

1924

Program of Missouri Bar Association

Guy A. Thompson

Follow this and additional works at: <http://scholarship.law.missouri.edu/ls>

 Part of the [Law Commons](#)

Recommended Citation

Guy A. Thompson, *Program of Missouri Bar Association*, 29 Bulletin Law Series. (1924)

Available at: <http://scholarship.law.missouri.edu/ls/vol29/iss1/5>

This Bar Bulletin is brought to you for free and open access by the Law Journals at University of Missouri School of Law Scholarship Repository. It has been accepted for inclusion in University of Missouri Bulletin Law Series by an authorized administrator of University of Missouri School of Law Scholarship Repository.

PROGRAM OF MISSOURI BAR ASSOCIATION

The lawyer has ever been ridiculed by the ignorant and denounced by the envious. The famous colloquy on Black Heath between Jack Cade and Dick the Butcher, when it was agreed that the first thing to be done was to kill all the lawyers, has been popular for the past three hundred years. Yet the fact remains that no other class or calling of men has been habitually entrusted with so large a measure of public confidence. De-Tocquville, in his work "Democracy in America," wrote truthfully when he said:

"The people in democratic states do not mistrust the members of the legal profession because it is well known that they are interested in serving the popular cause; and it listens to them without irritation, because it does not attribute to them any sinister designs." (p. 300).

Of the twenty-eight Presidents of the United States, twenty-three have been lawyers; of the forty-six Secretaries of State, forty-four have been lawyers; of the fifty-six signers of the Declaration of Independence, twenty-five were lawyers, and the hand that penned the immortal document was a lawyer's hand; of the fifty-five framers of the Federal Constitution, thirty-one were lawyers, and he who is known to history as the Father of the Constitution, James Madison, was a lawyer. And the authors of the Federalist, that Iliad of statesmanship without which our Constitution would not have been adopted, John Jay, Alexander Hamilton and James Madison, were lawyers. In the last Congress two-thirds of the Senators and over one-half of the Representatives were lawyers; in the last General Assembly of Missouri a very large proportion of the House and a majority of the Senate were lawyers. A majority of the Missouri Constitutional Convention recently adjourned were lawyers. Of course all members of the third so-called coordinate, but really supreme branch of our government, the judiciary, have always been lawyers. We are not far afield when we assert that those who

govern the one hundred and ten million people of our country are drawn from the one hundred and twenty-five thousand lawyers of the land.

If our profession is to retain its influence, if it is to prove equal to the responsibilities imposed upon it, if it is to continue to receive this manifestation of public confidence, it must prove itself worthy. If the time shall come when our profession has forfeited the confidence and the respect of the public, then will our laws and our courts be held in contempt and the doom of our institutions will follow, as surely as the night follows day. In the final analysis, therefore, the object of every Bar Association is to preserve, protect and promote the honor and dignity of the legal profession to the end that it shall merit and receive the confidence and respect of the public.

To the accomplishment of that supreme end, what are the bar associations of Missouri doing? I, of course, shall speak only for the Missouri Bar Association. My tenure of office as President of that association has been too brief for me to bring you tonight a complete and final program. I have been giving the subject very earnest consideration. Somehow the following words from Holy Writ seem to carry a spirit that is peculiarly pertinent:

"Now the Lord said unto Abraham: 'Get thee out of thy country, and from thy kindred, and from thy father's house, unto a land that I will show thee.

And I will make of thee a great nation and I will bless thee and make thy name great; and thou shalt be a blessing."

We must get out of our accustomed environment and country of small membership, of antiquated organization and of self-complacency and march into a new land of increased membership, up-to-date federated organization and progressive purposes. Then we will be blessed, then will our name be great, then shall we be a blessing.

First—MEMBERSHIP—Our membership situation is deplorable, indeed intolerable. We have about six hundred and forty members in good standing, that is, members whose dues are paid to date. We have about nine hundred members in arrears,

from one to five years. The practice has been to consider these in arrears as having forfeited their membership, and yet to refuse to allow any to resign or to be restored to the roll of membership, until all delinquent dues are paid. The result is that a member whose dues have not been paid since January 1, 1922, can neither resign nor be considered a member of the Missouri Bar Association until he shall first pay to the Treasurer the sum of \$30.00. Manifestly, this practice in effect amounts to the exclusion of most of these nine hundred delinquent members from membership in the Missouri Bar Association.

Furthermore, to my mind the amount of our dues is indefensible. No man can successfully explain why membership in the American Bar Association, with subscription to one of the very best law journals of America, should cost \$6.00 per year, while membership in the Missouri Bar Association should be \$10.00.

