

10-1940

# Proceedings of the Annual Meeting

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## PROCEEDINGS OF THE ANNUAL MEETING

The Annual Meeting of the Indiana State Bar Association was held at Fort Wayne, August 23 and 24, 1940.

### Friday Morning Session

The first session was called to order at 10:30 A.M. by President Milo Feightner.

The invocation was given by Monsignor Thomas M. Conroy.

Addresses of welcome were given by Judge William N. Ballou and Mr. Martin Torborg.

Mr. Roger Brannigan of Lafayette responded for the Association.

### REPORT OF COMMITTEE ON ILLEGAL PRACTICE OF LAW AND GRIEVANCES

EDWIN STEERS, Chairman

When the present committee was appointed, there was pending in the Appellate Court of Indiana on behalf of the members of the Indianapolis Bar Association against the Fletcher Trust Company a suit to enjoin the Corporation from engaging in the alleged unauthorized and illegal practice of the law.

Your Committee, deeming this appeal of great importance and after advising with and procuring the consent of your Honorable President, Milo H. Feightner, decided that the Indiana State Bar Association should file a brief as amicus curiae in support of the contentions of the Indianapolis Bar Association. A brief was prepared and filed, which we hope will be of some assistance in helping the Appellate Court arrive at a proper conclusion with reference to the questions involved.

There have been twenty-four complaints filed with the Committee during the year against twenty-seven lawyers, eleven of whom were members of the Indiana State Bar Association, and sixteen of whom were not. Of the eleven complaints filed against members, ten have been satisfactorily adjusted, and nine against non-members. Sixteen complaints have been finally disposed of and eight remain open.

### REPORT OF THE TREASURER

THOMAS C. BATCHELOR

The Treasurer was charged on July 31, 1939,  
with the sum of .....\$ 2,078.30

#### Receipts:

Dues .....	\$ 6,851.75
Advertising, Law Journal .....	1,378.25
Sale of Law Journals .....	131.36
Institute Fees .....	706.00
Miscellaneous .....	22.40

9,089.76

\$11,168.06

Expenses:

Law Journal Expense .....	\$ 3,605.10
Secretary-Treasurer .....	2,323.74
Expense of Meetings and Institutes.....	2,160.35
Committees .....	248.28
Officers .....	103.94
Special Printing .....	156.62
Postage .....	316.77
Stationery .....	202.82
Miscellaneous .....	52.50

9,170.12

Leaving a Balance on Hand of .....\$ 1,997.94

REPORT OF THE COMMITTEE ON LEGAL EDUCATION

JOSEPH G. WOOD, Chairman

During the past year, Indiana has definitely kept pace with the nation-wide trend towards higher standards of legal education, as fostered and promoted by the American Bar Association.

Five years ago there were nine law schools operating in this State; only three of which were operating under the rules prescribed by the American Bar Association for approved schools. Today, there are only four law schools operating in the State, all are operating under the rules of the American Bar Association and of the Supreme Court of Indiana, and all are approved by the American Bar Association.

Your Committee feels that the State of Indiana is to be congratulated upon the progress thus made in the advancement of standards of legal education and that the caliber of the profession is being thereby raised with a naturally resultant benefit to the public.

REPORT OF COMMITTEE ON CRIMINAL JURISPRUDENCE

JAMES J. ROBINSON, Chairman

The Committee reported to you at the Midwinter Meeting on two of its principal activities. These activities were, and have continued to be, the plan to codify the criminal law of Indiana, and the plan to strengthen the minor courts of the state.

Your Committee is working also on the problem of improving the penitential laws of Indiana.

Your Committee is working also on legislation to control fifth column activities in this state. The present state law on this subject consists principally of the criminal syndicalism statute of 1919. This act is very inadequate.

The Committee is making a study, moreover, of methods and also of legislation, if necessary, for strengthening police administration in this state. The present world-wide attacks on free government are such that effective police work is clearly seen to be an essential part of our national defense.

## REPORT OF COMMITTEE ON AMERICAN CITIZENSHIP

OSCAR A. AHLGREN,

In accordance with the action of this association, this committee, together with Floyd M. McMurray, State Superintendent of Public Instruction, supported the state-wide oratorical contest of the Indiana Department of the American Legion.

Your Committee has cooperated with various service organizations on matters pertaining to citizenship. In this connection it is to be noted that lawyer members of the Northern Indiana Lions Club directed with appropriate dignity the naturalization ceremonies to several hundred new citizens in the Federal Court divisions of the Northern District of Indiana.

