lectured occasionally at other law schools. As one of the founders of the *Illinois Law Review* and the *Journal of Criminal Law*, he served continuously on their Boards of Editors and was a frequent contributor. He was also an editor of the *Journal of Air Law and Commerce*, the other periodical associated with Northwestern Law School.

During his busy life, he found time to complete several books. Written and published in the twenties, his major work, *The Principles of Real Estate Law*, was a study of the significant current problems in real estate law, accompanied by model forms discussed in detail in the text. Modern terminology was employed in sub-titling it as real estate transactions. In the thirties, he prepared a series of lectures which were subsequently published as *The Law of Real Estate Brokerage*, a brief survey of the legal problems faced by the real estate broker in his daily work.

He also wrote a number of rather long essays, some of them delivered as papers at the Chicago Literary Club. Among the published essays were *French Contribution to American Life*, and *French Contribution to American Legal and Political Theory*. Several papers on American history, criminal law and procedure, and military law and policy were also reprinted and circulated.

He was one of the organizers of the Order of the Coif and subsequently became the first president of the national Order in 1910. During his incumbency, he installed the University of Chicago chapter. Also a founder and president of the American Society of Military Law, he contributed often to discussions of court-martial procedures and other questions of military law.
Father was always keenly interested in efforts to improve criminal law and procedure. He was active in the formation of the American Institute of Criminal Law and Criminology and succeeded Wigmore in the presidency. At the Institute meeting held in Boston in 1911, while he occupied that office, he plunged into a well-publicized controversy with Mayor Fitzgerald, Senator Kennedy’s grandfather. Father, after an afternoon visit to Deer Island Prison, charged that conditions were “atrocious,” particularly the failure to segregate hardened criminals. The mayor countered with some comments on visiting reformers.

His major educational interest was Northwestern University, and especially its law school. He became a trustee in 1913 and served continuously until his death. In the twenties, he became President of the Alumni Association and in the forties received the Alumni Medal. During his term of office, he characteristically managed to engage in several heated controversies. An amusing instance of his wading in where angels fear to tread was his assertion that there were too many women on the Evanston Campus! Catherine Waugh McCulloch, a graduate of the law school and Trustee of Rockford College, promptly wrote the Chicago Tribune advocating that gifts by women to Northwestern should be returned and suggesting Rockford College as a suitable substitute recipient!

His part in the creation of Northwestern’s Chicago Campus was, to him, his most significant contribution to the University. In 1915, he made the original proposal for that campus to the Board of Trustees. Subsequently, he espoused and fought for the conception. James A. Patten, then President of the Board of Trustees, was the leader of the opposition. At a meeting of the Deans, Trustees, and officials of the University, Patten charged it would cost three million dollars. In a manner typical of his large vision, father replied that what he had in mind would cost thirty million dollars! Patten resigned when the decision to go ahead was made but subsequently rejoined the Board, and made a generous gift.

In my opinion, he made an even greater contribution to the University’s development in his role as trustee with respect to academic freedom and in support of the measures needed to make the university a growing force in the intellectual life of the community and the nation. More than most trustees, he knew what a university should stand for, and he respected and encouraged its administrators and faculty. For example, when Leon Green was under fire, as a result of his asserted positions on the sit-down strikes and the Roosevelt Court Plan, father defended him vigorously, although he disagreed equally vigorously with Dean Green’s views on those questions. Similarly, when a Northwestern staff member was drafted in 1941, and was immediately cut off the payroll, father protested and characteristically kept up the pressure until a more generous policy was instituted for faculty and staff alike who were called to military or government service.

When the abortive merger negotiations with the University of Chicago took place in the early years of the depression, his initial reaction was favorable. Eventually, he became doubtful, partly perhaps because of the vexing question of the merger’s effect on Northwestern’s constitutionally protected tax exemption. His files contain the conflicting opinions of leading Chicago law firms on the exemption issue. The informal negotiations that came closest to agreement involved the merger of the law schools into a consolidated school on Northwestern’s Chicago campus. Father told me that President Hutchins seemed eager to trade away his law faculty, and then start a school of jurisprudence on the University of Chicago campus under Mortimer Adler. But for the failure of these plans, I would not be here tonight!

Another interesting incident involving the two schools appears in father’s unpublished essay on Wigmore. When President Harper was starting the University of Chicago Law School, he visited Dean Ames of Harvard in a search for talent, which was successful in securing Beale as the first Dean. Ames told Harper: “You will have to consider Northwestern.”

