

**Remarks of Clifford E. Haines, PBA President-elect**

**PBA House of Delegates**

**June 4, 2009**

**Pittsburgh, Pennsylvania**

Good morning everyone.

It has occurred to me that you do not know much about me, so I thought I would give you a brief – not in the resume – biography.

I am the only child of staunchly Presbyterian parents who traced their roots to Colonial days. I was raised in PBA Zone 9 where I attend the Cheltenham public schools in Montgomery County. I moved to PBA Zone 12 when I was a high school junior and graduated from Shaler High School.

After ten years of college, the military and law school out of the state, I returned to Pennsylvania and began the practice of law in Arlen Specter's District Attorney's office in Zone One. I was sworn in as a lawyer and DA with Ron Castille, Jim Colins and Bonnie Leadbetter.

I have practiced in Philadelphia consistently for 34 years.

I own a small farm in PBA Zone 5 – but must quickly add that it's a tree farm.

I love the practice of law. Each day I stay home long enough to see my kids and then rush to work because I love it so much. I believe passionately in the Rule of Law and the role of lawyers as leaders in the community.

I recognize that the practice of law can be:

- Daunting
- Discouraging
- Disillusioning

I believe that a bar association can be a place to find camaraderie and fellowship as well as a place to pursue the aspirational goals of our profession to seek more perfect justice.

I believe that was the view taken by the founders of this association.

In 1895, seven hundred lawyers came to Harrisburg to assert a collective voice to challenge legislation that would have changed the rules of practice in the courts.

Interestingly, they organized themselves based on a statement of purpose that has remained inviolate to this day. It is now incorporated into our bylaws, and I encourage each of you to read it. I'm going to ask us all to reflect on that statement and consider whether it fairly states who and what we are today.

I want to talk to you now about an agenda that I want to pursue. First, though, let me tell you that no president can slavishly adhere to a preordained track because of evolving events, and that is true for me. Although some of the plans I want to discuss have been brewing for some time, recent events require our immediate attention.

First, we must immediately turn to the budget crisis as it affects our court system and the delivery of legal services. Chief Justice Castille has reported on the impending crisis in the courts, and we need to stand shoulder-to-shoulder to insure that our courts are adequately funded.

Secondly, while we supported the Governor's line item for legal services, the Senate has eliminated the line item altogether, and we cannot allow this or even a reduction from the Governor's recommendation to occur. We must stand with the legal services community and support it. Please call your state senators and representatives and ask them to fully fund these critical programs.

The financial crisis has hit lawyers as hard as anyone. While we help others, we must help ourselves, too. Your Board of Governors has begun discussions about programs to assist displaced and distressed lawyers. We will be announcing shortly a list of services to lawyers who have seen a dramatic fall in income or have lost jobs because of the economy. We are exploring a program to help those young lawyers who have had their law firm jobs deferred by placing them in internships as law clerks in state and federal judicial chambers. We have discussed a bridge loan program for lawyers who are at risk of losing their homes, medical insurance and law practices.

This brings me to Luzerne County. Your leadership is monitoring carefully the evolving investigation in Luzerne County. To the extent that what has happened there represents an egregious abuse of judicial power, we condemn it there and throughout the commonwealth, and we will work with the Supreme Court and the Pennsylvania Conference of State Trial Judges to be sure the situation is isolated. If not, those who dishonor our profession and the judicial system should beware.

At the same time, we stand firmly behind those honorable lawyers and judges who are not represented by the few but who, nonetheless, are tainted by their misdeeds.

I want to switch gears now and talk to you about a plan that has been percolating for the past nine months. We have been talking about what the Pennsylvania Bar Association can do to correct deficiencies in the operation of government that so dramatically affect our long-term concerns and issues. These are issues that have been percolating around Harrisburg and never seem to gain real traction.

As an outcome to the discussion to date, I have asked the PBA Board of Governors – and they have approved – for a special meeting of our House of Delegates on October 19, 2009. The purpose of the meeting will be to consider a resolution I will circulate to all of you shortly calling on the governor and the legislature to create a Constitutional Revision Commission to determine whether constitutional change can improve the quality of government in Pennsylvania.

