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## Proceedings of the Annual Meeting

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# PROCEEDINGS

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## PROCEEDINGS OF THE ANNUAL MEETING

The Fourth-Fifth Annual Meeting of the Indiana State Bar Association convened at two o'clock, September 30, 1941, at the Claypool Hotel, Indianapolis, President Roscoe C. O'Byrne, presiding.

[Because of the simultaneous meeting of the American Bar Association, the committee reports printed in the advance program were not read except where specific recommendations requiring action by the Association were involved.]

The following reports were approved and placed on file:  
Report of the Secretary-Treasurer, Thomas C. Batchelor  
Report of Auditing Committee, Judge Harold L. Hancock, chairman

### Report of Standing Committees:

Jurisprudence and Law Reform, Edmund C. Craig,  
chairman

Legislation, Donald Smith, chairman

Legal Education, Bernard C. Gavit, chairman

Membership, Carl Wilde, chairman

Illegal Practice of Law and Grievances, Edwin  
Steers, Sr., chairman

Necrology, Thomas C. Batchelor, chairman

American Citizenship, Oscar A. Ahlgren, chairman

Criminal Jurisprudence, James J. Robinson, chairman

Administrative Law, John Rabb Emison, chairman

Canons of Ethics, John R. Brown, chairman

Judicial Selection and Tenure, Denver C. Harlan,  
chairman

Amendments to the Bankruptcy Act, Frank C. Olive,  
chairman

Integration of the Bar, Henry M. Dowling, chairman

### Report of Special Committees

Public Relations, William G. Keane, chairman

National Defense, Jeremiah L. Cadick, chairman

Advisability of Sections, Clarence R. McNabb, chair-  
man

Messages and Reports in Courtesy to the Association

Message from the Supreme Court

Message from the Appellate Court  
Report of the Board of Law Examiners  
Report of the Young Lawyers Section  
Message from the Indiana Judges Association

The following specific action was taken by the Association.

COMMITTEE ON JURISPRUDENCE AND LAW REFORM

MR. CRAIG: Gentlemen, our report, as the President told you, is found on Page 28. I want to read the last paragraph of that report because we recommend action in that paragraph:

"Our Committee has had extended correspondence during the year regarding the subject of aeronautical law and has been urged to take up this branch of the law on account of its rapidly becoming a most important subject; however, on account of its being such a specialized field, we believe that a special committee should be appointed to handle the subject and so recommend."

In connection with the paragraph of our report which I have just read, I wish to present the following resolution:

BE IT RESOLVED THAT there be created a special committee of this Association, to be known as the Committee on Aeronautics, and to continue during the pleasure of the Association, and to consist of five (5) members of this Association, appointed annually by the President, with the advice and consent of the Board of Managers.

Mr. President, I move the adoption of this resolution.

The motion was seconded, put to vote and carried.

COMMITTEE ON MEMBERSHIP

MR. WILDE: Since the submission of the Committee's report on September 4th, 1941, a considerable number of new members has been obtained through the efforts of members of the Committee. According to that report 128 new members had been obtained up to September 4th. After allowing for a loss of 46 members on account of death and resignation, it was reported that there had been a net increase of 82. Since September 4th, 39 additional memberships have been obtained and the total number of new members is, therefore, 167, and the net increase in membership

is 121. At this time, therefore, the Association has 1820 members instead of 1781 as reported on September 4th. Of the 39 additional members aforesaid, 13 have been obtained by the members of the Committee in the Eleventh District and 14 in the Twelfth. The Eleventh District has now practically filled its quota. The Twelfth District, in which the acquisition of 30 new members was expected, has reported altogether, 64 new members, more than twice its quota.

#### NECROLOGY REPORT

MR. BATCHELOR: The name of John M. McFaddin appears when it should be John S. McFaddin. The name of Dudley M. Shively, of South Bend, should be added to the list.

#### COMMITTEE ON ADMINISTRATIVE LAW

MR. EMISON: This Committee continues to recommend:

1. That the Senators and Members of the House of Representatives from the state of Indiana be requested to continue their support of and vote for the passage of the Bill that will carry out the broad purposes of the Logan-Walter Bill and preserve our Constitutional Form of Government.

2. That the Secretary of this Association be directed to transmit a copy of this Report to each of the United States Senators and Congressmen from the State of Indiana.

The report, with the recommendations, was put to a vote and carried.