“I know that. I have invited four of its best men, and that will be the end of that school,” Harper replied.

We are still going strong despite later raids! Speaking of raids, they can work both ways. Father, just out of Michigan Law School, was once accused by Coach A. A. Stagg of trying to move Walter Eckersall, star quarterback, from Chicago to Michigan. Countercharges that Eckersall was being subsidized generated considerable heat, but threatened libel suits never materialized.

One by-product of father’s official educational activities was an admiration and affection for educators. Professors were frequent guests at his home. Northwestern faculty friends are too numerous to mention. Ernst Freund was an intimate friend and Dean Hall and Professor Bogert of the University of Chicago Law Faculty were close associates. Other law professors who were good friends included Roscoe Pound and Samuel Williston, both of whom warmly endorsed his candidacy for President of the American Bar Association. Dean Wigmore, an old friend, was an active supporter in that campaign.

From the beginning of his professional career, father participated in politics pursuant to his conception of the obligations of a citizen, particularly a lawyer. He early allied himself with the then progressive and reform forces in the Republican Party. He remained associated with the Deneen group in that party throughout his political life. He was a precinct committeeman and delegate to county conventions during this early period, and served on the Republican Cook County Central Committee for many years thereafter, as well as being offi-
cially associated with Republican National Conventions from 1908 to 1940.

Indicative of the orientation of his political activities in his earlier years was his membership on the Executive Committee of the "Republican Committee of 100," a civic group formed in 1911 to combat "Lorimerism" in Illinois. Lorimer was then the Republican "boss," and was later to lose his seat in the United States Senate on the basis of charges of vote-buying in the Illinois legislature. The Presidents of Chicago and Northwestern Universities were vice-presidents, and Colonel McCormick was Chairman of the Executive Committee. At a giant mass meeting sponsored by the Committee in 1912, father was the principal speaker. The manuscript of his speech, befitting the times, reveals a deep conviction that they were at Armageddon and battling on behalf of the Lord for civic decency and reform.

His papers confirm what he often told me of Roosevelt's later thoughts on the 1912 split in the Republican party—that Roosevelt's race was a mistake, giving control of the party to the Old Guard, and depriving progressive Republicans of any influence on its policies. This recantation fortified father's belief in party regularity. In the pre-1912 maneuvering, he had been originally for Roosevelt, but ultimately supported Taft. Although he frequently fought for progressive and reform candidates in primaries, he usually supported the organization choice in the election, not necessarily with enthusiasm. But he was not always "regular." He wrote all his firm clients in 1916 endorsing Maclay Hoyne, the Democratic candidate for State's Attorney, who was subsequently elected. And in later years, he voted for Adlai Stevenson for Governor and for Sidney Yates for Congress. In 1951, he supported Walter Schaefer for the Supreme Court and refused a request to head a committee for Julius Miner.

One of his major political efforts was his participation in the 1920 Republican contest for the presidential nomination. Long an admirer of General Wood, under whom he had briefly served in World War I, he was vice-chairman of the National Wood Committee, and manager of the Wood Campaign in Illinois. Subsequently, he was Wood's floor manager at the convention, and joined in the fruitless efforts to form a Wood-Lowden ticket.

In correspondence in his files, father attributes the defeat to a general rout of the progressives by the Old Guard, who were determined to nominate a man they thought they could control. Father, like many other Roosevelt adherents, regarded Wood as the candidate of the Bull-Moosers. He opposed Wood's entry into the Illinois and Ohio primaries against Lowden and Harding, and felt these primary entries to have been dictated for personal reasons by large financial backers of Wood. In his opinion, Lowden's bitterness arising out of this Illinois primary opposition as well as his resentment of the tactics used against him in the Dakotas prevented any merger of forces with Wood. In common with other followers of General Wood, he believed Harding's nomination would result in domination of the party by reactionary forces for a long period.

In the post-World War I period, he participated in the debate over American entrance into the League of Nations. Despite his strong nationalism, he supported our entrance with certain reservations. Even though he was never sanguine about the effectiveness of a league to enforce peace, he believed we should try to make the experiment work. Although critical of Wilson's tactics in the League fight, he admired Wilson's moral idealism and defended him publicly in Republican gatherings. During this same period, he backed the efforts to obtain our adherence to the World Court under the so-called Hughes-Root formula.

