Mr. Chairman, My Lords, Mr. Attorney, Ladies and Gentlemen:

The By-laws of our Association provide that at each Annual Meeting "the President shall deliver a Presidential Address upon such topics as he may select". Some of our Presidents have taken this occasion to report upon their years of office. Today this is covered in the annual report to Council of the Executive and in the individual reports to the Annual Meeting of the various Sections and Committees. Other Presidents have chosen as their topics some existing problems which in their view affected the efficient administration of justice in Canada. Today I propose to say something about the Association's past and present and particularly about its immediate future as I see it.

To fill the high office of your President for a year is an exceedingly interesting and stimulating experience. This is particularly so since it has become the custom for the President to travel across our vast country and meet with you all in your local communities. It must broaden his outlook and stimulate him to see the interest being taken, by so many of our members, in the work of the Provincial Sections and in the activities of the local Bar and Law Societies.

What I am about to say to you today I would not have been

able to say a year ago. For the views I shall express have been stimulated and crystallized in large part as a result of my meetings with you across Canada and the experience of being your President during the past year.

Perhaps my topic is especially appropriate for a Presidential Address at this year’s Annual Meeting being held in Montreal, because the original Canadian Bar Association was formed in Montreal sixty years ago. This is probably a surprising fact to many of you, as indeed it was to me. For most of us have been accustomed to thinking of our Association as dating from 1921, when it was formally incorporated by Act of the Federal Parliament; or perhaps from a few years prior to that date, when it was established on a more informal basis.

On September 15th, 1896, a preliminary conference was held at the Court House here. It gathered as a result of a circular mailed to members of the profession in each of the provinces. That notice indicated the purpose of the meeting was “to take the requisite steps to form a Canadian Bar Association”. Of those who signed that circular there were many lawyers who became famous in the political and legal life of Canada, among them Sir Oliver Mowat, Sir Adolphe Caron, Sir Wilfrid Laurier, Sir Charles Hibbert Tupper and Sir Robert L. Borden. It is significant that the movement to form such an association originated with the Nova Scotia Bar and that the chairman of this first conference, who was to be chosen as the first President of the Association, was the Bâtonnier-Général of Quebec, the Honourable J. E. Robidoux, Q.C. The resolution to form the Association was moved by C. S. Harrington, Q.C. of the originating committee in Nova Scotia and it was seconded by Sir François Langelier, Q.C. of the Quebec Bar. Sir François vigorously opposed the suggestion made by a few, that the rights of the Provincial Bars would be affected by the formation of a Dominion Association. In such a stand he was warmly supported by a great figure of the Quebec Bar, the Honourable C. A. Geoffrion, Q.C., M.P.

As a result of this meeting sixty years ago, a Canadian Bar Association was formed. Dominion Officers and a Vice-President for each of the then Provinces (as well as one to represent the North West Territories) were appointed and a Council was elected of the most outstanding Canadian barristers of that day. Five objectives for the Association were set out in its original constitution: “to advance the science of jurisprudence and international law; to promote the administration of justice; to secure proper
legislation; to uphold the honour and dignity of the profession of
the law; and to encourage cordial intercourse among the members
of the profession in Canada". Substantially those objectives are
almost word for word five of the eight objectives of our present
Bar Association.

Before those meetings terminated about one hundred lawyers
from all across Canada had joined the new Association at an
annual fee of $5.00 each, the City of Montreal had entertained
the delegates at a civic luncheon atop Mount Royal and a closing
banquet took place at the Windsor Hotel. How familiar it all
sounds! Yet, for some reason I have been unable to discover, this
original association lapsed after an existence of only three years.

But the need for such a Dominion-wide association of lawyers
did not die. In 1912 the American Bar Association held a meeting
here in Montreal. Stimulated by the example of our American
brethren and with their generous and warm encouragement, Sir
James Aikins, K.C. and other stalwarts of the profession in
Canada then took steps to revive a Canadian Bar Association. As
a result our present Association was organized as an unincorpor-
ated body during 1914 and its incorporation was effected by the
Federal Act of 1921.

