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PASSING THE GAVEL SPEECH

1ST MISTAKE DIDN'T TAKE LONG

When you selected me last August to become President Elect, it didn't take me long to make my first mistake. While acknowledging my family members in attendance in San Francisco, I neglected to mention my only sibling, my sister, Ruth, and her husband, Terry Stone of Kansas City. Ruth is here and has apparently forgiven me; she even brought my niece and her daughter, Allison Stone. Terry is apparently another story. He

was there in San Francisco, but is a no show here. I guess with Terry I have moved from an in law to an outlaw. I think Terry's motto is "forgive and remember". Given that episode, I am not going to try to acknowledge individually all the family and extended family who have gathered here in NY for this event. But I would ask them all to stand and be recognized.

And this is one of those triple witching years in which all the officers of the ABA change at the same time. So allow me to also give a group thanks to Laurel

**Bellows, Armando Lasa-Ferrer, Bill
Robinson, and, of course, Karen Mathis.
Thanks to you all for your wonderful
service, and for your friendship and
support this past year. And I welcome the
prospect of working with our new
officers, William Hubbard, Carolyn
Lamm, Bernice Donald, and Alice
Richmond.**

ACKNOWLEDGE BILL NEUKOM

**One person I mustn't forget to name,
of course, is Bill Neukom. And it's not**

because I'm a SF Giants fan . . . because I'm not. But it's safe to say all of us rooted for the Giants when we heard the news of his exciting new position with the team. As a lifelong Boston Red Sox fan, I want that organization to know that after *my* year as President, I could be persuaded to take a similar position with the Red Sox!

Seriously, Bill, we all owe you a tremendous debt of gratitude, not only for your service to the profession, but also to the Nation. And, indeed, to the World.

Your vision, your leadership, opened our eyes to the reality that the Rule Of Law is indeed the foundation for communities of equity and opportunity – not just for lawyers, but for everyone in all professions and businesses, and in all walks of life. You have extended the ABA’s reach tremendously, which is crucial as our profession and our society become more global by the day. Thank you, President Neukom.

ACKNOWLEDGE NLC/FIRM

Allow me to acknowledge one other person individually today, Lee Cooper. As you know, Lee served with distinction as Chair of the Section of Litigation, as Chair of the House of Delegates, and as President of the Association in 1996-97. I will, I hope, always remember his signature piece of advice upon my election as Chair of the House. Lee told me, Tommy, finish your term with more friends than when you started. If you do, you will have been successful. As we say in Alabama, God willing and the creek don't rise, I hope to conclude my term as President having fulfilled Lee's advice to

me. Though I do have one mountain to climb: as Jerry Shestack told me when he was doing his Presidential appointments, for each appointment he made, he earned one ingrate and nine irates.

Without the mentoring of Lee and Joy, his wonderful spouse, Jan and I would have never had the opportunity to be here today. And without the extraordinary support of my firm, Maynard Cooper & Gale, I also wouldn't have this extraordinary opportunity to lead the Association. I would like to ask all of the lawyers from MC&G who have

traveled up here to stand up and be recognized. Indeed, as you've seen in the latest issue of the ABA Journal, Maynard Cooper is one of 42 firms nationwide that have made ABA membership a top priority by encouraging all of their attorneys to join the Association. We thank all of them for their continued support.

HENRY UPSON SIMS

Lee Cooper was not the first ABA President from Alabama, or even from Birmingham. That distinction belongs to

Henry Upson Sims, a real property lawyer of national renown.

My knowledge of Henry Upson Sims was, until recently, mostly relegated to a faded portrait that was found in storage in the Jefferson County Courthouse. The Presiding judge showed it to me with a not so subtle suggestion that I foot the bill for a restoration.

That relic reminds me all too starkly of how fleeting our service is. The office of President is not mine to own, or even lease. Instead, it belongs to you—to all of

our members. Like those before me, I merely have the opportunity to briefly serve as a trustee—with our members as the beneficiaries.

As I brace myself for the coming year, I think about Henry Upson Sims, because—as the old Chinese curse puts it—he led in interesting times. He was president of the Alabama State Bar from 1917 to 1918—America's years in World War I. And he served as president of the ABA from 1929 to 1930.

Following in his footsteps, I want to assure you of one thing: Any connection between Henry Upson Sims and the stock market crash of 1929 has been greatly exaggerated.

Under Sims' leadership, things in the ABA were a lot different, but at the same time they provide valuable lessons for today. According to Time Magazine – yes Time Magazine reported on the ABA meeting in 1930 – the heated debate

before the ABA that year was one that a substantial portion of the membership viewed as a social issue beyond the pale of the ABA – we now refer to that as germaneness. Can you guess what that issue was? It was Prohibition.

Sims' speech to those assembled in Chicago provides another lesson—at least to me. He assured his audience that [quote] “visions of social strife are but phantasmagoria of morbid brains.”

For one thing, I pray I never turn a blind eye to social strife. And I assure you that after today I will never use the words phantasmagoria and morbid brains in any of my speeches.

COMMON CORE VALUES

One thing is not phantasmagoria: I pledge to you that my term will focus on common core values of our profession, values that resonate whether you are a lawyer on Wall Street or a lawyer on

Main Street: Values that Unite us as a profession; Values that Inspire us to work together; Values that Enable us to make a difference as a profession. As I see them, these values include access to justice, independence of the bar and the judiciary, diversity, and the rule of law.

