

COMMITTEE TO NOTIFY THE SENATE

Scheelhaase of Woodbury moved that a committee of three be appointed to notify the Senate that the House was ready to receive it in joint convention.

The motion prevailed and the Speaker appointed as such committee Scheelhaase of Woodbury, Chiodo of Polk and Clark of Cerro Gordo.

The committee appointed to notify the Senate that the House was ready to receive it in joint convention reported it had performed its duty. The report of the committee was accepted and the committee discharged.

The Sergeant-at-Arms announced the arrival of the President of the Senate, the Secretary of the Senate and the honorable body of the Senate.

The President was escorted to the Speaker's station, the Secretary of the Senate to the Chief Clerk's desk and the members of the Senate were seated in the House chamber.

JOINT CONVENTION

PIONEER LAWMAKERS

(HOUSE CHAMBER — 1:30 p.m.)

In accordance with House Concurrent Resolution 13, duly adopted, the joint convention was called to order, President Neu presiding.

President Neu announced a quorum present and the joint convention duly organized.

Senator Kinley of Polk moved that a committee of four be appointed to escort the Pioneer Lawmakers into the House chamber.

The motion prevailed and the President appointed as such

committee Senator Priebe of Kossuth, Senator Bergman of Osceola, Representative Middleswart of Warren and Representative Crabb of Crawford.

The committee escorted the Pioneer Lawmakers to the well of the House chamber.

President Neu presented Senator C. Joseph Coleman, President pro tempore of the Senate, who welcomed the Pioneer Lawmakers on behalf of the Senate as follows:

Mr. President, Members of the House and Senate, Pioneer Lawmakers, Honored Guests, Ladies and Gentlemen.

It is indeed a rare privilege today for me to welcome the members of the Pioneer Lawmakers Association. What makes it a unique occasion is because in extending a welcome to you, the Pioneer Lawmakers, you extend a welcome to me. In a research of past programs I could find no precedent for such a reciprocal welcome.

In the past twenty years I have seen many changes. Today we have much concern about pollution, the latest being noise pollution. I was initiated into my first session by an airplane buzzing the capitol for four hours but having no contest with the lobbyists sitting on the floor behind the senators. All this amidst the efforts of the senators to be heard without a sound system.

We have progressed from triangular pieces of oleo to multi—angular pieces of olio representation.

Twenty years ago we confirmed gubernatorial appointments in executive session. Ten years later in 1967 we did this in open session. Today we do it with "en bloc" confirmations.

We have progressed from Buster the "Papa Bear" to, in as I look over the members of the House, the "Barely Papas"!

Almost twenty years ago Judge McManus was the first Lieutenant Governor to claim his wings were clipped before he learned to fly. Lieutenant Governor Neu has also complained his plumes were plucked or is the word "plums".

It has been a delightful and eventful twenty years almost like the expression, some of you have heard before, of one former legislator — "It's been the longest convention I ever attended".

So in the manner of the Senate — I say to you — it is a pleasure to welcome you today to the Iowa Legislature and hope that your visit will be both enjoyable and educational and invite you to come back again.

President Neu presented Representative Carl V. Nielsen, Speaker pro tempore of the House of Representatives, who welcomed the Pioneer Lawmakers on behalf of the House as follows:

Mr. President, Mr. Speaker, Members of the Pioneer Lawmakers Association of Iowa, fellow members of the Sixty-seventh General Assembly, Ladies and Gentlemen:

I have been asked on behalf of the members of the House of Representatives to welcome back the Pioneer Lawmakers and believe me—you are very, very welcome and I am honored to express that welcome to you.

In your days here in these chambers and in the Senate, you were a part of making laws, adding to customs and traditions that have been passed down to us. When I was asked to talk to you for a few moments today I looked back over the years via the journals endeavoring to gain guidance as to what others who have addressed you have spoken about.

As in years past, we are today faced with demands that we must do something about; taxes, we must do something about our roads which are deteriorating, our bridges, also our health care costs which are soaring, our prisons are overcrowded, etc., etc. These issues are not new, nor is the degree of difficulty in solving them, and just as you did we will endeavor to do our best to provide solutions, and will probably go home—not totally satisfied with our efforts.