This association is grounded in the principles of advancing the jurisprudence and of securing proper legislation in this commonwealth. A part of the storied history of the PBA occurred in the mid-1960s after Governor George Leader had appointed a commission to study constitutional revision. That commission recommended over 150 changes to our constitution. Recognizing the paramount role of the state's lawyers in constitutional revision, the bar began to take an active role in the process and was instrumental in guiding the Constitutional Convention of 1968, which recommended the creation of our unified court system.

It was the consensus at the conclusion of that convention that the Pennsylvania Constitution should be reexamined every 15 years. That has not happened.

However, in the last session of the General Assembly over 68 bills were introduced to amend the constitution, and there has been growing sentiment that a Constitutional Convention is in order.

Last fall, I convened a PBA study group led by former PBA President Andrew F. Susko and including former PBA President Timothy Carson, Duquesne University School of Law Professor Kenneth Gormley, Widener School of Law Professor John Gedid, Temple University Beasley School of Law Professor Michael Libonatti and former Pennsylvania Justice Cynthia Baldwin, and several other members of the Bar.

Here's a summary of what they concluded:

- Government structure and operation in Pennsylvania are not always efficient, effective or fair.
- Education, taxes, and reapportionment are not responsive to the needs of a 21<sup>st</sup> century society.
- A careful review of Constitutional reform to address these matters is justified and needed.

Let me be clear about what the resolution will call for.

- A study commission to explore constitutional revision
- A strict limitation on those areas subject to review
- A clear statement that this is not an opportunity to change people's rights, challenge the authority of the courts or any of the rights held by our profession.

Let me be equally clear on why we are going to do this at a special meeting.

Our Constitution is the paramount embodiment of the law in Pennsylvania. While there are wide-ranging rights to change it under existing law, it should not be done without the careful consideration and involvement of lawyers. A recommendation to explore changes will meet with questions, concerns and reservations, but it is an important discussion. If nothing else, we need to prepare for the many recommended changes that already exist.

Some already have suggested that there cannot be limited revision but that is not correct; whether by amendment, commission or convention, the governor and the legislature have the power to dictate the extent of review.

While there are risks in what we do, there are rewards that I believe will outweigh them. The study group I have formed will become a task force led by our outgoing House of Delegates Chair Kathy Manderino and Andy Susko. This task force will consider any view from any quarter and invites your comments. It is my intent to meet personally with every Zone to answer questions and further explain the value of this effort.

Our work this year will not only be external, but internal.

I have asked a group of lawyers, led by former PBA Presidents Tom Cooper and Bob Fiebach to revisit an issue considered almost twenty years ago – the creation of a captive insurance company.

Legal malpractice insurance has become more important than ever. Rates have skyrocketed. A number of state bar associations around the country have successfully started their own insurance companies to stabilize rates and to retain whatever profit a private insurer might generate for itself.

I have asked our Civil Litigation Section to look at the Rules of Civil Procedure to see if it is possible to revise the index and ordering of the Rules. All too many practitioners – who still look at the book – find navigating the index impossible.

I have asked our Business Law Section to review the Commerce Court model followed in Philadelphia to see whether it is something that can benefit other parts of the state. I also have asked the Bylaws Committee to review our bylaws, and I have asked former PBA President Leslie Miller to chair a committee to look at the future of Continuing Legal Education (CLE.)

Finally, I have recommended to the PBA Board of Governors that we employ a diversity officer to help us expand our involvement with the minority lawyer community. This fall, we will have a conference involving the leadership of the minority bars of Pennsylvania and our board of governors to help increase understanding and awareness of issues affecting the minority legal community in Pennsylvania

So the plate is full ... not all of this will be done in one year, and it will be up to President-elect Gretchen Mundorff and Vice President Matt Creme to keep the fire burning.

I have asked Miss Pennsylvania to be with us this morning not to present to you a pretty face but to present an exceptional artist. I've asked her to say a few words to you as well about what she intends to do with her music

I believe the evidence is clear that children exposed to music have a calmer disposition and achieve better in school. One of Pennsylvania's tragedies is that music and art have been largely abandoned in distressed schools. But art provides a respite for all of us. It often lifts our spirit and surely charges our imagination. I would like us to make ourselves available to young developing artists who need legal assistance.

Each year, as the PBA installs a new president, it is an opportunity to renew ourselves and reaffirm our mission.

What I have proposed may sound bold and radical. In truth, it is, in most respects, updating policies and practices that are a part of our rich history of 115 years.

I hope you will stay with the journey, and we can grow in stature together.

Thank you.