There are some who claim that in the earlier days the lofty ob-
jectives set out in our Charter were more honoured in the breach
than their observance. Its meetings, it is said, tended to empha-
size chiefly the objective of fostering "cordial intercourse among
the members of the Canadian Bar". Nevertheless, the Association
continued to grow in importance, in numbers and in its sense of
responsibility to fulfill all the objects for which it was incorpo-
rated. In the Association's growth the profession's sense of duty
to the Association and to the public of Canada has increased
notably.

Certainly in the past quarter of a century, a period of time
when the older members present at this 38th Annual Meeting
have been most active, we have seen a remarkable growth in the
activities and work of our Sections and Committees and in our
efforts to achieve the objectives set for the Association. In these
past twenty-five years much real work has been done and a higher
level of professional and scholarly activities and responsibilities
have been undertaken by the Association. This has resulted in
the recognition by the public and by governments of the corres-
pondingly increased usefulness and influence of The Canadian
Bar Association. Our meetings and what comes out of them are
followed closely, not only by the profession and in official circles, but also by the citizens of our country.

Today well over half of the lawyers of Canada are amongst our members, among them many of the finest legal minds of our time. As I see it their services must be used in the most efficient and beneficial way possible, to meet the opportunities which lie ahead, opportunities for the Association to make important contributions to the legal profession and to Canadian society.

As a matter of fact, The Canadian Bar Association has gone ahead so fast during these past twenty-five years we have hardly had time to stop and consider where we are heading. Our numbers have increased rapidly to more than seven thousand members. We now have eleven sections, eight standing committees and some fifteen special committees. Our country has developed economically and in its influence in international affairs with great suddenness. Its population is increasing rapidly. Such strides will be reflected in the Bar Association, which was modelled in its organization on the American Bar Association, largely as it was nearly half a century ago. This year the American Bar set out to increase its numbers to one hundred thousand members. In fact our American friends added tens of thousands of new members to their organization. On a smaller scale there should be and is bound to be a similar growth in Canada.

Two problems as I see it arise in such a growth. The first is one of organization within the Association. How can we reorganize the Association's internal structure so as to make the most effective use of these constantly increasing numbers? This will require very careful thought and consideration in the years ahead. A start has already been made this year by the appointment of a special reorganization committee under our Past-President, Dr. Jamieson.

There are two features of our present organization which will soon require serious consideration. The one has to do with our Annual Meetings; the other concerns the positions of the President and the Secretary-Treasurer. As to the former, can we continue in Canada, with our limited hotel accommodation, to follow the example of the American Association, at whose Annual Meetings more than a thousand persons may attend a Section Meeting; or should we provide a procedure for the Provincial Sections to hold local Annual Meetings at which each Provincial Section would choose delegates to represent their Province at a Dominion Annual Meeting?
As to the office of Secretary-Treasurer, we have been most fortunate up to now in our younger lawyer part-time secretaries. The remuneration we have paid them has been very modest in relation to the time and energy they have devoted to the affairs of the Association. The time is fast approaching, however, when we must consider the appointment of an adequately paid full-time secretary-treasurer. In my view he should be a middle-aged lawyer, who would be prepared to devote the balance of his active professional life to the affairs of the Association. As he gained experience in the administration of the Association’s routine matters, he should be prepared and authorized to assume some of the responsibility which now falls on the President.

At the present time the President must devote about half of his time, during his year of office, to the affairs of the Association. Some of that time is taken up with fairly routine matters. The correspondence involved is in itself rather staggering. In my experience it has sometimes run to as many as sixty-five letters in a morning's mail. Much of this could be routed through the secretariat. As it is at present we are perhaps expecting too much of the Association’s President if his personal practice is not to suffer.

