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# Bar Bulletin

# BAR BULLETIN

*Editor* ----------KENNETH C. SEARS

*Associate Editor for Bar Association* ----------W. O. THOMAS

OFFICIAL PUBLICATION OF THE MISSOURI BAR ASSOCIATION

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## MISSOURI BAR ASSOCIATION

The annual meeting of the Missouri Bar Association was held in Kansas City December first and second. The members were appropriately welcomed by Mr. Newton L. Wylder, the active and energetic president of the Kansas City Bar Association. The welcome was gracefully accepted by Mr. A. T. Dumm of Jefferson City, of whom it was said that he was not only a member of the association but an "institution" as well. The truth of the remark was demonstrated when it was announced that through his efforts every member of the Jefferson City bar had become a member of the Missouri Bar Association.

The address of President Curlee was admirable because of its frankness and style. He announced that once again the lawyers of St. Louis and Kansas City had given financial assistance to the Association. When he assumed office there was a note of the Association which now amounted to about one thousand dollars. He had six hundred dollars, a gift from the St. Louis Bar Association, and had been promised four hundred dollars from the Kansas City Bar Association. With this assistance he hoped to leave the Association free from any except current indebtedness.

President Curlee demonstrated that the Association would always

be in a chronic state of insolvency unless a different policy be adopted for the future. An increase in membership, he pointed out, would only cause additional financial embarrassment. Through the kindness of Mr. Dutton he presented figures to show the cost *per capita* to be as follows:

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| Banquet | $2.60 |
| Collecting dues | .90 |
| Year book | 1.60 |
| Bar Bulletin | .54 |
| Miscellaneous | .63 |
| Total | $6.27 |

If the annual dues are only five dollars, a deficit is inevitable. Furthermore, he said, Mr. Jacob Lashly had faithfully tried to obtain new members and his efforts had cost one dollar and fifty cents for each member obtained. This expense was generously borne by Mr. Lashly, personally, but such generosity is not to be expected in the future.

Consequently, the President presented three alternatives: (1) The Association be conducted as in the past, i. e., with an annual deficit and a big program but with slight accomplishments; (2) the Association be changed into a mere social organization; (3) make the Association into an effective organization by increasing the annual dues to twenty-five dollars, and establish a permanent office (preferably at the state capitol), with a permanent secretary who would be qualified to look after legislation, publicity, membership, dues, and bar bulletin. Such a man he thought could not be secured for less than an annual salary of five thousand dollars.

President Curlee argued that the third alternative be adopted. He pointed out that every successful trade organization had found a similar plan necessary. He also referred to the fact that there was a movement under way to incorporate the bar in various states by legislation. Such had been done in Florida and the annual dues there were twenty-five dollars; such a plan was necessary to revive the influence of the bar in public affairs, to decrease the hostility to courts and lawyers and to make the bar effective in securing the proper sort of legislation.

The proposal of President Curlee may be epoch-making. It produced considerable discussion, with the result that a committee was appointed to consider the whole problem of the future policy of the Association. Later the committee reported amendments to the by-laws which had the following effect: (1) to increase the annual dues from five to ten dollars; (2) to provide that the annual banquet will be paid for hereafter by the members attending and not by the Association; and (3) to pro-

vide that a permanent office should be established at the state capitol. The recommendations of the committee were adopted after long debate and the committee was continued to consider other plans.

It might be suggested here that the committee might well consider a plan to consolidate the various bar associations in Missouri into one organization. It is believed that lawyers are asked to join too many organizations, i. e., the local, state and national associations and then various special organizations such as the Commercial Law League. It would seem more satisfactory to have a single state organization with only one demand for dues. Of course, local organizations would be necessary but they would be branches or chapters of the state organization. Surely some arrangement could be made for apportioning the funds as needed to carry on useful work. It is believed by this means dues of ten dollars annually would be a relief to most lawyers and at the same time better results could be obtained.

The members were generously and hospitably entertained the evening of December 1 by the Kansas City Association at the Mission Hills Country Club. After a splendid dinner, Judge Henry I. Green of Urbana, Illinois, gave an address on "The Work of the Illinois Constitutional Convention." Judge Green proved to be a conservative but his audience was a conservative audience judging from the applause given him. His address was well received. It was reassuring to hear from him that no purely partisan issue had crept into the Illinois Convention in spite of the fact that eighty-five members were Republicans and seventeen were Democrats. There was pleasure in hearing him announce that the proper ideal for a constitution is a short one of fundamental propositions without attempt to handicap the legislature by detailed and various limitations on its power. Nevertheless, he viewed as a radical suggestion that an indictment by grand jury should not be required by the constitution in order to prosecute for criminal offenses. We in Missouri have learned from experience that the danger of prosecution by information is largely imaginary and that the grand jury system is only desirable as an aid in uncovering crime in difficult situations.

