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An Agricultural Law Research Article

ALA Presidential Address

Looking Back and Looking Forward

by

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ALA PRESIDENTIAL ADDRESS: “LOOKING BACK AND LOOKING FORWARD”¹

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I. INTRODUCTION

To prepare for today’s presentation I took the liberty of reflecting on the events of the past year and on some of the fine presentations former presidents offered at the end of their year as leader of this organization. This is the 24th Annual meeting of the Association and perhaps the Association’s 23rd Presidential Address. In last year’s presentation I found some particularly encouraging words when Leon Geyer asked us, how many of us would remember what he said a year later? How many of us would remember the moral of the story he incorporated into the ending of his presentation?²

In the early years of this association, presidents used this opportunity to rally support for the intellectual position of agricultural law and the role it should

1. This title is borrowed from Neil Hendershott, Esquire of the Harrisburg, Pennsylvania Bar who wrote an article with the same title in the Spring Newsletter of the Real Property, Probate and Trust Law Section of the Pennsylvania Bar Association. The title is particularly appropriate to the topics I wish to address, but I want to acknowledge that inspiration for the title of the address rests with Neil Hendershott. *Looking Back and Looking Forward*, Real Property, Probate and Trust Law (Pa. Bar Ass’n) Spring 2003.

2. See L. Leon Geyer, *ALA Presidential Address: Contentious Issues in Agricultural Law*, 8 DRAKE J. AGRIC. L. 1, 31 (2003).

play in professional practice and academic study of law.³ Since a significant number of our members are in academic positions, interest in this subject would seem to be quite natural. While many presentations challenged us to reflect on the intellectual aspects of agricultural law,⁴ it would be an interesting study to return to these addresses to determine how many of the issues of past years have been successfully addressed in later years, and how many of these issues have been eclipsed by issues of greater importance.

In other situations, presidents used this opportunity to rally each of us to a cause of particular interest and concern at the time.⁵ While members sat and listened attentively, what impact did these presentations have on the individual and collective actions of the Association's members? What developed from these efforts? What fruit was born of the seeds these people planted? I do not intend to ask this question without expecting you to do some personal reflection on it. How have these experiences affected you?

Having my enthusiasm charged and refreshed by this review I proceeded to prepare this address by first focusing on three themes: These themes are "Confronting Change," "The Role of this Professional Organization in a Professional's Life," and "Fears for the Future of Collaboration and Consensus Building in the Modern World." Each topic reflects a concern that may be more personal to me than to others, but important enough to share with you as readers of this address. I have described my work as an essay as it reflects many personal opinions and beliefs that I wish to share with you.

II. CONFRONTING CHANGE

The rate and extent of change over the past ten years in the technological, social, political, professional and economic aspects of our lives has been profound indeed. These changes have occurred in such diverse areas as science,

3. See, e.g., Neil E. Harl, *AAAL Presidential Address: Agricultural Law: A Place in the Intellectual Firmament*, 3 *AGRIC. L. J.* 537 (1982) (establishing agricultural law as a distinct discipline within the broader context of undergraduate and professional education).

4. See, e.g., Donald B. Pederson, *Agricultural Law Symposium: Introduction*, 23 *U.C. DAVIS L. REV.* 401 (1990); Terence J. Centner, *AAAL Presidential Address: The Internationalization of Agriculture: Preparing for the Twenty-First Century*, 73 *NEB. L. REV.* 5 (1994); Walter J. Armbruster, *AAAL Presidential Address: Challenges for Agricultural Lawyers Facing the 21st Century*, 3 *DRAKE J. AGRIC. L.* 1 (1998); Thomas Lawler, *AAAL Presidential Address: Changes in Agriculture*, 5 *DRAKE J. AGRIC. L.* 1 (2000).

5. See, e.g., Paul L. Wright, *AAAL Presidential Address: Networking Within the Agricultural Community*, 4 *DRAKE J. AGRIC. L.* 1 (1999); Steven C. Bahls, *AAAL Presidential Address: September 11, 2001, and Agricultural Law*, 7 *DRAKE J. AGRIC. L.* 1 (2002).

electronic commerce, global trade, biotechnology, political and economic systems, intellectual property protection and enforcement, human longevity and the concept of life long learning. As professionals, we have seen how these changes translate into legal and regulatory strategies that challenge us to wrestle with understanding new rules that affect our work, our clients, and the advice and counsel we provide to them. What can be said about change in a modern world? What can be done about change, other than to react or adapt to it? Many have recognized it, and many more have chronicled its potential impacts. I do not intend to duplicate those efforts by referring to something that we see around us everyday.

What has been the impact of change? Many of these changes were positive in nature, but the jury is still out on the impact that some of these changes have. At times, however, it seems to me that in our human history we must have faced similar challenges and developed solutions to cope with them. If that is so, then a fair question to ask is, what have we learned from these earlier experiences? Have we learned anything or are we assigned to repeat the past?