#### COMMITTEE ON JUDICIAL SELECTION AND TENURE

MR. HARLAN: Mr. President, I desire to call attention to that part of the report found on page 49 of the Committee on Judicial Selection and Tenure which has to do with the suggested amendment to a by-law. If you read the report, you will see that at the 1938 meeting, this Committee was made a Standing Committee of the Association. But while this action was being extended to this Committee, the Committee was also made more or less an adjunct to the Judicial Council, and the Committee believes that it should function wholly independent of the Judicial Council. The Committee so recommends, and I will read the last part of the report:

"The name of the Committee suggests some of the most important phases of judicial reform. While the scope of the statutory duties of the Judicial Council may embrace the working subject of this Committee, such duties also touch the subject of many other standing committees of the Association, which are independent of the Judicial Council and in no sense an adjunct of the Council.

"The Committee, therefore, recommends amendment to the by-laws deleting the last sentence of the above article XII-E."

I move the acceptance and filing of the report.

The motion was seconded, put to vote, and carried.

MR. HARLAN: Following that action, I desire to move that Section XII-E of the By-laws of the Association be amended to read as follows:

"XII-E. *Committee on Judicial Selection and Tenure.*

The Committee on Judicial Selection and Tenure shall consist of five (5) members."

The purpose of that is to carry out the recommendations of this Committee that the last sentence be deleted on the present Section XII-E.

The motion was seconded, put to vote and carried.

#### COMMITTEE ON AMENDMENTS TO THE BANKRUPTCY ACT

MR. BOWERS: I now wish to call attention to the resolution at the end of this report.

The resolution reads as follows:

"RESOLVED, that the Committee on Amendments of the Bankruptcy Act be authorized to request Congress to delay action on H. R. 4394 until the surveys referred to in Section four of said bill shall have been made by or under the supervision of the Director of the Administrative Office of the United States Courts."

I now move the adoption of this resolution.

The motion was seconded, put to vote and carried.

#### COMMITTEE ON INTEGRATION OF THE BAR

MR. DOWLING: This Committee makes one general and five specific recommendations:

1. That the State Bar Association continue its activities in furthering the integration idea, during the period preceding the summer meeting of 1942.

2. To that end, that the Editor of the Indiana Law Journal be instructed to allot to this Committee adequate space in each issue of the Journal for the presentation of facts and arguments supporting bar integration, such contributions to be furnished by your committee.

3. That the Secretary of the Association in cooperation with this Committee, be instructed to send out to all members of the Association during the next twelve months, at an expense not exceeding \$350.00 a printed statement, in booklet form, of what integration consists, with arguments in favor and answers to arguments against it.

4. That steps be taken during the next twelve months to have bar integration presented for discussion, before local associations, with literature upon the subject furnished to such meetings by this Association, the expense of which shall be defrayed by it, subject to the approval of its Board of Managers.

5. That at such time or times as shall be deemed appropriate by the Board of Managers, a questionnaire be sent to all lawyers and judges in the state, asking an expression of their views upon the advisability of integrating the bar of Indiana; the vote to be taken by secret ballot.

Mr. President, I move that the report of this Committee be received, approved, and placed upon file.

PRESIDENT O'BYRNE: Your interpretation of it carries with it approval of all the recommendations?

MR. DOWLING: It does.

The motion was seconded, put to vote, and carried.

#### COMMITTEE ON PUBLIC RELATIONS

MR. KEANE: Your Committee recommends the continuance of a similar Committee on Public Relations and suggests to the Board of Managers of this Association that it consider the advisability of periodically defining the objectives of the Committee on Public Relations.

MR. ORBISON: I move that the report be received and placed on file.

PRESIDENT O'BYRNE: The motion is that the report be

received and placed on file, which the Chair will interpret as including the adoption of the recommendation.

The motion was put to vote and carried.

#### COMMITTEE ON NATIONAL DEFENSE

MR. CADICK: The work of this Committee, or at least the first problem which it concerned itself with was presented to it by the Indiana Selective Service Headquarters, who requested the help of the Committee in providing a means by which the Selective Service Headquarters and Draft Boards throughout the state would have a competent lawyer to which it could refer parents and draftees, such lawyer to serve as appeal agent.

The organization has progressed to the point where at least one Committeeman is appointed in each county of the state, with, I think, three exceptions. And I am positive that in the near future the organization of the Committee will be fully completed. And in the meantime, it has been functioning and has received requests for help which have been handled very creditably.

#### RESOLUTION PRESENTED BY MR. WILDE:

MR. WILDE: This morning very early I had a call from the office of the Collector of Internal Revenue who is very interested in the distribution of Defense Bonds and Stamps and he asked whether I would sponsor a resolution here relating to that subject. It has something to do with Mr. Cadick's Committee, although the connection is a little remote.