It was interesting to hear Judge Green say that one of the two dominant reasons for a constitutional convention in Illinois was the realization that the present constitution by requiring that all property be taxed uniformly had only succeeded in driving intangible property into hiding. The same problem will no doubt be before the convention in Missouri. Shall we recognize the inevitable or shall we deceive ourselves into thinking that a threat of a sentence to the penitentiary will bring forth intangible property in order that it may be subjected to what the

owners regard as virtual confiscation? (Cf. Graves, J., in *State ex rel. Tompkins* v. *Shipman*, 234 S. W. 1. c. 65.)

Mr. John M. Atkinson presented a report of the special committee on constitutional revision. It reviewed the work that had been done and recommended that the committee be continued to finish the work. Thus, no attempt was made to secure indorsement for the proposed judiciary article. Nevertheless, a debate arose for fear that the action requested would be construed as an indorsement of the proposed article. The Association voted to continue the committee with the express understanding that its recommendations should be passed upon by the Association before submission to the constitutional convention.

The special committee appointed to consider participation by the Association in the selection of judicial officers submitted an amendment to the constitution and, as amended, is as follows:

"The committee on Judicial Candidates consisting of eight members shall meet at the call of the chairman prior to the primary nomination or appointment of any person as a member of any state appellate or any federal court in this state. The chairman shall invite like committees of local bar associations in this state to join in the deliberations. The joint organization shall determine the advisability of making recommendations to the appointing power or to the voters in a primary election as to the fitness of judicial candidates. Such organization may also consider means of securing men of proper qualifications as candidates for such offices.

"In case the joint organization deems it advisable to make recommendations it shall first proceed, whenever feasible, to get an expression of the opinion of all of the members in good standing of the Missouri Bar Association and such local bar associations as may be represented at the joint organization. The expression shall be obtained by distributing ballots which shall be signed by the person voting and shall not be counted unless so signed. No person shall be entitled to more than one vote even though he belongs to more than one association represented in the joint organization.

"The joint organization shall provide for counting the ballots and its recommendations shall be in accordance with the expression thus obtained. In distributing the ballots there may accompany each ballot a statement concerning the persons under consideration; such statement shall be impartial and fair and shall be formulated for the purpose of informing the voter of the qualifications of any candidate for judicial office, including his education and experience at the bar and on the bench.

"The ballots shall be so arranged that a voter may express himself

as believing that more than one, or that all, of the candidates are fitted for any particular office.

"After all need for the ballots has passed it shall be the duty of the Committee on Judicial Candidates to entirely destroy them. No member of the joint organization or the committee which shall count the ballots shall disclose how any ballot was marked.

"The report of the organization shall be given publicity prior to the appointment or primary election.

"The joint organization shall have power to make by-laws, not inconsistent with, and for the purpose of carrying out the foregoing provisions."

The amendment was adopted by an overwhelming majority.

The various committees then submitted their reports. The reports evidenced activity and preparation but on every side there was a demand for a representative who could look after the interests of the Association at Jefferson City while the Legislature is in session.

The Council presented the name of Mr. Charles W. German of Kansas City for the next president and the presentation was greeted with genuine applause. It was no doubt a recognition of the splendid and unselfish work Mr. German has done for the Association in the past and there is every reason to expect that he will make an excellent leader for this year.

Mr. John T. Barker of Kansas City presented a resolution expressing a desire for a meeting of the Association in Jefferson City next summer. It was adopted. It was thought that the constitutional convention will have been organized by that time. There was also a feeling expressed that it may be a mistake to have the annual meeting late in the fall while lawyers are busy in court.

Judge Thomas Buckner of Kansas City offered an amendment to the constitution to provide that the officers of the Association shall be nominated and elected in open meetings. While it seems strange that it could be seriously thought that the Association is undemocratic in its organization and practice, still if that impression is widespread it should be removed. The amendment should be adopted if it will counteract that feeling. It was not acted upon. The author said he would bring it up for action at the next meeting if it does not become a part of the program of the committee on future policy of the Association.

Columbia, Missouri KENNETH C. SEARS

## THE INDEX TO LEGAL PERIODICALS

In a letter circulated among the secretaries of the state bar associations, the American Association of Law Libraries, by its Committee on Index to Legal Periodicals, calls attention to the place of the Index among legal publications and makes an appeal for support in a financial way. Careful examination of what the Index is, its aims and the place it fills in the office of the attorney and in the law library will suffice to prove that such an appeal for support should be answered and that its claims upon the profession are fully justified.