It is also interesting to be in the position of having a new "solution" proposed that appears suspiciously similar to an earlier practice or program that was cast aside in an earlier wave of change. "Back to the Future" is more than the title for an entertaining movie when it applies in your personal situation. In situations like this I ask myself, "How many of these 'new and different' solutions are actually former practices that have been 'repackaged' or 'rediscovered' as something new and different?" After thinking about it for awhile, I come to recognize that it's not the "new and different" characteristic that makes change so exciting. I believe that the enthusiasm that is generated by grasping something we think will challenge us in new and exciting ways is what makes change such an uplifting, as well as anxiety provoking, experience.

I submit to you that well-trained and conscientious lawyers and other professionals are ideally suited to evaluate the impact of these changes. As critical, comprehensive thinkers who are accustomed to sifting through difficult and complex problems and able to recognize the competing interests these situations often create, I believe that our profession is poised to play a pivotal role in helping society deal with the impacts of rapid change. Despite the somewhat negative image in which lawyers are sometimes portrayed, I think there has never been a better time for legal professionals to be in a position to influence the future!

III. THE ROLE OF THIS ASSOCIATION IN A PROFESSIONAL'S LIFE

Why are you a member of this Association? What do you hope to gain from your membership? Do you act toward fellow members with honesty and integrity, or are you competing with them for as much of the pie as you can get in order to achieve the level of success you wish to achieve in your personal and professional lives? Are you receiving what you hoped to receive from the organization? If not, what are you missing? More importantly, what are you willing to do to fill this missing link to support this organization and the purposes for which it stands? This is not only a rhetorical question, but rather one that is crucial to our future. An organization that is as diverse as ours must benefit from that diversity, for it is one of its strengths. If we all thought alike about the issues of the day, we would not be in a profession that prides itself on being intellectually capable to recognize more than one perspective on practically any issue of importance to our time and place.

The organization is at an important crossroad in its life. For most of its existence, the Association relied on volunteers to accomplish all that it needed to do. In recent years, the organization moved to an Executive Director structure and entered into a contract with the American Agricultural Economics Association to obtain Executive Director services in an arrangement that shares one staff serving several organizations. From the organization's perspective, this move to an Executive Director carries with it great expectations for what the organization could do with the addition of permanent staff. These expectations may prove to be difficult to achieve, but that is no reason to avoid setting the bar at a high level for a professional organization that wants to achieve as much as it can. If the organization is successful and the goals are met, the association and its members will benefit from it. If unsuccessful, the organization will learn from that and return with added experience and understanding of what it needs to do to succeed.

As you sit in the audience listening to the various speakers present their topics and discuss your questions, have you considered how much time and effort went into getting this program together? My hat goes off to Susan Schneider for the fine program that she will present to you in this annual meeting. Having it all come together is quite an accomplishment, and Susan is to be commended for making it happen.

But membership in a largely volunteer organization, such as the AALA, should not be a one-way street. Have you thought about the work you are willing to do to support the AALA and its activities? Have you done more than just think about it? Have you put your thoughts into action?

An organization such as this functions through a Board of Directors and a variety of committees. In many ways the committees are more important than the Board, for the committees present a broader list of concerns to the organization than those that come to the attention of the individual officers and Board members. How can your service on a committee help the organization gain additional perspectives and insights about crucial state, regional or national problems?

Adding new members to an organization is essential to the life and vitality of any organization. Unfortunately, growth comes from hard work, such as assuring that every thing the Association does creates a positive impression of the association and its members, selling the organization to interested persons and organizations, and assuring that the organization always delivers to its members something valuable that cannot be found elsewhere. Future boards will address the membership question in a variety of ways. Some of these ways will likely involve each of us helping to spread the word about the organization to people we meet. Helping to make the organization strong and vibrant will help each of us to achieve the goals and objectives that we set when we joined the organization.

IV. FEARS FOR THE FUTURE OF COLLABORATION AND CONSENSUS BUILDING IN THE MODERN WORLD

In this third theme, I want to take advantage of having your attention to ask you to consider and reflect on the following thoughts that are both troubling and challenging. These comments apply to actions within the organization as well as outside it. The comments are important enough to be of concern in both aspects of our lives. Do not allow your feelings and perceptions affect your willingness to consider the points I raise. You may not agree with me, but I do ask you to consider these points.

As our world changes, we have begun to see that few of us are isolated from the political, social, and economic forces at work in all corners of the world today. Despite that realization, however, we also confront powerful examples of the belief that political and economic power can and should be used independent of any consensus or collaboration with other organizations that hold similar power. The most obvious example of this is the military decision to invade Iraq for the purpose of disarming Saddam Hussein of his weapons of mass destruction.