The second problem is to ensure that the Association continues to be a truly national organization. All of the lawyers of British Columbia and New Brunswick, and more than seventy percent of those of Ontario, are now counted among our members. But thought must be given, as to what measures might be taken, to ensure that more of the lawyers of Nova Scotia, Quebec, Prince Edward Island and Newfoundland take a more active part in the activities of the Association. As we think back to that original meeting of sixty years ago, when the Nova Scotia and Quebec barristers took such a leading part in the establishment of the first nationwide Association of Canadian lawyers, it is sad to realize that such a small percentage of their bar societies today are among our members. This is particularly important in the case of my own Province of Quebec. Few Canadian organizations provide so strong a link as the Bar Association between English and French-speaking Canada. As a result of my travels across Canada as your President I know that our members of the English-speaking provinces would like to see many more Quebec advocates and notaries among us; they value highly the friendships made at our meetings with those of our members who are French-speaking.

The local Bars in Nova Scotia, Prince Edward Island and
Newfoundland are of course small in numbers, too small really at present to organize completely, as in the other provinces, each with provincial subsections and subcommittees of our national sections and committees. But perhaps Atlantic subsections and subcommittees could be formed by them collectively. If this was done and a preliminary annual meeting of such an Atlantic Section were held, at which recommendations could be approved to go forward to the Association’s Annual Meeting, we should be more certain than we are now to speak nationally as an Association. During my visits in the East, it was gratifying to find that such a suggestion was not unsympathetically received. New Brunswick with its full membership is of course already completely organized and is always well represented among us. There are nevertheless many common interests and bonds between all of our Atlantic provinces, individual as each of them is. I have good reason to hope our New Brunswick members would be happy to join in such a development.

Much has been accomplished in the past by the Association. There will still be much to do in the years which lie ahead, as our national organization of lawyers grows and progresses. May I suggest some of the matters on which in my view we might well concentrate our major efforts from now forward.

First and foremost there is reform of the law, in which we as lawyers must take a leading role. We are living today in a rapidly changing world. The law must be kept up to date to meet these constantly changing conditions. We must always keep before us the function of the law. Lord Justice Denning has aptly and succinctly stated what this is:

“The function of the law... is to protect the freedom of the individual, his personal freedom, his freedom of mind and conscience, his freedom of religion.”

As our President, in his Presidential Address a year ago pointed out, we have no permanent body or commission in Canada, as they have in the United Kingdom and the United States, to deal with law reform. I suggest that the Bar Association may be the medium through which those in authority are constantly urged to establish such a body. Until it is established perhaps we should set up our own Association Commission, on both a national and provincial level, to study the question of law reform. We should be the ones to take the lead in stimulating and encouraging professional thinking about law reform, in both the substantive and procedural branches of the law. Corrections to and clarifications
of the law have been recommended in great numbers by our Sections and Committees in recent years. These recommendations have been valuable. I believe, however, that the emphasis in future studies should be on broad principles of law reform. I would suggest also that in undertaking such studies we should not limit ourselves to the services of members of the legal profession, and that the assistance of persons experienced in other professions and in business and industry might well be enlisted. It goes without saying that an active part should be taken by teachers of the law who are our experts in legal theory. They also have a unique opportunity in their teaching to find places where the law could be improved within the framework of sound legal principles.

Closely tied to actual reform of the law comes the question of the condition of our courts. Mr. Jamieson also pointed out, last year that an official body was badly needed in Canada, to study and consider whether the present organization and distribution of work in the courts is as efficient as it should be and whether they do in fact provide the best service to the public. Few lawyers would agree that they do. Our courts were organized many years ago and there have been few real changes since then. Yet our Canadian population, which the courts serve, has increased by fifty percent during the past quarter of a century. The modern age of the automobile, the aeroplane, great industrial machinery, the quantity and complexity of our present tax laws, the advances made in social conditions and relations, all of these have not lessened litigation but have increased it. As a result our courts, particularly in the heavily populated urban centres, have become greatly congested. Remedies must be found for the speeding up of trials. Delayed justice is not real nor adequate justice. We need more judges, more lawyers who are practising barristers, more court-house facilities, more modern court-houses than the Victorian buildings which still survive the ancient past of a meagre population. Our judges and court-house officials are not paid enough to ensure the most efficient administration of justice. They do not always serve the State under decent working conditions. Too few lawyers are ready to appear before the courts. In litigation matters we are working with the tools adequate for six millions of Canadians in an age of sixteen millions. Remedies must be found for this situation but it must first be studied and reported upon in detail. Until an official body has been appointed to carry out such a study, the Bar Association might well be doing so. If it did we would be ready with practical and definite recom-
mendations to improve the condition of our Courts when governments did appoint an official body—as we were in the case of the revision of the Criminal Code.

