Address by the President of the American Bar Association

John C. Satterfield
Mr. President, Al, ladies and gentlemen, I can see there are two or three ladies here. I am indeed delighted to be here this afternoon. I will not tell you what I know about Wyoming, or anything about the American Bar Association this afternoon. Nor will I tell you the Mississippi jokes which I have in my black book to tell tomorrow because I think perhaps you and I are more interested in the subject of my talk this afternoon than you are in either the American Bar Association or jokes.

The subject of my talk this afternoon is "Economics of the Law Practice." The true title is "How To Be a Lawyer Without Being Broke," and a sub-title is, "Do Like I Say and Not Like I Do."

Down in Mississippi when I graduated from Millsaps and Old Miss, Millsaps with a literary degree and Old Miss with a law degree, I started working for $85.00 per month. My father paid $100.00 on my college education of seven years, and in those days Uncle Sam didn't help either. I worked my way through school as a life insurance agent and a newspaper writer. So I paid every penny of my schooling, except the $100.00 father gave me on the first Christmas and I borrowed $325.00 from a cousin that after practicing seven years I was able to pay back. My father was County Attorney in Port Gibson, Mississippi, a metropolitan center of 1,800 souls. I started in his office as a kid. I am now living in Yazoo City, Mississippi, which is a metropolitan center of 12,000 souls. We have our main office in Jackson, but when I moved there in 1929 it had 32,000 people and it now has 150,000 people. I practiced first in a firm of two, we now have a firm of nine, so I have been through the mill. I mention this to let you know that I have had some experiences, some of which I would like to tell you but time won't permit, and some that I would rather not tell you. But I have been through several different statuses as a lawyer. I will not devote myself to a subject that could be discussed for about fifteen minutes, of which might be said, with the ladies being present, what a heaven of a shape we are in, if you know what I mean, as lawyers.

When this committee, of which I was chairman, started working four years ago, we found two things that were particularly significant. While we, as lawyers, make sufficient and proper income, it is somewhat related to the income received by business and professional men of similar status in the community and similar general training. Also, what we make today would certainly have some reasonable relationship to what was made by our and other professions and businesses say 25 years ago in proportion
to and in connection with the increased cost of living and increased prices. Taking these two factors, here's what we found. We found that taking a 25 year period, the average income of all self-employed persons in the United States, other than agriculture workers or farm persons, had increased 144 per cent in that period. Salaried persons, employees of industry and business, during that period had an income increase of 131 per cent. The lawyer's income had increased 58 per cent during that same period. That cuts out the doctors as having too high an income, but the fact is, they don't because during that period when the average of all self-employed persons had increased 144 per cent, the doctors increased 157 per cent, which is not out of line with the general increase. Our profession increased 59 per cent, a little more than one-third of the average increase of all self-employed persons.

I think one other fact is pretty significant, and that is, in a similar period, not the identical number of years but a similar parallel period where we have the information, at the beginning of that 25 year period, 1.39 per cent of the gross national income went for legal services. At the end of that period, 0.49 per cent of the national income went for legal services. This was just about a third of what it was at the beginning of that period although taxes, regulations, governmental restrictions, all phases of the law had increased in an impact upon business and private life. So we feel that something is wrong and when, of course, you have the comparative figures, which I am sure all of you have seen, it is revealed that the lawyer's income is far below, on a national and state average, than of other professions, such as doctors. As a matter of fact, our income generally is somewhat less than two-thirds of that of comparable professions throughout the United States, and in some instances, not more than half in some of the states. There must be something wrong. I have eight fellows practicing with me, from a couple of fellows who just got out of old Miss to some older ones that have practiced for 32 years. See, I'm older than I look. I'm half a century plus half a decade plus two years old, otherwise known as 57. My wife says, "John, that sounds too old." But yet that is my age, and I can see comparable young, middle aged, old men in good businesses in comparable professions in Jackson, Mississippi, in Yazoo City, in Port Gibson, and generally speaking, their standard of living, the automobiles they can buy, the houses they can build, their general income is generally higher than that of comparable members of our profession. We feel that there is something wrong. I'd like to give you one illustration of what has been done about it one state, Minnesota.