I would like to offer this resolution:

"WHEREAS, the Secretary of the Treasury of the United States has promulgated a Defense Savings Program which includes the sale to the public of Defense Bonds and Stamps;

"AND WHEREAS, The Indiana State Bar Association recognizes the necessity of employing every proper means to raise funds for Defense:

"NOW, THEREFORE, BE IT RESOLVED, That the Indiana State Bar Association approves the sale of Defense Bonds and Stamps in furtherance of the Defense Savings Program; and urges its members to assist in such program by the purchase of bonds and stamps and by cooperating

with the Collector of Internal Revenue of the District of Indiana in the sale thereof by furnishing speakers and otherwise."

Mr. President, I move the adoption of this resolution.

The motion was seconded, put to vote and carried.

#### COMMITTEE ON ADVISABILITY OF SECTIONS

JUDGE MCNABB: The Committee recommends that upon assurance that the members of the Indiana Judges' Association desire the formation of a Judicial Section, such section be formed and that such changes in the articles and by-laws as the formation of such section shall require be effected, and that the President of The Indiana State Bar Association be authorized and directed to appoint a special committee of five, from the members of the Association, to continue the work of the present Committee, to recommend such changes in the articles and by-laws of the Association, as may be necessary to permit sectionalization and to study and report upon the desirability or necessity of additional sections as the demands for such sections shall become apparent.

JUDGE MCNABB: I move you, Mr. President, the adoption of our report.

The motion was seconded, put to vote and carried.

#### AMENDMENT OF THE ARTICLE OF ASSOCIATION

PRESIDENT O'BYRNE: It so happens that the Articles of Association of our Association as at present existing were drawn at a time when Indiana had twelve Congressional Districts instead of the reduced number of eleven and the text of the Article was so worded as to refer definitely to the number of districts as being twelve; and consequently, the administrative officers of your Association felt that we should at this particular annual meeting amend the Articles of Association so that they would fit into the new order of districts under the Act of our General Assembly earlier this year, at the same time so wording the amendment that it would apply to any later change in later years with respect to this particular feature.

Incidentally, since the change was being made in the text, it could be a little more accurate without any additional trouble. In particular, the correction was made to

refer to the term of office of the various officials of the Association as beginning at the adjournment of a definite annual meeting and continuing until the adjourning of a proper succeeding annual meeting, instead of referring to one year or two years; because, of course, as you gentlemen well understand, we never have an exact year between annual meetings, according to my memory.

We further found, in connection with this feature of our business that while the by-laws had been amended so as to place the Chairman of the Young Lawyers Section upon the Board of Managers by virtue of his office, and while, as a matter of fact, pursuant to that change in the by-laws this has been done, the Articles of Association did not refer to the Chairman of this Section as a member of the Board, and for that reason, in connection with the proposed amendment, the Chairman of the Young Lawyers Section has been accorded a place upon the Board of Managers of the Association, I presume in a sense *nunc pro tunc*, as it were, in order to make the Articles and by-laws already adopted consistent and coincide.

Finally, in order to pave the way for an easier and shorter method of amendment of Article V in the future, the text of the Section was divided into sections, instead of one section as at present.

These proposed amendments appear as Resolution No. One and Resolution No. Two on pages 76, 77 and 78 of the booklet that has been distributed.

The Chair has endeavored to make its summary and resume of the pages accurate and clear and unless there is a desire that time be taken for the consideration of these matters by complete reading of the text, since so much is re-enactment, the Chair would be happy to entertain a motion, without reading it that Resolution No. One be adopted; and of course, that Resolution No. Two be adopted.

However, if you wish to take the time for the reading of the entire text, that is your privilege.

Is there anyone who cares, in the interests of moving along, to move the adoption of Resolution No. One as appearing in the booklet that has been distributed to all the members?

Mr. Steers moved the adoption of the Resolution. The motion was seconded, put to vote and carried.<sup>1</sup>

PRESIDENT O'BYRNE: Is there a similar motion with respect to Resolution No. Two?

Mr. Orbison moved the adoption of Resolution No. Two. The motion was seconded, put to vote and carried.<sup>2</sup>

#### COMMITTEE ON NOMINATIONS

PRESIDENT O'BYRNE: The next order of business is always a very pleasant order of business for this Association at its annual meetings; namely, the selection of the officers of the Association for the ensuing year.

The Chairman of the Committee on Nominations appointed last year, in accordance with the Articles of Association of our organization is Andrew J. Hickey, of Laporte, Indiana; and his report and the recommendations of his Committee appear on pages 46 and 47 of the booklet.