Although not active in national politics again until 1928, he continued local and state activity. He became well-acquainted with Herbert Hoover in the latter's conferences on highway safety in the twenties in which father served as chairman of the uniform laws committee. As a result of this association, he became a great admirer of Hoover, and retained throughout his life a deep affection for him. In 1928 father was manager of the campaign west of Pittsburgh and director of the Hoover-Curtis Organization Bureau, which organized lawyers, realtors, and other functional groups for campaign purposes. He occupied essentially the same positions in 1932.

As a devoted supporter of Hoover, he shared the view that the election of Franklin D. Roosevelt was a grievous mistake, and a departure from sound traditions. He was critical of the New Deal, and opposed it vigorously. Unlike some other conservatives, however, he recognized that the Harding-Coolidge era had neglected needed social and economic change, and he did not oppose New Deal reforms blindly. His chief objection was to New Deal methods. The Hoover campaigns were to be his last major efforts on the national political scene. In 1936, he was critical of Republican opposition to social security and refused to participate actively.

During his long political career, he was offered the Republican nomination for various offices, such as the Presidency of the County Board in 1912, and a seat on the Supreme Court of Illinois in 1924. Although frequently tempted to do so, he never ran for nor held an elective office. Apart from his service as Referee, the only appointive position he occupied was that of Minister to Canada in 1932. He also served as consul-general for Siam in Chicago for many years. He did, however, undertake various special governmental assignments, such as Special Assistant to the Attorney General of the United States in 1911, and a similar position with the Attorney General of Illinois from 1913 to 1933. He was a Special Assistant State's Attorney in the investigation of election frauds in 1912, and counsel to the United
States Senate for investigations of rent control in the District and of the Veteran's Bureau in this region.

The actions and attitudes on the various issues and occasions previously recounted speak for themselves in portraying father's philosophy and character. He was, above all, an individualist in an age of increasing concentration and conformity. He never lost his belief in individual responsibility for social action. Throughout his life, he was a practical idealist. In his pre-World War I years, he was definitely a progressive. To me, this is the most interesting phase of his professional career, which is the first in this series to be wholly in this century. Summarizing his impressions of father in a 1916 sketch, Herbert Harley, Secretary of the American Judicature Society, wrote:

"... he is essentially, with his intense moral convictions, persuasive and forceful personality, acute critical discernment, varied experience, and impelling sense of responsibility, in the largest and fullest sense a legislator, a lawmaker.

As he grew older, he became more conservative. But his depression experience and other buffets of fortune did not generate pessimism. He retained his enthusiasm for life. He adapted himself to changing conditions and fought stubbornly for his convictions. He kept his faith in the great tradition of the lawyer as a leader of society. He personified the best in constructive American conservatism. Professor William L. Cary captured the mood of this period in the Northwestern law faculty obituary. He wrote:

... [His life] is remembered by us best in the mellowing background of his later years. Although he held strong views on public questions and was always ready to defend his positions against any of us with whom he happened to differ, age brought tolerance rather than inflexibility, and warm friendship rather than misunderstanding.

Although father occupied important posts in local and national affairs for five decades, he did not hold public office except for his brief tenure as Minister to Canada. But a major place in history usually depends on power and position, particularly high public office. Willard King in his recent fine biography of Justice David Davis reminds us of the truth of this in attributing Davis' principal fame to his prominent part in the nomination and election of Lincoln rather than to his service on the Supreme Court of the United States.

What, then, was father's contribution and what was his significance in his own time? To me, it is the character of the role he played. With courage and energy, he participated actively in public affairs. A vital democracy depends on citizens who care about the body politic. My father was a committed man. It was not his professional success but his dedication to the public welfare that made his life significant. It is this quality which is rare, although happily not unique, in the leaders of the bar today. Many of the modern leaders render notable civic services but relatively few of them take controversial public positions in opposition to the views of their powerful clients. This critical function is now chiefly exercised by the law faculties. Changes in social and economic conditions may make it more difficult today for leading practitioners to take such stands. But society is the poorer for it. In his life-long devotion to the commonwealth, father performed a notable public service, and set a high standard for future generations to follow. His family cherishes this legacy of service and values the goals he has set for us. We shall strive to be worthy of our inheritance.