In 1951 the average income of lawyers in Minnesota was $5,826.00, which was below the national average at that time. They got to work on it, they went really into this matter of economics of law practice, they did several things I will mention to you before we close, and in 1959, eight years later, the average income of lawyers in Minnesota was $14,120.00, substantially above the national average income.
In Mississippi when I was President of the Mississippi State Bar Association, we put on a program in economics. We appointed a permanent committee in charge of making a report each year in connection with our minimum fee schedule and also in connection with the basis of charging of fees and other business procedures in the law practice. They were charged with the duty, after we had checked the income of our lawyers compared to other states around us and comparable states in other parts of the country, of increasing the income of lawyers fifty per cent in a period of seven years. We will have a survey made this year to see if we did it. But I think we have had some good results, I know we have, and we will find out this year whether we met the objective, which was to increase the average income.

The American Bar Association has a full program in this field. We have a full staff, one man giving full time. He has proper assistance, the cooperation of our staff there in the American Bar Center. We have this committee that has been working now for three or four years. We have set up a basis of information, suggestions that any State Bar that goes into this really full force can get all the information they want; what's being done in other states, the procedures they are following, the type of minimum fee schedules that are used, the type of handbooks that have been printed and distributed, the suggestions that are being made. We will have made available to the members of the American Bar Association, either free or at a cost of not more than $2.00, within the next 12 months, a 400 to 500 page lawyer's handbook or manual. There have been two men in California working for 14 months full time with eleven others to give a real manual of business procedures that affect the law office, and that will be made available. It will be a book that will sell for $12.50 in a hard cover to members of the Bar generally, and we think we will make that available to every member of the American Bar Association without cost or with cost of something under $2.00, within the next 12 months. We are trying to coordinate and make available to every State Bar everything they need if they care to get fully into the field. We are not trying to tell anyone what to do, that's not our place. We simply want to make available things that can be used and done if the State Bar Association so desires.

Now there are two ways in which we can increase our income. Let's take first the individual lawyer. What in the heck are you going to charge the guy when you have been fooling around with him for nine months and won the suit or lost it? That always worries us down in our firm in Jackson or Yazoo City, Mississippi. How much are you going to charge an hour? Your minimum fee schedule says $16.00 per hour. Of course, there are certain minimum fee schedules that say $15.00 per hour when you have been practicing so many years, $25.00 per hour when you have practiced so many years, some schedules have less than $15.00 if you are just out of school, but that is a matter which can be governed and, of course, mini-
mum fee should never be a maximum fee. But what should a fellow charge per hour for his services on the basis I'll mention to you?

We have found the average cost of overhead in the law practice is 38.6 per cent throughout the United States. Let's make it an even 40. That would be two to three ratio of costs to actual take-home pay. Now-if you want to see what to charge an hour, all you have to do is determine what you reasonably should take home from your office after paying expenses, and the number of chargeable hours, and divide the hours into the amount, and that's the rate that will give you the return which you think you deserve. That can be the only criterion and you have all the other things to consider. So that is the best way to see whether you are making what you should.

For instance, on the three out of five ratio, in order to take home $12,500.00, you have to take in $20,800.00. In order to take home $15,000.00, you have to take in $25,000.00. A fellow just out of school ought to take home $6,000.00, and he would have to take in a total of $10,000.00.

When you check up on the number of actual chargeable hours, you will be surprised. Now, I understand there are 365 days in a year at the last count, unless the legislature has changed it recently, but, you have 52 Sundays. If you go fishing on Wednesday in the small town and on Saturday in the large town, but I shouldn't say Wednesday as that is prayer meeting night, but anyway, one of the afternoons in the small town, that is half a day gone, that's 26 days out of the year. The eight legal holidays you are not supposed to work, your wife thinks you should, but anyway if you can take them off to do the brick laying and the crop dusting, that's eight days gone. You are entitled to two weeks vacation every year, so they say. Mae and myself had a vacation eight years ago in North Carolina and we really enjoyed it for two full weeks. You are entitled to a vacation of two weeks a year, and you should be sick or go to church meetings or Bar meetings like this, or other things of that nature at least seven days a year, and if you do, you will have 195 days gone. You will have 260 days left for actual full-time work.

