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Proceedings of the Mid-Winter Meeting

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Bloomington

BAR PROCEEDINGS

PROCEEDINGS OF THE MID-WINTER MEETING *

The Mid-Winter Meeting was held in Indianapolis on February 20-21, 1948. The first session was called to order at ten o'clock on February 20, in the Assembly Room of the Hotel Lincoln, President Verne G. Cawley, presiding.

I. PROPOSED NEW RULES ON TRIAL AND APPELLATE PRACTICE.†

In the absence of Loudon L. Bomberger of Hammond, Chairman of the Committee on Jurisprudence and Law Reform, Dean Bernard C. Gavit of Bloomington, Secretary of the Judicial Council, presented the proposed Rules on Trial and Appellate Practice. A motion by Dean Gavit that the Association recommend to the Supreme Court the adoption of the proposed Rules in principle was seconded and carried.

II. REPORT OF COMMITTEE ON DISTRICT MEETINGS AND INSTITUTES.

The report of the Committee was presented by Telford B. Orbison of New Albany, Chairman.

It was agreed by the Committee that its objectives would be as follows:

“(a) Assisting the lawyers of this state by providing lectures and seminars on subjects which play an important part in their everyday practice.

“(b) Providing an opportunity for lawyers to become better acquainted with each other and to strengthen professional ties which are essential to an active and vigorous Bar, and;

“(c) Demonstrating to the lawyers of this state that the Indiana State Bar Association is sincerely interested in being of service to them.

“It was the consensus of opinion that . . . emphasis should be placed on the one day or half day type of meeting with two or three lectures of one hour each followed by an evening dinner with entertainment and speaking.”

* As has been customary in the past, the report of the proceedings has been abridged and condensed in conformity with limitations of space. Ed. note.

† The Proposed New Rules are not published in the Journal for the reason that each member of the Association received a mimeographed copy of the Rules before the meeting.

After considerable study the Committee on District Meetings and Institutes reached the conclusion that the following lecture courses would be the most attractive to the members of the Bar generally, to-wit:

“(a) *Real Estate*: This would include the purchase and sale of real estate; business aspects; agent's commissions; negotiation and provisions of contract; title searches and reports; objections to title; rejection of title; closing title; adjustments; closing instruments.”

This subject will be in charge of Herman Kothe, Chester Zechiel, Robert Coleman and Charles C. Baker, all of Indianapolis.

“(b) *Probate Practice*: This course will cover various phases of probate practice including state inheritance tax returns, sale of real estate by the administrator or executor, proceedings for discovery of assets, contested accountings, creditors' claims, problems of procedure, and proof.”

Alfred Evens of Bloomington will be in charge of this subject.

“(c) *Trial Practice*: The lectures on Trial Practice are the same as those used by the Practicing Law Institute. The lectures are: (1) Marshalling the Evidence; (2) Foundations for Evidence and Expert Testimony; (3) Selecting a Jury; (4) Direct Examination; (5) Cross-Examination; (6) Motions During Trial; Summation; and (7) Trial of a Negligence Action.”

Hubert Hickam of Indianapolis will be in charge of this subject of Trial Practice.

“(d) *Estate Planning*: Tax and other advantages of various testamentary and non-testamentary arrangements; gifts; trusts; powers of appointment; life insurance; contracts for disposition of business interests.”

Merle H. Miller of Indianapolis will be in charge of this subject.

“(e) *Federal Income Tax Returns for Farmers*: This course will deal exclusively with the Federal income tax problems of the average farmer; the individually owned or partnership operated farm; analysis of farm schedule 1040-F.”

Walter B. Keaton of Rushville will be in charge of this course.

“Other subjects such as Workmen's Compensation, Law Office Management, Labor Law, and Wage and Hour Law

have been considered but to date no interest has been shown in any of them."

District meetings have been planned or held as follows:

March 6, 1948.

Seventh District—McCormick's Creek State Park.

Chairman—Judge Frank M. Martin, Spencer, Indiana.

"Federal Income Tax Returns for Farmers"—Walter B. Keaton, Esq.,
Rushville, Indiana.

"Probate Practice"—Judge Smiley N. Chambers of Indianapolis, Indiana.

After Dinner Speaker—Robert G. Miller, Esq., of Bloomington, Indiana.

April 3, 1948.

New Albany Country Club .

Southern Indiana Bar Meeting, sponsored by Floyd County Bar Association.

Chairman—William B. Janes, President Floyd County Bar Association.

"Problems Involving Real Estate Transactions"—Charles C. Baker,
Esq., of the Indianapolis Bar.

"Visual Evidence"—Hubert Hickam, Esq., of the Indianapolis Bar.