Your Committee has also cooperated with Youth Forums, the League of Women Voters, and many other organizations interested in the citizenship education of our youth.

Your Committee, for obvious reasons, recommends:

1. Participation by lawyers in the celebration of our national holidays.
2. The coordination by lawyers with all groups in all patriotic efforts.
3. Active interest by lawyers in community programs.
4. Public addresses by lawyers in school assemblies.
5. Intelligent vigilance for subversive activities.

At this point, Mr. Clarence Manion of South Bend delivered an address entitled "A Lawyer Looks at Liberty."<sup>1</sup>

The morning session adjourned at 12 o'clock noon.

## Friday Afternoon Session

The meeting was called to order at 2:15 o'clock by President Feightner.

## REPORT OF COMMITTEE ON BANKRUPTCY ACT

FRANK C. OLIVE, Chairman

H. R. 993 seeks to amend Sec. 3 (a) (5) of the Bankruptcy Act to provide that a general assignment for the benefit of creditors shall not constitute an act of bankruptcy unless connected with some other act of bankruptcy. This never has been the law.

H. R. 5128 is a bill to amend Sec. 17 to prevent the discharge of any debt incurred in contemplation of bankruptcy. This was not in the old law and would doubtless result in prolonged litigation and confusion. Remedies are afforded in Section 14 relating to objections and denial of a discharge.

At our meeting last summer, your Committee was authorized to continue to object to the passage of H. R. 993 and H. R. 5128.

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<sup>1</sup> For the text of this address see, *supra*, p. 49.

On July 1, 1940, an important amendment was enacted to Section 270, relating to the basis of property for income tax purposes in Corporate Reorganizations, Arrangements and Real Property Arrangements. Under the law as enacted in 1938, the basis of the debtor's property for determining gain or loss was decreased from its depreciated cost values by an amount equal to the amount of the cancellation or reduction of its debts.

The application of this rule often resulted in a decrease of the debtor's property to a figure far below its market value, or even to zero, which had the effect of giving the debtor insufficient or no deduction from income because of depreciation or depletion, and caused its profit on sales or exchanges of its property to be computed on the difference between the sale price and an insufficient or no cost basis.

The law was amended retroactively to the effective date of the Chandler Act to provide that the basis shall not be decreased to an amount less than the fair market value of such property as of the date of the order confirming the plans thus providing a fair market value floor below which the basis shall not be reduced.

#### REPORT OF COMMITTEE ON ADMINISTRATIVE LAW

JOHN R. EMISON, Chairman

This Committee is pleased to report that the House of Representatives passed the Logan-Walter Bill, with amendments, by a vote of 282 to 97. We take particular pride in the fact that ten of the twelve Indiana Congressmen worked and voted for the Bill. We commend Congressmen Boehne, Crowe, Gillie, Grant, Halleck, Harness, Johnson, Landis and Springer for their loyal support of the measure; we regret that Congressman Schulte did not vote and that Congressman Larrabee opposed the passage of the Bill.

This Committee has received word from Senator Frederick Van Nuys that he is in accord with the Logan-Walter Bill and will vote favorably thereon when placed upon its passage; this Committee regrets that Senator Sherman Minton is opposed to the passage of the Bill.

We have confidence that the Logan-Walter Bill will pass the Senate by a sufficient majority to insure its enactment.

#### REPORT OF THE COMMITTEE ON PUBLIC RELATIONS

JOHN MCFADDEN, Chairman

It appears that the members of our bar are not vitally interested in the general improvement of either intra-bar or inter-bar relationships, and that interest can only be invoked when direct attacks of some derogatory nature are made on the bar. It is generally accepted, however, that the best defense of any matter is an aggressive offense. An active offensive made by the members of the bar collectively toward the improvement of relations among themselves and with the public would, among other things, tend to raise the respect of the people toward the bar and lessen both cause for criticism and criticism of the profession. Active and aggressive helpfulness in the promotion of the Integrated Bar bill is a most worth while step in this direction.

## REPORT OF BOARD OF LAW EXAMINERS

THOMAS M. SCANLON, Assistant Secretary

Since Mr. Boyd's report of a year ago the State Board of Law Examiners has conducted its customary three examinations. Because of failures some applicants took more than one of these examinations.

In all 216 examination papers were written: 135 successfully, 81 unsuccessfully. One hundred and thirty-four of these 216 examination papers were written by applicants taking the examination for the first time. One hundred and ten of these 134, or 82%, received a passing grade. This figure of 82% may be contrasted with the figure of 50% which roughly was the percentage of success of first time applicants prior to 1939.