In January, 1908, the first number of the Index to Legal Periodicals appeared. Up to that time but one index to legal periodical literature had appeared—Jones' Index to Legal Periodicals—a two volume set which covered the period up to the year 1899. The American Association of Law Libraries, realizing the importance of a work of this type which would also serve as a supplement to Jones' Index, resolved to undertake its publication, and up to the present time some fourteen yearly cumulative numbers have been published, in addition to quarterly numbers which supplement the cumulative ones and keep the Index to date. Both quarterly and annual numbers contain an index by subject and by author, and in addition a table showing the cases which have been reviewed or commented upon in legal periodicals and where such articles may be found. Another table gives the latest volume of the reports of each state set to be published, the latest volume of session laws and the source of supply of each.

The classification scheme used is based largely upon that of the American Digest System, with which many lawyers are already familiar, so that the user need only turn from the general Digest heading with which he has been working to the same heading in the Index to locate a periodical discussion upon the subject in which he is interested. Approximately seventy legal and quasi legal periodicals are indexed, constituting the entire list of legal periodicals of a general nature printed in the English language. Thus it will be seen that the contents of all current legal publications are made readily available, including the discussion of current cases so valuable to the practicing lawyer. It is also possible for any official or member of a state bar association or of the American Bar Association to keep in touch with the work of other associations as represented by the papers presented at their meetings, published in their reports and perhaps reprinted in periodicals. By the recent publication of a supplement to Jones' Index the gap between Volume 2 and the first volume of the Index to Legal Periodicals is closed, thus placing all periodical material to date in usable form. Under pres-

ent plans the cumulative annual numbers are to be combined in one alphabet, making the contents available at a considerable saving in time and labor.

Up to the present year the funds of the Association—the income received from the dues of a membership of only slightly over one hundred and whatever return was received from the Index itself—have been expended in publication. The increase in printing and binding costs in the past two or three years is a matter of common knowledge. The Index to Legal Periodicals has been so affected by these conditions that in spite of a substantial increase in membership and corresponding increase in income, it is no longer possible for the Association to continue its publication without financial assistance from outside sources. A committee has been authorized to confer with officials of the American Bar Association on this subject and steps are also being taken to bring the matter to the attention of the state bar associations.

In view of the very evident value of the Index to Legal Periodicals to the legal profession generally as well as the librarian and law teacher and the efforts which have been made by the American Association of Law Libraries to sustain publication of the Index at considerable sacrifice, it would seem that the Association is warranted in their appeal to the profession for assistance. It is to be hoped, therefore, that the response may be so general that continued publication of the Index to Periodicals may be assured. Any Missouri lawyer who is interested in the Index and its work may secure additional information by communicating with Mr. Franklin O. Poole, 42 W. 44th St., New York City, who is Chairman of the Committee on Index to Legal Periodicals, of the American Association of Law Libraries.

Columbia, Missouri. PERCY A. HOGAN

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TRIBUTE TO AMERICAN JURIST—"It is one of my earliest recollections of the practice of the law how the English Court of Appeal was convinced by reference to a chapter in Mr. Justice Holmes' profound and masterly analysis of the Common Law, that a previous decision of the English High Court was wrong, and that the true principle was to be found expounded in his luminous treatise."—Sir John A. Simon, K. C., Am. Bar Association Meeting.

## LEGAL EDUCATION

At the meeting of the American Bar Association held at Cincinnati, August 31 to September 3, 1921, a special committee to the section of legal education and admission to the bar made a significant report and recommended as follows:

"(1) The American Bar Association is of the opinion that every candidate for admission to the bar should give evidence of graduation from a law school complying with the following standards:

"(a) It shall require as a condition of admission at least two years of study in a college.

"(b) It shall require its students to pursue a course of three years duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only part of their working time to their studies.

"(c) It shall provide an adequate library available for the use of the students.

"(d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

"(2) The American Bar Association is of the opinion that graduation from a law school should not confer the right of admission to the bar, and that every candidate should be subjected to an examination by public authority to determine his fitness.

"(3) The Council on Legal Education and Admission to the Bar is directed to publish from time to time the names of those law schools which comply with the above standards and of those which do not and to make such publications available so far as possible to intending law students.

"(4) The president of the Association and the Council on Legal Education and Admission to the Bar are directed to cooperate with the state and local bar associations to urge upon the duly constituted authorities of the several states the adoption of the above requirements for admission to the bar.

"(5) The Council on Legal Education and Admission to the Bar is directed to call a Conference on Legal Education in the name of the American Bar Association, to which the state and local bar associations shall be invited to send delegates, for the purpose of uniting the bodies represented in an effort to create conditions favorable to the adoption of the principles above set forth.

"Elihu Root, Chairman, New York, N. Y.
"Hugh H. Brown, Tonopah, Nev.
"James Byrne, New York, N. Y.
"William Draper Lewis, Philadelphia, Pa.
"George Wharton Pepper, Philadelphia, Pa.
"George E. Price, Charleston, W. Va.
"Frank H. Scott, Chicago, Ill."