Others may disagree but after considering all which has gone on before it is my opinion that the single greatest legacy which those who served here before have passed on is the unquestioned integrity of the membership of this body. That unquestioned integrity cannot be legislated, it cannot be bought, it does not come about because of news releases, but rather it is earned.

You earned that reputation as our predecessors and I thank you for it and think we are unanimous in that thanks. It is one of the things we inherit that makes this job tolerable. It is certainly one of the things which must be closely guarded so that others may be elected to a body which has such a high standing. We thank you for the work which you did which gave us a base to work from. We thank you for your continued interest in us and the legislative process which you exhibit by your presence today and we invite you to return again.

Again, welcome to the House.

President Neu presented the Honorable Wendell Pendleton who responded to the welcome.

Mr. Pendleton recognized the Honorable George O'Malley and requested he escort to the well of the House for recognition Miss Lillian Leffert and Mrs. Edna Gillespie, who by a unanimous resolution duly adopted, were awarded honorary membership in the Pioneer Lawmakers Association.

Miss Leffert who served as secretary to the judicial committee in 1919, retired as legal counsel of the House of Representatives in 1974, after fifty-five years of service to the State of Iowa.

Mrs. Gillespie began her service to the State of Iowa in the Senate in 1929 retiring as assistant secretary of the Senate and journal clerk in 1967, after thirty-eight years of service.

The joint convention rose and expressed appreciation to Miss Leffert and Mrs. Gillespie for their years of service.

Mr. Pendleton then addressed the joint convention as follows:

Lieutenant Governor, Mr. Speaker, Honorable Senators and Representatives and Ladies and Gentlemen.

On behalf of my Pioneer Colleagues let me say for all of us that it is a most pleasant occasion to be with you in this great chamber where history is made. We warm to your welcome and are thankful that the present and future of our great state is in such good hands.

Senator Coleman, while still a relatively young man, is an esteemed member of our association and we acknowledge additional pleasure because of his words of welcome as well as those of Representative Nielsen.

Every elected official of the State of Iowa automatically becomes a member in our association on the twentieth anniversary of the commencement of his or her service to the State of Iowa. We have a biennial meeting such as this every two years and it affords the legislators of bygone years an opportunity to get together, to reminisce and to enjoy the fellowship of those of you who are the present day stewards of the lawmaking arm of our government.

As members of the Pioneer Lawmakers Association, we look forward to this meeting with anticipation and appreciate your hospitality in affording us the opportunity to share a day with you.

The experience of being a legislator, which seems so frustrating at times, will be looked back upon by you, as it is by all of us who have served in other years, as one of the most rewarding that life can offer. It is a rare opportunity to serve your fellow citizens and to help shape the future progress of your state and the destiny of its people. I remember coming down here for the first time in 1951, four years out of law school and five and a half years out of the Marine Corps. The holdover Senators were paid \$1,000.00 for the session, the rest of us \$2,000.00. Many of the lawmakers were guilty of nepotism by employing their wives as their clerks. I was guilty. It was the only way I could afford to serve and my beautiful wife, Pheraby, proved to be my greatest asset.

This great chamber brings back the nostalgic memories of bills passed and bills lost. Hearing the Speaker recognize the Gentleman from Buena Vista was a source of great pride and challenge to me. We all look back on the good old days and the opportunity of service.

It is customary for the President of the Pioneers to make a short address with the principal address to follow. Two years ago, our colleague, Andrew Frommelt of Dubuque, addressed the general assembly on the desirability of preserving the citizens oriented legislature rather than a professional organization. If you will indulge me, I hope to make a few observations in a general way concerning our great American heritage and the inherent dangers of inroads to our way of life.

From an economic standpoint, we can take great pride in the strength of our country built on free enterprise. We must cherish this accomplishment and not seek extreme changes which endanger our free society. We must reward those who labor and we must not hold out premiums to able-bodied freeloaders.

Our government spending must be carried forward with wisdom and concern for the tax payers. We must strive for efficiency and productivity from our civil employees. Taxes must be structured to fall fairly on the people without destroying incentives and the attractiveness of Iowa for new industries. The test of a good legislative body is not necessarily the number of bills it passes but rather it is the manner in which the body responds to the needs of the people. Someone once suggested that for every new law we put on the books, we should take two old ones off. This observation was frivolous I am sure, but the old saying that "they who govern less, govern best" has some merit to it.