Incorporated within that report, as is the custom and practice of our Association is the designation of nominees for membership in the House of Delegates of the American Bar Association now meeting in this hotel. It has long been the practice of our Association to have our President and Vice-President serve as members of the House of Delegates of the American Bar Association representing our Association in that deliberative body.

Of course, as would be quite natural, our practice and our by-laws do not entirely coincide with those of the American Bar Association and it therefore becomes material for a vacancy to be created in order that we may have two delegates to the House of Delegates selected at this time.

I, therefore, at this time am handing to the Secretary of this Association for transmittal to the House of Delegates of the American Bar Association my own resignation as a member of that House, in order that this prevailing practice of this Association may be observed with the understanding that this resignation becomes effective upon the adjournment of this current Sixty-Fourth Annual Meeting of the American Bar Association on Friday of this week.

I perhaps should also call your attention to the bulletin by the Secretary appearing on page 47 of the booklet to

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<sup>1</sup> Resolution One is reproduced, *infra*, p. 81 as Article V.

<sup>2</sup> Resolution Two is reproduced, *infra*, p. 82 as Article VI.

the effect that his office has received no nominating petitions affecting in any wise the election of the officers of this Association for the coming period of time until our next annual meeting and the only persons for whom there can be any ballot cast or vote given are those that may be placed before us by the Nominating Committee, unless nominations are authorized from the floor by two-thirds vote of the members of the meeting.

With these remarks, which seemed to be necessary to correctly pave the way for this report, the Chair now recognizes the Chairman of the Nominating Committee for the purpose of submitting his report.

Andrew J. Hickey, Chairman of the Nominating Committee, read the report of his Committee.

MR. HICKEY: I move the adoption of the report.

The motion was duly seconded.

PRESIDENT O'BYRNE: Before presenting the motion that is now pending before the meeting, the Chair wishes to inquire whether or not there is any desire on the part of this body by a two-thirds vote to permit further nominations for officers of this Association from the floor.

Mr. Henry B. Walker moved that the nominations be closed. The motion was seconded, put to vote and carried.

PRESIDENT O'BYRNE: Mr. Hickey's motion, of course, involves the election of all the nominees in this report.

The motion was put to vote, and carried.

PRESIDENT O'BYRNE: The nominees listed in the report of the Nominating Committee, having received the unanimous vote of the membership, the Chair is now happy to declare each and every one of them unanimously elected to the office for which they have been elected.

At this time the new Vice-President, Mr. James R. Newkirk was presented to the Association.

Mr. Carl Wilde, the New President, was then presented and made his Inaugural Address.<sup>1</sup>

Thereafter, President O'Byrne asked Mr. Wilde to take the chair, and then delivered his Presidential Address.<sup>2</sup>

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<sup>1</sup> For this address, see *supra*, p. 1.

<sup>2</sup> For this address, see *supra*, p. 19.

Upon the conclusion of his address, the President made the following motion:

PRESIDENT O'BYRNE: Mr. Chairman, I move you that a committee of three from the incoming Board of Managers of this Association, consisting of the incoming President and Vice-President and the retiring President of the Association, be appointed for the consideration of the current President's Annual Address, insofar as it relates to the Indiana Law Journal, and that such Committee be directed to conduct such further research as it deems advisable upon such subject, and that it thereafter conduct a suitable referendum of each and every member of this Association upon the issues raised thereby, and submit its report of such referendum and any other pertinent matters to this Association at its next Mid-Winter Meeting.

Mr. Chairman, I present this motion and move its adoption.

MR. DONALD SMITH: I desire to second that motion.

Your report shows there are some eighteen hundred members of this Association and I hardly think it is fair to the absent members for the members present to take any action on such an important measure without permitting them to express themselves.

The motion was put to vote and carried.

VICE-PRESIDENT WILDE: I want to say this, in connection with that motion. I had no prior knowledge of the contents of the annual address and I have had no opportunity myself or has any member of the Board of Managers to give it consideration; and I think that the appointment of the Committee is a wise move. I do not have sufficient knowledge of the resolution—I didn't get it in the reading—to know whether this Committee has any discretion as to the time of the referendum. I do take it it would have.

PRESIDENT O'BYRNE: The only thing the resolution would require would be that it be completed in time to give a report at the Mid-Winter Meeting.

VICE-PRESIDENT WILDE: Is there any further business to come before the meeting before we adjourn?

Before we adjourn, I would like to express, on behalf of the Association, its appreciation for the immense amount of research which has gone into this phase of the President's Annual Address and to congratulate him on behalf of the Association for his excellent address.

The Annual Meeting was adjourned at 4:30 P.M.