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The Work of the Indiana Law Journal

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the states, that a nation of three millions of people has developed, under its protecting influence, to one of over one hundred millions, scattered over a vast expanse of territory—strong, mighty, invincible!

Again must come at least benevolent admiration of that system of government, so long responsible for our tranquility at home and greatness abroad. Again must come a recognition of that primary principle, so essential to the success of stable, substantial government—that the performance of authority be placed where it belongs, and that the dependable agency be held responsible for its proper exercise.

When that time comes, the centralizing tendency will cease, the commerce clause will assume its proper function, and “general welfare” will be relegated to the store-room of ancient heirlooms.

President Hatfield introduced Mr. Leon Wallace of Terre Haute who read the following prepared paper on the work of the Indiana Law Journal.

THE WORK OF THE INDIANA LAW JOURNAL

Your President asked me to talk to you on this subject: “The Law Journal, Its Efforts and Purposes.”

I believe it would be presumptuous for me to try and tell the members of the Bar Association what the purposes of its Journal are—rather I shall re-state those purposes as laid down by the Bar Association in 1925, and attempt to tell you how those purposes are being carried out.

In Volume 1 of the Law Journal, the purposes are set out as follows:

1. It is a journal of Bar Association affairs, and is the medium through which news and announcements touching not only the State Bar Association, but also the District, County and City Bar Associations are conveyed to the members.

2. The Journal deals with legal news of general interest to the profession of the State.

3. The Journal aims to be a forum for the discussion of the problems facing the legal fraternity, not only those problems having to do with legal standards, but also the problems which arise in the field of substantive and procedural law.

At the same time that the Association laid down these principles which were to govern the Journal, it also decreed that the mechanical end of the production of the Journal should be conducted by the Indiana University School of Law. There has been no deviation in the years of the Journal's existence from this statement of purposes. What you gentlemen are chiefly interested in, is the question, how are these purposes carried out? That is what I intend to tell you as briefly as possible.

So far as the first purpose is concerned, the news and doings of the State Bar Association are from the verbatim reports of the reporter of the meetings. These verbatim reports are carefully edited by the editor of the Law Journal, and in the interests of space, are reduced in volume but not in content. Other news of the State Bar Association is taken from the reports and bulletins of the President and the Board of Directors. A clipping service covering the entire State adequately takes care of the news of the local units of the legal profession throughout the State. This clipping service also serves to fulfill the second purpose laid down for the Journal—that of dealing with news of general interest to the profession of the State.

I believe the mechanics necessary to carry out the third aim of the Journal will be of most interest to you. How does the Journal go about in adequately discussing the legal problems which face the profession? As you have noted in reading the Journal, this aim is carried out in three ways:

First. *The Recent Case Notes.*

Second. *The Comments.*

Third. *The Leading Articles.*

I shall tell you first of the work which one of the Case Notes represents.

The Case Notes are written by students under the guidance of the professor who teaches that phase of the law which is covered by the Note. The students who make up this Law Journal Board are chosen in the following manner:

The five students in the Junior law class with the highest scholastic record are chosen for the Board; and the five students of the Senior class with the highest scholastic record are likewise chosen. These students make up the Board. The student with the highest scholastic record in the Senior class is chairman. It is his duty to scan the advance sheets of the Indiana and Appellate Reports, and of the Supreme Court Reporter, and

select cases with points of interest to the legal profession of Indiana. From the comprehensive list which he selects, the other student members choose a case and consult the professor who teaches the field of law which is covered by the point to be discussed. The professor at that time outlines what he believes should be the general scope of the Note. The student then goes to the Indiana Digests and looks for all cases on the point upon which he is to work. When he has this list of cases, along with the cases cited in the decision to be discussed, he takes his Shepard and follows down all the decisions for all decisions cited by Shepard. He then reads all of the cases which he has listed and selects those which are in point on the problem which he is discussing. Having thus arrived at a rather complete review of the Indiana law, the student-writer then checks to see how the Indiana decisions compare with the decisions of other jurisdictions. To do this, he goes to the index of Legal Periodicals which lists all important notes and articles which have been written on any given phase of the law within the last forty years. From this digest of articles, he chooses those which seem to be in point, and reads what others have written. From these articles he gets a list of cases cited for the proposition laid down therein, and checks these cases in the same manner as he had previously checked the Indiana cases, selecting the best of the authorities for use in his Note. When he has gathered this mass of material he then proceeds to organize it so that his Note will be coherent, and that its parts will follow in logical order. For every statement of law that he makes he cites his authorities therefor in his foot notes, frequently with comment distinguishing and interpreting the cases cited. When he has his material thus organized, he presents it to his faculty advisor, who carefully checks it and frequently disapproves of part of it. When there is such disapproval, the student goes back and checks his material, acquiring new material on some correlated phase of the law which he may have omitted and including it in his Note. When he has completed his Note to the satisfaction of the faculty advisor, the student-writer turns it in to the Faculty Editor of the Law Journal, who re-checks the Note in the interests of the Journal. If he questions any of the statements of law or the deductions drawn therefrom, he returns it to the student for further checking; and not until the Faculty Editor is satisfied with the Note, is it accepted for publication in the Journal. Very frequently the Faculty Editor then edits the Note for grammatical con-