In the arena of criminal law, we should cherish our system which holds a person to be innocent until proven guilty beyond a reasonable doubt. Surely we are not ready for the English system which shifts the burden of proof to the accused and holds that a person is guilty until that person proves his or her innocence. The constitutional guarantees of individual rights protects us from a police state. We must not condemn our courts for upholding these

cherished American rights because the alternative would be abuse of individual liberties and would pave the way to tyranny. Many constitutional safeguards provide a shield for the guilty but we can't disregard our constitution without sacrificing the rights of the innocent as well. The Miranda type decisions are blown up out of proportion. A convicted felon gets a new trial and the hue and cry goes out that the courts are turning loose another rapist or a murderer. The media plays up the gory details of the crime but does not fairly follow the ultimate disposition of the great majority of these cases which result in conviction within the rules of competent evidence on retrial.

Many attacks have been made upon the adversary system which prevails in our courts on civil matters. Many of the critics are members of self-serving pressure groups of one kind or another. The common law, the decisions of the courts, has evolved out of human experience and gains its wisdom from a variety of fountains. One is precedent, another is need, and yet another is common sense. As the needs of people become greater and the complexities of modern civilization increase, the common law must change. It has done so but at a moderate and well-reasoned pace. The ambit of liability has continued to grow in the arena of adversary proceedings. The islands of immunity from responsibility have been largely eliminated and wrongdoers are held to answer in damages or are made to redress others for their wrongs. Doctors, lawyers, accountants, architects, engineers and all professional persons selling services are held to a standard of reasonable care free of negligence as well as hospitals, restaurants, manufacturers or others and a failure to observe the standard of due care exposes one to liability to the injured victim. In automobile crash cases, we heard much about "no fault" and great pressure was brought to bear by the media and the insurance industry. An attempt was made to sell it on the premise that it would cut insurance costs. This has proved to be a false premise and you lawmakers are to be congratulated for saving Iowans from this ill-conceived invasion of their rights for reparations from those who negligently maim them or kill their loved ones.

Our system is working and the recent reforms in our judicial process is paying off. Good salaries attract good judges and good judges provide justice for all the citizens of Iowa.

With regard to products liability, we have seen the emergence of the doctrine of "strict liability". This doctrine in capsule form is that when a manufacturer puts a defective product in the stream of commerce, the manufacturer assumes responsibility for damages caused by the defective product which are reasonably foreseeable. Is this so bad? Critics of the law complain of the high cost of insurance to respond in damages. What can be said on the other side in support of the consumer? First, manufacturers are becoming more responsible and careful of the products they sell and distribute. Faulty designs that are dangerous are corrected. Quality of products is monitored and controlled. Secondly, the crises is not real. In a

forty-eight page memo to the White House, Product Safety Letter reported, the Commerce Department—sponsored task force said there is a lack of facts to assess the nature and degree of the problem. "Our study does not suggest that there is no nationwide multi-industry product liability 'crisis.'" The study did recognize that a number of smaller business are having a difficult choice as to whether to go without product liability insurance or to purchase it at a sharply increased premium. The task force called for avoiding specific legislative recommendations until additional studies are completed and all information is carefully evaluated. Consumer advocate Ralph Nader told a Senate committee that he believes the insurance industry is inflating estimates of products liability because it is "trying to stampede state legislatures into a vast curtailment of product liability rights" of consumers. I trust you will not let this happen in Iowa and that new legislation in this modern field of law will be approached with caution and care and with regard for the public interest and at the same time recognizing that a just solution must be found for the makers of products.

Please accept my remarks as those of a lawyer and a Pioneer Lawmaker who still believes in the public interest and the solid future of our great state. Iowa must and will rise to the challenge of helping to feed a hungry world and to keep a favorable balance of trade for the United States of America.

President Neu then presented the Honorable Edward J. McManus, Chief Judge, Northern District of Iowa and former Lieutenant Governor, who addressed the joint convention, as follows:

Members of the Sixty-seventh General Assembly, fellow Pioneer Lawmakers and friends:

Some time ago when Wendell asked me to say a few words I immediately accepted with pleasure for a number of reasons.

1. Hopefully it would be my first opportunity in some time to hear a lawyer say something nice about a judge.

2. It was a chance to escape briefly from my judicial white tower and mingle with old friends and real people.

3. Finally, for the honor and joy of returning after almost 20 years to these hallowed chambers and visiting with the Iowa legislature that I so dearly revere, admire and love.