ACCESS TO JUSTICE

The first value that unites us, inspires us, and enables to make a difference us is access to justice. We all agree that there is no viable justice if there is no access to justice. As lawyers we must be prepared

to stand up and speak out for access to justice. On this issue we all stand together. And we yearly stand together on this issue during ABA Day in Washington when lawyers from all over the country and from all practice areas lobby on Capitol Hill for adequate funding for the Legal Services Corporation. I invite you to join us this April for this annual event. Were it not for us, the LSC would have ceased to exist years ago!

We need your help, and your response is encouraging. For the first time last

spring, we generated a letter of support for federal Legal Services funding signed by bar presidents of all 50 states, the District of Columbia, and, yes, Tom Bolt, we even had the two territorial bar associations as signatories.

Access to justice is not only about the LSC. Among many other access projects, allow to highlight one: the Military Pro Bono project. This unique collaborative work sponsored by our LAMP Committee and the Section of Litigation promotes cooperation and referral between military lawyers and lawyers in

private practice who are willing to represent active duty military members in state and local courts, after screening by the JAGs. It is one way we are both supporting our troops and ensuring that they have access to civil justice when they need it.

INDEPENDENCE

A second core value that unites us, inspires us, and enables us to make a difference is independence:

Independence of the Bar and of our Judiciary. As an independent bar, we

are, as we say in the South, “called to the bar”. Think about that. The only other profession that is referred to as a calling is the ministry. We lawyers also minister, but we minister in the realm of justice. And through our vigilance, we remain a self-regulating profession. Indeed, this year we celebrate the Centennial of the first ABA Code of Ethics – which, by the way, was itself modeled on the first state code of ethics, which was adopted by my home state of Alabama in 1887.

But self-regulation is not self-sustaining or self-perpetuating: just look

at the accounting profession and what happened to them in the wake of Enron. So we must remain attentive and continue not only to set, but also to enforce, our ethics rules. And we must continue our important and effective work on other independence issues, such as fighting erosion of the attorney-client privilege and related doctrines in federal investigation policies.

Judicial independence is the flip side of the coin. On that issue, we have ideas on both the state and federal level. [Summit and Res. 118].

Next spring, we will host a national summit for state bar and judicial leaders to share best practices and strategies for promoting fair, impartial, and independent state courts. Our friends Ned Madeira from Philadelphia, and Justice Mark Martin of the North Carolina Supreme Court, are volunteering their signature energy and leadership as co-chairs of this exciting and crucial project. And I am pleased to announce that Justice Sandra Day O'Connor has agreed to serve as Chair of that Summit.

We'll also work in with the new administration and Congress to eliminate the stubborn partisanship and delay in the confirmation process for federal judges, which the policy [you are considering tomorrow / you passed today] will help us do.

And we will uphold the universally respected work of our Standing Committee on the Federal Judiciary, whose thorough peer reviews ensure that judicial nominees meet the highest

standards of integrity, competence, and temperament.

DIVERSITY

A third core value that unites us, inspires us, and enables us to make a difference is Diversity. When gifted women and men of color face systemic barriers to entering law school, passing the bar exam and rising in our profession, it is not just a lack of opportunity for those individuals. It is also a lost opportunity for all lawyers as we strive to

serve an increasingly diverse society.

During the upcoming bar year, we will host a national diversity summit for bar leaders, chaired by Eduardo Rodriguez, to share resources and best practices that promote this common core value of the profession.

RULE OF LAW

Our fourth common core value that unites us, inspires us, and enables us to make a difference is the rule of law. As Bill Neukom reminds us, it is not the rule of lawyers, nor is it the Law of Rulers: It

is the rule of law, succinctly defined by the World Justice Project. Promoting the rule of law will be especially important this year as we face a watershed election and an inevitable change of administrations in Washington. One defining aspect of our rule of law is the fact that we are blessed to live in a society in which election disputes are handled by judges and lawyers in courts of law and not by force or by mobs in the streets. For my part, I plan to spend a lot of time in Washington with our Governmental Affairs Office advocating our common core values with the new Administration

and with Congress, no matter which candidate prevails and no matter which party controls each house of Congress. After all, the ABA is neither a D nor an R, we are neither red nor blue, and we are neither liberal nor conservative. There's only one L word that accurately describes us, and that's Lawyer.

I've said before that as lawyers, at times we can be pretty good at making a dollar; but we are at our dead level best when we make a difference. Well, one thing is for sure for me this year – with apologies to my law partners – but I

won't be making many dollars this coming year. I will – no, let me rephrase that – WE, all of us, will be doing our dead level best to make a difference.

And we'll be doing so during interesting times of our own, as we anticipate a historic election and debates over the common core values we hold dear as lawyers. We'll be inspired by our greatest lawyer-president who had his own extraordinary challenges, Abraham Lincoln, whose bicentennial we'll celebrate in 2009. As providence would have it, we'll all be together for Lincoln's

**birthday, February 12, during our
Midyear Meeting in Boston. And in
August, we'll meet again in Chicago, the
Land of Lincoln, where many of his
clients and legal cases were based**

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**As lawyers who share President
Lincoln's proud profession, I look
forward to joining you to stand up, to
speak out, to work together, and to make
a difference on advancing our common
core values. We have some important
work to do together this next year! Now
let's go do it!**