After Dinner Speaker—"The Law and the Profits"—Roger D. Branigin,
Esq., of the Lafayette Bar.

April 7, 1948.

Tenth District—Delaware Country Club, Muncie, Indiana.

Chairman—Judge William F. Marshall of the Rush Circuit Court.

"Proposed New Rules of Procedure"—Dean Bernard C. Gavit, School of
Law, Indiana University.

"Proposed Probate Code"—William F. Elliott of Indianapolis, Commissioner of Marion County Probate Court.

After Dinner Speaker—"Chinese Situation"—Prof. Ritchie M. Davis,
School of Law, Indiana University.

April 16, 1948.

Sixth District—Deming Hotel, Terre Haute, Indiana.

Chairman—Howard C. McFaddin, Esq., Rockville, Indiana.

"New Rules of Practice and Procedure"—Dean Bernard C. Gavit, School
of Law, Indiana University.

"Limitation of Actions"—Leo M. Gardner, Esq., of the Indianapolis Bar.

After Dinner Speaker—Verne G. Cawley, Esq., of Elkhart, Indiana,
President of the Indiana State Bar Association.

April 22, 1948.

Eighth District Meeting.

Sponsored by Evansville Bar Association.

Empire Room, Vendome Hotel, Evansville, Indiana.

Chairman—Phelps F. Darby, Esq., Evansville, Indiana.

"Probate Practice"—Judge Smiley N. Chambers, Indianapolis, Indiana.

"Real Estate Transactions"—Charles C. Baker, Esq., of the Indianapolis Bar.

May 1, 1948.

Third District—Indiana Club, South Bend, Indiana.

Chairman—Judge J. Fred Bingham, South Bend, Indiana.

“Visual Evidence”—Hubert Hickam, Esq., of the Indianapolis Bar.

“Proposed Probate Code”—Alfred Evens, Professor of Law, Indiana University, Bloomington, Indiana.

After Dinner Speaker—Roger D. Branigin, Esq., of the Lafayette Bar.

The First District under the leadership of Richard P. Tinkham of Hammond, the Second District under that of William S. Isham of Fowler, the Fifth District under that of Russell P. Harker of Frankfort, and the Ninth District under that of Paul V. Wycoff of Batesville, are also working on meetings, although definite plans have not yet been completed.*

III. THE PROGRAM OF THE JUDGES ASSOCIATION OF INDIANA.

Judge Lynn Parkinson of Lafayette, who was in charge of the program, introduced Judge James A. Emmert of the Supreme Court of Indiana, who was followed on the program by Mr. Albert Harvey Cole of Peru. The next speaker was Judge Moses Leopold, of the Jasper Circuit Court, and the program was concluded by Mr. Silas C. Kivett, Sr., of Indianapolis.

IV. REPORT OF THE COMMITTEE TO PREPARE AMENDMENTS TO THE ARTICLES AND BY-LAWS OF THE ASSOCIATION.

After presentation of the proposed amendments and revisions by Richard P. Tinkham of Hammond, Chairman of the Committee, it was moved, seconded and carried that the amendments to the Articles and By-Laws be adopted. They are enclosed with the Journal as a separate supplement, for convenience and ready reference.

V. REPORT OF THE SPECIAL COMMITTEE ON IMPROVEMENT OF THE ASSOCIATION.

Howard C. McFaddin of Rockville, Chairman of the Committee, presented the report. In the report, it was suggested that if funds were made available for the employment of a permanent secretary, the Association would be able to render increased services to the members by the improvement of public relations, by picking up advance rulings and Board Regulations, filing necessary papers and giving more time to Legislative enactment. In addition, the Association would be able to improve the coordination between members of the As-

* Quoted from letter of Mr. Telford B. Orbison of New Albany to the Indiana Law Journal, April 5, 1948.

sociation and the Association, and between Local Bar Associations and the State Association. At the conclusion of the report, it was moved, seconded and carried that a committee be appointed to make a study and determine whether the dues should be increased so as to permit the employment of a full time secretary for the Association in order to render increased services to the members.

VI. REPORT OF THE COMMITTEE ON THE STATUTE OF LIMITATIONS.

The Committee appointed to propose amendments to the statute of limitations has functioned since 1945, being composed of Leo Gardner of Indianapolis, Dean Bernard C. Gavit of Bloomington, and Verne G. Cawley of Elkhart. The statute proposed by the Committee was printed in full in 22 Ind. L. J. 165 (January, 1947).

Mr. Gardner reported for the Committee. The course of action taken on the proposed new statute of limitations throughout the past three or four years was outlined, and attention was called to important changes embodied in the bill.

