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## Announcements

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## ANNOUNCEMENTS

### THE FEDERAL PROCEDURE BILL

Among the other important matters that came before the standing committees of the Indiana State Bar Association at its mid-winter meeting of February 8, was a resolution in favor of the Uniformity of Procedure Bill which has been pending in Congress for several years now and which has received the support of the Indiana State Bar Association in the past. For instance, in 1925 a committee was appointed by our Association for the express purpose of furthering the passage of this bill. Professor Charles M. Hepburn was made chairman of this committee and has been constantly laboring in support of the bill since that time. At the mid-winter meeting of the Association Mr. Hepburn presented a resolution requesting support for the bill from all members of the Association. This resolution was referred to the committee on Legislation, of which Dan W. Simms is chairman, and to the committee on Jurisprudence and Law Reform, of which George M. Eberhart is chairman. These

committees acting jointly, unanimously approved the resolution which is printed later in this announcement.

On Saturday, February 11, Mr. Hepburn received a letter from Thomas W. Shelton, Chairman of the Committee of the American Bar Association which was appointed to further the passage of this bill. Mr. Shelton informed Mr. Hepburn that the bill was encountering great difficulty in committee and that there was serious danger that it would not be reported from the committee during this session. Our members will recall that although a large majority of the Senate favored the passage of the bill in the last session of Congress, it was not reported to the Senate because of the opposition of a single member of the Judiciary committee. In this situation Mr. Shelton suggested that the views of the Indiana State Bar Association be submitted to Senator Arthur R. Robinson of Indiana, who is a member of the Judiciary Committee. Mr. Shelton felt that if Senator Robinson had a resolution from the Indiana State Bar Association in strong support of the bill, it would materially assist him in getting the bill reported from the committee. Mr. Shelton pointed out that the bill was to be considered by the committee on February 13 and that it was felt the bill would either be reported from the committee at that time or killed for the present session.

In this critical situation, Dan W. Simms, of Lafayette, telegraphed Senator Robinson, submitting to him the resolution of the committees of the Indiana State Bar Association and expressing to him the hope of our members that he would use his best efforts, subject to his own convictions in the matter, in support of the bill. On Monday, February 13, Senator Robinson wired Mr. Simms in answer to his telegram as follows:

"Your telegram in favor of Federal Procedure Bill received. I voted to report this favorably today. It was reported out of committee unfavorably with majority and minority reports."

This is a splendid result. It is not possible for us to know how much influence the resolution of our Association had in securing the report of this bill from the Judiciary committee. It is not opportune to discuss the details of the situation in any case. Under the circumstances, it seems that our association can justly feel that it has had a part in the accomplishment of a work of real service to the profession and to the nation; it seems further that we, in turn, as well as the public, owe a debt of gratitude to the splendid services of Arthur R. Robinson, Dan W. Simms, and Charles M. Hepburn.

Resolution on the Federal Procedure Bill adopted February 8, 1928.

BE IT RESOLVED, That The Indiana State Bar Association does hereby endorse the Federal Procedure Bill now pending in Congress, and recommends that the Indiana Senators and Representatives be requested to do everything within their power to secure the enactment of said bill; and

BE IT RESOLVED, That the Secretary of the Association be, and he is hereby, directed to communicate with our Senators and Representatives requesting them on behalf of this Association to co-operate in the enactment of said bill.

DAN W. SIMMS,  
Chairman, Committee on Legislation.

### AN APPEAL TO THE INDIANA BENCH AND BAR

At its annual meeting in 1925 the Indiana State Bar Association adopted the following resolution:

“BE IT RESOLVED, That the Indiana State Bar Association, assembled in its annual convention, 1925, formally expresses its sympathy with and approval of the uniformity of procedure bill known as S. 206, to give the Supreme Court of the United States the authority to make and publish rules designed to secure one form of civil action for causes at law and causes in equity in the Federal Courts, and does respectfully and earnestly request Congress to enact this bill at the next session of Congress.”

This was the outcome of an earnest, long continued effort to secure for the Federal courts in all the states a modern, simple, scientific, uniform system of civil procedure. The movement began in definite form in 1910, when President Taft, in an official message to Congress, urged this reform as one of the “great crying needs of the United States in cheapening the cost of litigation by simplified judicial procedure and expediting final judgment.”