I shall appoint with the approval of the Executive Committee, a Special Committee on Increase of Membership. Senator X. P. Wilfley will be chairman. This committee will consider the question of dues and the existing membership situation, and the means proper to be adopted to attract new members to the Association. It is my fervent hope that the committee will recommend a reduction in the dues, and further that the Executive Committee exercise its constitutional power to restore to membership in good standing all delinquents upon the payment of dues for the current year only.

Second—FEDERATION OF BAR ASSOCIATIONS—

The local Bar Associations should be affiliated with the Missouri Bar Association. As every county is distinct and is yet a part of the state, and as every state is a separate sovereign and yet is a part of the federal union, so should every local Bar Association be a part of the State Association and every State Association a part of the American Bar Association. The autonomy and identity of each would not thereby be disturbed, while the power of all would be tremendously increased. The matter of dues would seem to be the most difficult feature of this plan

to solve, and yet it should not prove an insuperable barrier. The incoming Committee on Bar Associations, of which Mr. Kenneth C. Sears is chairman, will make this matter its work for the year, and we may expect from it at our next annual meeting, if not before, a completed and workable plan for the merger of the Bar Associations of the State with the Missouri Bar Association.

Third—CRIME AND CRIMINAL PROCEDURE—There occurred seventeen murders in London last year. Only nine of these were cases where a trial for murder in the first degree could properly ensue. Not one of the murders was unsolved. During 1921 there were two hundred and sixty murders in the City of New York, and one hundred and thirty-seven in Chicago. Throughout all England and Wales in 1921 there were sixty-three murders. In the United States there is an average of eighty-five hundred murders per year. More of our citizens have been murdered since the beginning of the Great War; August 1, 1914, than there were American soldiers who lost their lives in that stupendous struggle. There has also been a steady increase in burglaries and robberies. During the past ten years burglaries have increased in our country twelve hundred per cent. The swelling tide of lawlessness has been plainly perceptible for the past thirty years. Making liberal allowance for inefficiency and delinquency in the police departments, in the jury boxes and in the prosecuting offices, the fact indisputably remains that there is much radically wrong with our criminal law. So far as I am aware, there is no organized effort to improve the criminal law and its administration in Missouri. I am now making up a special committee, subject to the approval of the Executive Committee whose function will be to give attention to this very important subject, with the view of determining whether anything should be done and, if so, whether the initiative should be taken by the Missouri Bar Association. It is expected that this committee will make its report to the Executive Committee at the earliest date practicable.

Fourth—RESTATEMENT OF THE LAW—That there is widespread and growing dissatisfaction with the law and its administration all will admit. That this is a matter of serious concern, none will deny. If this were confined to anarchists, while it might interest it would not excite us. But when we realize that it permeates all groups of our citizenship however divergent their political creeds, there is just cause for alarm. This is due in large measure to the uncertainty and complexity of the law. What lawyer with certainty can advise a client what may constitute “doing business” within a state, or within what state his client may safely make conditional sales of his wares? What are the rights of one suing in this state for injuries sustained in another state? What is the status of a foreign marriage or divorce? What is the effect of an evil motive upon an act otherwise legal? Upon almost any question of controversy apt to arise in the ordinary affairs of life there is confusion and contradiction of legal authority. The truth is that we are constantly groping about in a wilderness of precedents that cannot be reconciled. Meanwhile the legislatures continue to grind out their statutes by the thousands. The federal courts, and the courts of forty-eight states, pour forth their never-ending streams of decisions, which, uniting, form an ever-widening and deepening torrent that threatens to engulf us.

Convinced of the imperative necessity that the law be made more certain and clear by an authoritative restatement, the Association of American Law Schools initiated a movement which resulted in the assembly in Washington, D. C., in February last, of representatives from forty-seven states. Among these were twenty-one chief justices and ten associate justices of the highest courts of the states, representatives from twenty-two State Bar Associations and thirty law schools. The Chief Justice of the United States also attended. There were present a total of three hundred and forty-one persons. These formed the American Law Institute and commissioned it to clarify and simplify the law and the better to adapt it to social needs. The task, involving as it does, the restatement of the substantive law, is indeed hur-

culean—so stupendous as to stagger confidence in the accomplishment in all but the most optimistic. The Institute has been endowed with \$1,075,000.00 by the Carnegie Corporation and its work is well under way. The topic "Contracts" has been assigned to Mr. Samuel Williston of the Harvard Law School; "Torts" to Mr. Francis H. Bohlen, of the University of Pennsylvania Law School; "Conflict of Laws" to Mr. Joseph H. Beale of the Harvard Law School; and "Agency" to Mr. Floyd R. Mechem of the University of Chicago Law School. It will readily be conceded that each of these gentlemen is the supreme authority in the topic that has been given him. Other topics, as the work progresses, will be assigned to other lawyers of equal scholarship and distinction. But though each of these should prove himself a Cambacere's, or a Papinian, or a Tribonian, the work will come to naught unless it have behind it the sanction and support of the American Bar. Therefore, it is important that the Missouri Bar Association lend its best efforts to informing the people of the State of this great work and to linking up with it the lawyers of Missouri.