struction and coherence, so that the ultimate reader will not be confused in a maze of rhetoric or lack of rhetoric. By the time the student has had his Note finally accepted, he has spent on an average of 50 hours' work on every note. The Note has been thoroughly checked by at least two members of the faculty, and every citation has been carefully read.

The Comments which usually are a little broader in scope than the Case Notes, are generally prepared by a member of the faculty, or by a member of the profession who has given some particular phase of the law exhaustive study.

The Leading Articles are prepared in much the same fashion, except of course by their very nature they take an infinitely greater amount of time in preparation, and for the most part are prepared by some member of the Indiana faculty, or faculty of some other law school, or by a member of the profession who has spent a great amount of time upon the subject about which he writes, in many cases almost a life time work in the field in which he is working. From the small field of law covered by the Note, to the large field covered by the Leading Article, the writers have distinguished themselves not only for their ability to do high grade work, but also in their capacity to form a lawyer-like judgment of a decision.

I should like to call your attention to the fact that the Indiana Law Journal is conducted on the assumption that it is a permanent publication, and that after 25 or 30 volumes have been published, there will be presented a great mass of critical commentary on Indiana law, which could not be duplicated any place in the world. Such a series of books will be the most valuable thing that an up-to-date Indiana law office could have on its shelves.

I want to discuss briefly a matter which is not so pleasant to bring up before a meeting of this kind. That is the question of criticism of the Journal. So far as I have been able to learn, criticism of the Journal is usually confined to three items:

1. That the Journal is presumptuous in discussing cases which have not been finally determined and ended by the highest court in the State. This criticism of course is always from the individuals whose contention on appeal is the subject of adverse criticism in the Journal.

I should like to call your attention to the fact that the Journal is interested particularly in individual cases only so far as they go to create general statements of the law. And if an attorney

in an individual case is contending for a proposition which if generally applied would create bad law, it is to the best interests not only of the profession but also of himself that such law should not be perpetuated.

The second criticism which I have heard is that much of the material is written by youngsters with no legal experience and very little study. The general assumption seems to be that the student writings are turned out in a half an hour or so, out of Corpus Juris or Ruling Case Law, or one of the kindred statements of the law.

My answer to this criticism is that it is not true. The youth of the critic is immaterial. The Law Journal is perfectly willing to let the writings stand upon their merits and to be judged upon their merits.

The third criticism is that all the writings are dominated by college Professors, or individuals who should be college Professors, who have no grasp of the practical phases of the practice of law, and whose ideas are too theoretical and too impractical to use with success before our very practical Indiana courts.

I shall not attempt to affirm or deny the truth of these allegations. However, I do wish to remind the members of the profession that every Note, every Comment, and every Article, is thoroughly annotated with case decisions for the statements made, and even though the practicing lawyer may not approve of the theory of the law expressed, he can certainly find valuable aid in the numerous citations of actual decisions which bear upon the point in question. I realize when I hear these criticisms, that in the legal profession more than any other profession probably, nothing should be taken on faith. However, I should like to remind the members of the profession that it is possible to become such great unbelievers that we deny the truth of the fact that storks bring baby storks.

After the delivery of Mr. Wallace's address, Mr. Seebirt took the chair and introduced Senator Carl Gray of Petersburg who read a prepared paper on automobile accident litigation. This paper will appear in its entirety in a subsequent issue of the Indiana Law Journal.

Upon resuming the chair, President Hatfield introduced Chief Justice David A. Myers, who delivered the report from the Supreme Court.