President Woodrow Wilson also urged the reform, in speeches in different years and in different parts of the country. Thus in 1915, President Wilson, speaking at Indianapolis, said:

“I do know that the United States, in its judicial procedure, is many decades behind every other civilized Government in the world; and I say that it is an immediate and imperative call upon us to rectify that, because the speediness of justice, the inexpensiveness of justice, the ready access of justice, is the greater part of justice itself.”

In August of 1912 The American Bar Association appointed a special committee on Uniformity of Judicial Procedure, to take charge of the matter for our national bar association. In December of that year this committee introduced the Uniformity of Procedure Bill in the Senate and also in the House. It was the beginning of one of the most remarkable efforts to overcome tyrannical opposition, on the part of a few members of Congressional committees, to the expressed wish of an overwhelming majority both in the Senate and in the House. If there was in this "that antipathy to reformation" which showed itself in the efforts to reform our procedure in 1848, it was limited, in this movement in Congress, to a very small minority. In its report to the American Bar Association in 1926, the Committee on Uniform Judicial Procedure, speaking through its chairman, Mr. Thomas W. Shelton, asks this question: "Why it is that representative government is violated and a few men permitted to suppress this essential legislation in committee?" The Uniform Judicial Committee, also in 1926, makes this further remark:

"The Senate Bill, S. 477, and House Bill, H. R. 419, are both suppressed in the respective Judiciary Committees and a vote on the floor denied, although 82 Senators and over 80 per cent of the House signed questionnaires agreeing to vote for the bill. It is obvious, therefore, that two or three Senators are exercising a greater power than the Chief Executive, whose veto could be overridden with a two-thirds vote. Moreover, the President can hold a bill only 10 days, *while a committee can hold one forever*. There is no way of preventing this oppressive conduct except through a righteous public resentment that requires organization to become effective."

At the opening of the present Congress the bill was once more introduced. It has evidently been most carefully drawn with a view to preserving all substantive rights and eliminating merely procedural restrictions which tend to do harm rather than good. The following is a copy of the bill as introduced in the present session of Congress:

"A Bill to give the Supreme Court of the United States authority to make and publish rules in common-law actions.

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Supreme Court of the United States shall have the power to prescribe, by general rules, for the district courts of the United States and for the courts of the District of Columbia, the forms of process, writs, pleadings, and motions, and the practice and procedure in actions at law. Said rules shall neither abridge, enlarge, nor modify the substantive rights of any litigants. They shall take effect six months after their promulgation, and thereafter all laws in conflict therewith shall be of no further force or effect.

"Sec. 2. The court may at any time unite the general rules prescribed by it for cases in equity with those in actions at law so as to secure one form of civil action and procedure for both: *Provided, however,* That in such union of rules the right of trial by jury as at common law and declared by the seventh amendment to the Constitution shall be preserved to the parties inviolate. Such united rules shall not take effect until they shall have been reported to Congress by the Attorney General at the beginning of a regular session thereof and until after the close of such session."

It is significant that the United States Attorney for the Southern District of New York, Mr. Charles H. Tuttle, in an article in the American Bar Association Journal for January, 1928, quotes from the report of the American Bar Association Committee asking the support in every state of the Union of the Bench and Bar: "It is a privilege," declares Mr. Tuttle, "to echo here the Committee's trumpet call."

Will the members of the Indiana Bench and Bar be behind the active profession in other states in this matter? The appeal is to every member of the profession in this state. If you approve the measure, will you not at once write to your Representative and to our United States Senators urging that they use their earnest efforts to obtain the enactment of the bill at this session of Congress?

CHARLES M. HEPBURN,  
Chairman, Committee on Procedure Bill, 1925-26.

(In order that our members might have the latest, accurate information about the Federal Procedure bill, the *Journal* telegraphed Mr. Shelton requesting a statement from him. His telegram received on February 23, after the *Journal* was in press, is given below.)

Detroit, Mich.

Senate Judiciary Committee reported adversely but majority secured vote on floor. Success depends upon committing all Senators possible to vote for bill. Please have State Bar Associations to act. Had an enthusiastic bar meeting here last night. Many thanks; best, best regards. Am returning to Virginia tonight.

THOMAS W. SHELTON.