In the minds of some people, having power is sufficient justification for using it, notwithstanding what anyone or any organization may think about the

decision to use power. How will decisions to act unilaterally be viewed in a world where few unilateral acts can be taken without the likelihood of significant resulting consequences? Were the consequences of this action intended? If they were intended, with whose interests in mind was the decision to act made and was such a decision a proper one to make?

What if unintended consequences arise from this decision? If unintended consequences occur, how should these consequences be assessed? Are these consequences simply the unfortunate outcome of a complex situation that can not be controlled, or are these consequences the result of foolish or short-sighted decisions made to accomplish goals with which many people disagree?

Should the actor whose decisions lead to unintended consequences be held accountable for them? If the weapons of mass destruction that prompted the invasion of Iraq are not found, what should be the consequence? If the actor is an elected official, the electorate has a clear opportunity to respond at the ballot box. However, it is disheartening to reflect on the American voter's low level of participation in the electoral process.⁶ The 2000 U.S. Presidential election is one that will be discussed for generations, not only for the many issues involved in the process for determining the outcome, but also because of the impact of the decisions made by the President who took office as a result of it.

I fear that recent events have presented the world view that collaboration and consensus building are dead as approaches that nation states should routinely practice in international relations. All members of this Association are professionals who have a keen ability to analyze proposals, alternatives to proposals, and alternatives to the alternatives. What do we, as a society, lose when one segment of society imposes its perspectives and philosophies on other segments, without taking the time or effort to evaluate or debate alternatives to action or to assess the contribution any of the alternatives will have to solving problems we face in common? If my personal value system does not agree with an elected official's value system, how are these differences addressed and who is responsible to address them? Do elected officials represent the views of the constituencies that elected them, or do they represent all of the people? Is it "unpatriotic"

6. See DAVE LEIP, ATLAS OF U.S. PRESIDENTIAL ELECTIONS (2004) at <http://www.uselectionatlas.org/USPRESIDENT> (In the 2000 Presidential Election, 50.4% of the voting age population cast a ballot for the candidate of their choice. George W. Bush received 47.87% of votes cast, and Al Gore received 48.38%. Approximately 24.13% of the voting age population were able to elect their candidate to the Presidency. Approximately one out of four members of the voting age population controlled the outcome of the election. Can you identify who those people are?).

to question elected officials about decisions when they made the decisions for the stated purpose of defending America from those who wish misfortune upon it?

It troubles me that, in our nation, we can accept decisions without the ability or the opportunity to question their wisdom or their motives. Raising objection is sometimes cast in a negative light in order to avoid addressing the merits of the objection. Why don't people see the world the way I see it and agree with me? Why can't they just "get with the program?"

I was raised in the post-World War II era when the image I received of the United States was favorable for the role it played in liberating Europe and responding to foreign aggression. That view shaped my values and my willingness to serve my country at a time when doing so was not popular. In today's world, a favorable view is not held by a significant portion of the world's population. That troubles me.

Life in our world should not be a popularity contest. Pleasing everyone is an impossible task and frankly unnecessary. However, acting in self-interest with an apparent lack of interest or concern for the collective and individual views of other nation states is more likely to support the notion that the world's superpower acts only out of self-interest. In today's post-Cold War world, America may have the arsenal of a superpower, but it may lack the ability to convince the world that its motives are anything but selfish. I have difficulty accepting that as the world view of my country.

Can the United States promote a "go it alone" policy and succeed? What is the cost that we, as Americans, will pay for the policy our leaders have developed? Is its cost greater than the benefits it might bestow? By the time this article is published, Americans will be involved in the 2004 Presidential election. Some candidates may be calling for the return of our troops from the Middle East. Will our efforts to restore Iraq allow us to withdraw our troops without creating chaos and confusion in that deeply divided country?

By the time Susan Schneider presents her 2004 presidential address to this Association, I believe we will be at an important crossroad in our nation's history. Each of us can play a role in determining the direction that our country will take. Where will you be?

V. SUMMARY

Thank you for this opportunity to allow me to urge you to think about where we have been, where we are, and where we are going. Unlike Leon Geyer, I will not ask you to remember what I say or write in this presidential address. Rather, I will ask you to act on what I have said. Some may not be per-

suaded to do anything. I accept that outcome, even if it disappoints me. For others, however, their actions will be proof of how the message was received and acted upon. I am willing to allow you to take the lead.

It has been an honor and a pleasure to lead the American Agricultural Law Association as its President from 2002 to 2003. I have met many wonderful people who serve the Association and their fellow members. I will continue to assist the organization in the coming years. Will you act with integrity and honesty in your dealings with fellow members? Will you join me by being involved in our organization and moving it forward? Will you be part of the slim majority of Americans who exercise their electoral privilege in 2004? Is life in the twenty-first century a game to be played from the sidelines?