Fifth—EDUCATION—But of what avail will be the restatement of the law by the most learned of the earth, if the completed work is to be given into the hands of lawyers and judges intellectually unprepared to understand or to apply it? That would simply start again the vicious circle. The restatement is highly desirable, but with it must go the indispensable remedy—education, and yet more education. This was long ago manifest to the far-seeing of our profession, and at the meeting in St. Louis of the American Bar Association in 1920 a special committee was appointed to give attention to the subject and make concrete recommendations at the next meeting. This committee reported at Cincinnati in 1921, recommending resolutions providing that applicants for admission to the Bar must give evidence of graduation from a law school with the following standards: (a) It shall require as a condition of admission at least two years of study in a college; (b) that its students 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; and (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. These resolutions were adopted and a call was sent out to the lawyers of the country to meet and consider them. In response there assembled in Washington, on February 23, 1922, what the Carnegie Foundation later referred to as "not merely the largest, but also the most distinguished gathering of American lawyers that has ever been assembled for the special purpose of discussing the problems of legal education and admission to the Bar." There were present the Chief Justice and Attorney General of the United States, delegates from the American Bar Association, forty-four state bar associations, one hundred and sixteen local or foreign associations, and twenty-seven law schools, an aggregate of three hundred and thirty-one.

For two days the Cincinnati resolutions were discussed with the seriousness which can characterize only a momentous occasion. The debates, in point of eloquence and learning, will excite the admiration of all. The result was the adoption of the Cincinnati resolutions with interpretations and an appeal to the lawyers of the land to carry them into effect by appropriate legislation. The standards prescribed by these resolutions have been made effective in Illinois and Kansas and thus far have been endorsed by the state bar associations of California, Colorado, Illinois, Iowa, Michigan, Minnesota, Ohio, Oregon and Missouri, and, so far as I have been able to learn, but two bar associations have refused approval. At the recent annual meeting of the Missouri Bar Association these standards were approved a second time and the incoming Committee on Legal Education was instructed to draft a bill that embodies them. And it was also resolved that a campaign of publicity be carried on during the coming year in support of this bill.

Judge Fred L. Williams, formerly one of the judges of the Supreme Court of Missouri, will be the chairman of the new Committee on Legal Education. No doubt this committee in drafting the education bill, will seek the cooperation of the education committees of the various local bar associations, and I can assure you that the personnel of this committee will be such that the lawyers and laity of the state will attach the presumption of wisdom to the result of its labors.

Mr. Forrest C. Donnell of St. Louis has accepted the chairmanship of a special committee I am appointing which, in conjunction with the education committee, will carry on the campaign of publicity in support of this bill, and also in support of the work of the American Law Institute. Doubtless public meetings will be arranged at strategic points in the state and be addressed by lawyers of eloquence, of good judgment and of full information.

No Missouri lawyer can take pride in the fact that though the physician, the nurse and the optometrist are required to have a high school education, a member of the Bar in our state need never have attended even a grammar or a common school. The flintlock educational equipment of fifty years ago is insufficient today. Not only has the law become more complex, but its field has greatly expanded during the past half century. Thus we have as comparatively new juristic domains the law of business corporations and of trade associations; the law of fair trade, employers' associations and labor unions; the law of aerial navigation and administrative law. Furthermore, as said by old Cardinal Newman:

"The practical business of a university is training good members of society.----- College honor is the keenest in the community and no higher ideals can be found on earth than in the best thought of our best universities.

The standards of the Cincinnati resolutions as interpreted at the Washington Conference, are not oppressive. Our educational facilities are such today that any young man worthy to be a lawyer and intellectually capable can meet these requirements,

and it is unfair to the public, to the profession and to the young lawyer himself to bring him to the Bar without this equipment.

Proud of our oath-bound cult, rejoicing in its achievements, mindful of its responsibilities, let us go forward to the accomplishment of these great purposes. Let us draw our inspiration from the divine injunction:

“And whosoever of you will be the chiefest, let him be servant of all.”¹

St. Louis, Missouri.

Guy A. Thompson

¹Address delivered by the President of the Missouri Bar Association at a dinner given by the St. Joseph Bar Association, January 12, 1924.—Ed.

