

Speech by

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HOW BANKERS AND LAWYERS CAN HELP PROTECT CONSUMERS

You have asked me to discuss a "constructively critical approach to bankers and lawyers as to what we need to do to help protect the public in consumer affairs".

This is a thoughtful question and one to which there are no easy answers. But the fact we know enough to ask the question shows that answers can be found. I don't think that ten years ago, or even four years ago a group of attorneys would have even thought about their role in consumer protection.

So I think you are to be congratulated both on your recognition of this problem and your maturity in inviting criticism. This is the kind of constructive relationship between government and the professions which brings about solutions to the problems of our State and our society.

I've considered this question carefully in the weeks since you asked me to speak. Basically, as attorneys and bankers, I think we should approach this question in two ways:

first, what your professions can do to help with consumer protection programs; and second, what your professions can do to improve your own relationships with the consumer.

You can - and should - take an active part in consumer protection programs, and I have some specific suggestions to make here.

There are two facets of consumer protection: enforcement and education. They are both important, but I will comment on education first.

An informed consumer is his or her own best protection. We need to teach everyone to spot a "bait and switch" scheme and to understand the pitfalls of pyramid sales. We need to teach everyone his rights as a buyer. We need to teach our people what to do when defrauded and we need to teach business and industry that fraud and deception will not be tolerated.

There's no doubt about it, you can help with consumer education. Since our Consumer Protection Division has been established, we've worked at informing the public. The staff and I have made hundreds of speeches, all over the State. We've gone on television, issued news releases, and handed out brochures. We've worked with the schools to

develop courses and teaching materials. I doubt, though, that we'll ever manage to end complaints and put ourselves out of business, but we're going to try.

This is an area where we need your help. This kind of education demands a massive, continuing effort. We're not - and shouldn't be - equipped to undertake this singlehanded. Attorneys and bankers are in an ideal position to help educate consumers. You are in constant contact with people, and you are looked up to as knowledgeable people. You are authorities on laws and on money matters, which are the areas involved in consumer protection.

So I urge you to take an active part in consumer education, both as individuals and through your respective local and State associations. Use your contacts with clients to help inform them of purchasing pitfalls. Make sure they know their rights and obligations as buyers or sellers. Volunteer your services to speak on these problems. Get the civic and social clubs with which you have contact to put on programs about consumer affairs. Give us your ideas about educational needs and about effective approaches in this area.

You can help by understanding our laws and by working for new laws which are needed. We need to know our consumer protection laws. Attorneys and bankers must keep informed

of legislation in this fast-changing field, so we can in turn inform our clients.

We have some good laws on the books in North Carolina that protect both the buyer and the honest businessman. But this is a new area, and new or revised laws will be necessary in the future, as new problems develop. Since our present laws are of such great importance to all the people of our State, it is particularly important that we be familiar with them.

For example, our basic consumer protection statute - the so-called "Little F.T.C. Act", is clear and concise. Take time to read it.

When new consumer laws are proposed, make an effort to learn about them. Give them your active support if you think they're good laws. A major factor in the enactment of new consumer protection laws is public opinion. But remember that unscrupulous businessmen can exert great pressure, and spend great sums, to defeat desirable legislation. Strong public support can counteract such pressure.

You can help by handling complaints for consumers.

As you know, I have taken the position that the Attorney General should be the people's advocate in consumer affairs. This is a natural result of the 200-year old history of the

office of Attorney General: he represents all the people, not just the State. This role may involve going before a regulatory commission to protest a multi-million dollar rate increase, or it may involve handling a complaint concerning \$5.00 worth of merchandise. And I am committed to the continuation of this role.

On the other hand, I am equally committed to the belief that consumer protection is not the exclusive business of the government. When we drafted a consumer protection law, we made sure that it provided specifically for individual civil suits and for treble damages. We will continue to handle complaints, but I hope that our share will decrease as private attorneys handle more.

I'm afraid that in the past we encouraged consumer fraud in North Carolina and elsewhere by our inaction. As lawyers we've been too busy to bother with complaints involving petty sums of money. It simply doesn't pay us to handle most of these, and we can't even meet our expenses unless we charge our clients more than the case is worth to them. But these relatively "nickle and dime" complaints can add up to a vast pattern of fraud and dollars in the pockets of the unscrupulous. We have an obligation, as attorneys, to stand up against these dishonest operators, who are capable of undermining the moral and economic basis of consumer transactions.

We in the Attorney General's office will continue to do our part but we must have your help and your support.

If you get into this, you'll probably find, as we have, that you seldom have to go to court. The vast majority of complaints in North Carolina and other states are settled through negotiation - usually one letter or phone call is enough. The honest businessman wants to correct a problem, and the dishonest businessman doesn't want the publicity and expense involved in a suit.