After full debate in the section and before the entire association, the recommendations were adopted. The opposition seemed to come chiefly from representatives of certain night schools. Mr. Elihu Root approved them in the following manner:

"It is a question whether we are to have any standards at all. Of course, if there is to be a standard, the line must be drawn somewhere. Wherever it is drawn, there will be somebody who will be inconvenienced. I should be sorry to have the gentlemen representing law schools that do not care to conform to this standard inconvenienced, but I care a great deal more about the honor and the dignity of the American Bar than I do about their convenience. I care more about having the Bar an agency competent to secure effective administration of justice in this disturbed country than I do about those gentlemen's convenience. I care more about having some body in America, some organized body, with the courage and the decision of character that makes it competent to meet the new conditions that confront us, and which are tending to bring the Bar and the administration of the law and the law itself into disrepute and ineffectiveness. I care more for that, than I do, sir, about the inconvenience of however close a friend."

Mr. Chief Justice Taft answered the argument most often used by opponents to any progress.

"Everyone, immediately upon reading these requirements, begins to make personal application, and the man who leads in the bar of his own state will say: 'Well, I never had two years of college education; therefore, why should I require it of everyone else?'; the argument that Abraham Lincoln, one of the greatest lawyers we ever had, and who would have made one of the greatest Chief Justices the country ever saw, did not have the benefit of such an education as is here recommended. But those were exceptions, and we must make law for the benefit of all, and it is not a question of the personal ambition, or the personal coming to the front of the individual, but it is the question of saving society from the incompetent, the uneducated, and the careless, ignorant members of the bar, who have

intrusted to them the fortunes and the lives of the public in the protection of their rights."

Mr. Alexander H. Robbins of St. Louis carried the argument further.

"This report does not, as some of the gentlemen here would seem to think, set up an impossible standard that would enable some of these schools to form a trust. This standard is not a prerequisite for admission to the bar, unless the states have made it so by law. This is a minimum standard from the standpoint of the need of the profession today, and not what it was fifteen or twenty years ago. There are some men here who had not these advantages, and some of them feel that they ought not to consistently ask the young men coming to the bar today to meet any higher standards than they themselves met.

"But conditions are different today than they were twenty-five years ago. If you will look over the members of the profession in any of the large cities of this country, you will observe that the men who are bringing discredit upon the profession are, in nine cases out of ten, men without any college education.

"I tell you that a man who goes to college for two years or three years, a man who has character enough to give up some of the best years of his life to a preparation for the study of law, is not going to degrade the standards of his profession. That is the best moral test you can lay down. You can, many times, tell the character of a young man by what he is willing to do in order to get into the profession. I was chairman of a committee of our local bar association to investigate the practice of law by laymen, and I discovered that there were more men than I thought existed, who were living outside the law and who were using certain members of the profession in personal injury litigation.

"Now, it is to keep out of the profession men whose moral standards are like that that this proposition is laid before us."

Missouri only requires a grammar school education and no legal education in order to be eligible for admission to the bar. Should she not at the earliest possible moment set herself right? Observe what a neighboring state has done.

William Hutchinson, of Kansas: "I am not rising to bring my own opinion in indorsement of this recommendation in full, but to bring to you the unanimous opinion of the entire State Bar Association and of the Supreme Court of our state. Last November our Bar Association unanimously indorsed the resolution, in substance, which

has been proposed here, making two years in college a necessary requirement to the study of law, and three years of study in a college.

"Our Supreme Court in January last promulgated a rule putting that requirement in force—to take effect, however, in the future."

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RESPONSIBILITY FOR JUDICIAL RESULTS—"We have a great many complaints of the failure of justice in trials which have great publicity and in which the jury does not seem to do its duty. That subject I discussed in a paper read before the Bar Association in Montreal. I merely wish now to emphasize the fact that if legislatures take away the power of judges to conduct trials as they ought to be conducted, and as they have been conducted in English courts of justice and in federal courts of justice since their organization, and reduce the judges to a mere moderator, the complaint of results should not be laid at the door of the judiciary—it must rest with the legislature. The members of the profession, however, cannot escape criticism in the same way. With one or two exceptions, every state legislature is full of lawyers and the profession has a very great power, if it would exercise it, to perfect the machinery for the administration of justice. But too often lawyers in the legislature have allowed themselves to be influenced by personal considerations, by small jealousies of the power of judges, and by shaping the administration of justice to suit the character of their particular practice. It is important that the responsibility for unsatisfactory legal procedure should be put where it belongs, and much of it, I am sorry to say, is due to the members of the profession who do not do credit to the profession in the discharge of their political duties in this regard."—Mr. Chief Justice Taft, in Vol. VII, p. 454, Am. Bar Assoc. Journal.