Rest assured my affection for this body is not a summer romance — both my grandfather and great grandfather also served in these halls.

Forgive me for staring—after my experience here in the 50's, my old eyes didn't believe they'd ever have the pleasure of seeing what a Democratic majority looked like.

Every session seems to pick up a nickname—we've had the colored oleo session, the mourning dove session—from what I've read recently in the Register and Gazette the Sixty-seventh will be known as the "Fun with Dick and Art" session. Your good humor has been refreshing.

I'd like to leave a thought or two with you this p.m. about this business we're all in together; the law business. You the legislators are in manufacturing, you make the law. The practicing lawyers are in sales—selling their particular versions of the law. My colleagues and I in the judiciary are in purchasing, we buy that version of the law that seems most consonant with a fair and just interpretation of what you intended the law to be.

There is one aspect of our law business perhaps worthy of comment and for which I have no answer. It is the flood of new laws and court decisions with which all citizens must cope.

You have heard the old expression: "We are a government of laws not men". You had better believe it. Our ships of state float on a sea of laws. And we citizens are all swimming (and hopefully not drowning) in that sea of laws.

I don't like statistics any better than most people but a few might illustrate this aspect of our law business. Take the Code of Iowa, for example, - in 1968 there were 2600 pages in the Code of Iowa; in 1975, not quite twenty years later, there are 3600 pages in the Code of Iowa. So you can see, in this brief period, we have added 1,000 pages to the Code of Iowa.

The Federal Supplement in 1932 started with Volume 1; in 1962 the number was 200; and today after fifteen years on the bench, and I don't attribute this all to my activities, the number is 426. This is more than double and beside that the volumes have gotten thicker each year. The Federal 2d Reports started with Volume 1 in 1925; in 1962 they were at Volume 300; today in 1977 they are at Volume 550.

There used to be a little pamphlet around the legislature that was given to freshman legislators and school children called "How a Bill Becomes a Law". When we contemplate the impact of all these laws on our people and their purses, perhaps a second edition might be in order entitled "How a Law Becomes a Bill".

Recently Chief Justice Burger of the Supreme Court in a little different context called on Congress to adopt a "Judicial Impact Statement" prior to passage of legislation to determine its impact on the judiciary as an added workload. Maybe a "Public Impact Statement" might be adopted by all

legislative bodies prior to legislating to determine the impact of new laws on the public. Perhaps fewer and shorter sessions — computers — I have no answer to this problem of our law business, but let's not lose sight of it.

While I have you as a captive audience I thought I'd exercise my right of petition and ask you for a small favor for the federal courts in Iowa. We are confronted with a recurring problem of having to decide novel questions of Iowa law that have not been settled by the Iowa Supreme Court. Federal judges have no special expertise in this area and in truth engage in refined guesswork often at the delay, expense and confusion of the litigants. Since 1961, thirteen states have adopted a procedure called certification of questions of law which helps solve this problem. This procedure enables the federal courts to ask the state supreme courts for final answers to these uncertain questions of state law. In fact in a 1974 case, the U.S. Supreme Court in a unanimous opinion by Justice Douglas (which is quite a feat in itself) warmly endorsed this procedure by saying: "It does, of course, in the long run save time, energy and resources and helps build a cooperative judicial federalism".

If you get the time, we'd greatly appreciate it.

Finally, I want to pass on to you a law that should be invoked more frequently by all of us in the executive, legislative and judicial branches of government and especially by after luncheon speakers. I came across it in a headline in a newspaper in Greece last year while my wife and I were there on a visit. The news article was a dispatch from the United Nations giving an account of the remarks of the presiding officer at the opening of the Third International Conference on the Law of the Sea. He called for an end to long-winded speeches and dreary monologues and to get on with negotiations. The headline in the Athens paper was: "First Sea Law: Cut Out the Bull—".

In deference to this profound legal principle I say thank you and 'till we meet again.

Fitzgerald of Webster moved that the joint convention be now dissolved.

The motion prevailed.

The House reconvened, Speaker Cochran in the chair.

MEMORIAL COMMITTEE APPOINTED

The Speaker announced the appointment of the following members to serve on the memorial committee in accordance with