Now different surveys will show different ways of charging the chargeable hours, the lowest at 4.2 hours a day you can charge and the highest at 7.2. You can find out if you take time to do it in your own office. It is very simple. But suppose there are five hours a day that you can really charge. Now I'm not talking about when you are down there suppose to be working but you go and get a coca cola, and you get to talking politics, and you attend to your church business, and you get groceries for your wife, you comfort your poor stenographer, if she has troubles you have to talk to her about it, you have all these things, you answer the telephone, there are all of these things that you can't charge. So you have five hours you can actually charge to a client each day. That would be
1,300 chargeable hours a year. Now, if you divide that into the income I mentioned while ago, in order for you to take home $12,500.00 a year you would have to charge $16.00 an hour. In order for you to take home $15,000.00 a year you would have to charge $20.00 an hour. And if you just want to take home $6,000.00 a year, you will have to charge $8.00 per hour. So you set up that charge, and what good does that do? Frankly, in not one case out of perhaps ten do we charge the exact fee that the hours would show. But here's what we do. We keep a record, and that is what the committee recommends. Where you have a time record, its a very simple thing, where you put down the day, the hour, the file number of the client, what it was, two or three words about the nature of the service, and the hours spent. Then you have your stenographer or bookkeeper or yourself at the end of the day total them up and you have them charged into your client's record. That sounds mighty bad, I'm the worst one in the firm about it as I hate to fool with the stuff, but it is wonderful help when you do actually keep up with it. And by the way, in Minnesota and in Missouri when they made their surveys there, they found on direct survey that in Minnesota and Missouri, time keepers on the average, state-wide of both of these states, did almost fifty per cent better than non-time keepers. The difference in time keepers in Minnesota in 1959 was exactly $5,000.00 more made by lawyers who kept track of what they did and those who did not.

To transfer this to your client's ledger, you simply have an ordinary form ledger with another column that shows the number of hours, if you have a partnership, the initial of who it is, and the number of dollars chargeable. If you are on a cash basis be sure you show memorandum only so the Internal Revenue won't say you have an accrual basis. And then here's what you can do. You see how much you have in the case, then, depending on the amount involved, service rendered, all the various elements, you can relate it to the charge made.

We recently had a case in the office where the fellow that handled it was tickled to death—we got a fee in that of $1,500.00, a big fee for us. We checked back on the time, though, and we found we had $2,000.00 worth of time in the case, so we lost $500.00 in that case. We lost money on it. You can do that on every case, every type of work that you have, and if you have retainers, you can tell if you are losing money or gaining money on retainers. And if Charlie, who has been your friend for years and you have a retainer of $10.00 a month, $100.00 a month, however much you have, you have a hard time having him run the $100.00 up to $150.00, or the $10.00 up to $20.00, but if you keep a record and say, "Look here, Charlie, here's what I did for you. Here's the number of hours I spent and the hours paid less than of an eating wage," he won't gripe if you double his retainer.

Then, when you run your bills, don't ever render a bill "For professional services rendered—so many dollars" unless it is just a very little
amount. I will give you an illustration. We had a case involving a water system down in a south Mississippi town not long ago. The system was owned by a female lady, she is a very fine person and a very good businesswoman in the water business, but she didn't know too much about business otherwise. We fooled with that thing for two and a half years, the Jr. partner, Dan Shell, who is next to me in the firm, and the staff, we all got together and worked on it. We had some prohibition, we had an election, we went before the commissioners of the town, we had a big time about it. Dave says, "We ought to make the charge $3,500.00 in that case." Dan says, "We ought to make it $5,000.00." We checked out the record, what we had done, and sent her a bill for $7,500.00.

Now when we sent her the bill, we didn't send her a bill for professional services rendered — $7,500.00. We sent her a twelve page, single spaced bill. On that bill we had each day that any of us had worked on it. We didn't put the number of hours, don't ever do that as they will raise cain with you about the amount per minute. State Rating Bureau talks with Mr. Jones on rates, presentation of motion on the injunction of Hattiesburg, appearing before the commission at Purvis, Mississippi, a twelve page, single spaced bill — $7,500.00. Now if we had sent a bill down there to Charlene for $7,500.00 for professional services rendered, she would have been mad the rest of her life and we might have had a hard time collecting it. I wasn't present the next morning at breakfast, but I'm confident that the next morning when she said the blessing for breakfast, she thanked the Lord the bill wasn't any higher. If we hadn't done that, when she saw the bill she would have dropped her false teeth, she didn't have a rug on the floor, the danged things would have busted, and she would have been mad at us for the rest of her life. Which is another way of saying that we should send bills letting them know what we are doing and keep in touch with them as the thing develops so they will know how hard we are working.