A comprehensive study of what is needed in the reorganization of our courts is but one example of the great need in Canada for legal research. Legal research is badly needed, both in the Common and Civil Law, and in the Criminal Law. There are many fields to be covered which would interest practitioners and scholars and the public. Let us take for example the field of Criminal Law. Up to now our Association's Criminal Law Section has been chiefly engaged in promoting procedural and code amendments. We lawyers have been leaving it to such organizations as the John Howard Society, the Mental Hygiene Institute and Social Service organizations to take the principle initiative in connection with problems arising out of the existing Criminal Law. But should we not, as an Association, be the one to promote research in criminological problems, such as the treatment of prisoners, juvenile delinquency and the type of courts to deal with it, psychiatric examinations before trial and psychiatric treatment in prisons? Should we not be promoting joint studies of lawyers with sociologists and psychiatrists in these matters?

The Bar Association should be the one to take the lead and responsibility for legal research in all fields. We cannot leave legal research to lay organizations alone. Neither can we leave it to our law schools, which already have such difficulty in raising the necessary funds for their most immediate needs. Legal research requires substantial amounts of money for grants-in-aid to scholars, to meet the costs of publication of the findings of research scholars and to employ the very best talents to carry out research. In my travels across Canada, I found the need is so great that at least one of the provincial law societies proposes to provide for legal research locally. I believe it should be set up nationally by our profession.

It may perhaps take some years to provide for a Legal Research Centre in Canada. But the time appears ripe now to plan for such a centre, while many are expressing the need for it and times are prosperous. I feel the Bar Association should press forward in this. Once again we have before us the example of our American friends in their recent establishment of a national bar centre, with its fine library and splendid facilities for legal research. I for one hope we may in due course emulate them.

Professor Scott's Committee on Legal Research will indicate
our needs more adequately than I have done. Mr. Justice Taschereau's Committee will, I trust, encourage us to hope that we may establish an Educational and Charitable Foundation. This would be the means eventually to finance a Canadian Bar Centre in which to concentrate our activities, including Legal Research. Prosperous expanding Canadian business and industry may well assist us financially, if we are equipped and ready to assist them. Already we have the example before us of the automobile industry being willing to do so, when the medical profession and we tackle the problem of traffic accidents. Moreover, the past achievements and the rapid growth of The Canadian Bar Association need now a larger and more permanent situs. We should be able at our Association's headquarters to concentrate our secretariat and archives, our public relations activities, the Bar Review in both its editorial and business functions, a research centre and a proper law library. The Canadian medical profession has set us an example when it opened its splendid "C.M.A. House" in Toronto this year. We owe it to our profession to follow suit. If we are unable to do so at the start solely as a Bar Centre, it might be possible to establish such a headquarters in association with one or more of the other national organizations of Canada.

Legal research leads one naturally to the continuing problem of legal education. The Bar Association (through its Legal Education and Training Section) and the Conference of Governing Bodies have given a great deal of thought in recent years to the problem of legal education. But that problem will never be finally resolved. Changing conditions through the years result in ever new phases of the problem. At the present time all of our Canadian law schools anticipate a great rush of students to those schools in the next few years. Some expect double the present enrollment by 1960. This would indicate the necessity for a new and modern study of this problem, both by the law teachers and by the Bar Association. Possibly the Canadian Law Teachers Association and The Canadian Bar Association should combine to study this question in a joint committee.