Attorneys, of course, will also be called on to defend those against whom complaints are brought or suits filed. In this role, too, you can work to achieve compliance with the law and restore public confidence in business.

Attorneys and bankers both can do much to improve the image and the performance of their professions.

In this instance, as in almost every case, you can't help someone unless you first have his confidence. To be perfectly honest, we must admit that both lawyers and bankers, to some degree, have lost the confidence of the consuming public - the people they theoretically are dedicated to serving. There are many reasons why this is true, and I think that I am more familiar with those which apply to the legal profession.

Over the years we lawyers have tried to do more than either our time or personal resources would allow us to do well. We have agreed in good faith to represent clients believing that somehow, someday, our work load would lighten and we would be able to handle the matter efficiently and expeditiously. We have done so only to find ourselves continuously overburdened, continuously responding to emergency situations, and oiling the squeaky wheel. In return, our clients have come to view us as procrastinators, as persons indifferent to their particular concerns and as less than helpful to them. We must change this image.

Now I know this is a broad indictment of the legal profession and there are some firms who may stand blameless. But I dare say that it does apply to the majority of practicing attorneys. It applies so much I have gotten to the place that I hesitate to refer a person to any particular attorney in private practice for fear that I will be blamed for the client's work not being done on time.

I am not being self-righteous because my practice in Lillington had grown to the extent that I was just as much an offender as any other member of the Bar. Like most of you, I had too much to do and too little time to do it and often I spent more time explaining to the clients why things had not been done than I spent doing them.

The legal profession has realized that it stands in a very poor light with the general public and has launched a public relations campaign designed to help remedy this. However, in my opinion, it is not going to meet with a great deal of success until those in the practice change the way they carry on their practices and give their clients what amounts to better service.

The banking profession has realized that it has a public relations problem and that it does not share the full confidence of the consuming public. The banking association has likewise launched efforts to improve its image.

Banking has become a big business in North Carolina. If you don't believe it, all you have to do is walk down Fayetteville Street in Raleigh and see the big new buildings which now form the hub of the uptown business district.

Contrast this with the small town bank, the one-story building located on the corner in the local business area and run by a local man who everyone considers a friend and neighbor. Contrast these huge business institutions with the simple "we-are-all-one-big-family" approach which prevailed in most of our towns until not long ago and you will see one of the problems the banking profession has in helping the consuming public.

Many people, perhaps most of the people, who are not engaged in financial dealings on a day-to-day basis, are awed by the size of our present-day banks and the institutional procedures which often appear to be red tape and obstacles to serving them. Recent radio advertisements which talk of smiling tellers and helpful customer service personnel are still not enough to convince the ordinary consumer that the bank is a place he can go when he has problems and expect individual and understanding treatment.

I do not believe that the banks of this State are going to be able to do much to help individual consumers until they change this image. Perhaps new programs of customer service will be able to do this, I do not know. But I certainly think it is worth the effort.

There is one indictment which is equally applicable to both attorneys and bankers. We both have become so busy and so caught up in our work that often when helping those who come to us, we fail to take the time to explain to them what we in fact are doing for them. We do everything reasonably possible for them but fail to take time to explain what has occurred.

I have often said that we must not only be just in our dealings but we must appear to be just in our dealings. If we have done the past by someone that we can and yet he

fails to perceive that we have done so, he still goes away dissatisfied and sure he has gotten a raw deal.

We simply must take all the time required as both lawyers and bankers to explain to our clients everything possible to convince them we have performed our duties in a professional way and are, in fact, concerned about their problems of the moment. Otherwise we fail to inspire confidence; rather, we continue to gradually destroy public confidence.

As you know, some industries in our Nation are now going all out to make sure their customers have a way to register complaints and at least receive answers to the questions they raise about products and service. I believe the banking profession can do a lot more than it has done in the past in this area.

Every bank in this State has experts in matters of finance and interest rates but not many have made these people available to answer the questions of the consumer public. All the laws of this Nation cannot legislate the understanding which comes from an interested and compassionate employee who is willing to take the time to talk to a customer and explain in terms he can understand what is happening in a financial relationship between a lender and a borrower.

In my opinion, banks should make their "complaint departments" more visible; customers ought to know the moment they walk in the front door where they can go for help. Big desks and plush carpet should not be allowed to stand in the way of communications between bank personnel and the little man who walks in off the street. Bank personnel should drop formalities and get more on the wave lengths of their customers.

I have been critical in my remarks today and I feel a little self-conscious about it. I don't usually take that kind of approach. However, in your invitation you asked that I do so and I tried to follow your instructions. I hope, though, that I also followed your instructions to be "constructively" critical and that my comments will prompt some discussion and perhaps lead to a fresh examination of a question which concerns all of us.