Another thing is, if you keep track you can see how much you have in different types of practice so you can trend your practice. Six or seven years ago we had a lot of abstract checking work in our office for oil companies. We have a lot of oil down in Mississippi too, thank the Lord, it is very fine, we enjoy it. We did a lot of abstract checking and we had a lot of abstracts that came in full pages and down there the rate was fifty cents a page for checking abstracts. I had a partner named Jack who weighed substantial more than my usual 128; he was a big, heavy-set guy, and he loved to sit back behind his desk on his chair and turn the pages of the abstracts, "Four bits, four bits, four bits, four bits, four bits." And he thought he was making money. It has gone up to six bits now. We found then that we were losing money. We had one man full time and another man two-thirds of the time on checking abstracts. Now we have a man that spends about a third of his time on it, but we have to keep it up, because we found that fussing around with the abstract, getting
all the affidavits, sending them out for some more, obtaining quitclaim deed, rendering supplemental opinions, and all that sort of thing, that we lost money compared to other types of business at fifty cents a page.

You can have a complete cost analysis of what you are doing, the type of business you have, every case you have in your office, by the simple method of comparing the fee you actually charge with the number of hours you have in it, assuming that you and your partners, if any, were making the income you thought you would be entitled to make with your position in the community and the training you have and the services you rendered. Now to be frank with you, we haven't reached any conclusion, but you listened to those figures awhile ago. Well, income went up not much more than one-third of the average income of self-employed persons in the period of 25 years. And when the percentage of the national income was one-third of what it was twenty years before in a recent year, I frankly believe that the legal profession is selling itself down the river and down the drain in the charging of fees.

I suggest very briefly two other procedures that may be of some help. One is the use of modern equipment. We got out a pamphlet on this, the American Bar Association, in which we evaluated certain procedures. This is a dictating machine that we use all the time. As President of the American Bar Association I do a lot of flying. I had to have this darn thing modified when it interfered with radar, but they have gotten over that now. I use it in the plane. I got stuck in New Orleans the other night and sat on the plane from 6:15 until 11:30 while they tinkered with the engines to see whether it would take off. I got 43 letters dictated on the plane. The rest of the folks were griping about the time they were losing, and I didn't lose any time. I dictated 43 letters from 6:15 to 11:30 there that night. I am going to dictate a lot of letters on the way to Chicago.

We have a branch office in Yazoo City and a main office in Jackson. That is 40 miles and I'm a little schizophrenic, I've got a split personality, half the time in Yazoo and half the time in Jackson. I drive from Yazoo City to Jackson, I put this on the seat. I drive with one hand and dictate with the other. This is setting on the seat and I dictate as I drive along. A big, fat truck comes along and I just drop it in my lap and I don't hit the truck. The insurance company carries insurance on my life and I get a lot of stuff done that way. As a matter of fact, I have to admit that I do more good now, and here's the difference. When I was a young fellow I used to drive with my left hand with my right arm around my girl friend. Now I drive with my right hand and with my left hand around the dictaphone and, honestly, I do more good now than I used to, but there is difference in age perhaps.

When we have to investigate a case, this can go around your shoulder, it has a little longer strap that I didn't bring with me this time. You take a witness out and you say, "My name in Jim Smith and on March 18
such and such and such," and you dictate the whole statement as you stand there with the witness. If he is an adverse witness you can't get by with it, but if he is a friendly witness or a disinterested witness, then you have it typed and you have it ready to go. When we check the titles down at the probate office we take this along with us and either have it around our waist or put it down on the counter and we dictate everything from a to z but except, of course, we always keep notes of certain vital things, spelling of names, certain dates, etc., but we dictate it all on the machine.

The other day we had a subpoena duces tecum to examine a lot of corporate records. I took this gadget with me and I sat there about five hours and went over every record the corporation had that we needed, dictated everything I needed and then took it back to the office.

In this particular pamphlet we rated 18 different types of copying machines and 19 different types of duplicating machines, the prices of which run from $125.00 to $3,000.00. Any office can have them at a minimum of about $175.00 for coping machines and about $150.00 for duplicating machines. I will give you a very brief illustration of how we use them. Many of you I am sure have them.