The Secretary-General

The late Dag Hammarskjold, Secretary-General of the United Nations, was awarded the Honorary Degree of Doctor of Laws (LL.D.) at the Special Convocation held in celebration of the Dedication of the New Law Buildings, on May 1, 1960. Following the Convocation, Dr. Hammarskjold delivered a public lecture in the Law School Auditorium. The closing paragraph of that lecture was as follows:

Perhaps a future generation, which knows the outcome of our present efforts, will look at them with some irony. They will see where we fumbled and they will find it difficult to understand why we did not see the direction more clearly and work more consistently towards the target it indicates. So it will always be, but let us hope that they will not find any reason to criticize us because of a lack of that combination of steadfastness of purpose and flexibility of approach which alone can guarantee that the possibilities which we are exploring will have been tested to the full. Working at the edge of the development of human society is to work on the brink of the unknown. Much of what is done will one day prove to have been of little avail. That is no excuse for the failure to act in accordance with our best understanding, in recognition of its limits but with faith in the ultimate result of the creative evolution in which it is our privilege to cooperate.

Dr. Hammarskjold as he was presented for the degree of Doctor of Laws.
States Senate for investigations of rent control in the District and of the Veteran’s Bureau in this region.

The actions and attitudes on the various issues and occasions previously recounted speak for themselves in portraying father’s philosophy and character. He was, above all, an individualist in an age of increasing concentration and conformity. He never lost his belief in individual responsibility for social action. Throughout his life, he was a practical idealist. In his pre-World War I years, he was definitely a progressive. To me, this is the most interesting phase of his professional career, which is the first in this series to be wholly in this century. Summarizing his impressions of father in a 1916 sketch, Herbert Harley, Secretary of the American Judicature Society, wrote:

... he is essentially, with his intense moral convictions, persuasive and forceful personality, acute critical discernment, varied experience, and impelling sense of responsibility, in the largest and fullest sense a legislator, a lawmaker.

As he grew older, he became more conservative. But his depression experience and other buffets of fortune did not generate pessimism. He retained his enthusiasm for life. He adapted himself to changing conditions and fought stubbornly for his convictions. He kept his faith in the great tradition of the lawyer as a leader of society. He personified the best in constructive American conservatism. Professor William L. Cary captured the mood of this period in the Northwestern law faculty obituary. He wrote:

... [His life] is remembered by us best in the mellowing background of his later years. Although he held strong views on public questions and was always ready to defend his positions against any of us with whom he happened to differ, age brought tolerance rather than inflexibility, and warm friendship rather than misunderstanding. ...

Although father occupied important posts in local and national affairs for five decades, he did not hold public office except for his brief tenure as Minister to Canada. But a major place in history usually depends on power and position, particularly high public office. Willard King in his recent fine biography of Justice David Davis reminds us of the truth of this in attributing Davis’ principal fame to his prominent part in the nomination and election of Lincoln rather than to his service on the Supreme Court of the United States.

What, then, was father’s contribution and what was his significance in his own time? To me, it is the character of the role he played. With courage and energy, he participated actively in public affairs. A vital democracy depends on citizens who care about the body politic. My father was a committed man. It was not his professional success but his dedication to the public welfare that made his life significant. It is this quality which is rare, although happily not unique, in the leaders of the bar today. Many of the modern leaders render notable civic services but relatively few of them take controversial public positions in opposition to the views of their powerful clients. This critical function is now chiefly exercised by the law faculties. Changes in social and economic conditions may make it more difficult today for leading practitioners to take such stands. But society is the poorer for it. In his life-long devotion to the commonwealth, father performed a notable public service, and set a high standard for future generations to follow. His family cherishes this legacy of service and values the goals he has set for us. We shall strive to be worthy of our inheritance.

The Secretary-General

The late Dag Hammarskjöld, Secretary-General of the United Nations, was awarded the Honorary Degree of Doctor of Laws (LL.D.) at the Special Convocation held in celebration of the Dedication of the New Law Buildings, on May 1, 1960. Following the Convocation, Dr. Hammarskjöld delivered a public lecture in the Law School Auditorium. The closing paragraph of that lecture was as follows:

Perhaps a future generation, which knows the outcome of our present efforts, will look at them with some irony. They will see where we fumbled and they will find it difficult to understand why we did not see the direction more clearly and work more consistently towards the target it indicates. So it will always be, but let us hope that they will not find any reason to criticize us because of a lack of that combination of steadfastness of purpose and flexibility of approach which alone can guarantee that the possibilities which we are exploring will have been tested to the full. Working at the edge of the development of human society is to work on the brink of the unknown. Much of what is done will one day prove to have been of little avail. That is no excuse for the failure to act in accordance with our best understanding, in recognition of its limits but with faith in the ultimate result of the creative evolution in which it is our privilege to cooperate.