There are, as I see it, four periods which might well be covered in such a study: pre-legal education; undergraduate education; post-degree clinical training; and continuing legal education after some years of practice. In the pre-legal education period the experience of other countries might well be studied. During this period should we insist on more of the humanities or more accounting or engineering or more pure science? During the un-
dergraduate period are our law teachers concentrating too much on legal theories, or should our law students be taught more of general legal principles and their practical application? During the post-degree clinical training period there is still a big gap between the law school and the practice of law. An effort has been made recently in Quebec to close that gap. Have the other provinces studied the results of that effort, has it been really effective and could it be improved by a further study of what might be the ideal practical programme? Continuing legal education has been in the experimental stage in Canada in recent years, both at our Association meetings and in the courses and lectures sponsored by local law societies and at some of our law schools. How can these be made more available to the country practitioner and more widespread?

Some of our law schools are already overcrowded. More, as I have indicated, soon will be. In some of our Canadian communities we perhaps already have too many lawyers but undoubtedly in others there are not enough well-trained advocates, to serve the public in such a way as to ensure the speedy administration of justice. Yet it is not made easy for the young practitioner to start up in a province other than where he was trained. This suggests that a more national approach is required for admissions to practise, at least in the Common Law provinces. A joint committee of the Conference of Governing Bodies and the Law Teachers Association might well give this question of professional mobility between the provinces further study. But the local law societies will require to be educated to the national needs, if the transfer requirements and admission fees are to become more reasonable. At the present time large admission fees and the requirements of Articles of Indenture, rather than mere examination, do not make it easy for the new young lawyer to set up in practice where he may be most needed. This particular problem is one which the Junior Bar Section might well study and tackle.

Finally there is the modern problem of the relation of the individual to the State and the powers of the Executive Authority. This seems to me to be one of the most important subjects requiring constant study and consideration by the Bar Association in the immediate years ahead. Again it is surely the lawyers who are the best equipped to study how the needs of Government can be met, without the individual citizen being deprived of the protection to which he is traditionally entitled under our rule of law. If individual freedom, as we have known it, is to be maintained,
we must guard against the growing tendency, which is too often displayed by the official mind, to consider that a man is guilty until he has proved himself innocent. Such an attitude is alien and contrary to our system of law and our inherited idea of human justice. The Bar Association must therefore be constantly alert to ensure that checks are provided against arbitrary powers being given to persons in authority; we must do all we can to make certain that there is an appeal to the Courts from the decisions of Government Boards, Departments and Tribunals. Surveys might well be made from time to time of the experience of practitioners before these Government bodies.

For the immediate future The Canadian Bar Association should, I feel, continue to take an active interest in keeping the law up to date and in law reform. It should concentrate its efforts to ensure that the best legal services are readily available to all, to eliminate delays in the Courts and to make the legal services of the lawyer wanted by the public.

I have reviewed briefly the past and present of the Association. Much has been accomplished in sixty years—a short span of time. Much remains to be done. So it will always be. I have stressed the immediate future as I see it. As for the distant future, it is my firm belief that in the years to come The Canadian Bar Association will increase in stature and will play an ever-increasing part in the development of our country and in the welfare of our people.

The Spirit of Learning

[American universities] are not mere seminaries of scholars. They never can be. Most of them, the greatest of them and the most distinguished, were first of all great colleges before they became universities; and their task is two-fold: the production of a great body of informed and thoughtful men and the production of a small body of trained scholars and investigators. It is one of their functions to take large bodies of young men up to the places of outlook whence the world of thought and affairs is to be viewed; it is another of their functions to take some men, a little more mature, a little more studious, men self-selected by aptitude and industry, into the quiet libraries and laboratories where the close contacts of study are learned which yield the world new insight into the processes of nature, of reason, and of the human spirit. These two functions are not to be performed separately, but side by side, and are to be informed with one spirit, the spirit of enlightenment, a spirit of learning which is neither superficial nor pedantic, which values life more than it values the mere acquisitions of the mind. (Woodrow Wilson, from Frances Farmer (ed.), The Wilson Reader (1956) p. 104)