I was over in the Federal Court in Birmingham several months ago. At about 4:30 a point came up for which I was not prepared. We try to be prepared, we usually have a trial brief that's four or five times as long as a Supreme Court brief, usually runs from 100 to 150 pages, to have in the trial court so you know what will come up. But this thing came up that I wasn't prepared for. Well, I stalled around until pretty close to 5 o'clock so the Judge would adjourn until the next morning. I was over at Birmingham and I called over at the office and got Dudley Buford and Frank Williams and told them what the point was. We have one of these gadgets where you can copy from books. Well, next morning when the plane came in to Birmingham at 7:30 I had copies of the 14 cases in point in Federal Courts and Alabama Courts on this particular point. By 9 o'clock I was prepared to argue the case and out-talked the other fellow because he slept that night. We had every case we needed simply by using one of these copying machines. Forty per cent of the typing done in law offices, on the average, is copying that can be done just like that on a machine. It will save you a tremendous amount of money.

You should use all the available equipment that can be used, simple things like this telephone answering device, if you are an individual practitioner. I guess we all have stenographers these days, my father never did, but you can have these telephone answering devices if you are off and your stenographer is off. They are tremendously helpful things to have.

In closing, I would like to take just a few seconds to tell you of some things that I am sure your association has been doing that we recommend for work by the Bar Association. Now, suppose that each of you here
was to keep up with the time spent and the fees you charge. Suppose that you found that on the whole and on the average you were charging a third or a half or two-thirds of what you should. But suppose that Bill Jones across the street didn't do that. Pretty soon this Bill Jones puts you out of business. Lawyers should do what is right, and it is far worse to charge too much than too little, it is unethical and fraudulent to charge more than your services are worth. We are in a profession and not a business. My success and yours is not measured by the amount of income tax we pay, or the house we live in, or the car we drive. It is measured by the service that we render to our community, to our State, and to our Nation. But that is wholly consistent with good business methods of charging reasonable and proper fees for the services that you rendered, and I do not believe that people anywhere, whether it is Wyoming, or Port Gibson, Mississippi, Yazoo City, Mississippi, or New York, will object to paying fees when it can be demonstrated to them that the charges made are reasonable.

But how about the Bar Association? There are so many things that can be done. Let me take Minnesota and North Carolina as illustrations. Here is the thing that can be done. The American Bar Association now has assembled voluminous materials. We have copies of these five pamphlets that we have gotten out. We will have this lawyer's manual or handbook available within the next seven or eight months. We have copies of the minimum fee schedule from 600 different minimum fee schedules, we keep up with the most recent ones that come in. We have a list of speakers from all over the country who are competent and qualified in this area. These may be assembled and put together in any state as was done in Minnesota and North Carolina, and copies are available for your use if you want to use that type of thing. A lawyer's manual that every lawyer in Wyoming can have on his desk, suggested procedures, basis and calculation of fees, relation to hours charged, relation to overhead, suggested methods of billing, comparison of the fees charged in this states and comparable states, if you so desire, that has been done by the Bar Association of many states.

Of course, a directory such as this can be scheduled. Seminars and institutes were the way we started off down in Mississippi. I will tell you the situation we were in down there. We never had had a state-wide minimum fee schedule. We got Luther Bang from Minnesota and Paul Tanks from Texas to come down there and give a couple of great big speeches in this field. I was President of the State Bar. I was skeered, s k e e r e d, not scared, I was skeered to put up to the fellows to vote on a statewide minimum fee schedule. I understand that you have one. But when Luther Bang and Paud Tanks got through we prepared a suggested basis of fee computation and Dixon Files got up out in the crowd and made a motion that it be adopted as a state-wide minimum fee schedule with the understanding that any local Bar could vary it up or down but if
it was not adopted one way or the other by the local Bar, it would be in effect in that Bar. And that was carried unanimously by the Mississippi State Bar.