Mr. Gardner then moved, “. . . that the Statute of Limitations proposed by the Committee, same being Sections one to fifty-four, inclusive, together with the appropriate portion of Section sixty-five dealing with repeal, be adopted by the Association for introduction in the General Assembly of the the State of Indiana.”

VII. REPORT OF THE SPECIAL ADVISORY COMMITTEE ON THE INDIANA LAW JOURNAL.

John M. McFaddin of Rockville, Chairman of the Advisory Committee, reported for the Committee, which consists of Mr. McFaddin, Richard P. Tinkham of Hammond, William S. Isham of Fowler, and Telford B. Orbison of New Albany.

Mr. McFaddin discussed current problems with which the Association is faced regarding the Journal, emphasizing the heavy financial burden which increased printing costs have imposed. He then presented the following memorandum of the proposed new working agreement:

“Memorandum of New Understanding Relative to the Publishing of the Indiana Law Journal Reached by a Committee of the Indiana State Bar Association and Dean Bernard C.

Gavit of the School of Law Indiana University on February 19, 1948, Previously Authorized by the Trustees of Indiana University and Subsequently Approved by the Indiana State Bar Association.

"1. As of July 1, 1948, the University will assume financial responsibility for the publication and distribution of the Journal and will also take over its business management. All income from the Journal shall belong to the University.

"2. A copy of the Journal will be sent to each member of the Indiana State Bar Association and the Association will pay to the University the sum of \$2.00 per year for each member on its membership list, whether or not dues are collected. The Association will furnish the Business Manager of the Journal with a membership list and assume responsibility for its correction from time to time. The amount due shall be based upon the list as of July 1st each year and shall be paid by September 1st. Members added between July 1st and December 31st will be paid for at the full rate. Members added to the list between January 1st and June 30th will be paid for at the rate of \$1.00, settlement to be made within 60 days after the close of each period. In the event the Association raises its annual dues in a substantial amount the subscription rate stated above will be subject to renegotiation.

"3. The University assumes complete editorial responsibility as to the form and contents of the Journal and the Bar Association will appoint from its membership an advisory group, the number to be determined by the proper authorities of the Association, which group will consult and advise with the editorial staff at regular intervals on the policies and content of the Journal.

"4. The Journal will carry substantially the following statements: 'The Indiana Law Journal was founded by and is the property of the The Indiana State Bar Association but is published by the Indiana University School of Law which assumes complete editorial responsibility therefor. The Indiana State Bar Association has the right to advise with the publisher of the Journal relative to the policy, content and make-up of the publication but assumes no responsibility, collective or otherwise, for matters signed or unsigned in this issue.' The members of the Association advisory group will be listed as advisers from the Association.

"5. The University proposes to increase the size of the

Journal to an average of approximately 144 pages per issue and to increase the number of issues each year from four to five or six. However, with the approval of the Bar Association Advisers publication may be made on a quarterly basis with a proportionate increase in the size of each issue.

"6. The Journal will continue to publish reports of the Bar Association meetings and whenever desired by the Advisers will furnish space for the publication of additional Bar Association activities and news as furnished to the editorial staff by the Bar Association. The January and April issues for 1948 will be expanded beyond 96 pages and the printing costs of those issues will be borne by the University.

"7. The above arrangement is subject to termination as of June 30 in any year on notification to the other party prior to January 1st of that year."

Whereupon, the motion was made, seconded and carried that the President be authorized to enter into the above arrangement with the Trustees of Indiana University regarding the publication of the Indiana Law Journal.

VIII. REPORT OF THE COMMITTEE ON REVISION OF THE PROBATE CODE.

Alfred Evens of Bloomington, Chairman of the Committee, presented the report.

The Committee has worked in coöperation with the committee from the Trust Section of the Indiana Bankers Association. At a joint meeting of the two committees, plans were laid for subsequent work. Considerable sentiment was expressed that probably the whole subject matter should be codified. No recommendations were made by the committee at this time.

IX. PRELIMINARY REPORT OF THE COMMITTEE ON AMENDMENTS TO THE INDIANA GENERAL CORPORATION ACT.

John H. Groves of Indianapolis, Chairman of the Committee, reported on the function and purpose of the Committee, and called attention to the specific provisions of the present law which are productive of great difficulty. Mr. Groves indicated the intention of the Committee to consult and cooperate in every practical way with the Indiana Corporation Survey Commission, created by the Indiana General Assembly. He further pointed out that no decision had been reached on the proposal that the Committee include in the

scope of its work a consideration of required amendments to the Indiana Securities Law.

The Committee will endeavor to present constructive, concrete recommendations to the Association at its next meeting. If possible, its views will be embodied in a report to be circulated among all members prior to that meeting.

There being no further business it was moved, seconded and carried that the meeting adjourn.

ADJOURNMENT