You can put on seminars, you can put on panel discussions, you can put on institutes. In addition to that, of course, you can do what has been done in a number of states. You have a state-wide minimum fee schedule, it's a very good one. It is not my place to tell you and I don't intend to anywhere in the United States, and I have spoken in 43 states on this subject, to say from the American Bar that your fees are too high or too low. You know better than I do. But it is good to have a permanent committee charged with the duty of finding what is being charged in comparable states, and there are plenty of them comparable to Wyoming and Mississippi and all of the other states. We found in Mississippi that the fees, we have 82 counties in that state, and we found the fees varied as much as 200 per cent from one county to the other without any reason for it. I can go into a county in Mississippi, we have an insurance practice and mineral practice and we go around, and I can tell you two county seats which are comparable where the lawyers are starving to death in Smith County and they have an excellent basis of compensation in Scott County, right next to each other. In one instance you have a bunch of fellows that charge too little, and the other instance you have fellows who charge a reasonable amount.

And by the way, one of the worst things that ever happened to the Bar in my home town, Port Gibson, Mississippi, was Uncle Joe. Now my Uncle Joe was a son of my grandfather, Mr. Drake. So when grandfather died, he left Uncle Joe the best practice in town. Father came along and married Uncle Joe's sister, and then he started practicing law. He had to get the best practice he could. He got along well enough, but he didn't get along as well as Uncle Joe. But here's what my Uncle Joe did. He liked to practice, he had a good deal of money, he was an outstanding lawyer, a crackerjack, and he would take estates for less than they should ever have been taken. He didn't have to charge larger fees. He would handle deeds, he would handle wills, he handled any type of practice and charge way below what he should have charged. And all the other lawyers had to do the same because Uncle Joe would get the business if they didn't. And he didn't do it for meanness. He didn't do it to chisel. But he did ruin the Bar there for a period of twenty years when he came to a reasonable and proper income. He was a high-class, high-tone, high-type, darned-fool lawyer to do like that. And you may have one too, but I doubt if you do.

In closing let me suggest this. If you do carry on a complete study as I am sure you have had to some extent in this state, and may have had a complete study, compare it with other states, and we can give you a lot of information at American Bar Association headquarters if you would like to have it. Make a survey in the state from county to county, a survey
over the whole state, and we worked for three years with some of these scientific boys in statistics to have suggested basis of survey and questionnaires available as they see fit. If you set up a real program to see that the income of the lawyers in Wyoming is not necessarily increased, but is what it should be in relation to the services rendered by men in the legal profession, first, a reasonable charge to your client for services rendered, second, on that basis, an income comparable to other professions and businesses rendering services to their customers and clients. Then you can, if you have a lower income than you should, as to which I am not informed, you can have the same results in this state as they had in Minnesota and many other states. If you already have a higher income than you should, then it should be lowered. If it is already high enough, then you will find it out and be satisfied with what you have. With a permanent program that can be easily done.

I want to give you one final statement in closing. This actually happened in a state between 1,000 and 2,000 miles from here. They had a minimum fee schedule in this town and it was printed on a big sheet of paper, one sheet. This guy in this town had the minimum fee schedule and he framed it and put in his waiting room. And on the bottom he wrote on it with red ink, "If you go to any other lawyer in town, this is what it will cost you. I charge twenty per cent less."

Of course you are doubtless familiar with the "s" ruling of seven states. We have before our "s" committee of American Bar Association a consideration of a similar problem in which these states hold the continued and customary charging of less than the recommended fees of the Bar is a form of solicitation of business, an attempt contrary to the cannon to take business from other lawyers, and is subject to action by the Bar Association. Now don't forget, of course, that there are services for which you can charge no fee, that is one of the privileges and duties of our profession. In some instances Bars feel that you should either charge a reasonable fee or none at all. Others feel you should take certain elements into consideration. Nevertheless, it is the holding of the "s" committee of seven states that a charging customarily and as a matter of practice of less than reasonable fees as found by local Bar Associations is a form of solicitation and advertisement.

We have the greatest profession in the world, and I don't believe I am prejudiced, but I may be. When you think of the medical profession, the dental profession, of the engineering profession, of the various businesses, none of them are trained as we are in the science of logical thought. None of them are trained as we are in civic and religious service. We have the greatest opportunity of any group or class or profession or business in the United States of America or the world. It is our obligation and our duty to fulfill it. It is my opinion, and I believe it is yours, that consistent with that, it is our duty to our profession, to our wives and to our children,
to our community, to see that reasonable and proper fees are charged by us and our fellows in the profession for the services which are rendered. The tools are there, the information is available, we and our Bar Associations can put them in effect.

Thank you.