It is the opinion of the Board that this improvement is undoubtedly the result of the rule adopted June 13, 1936, requiring all applicants for examinations to be graduates of approved law schools, or to have completed four years of law office study approved by the Board after satisfying pre-law requirements as to general education.

The new rules of the Supreme Court, to become effective September 2, 1940, effect a few changes in the rules for admissions to the bar. Rule 3-5 dealing with admissions on the basis of foreign license, provides that an applicant for admission to the bar of this state on the basis of a license issued by another state must show to the Board that he could have satisfied the educational qualifications for admission to the bar of this state at the time of his admission in the foreign state.

The new rules but slightly alter the provisions for admission on the basis of examination.

Generally speaking, no new applicant is now admitted to the examination unless he has been graduated from an approved law school or has satisfied the Board of his general education and has actually pursued the study of law for a period of four years in a law office approved by the Board, or has completed a combination of study in an approved law school and law office equivalent thereto in the opinion of the Board. The new rules add to this that a person who has been excluded from a law school for scholastic or character deficiency shall not be approved for law office study. The new rules also increase the fee for original examination from \$15.00 to \$25.00; for re-examination from \$5.00 to \$10.00.

The number of examinations has been reduced from three a year to two a year; the examinations are now to be given the first Monday and Tuesday in October, and the second Monday and Tuesday of July of each year. The examination formerly held in March has been eliminated.

In July William Isham of Fowler was appointed to the Board to succeed Lenn J. Oare of South Bend. Serving on the Board since its inception, Judge Oare has made an important contribution to the work of this body for which the Board at this time expresses its sincere appreciation.

## REPORT OF COMMITTEE ON MEMBERSHIP

ROSCOE C. O'BYRNE, Chairman

Your Committee canvassed formally in the name of the Association every eligible non-member in the profession throughout the State, to the extent to which information was made available to its State and District personnel.

A total of one thousand seventy-eight members of our profession received cordial letters of invitation from the State Chairman and the appropriate District Chairman, covering in territory sixty-nine of the ninety-two counties of the State, together with information concerning the value of the Association, and this in turn was followed up by further correspondence and local personal contact.

Upon the occasion of the last Annual Meeting, there were 1,453 Junior and Senior members. During the year your Committee has added 137 Junior members and 186 Senior members, or a total addition of 323 members, which represents an increase at a rate slightly better than one a day for each day (Sundays excepted) during the period, and an increase of 22%.

Losses in membership total 77, classified as follows: Resignations, 15; deaths, 22; and dropped for non-payment of dues, 36. These figures produce a net gain in membership during the year of 246, and a present total membership, Junior and Senior, on this date of 1,699.

In evidence of the general and healthy character of this increase, it is interesting to note that an increase has occurred in every Congressional District and in sixty-four of the ninety-two counties.

In a spirit of good sportsmanship and contest, the announcement was made by your state chairman that upon the occasion of this annual meeting, at some suitable time selected by the President, three prize awards for procurement of new members, furnished personally by the state chairman but presented in the name of the association, would be formally announced and publicly presented. The winners of these prizes are:

William T. Fitzgerald, North Vernon, District Contest

Elbert O. Gilliam, Indianapolis, County Contest

Thomas G. Proctor, Elkhart, City Contest.

In addition, special prizes are awarded to William A. Keene, Henry Haseley, and Sol Rothberg, all of Fort Wayne, for runner-up positions in the district and county contests.

At this time Dean Leon Green of Northwestern University Law School delivered an address entitled, "Must the Legal Profession Undergo a Spiritual Rebirth?"<sup>1</sup>

The afternoon session adjourned at four o'clock.

#### Saturday Morning Session

The meeting was convened at ten o'clock by President Feightner.

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<sup>1</sup> For the text of Dean Green's address see, *supra*, p. 15.

## REPORT OF COMMITTEE ON THE INTEGRATED BAR

HENRY M. DOWLING, Chairman

Mr. President and Members of the Indiana State Bar Association: Your Committee was authorized, at the midwinter meeting of the Association, to cooperate with other agencies engaged in promoting the consolidation of the Indiana bar. Acting under the authority, we have operated in conjunction with what is known as the voluntary "Committee of 100," composed of lawyers from 73 of the counties of the state, as well as with the Young Lawyers' Section of the Indiana State Bar Association.

An appeal has been sent to the members of the "Committee of 100" in 73 counties to take active measures during the summer and early fall to secure adequate examination of the subject by local bar associations; literature for this purpose being offered in quantity. This literature consists of (1) the address of President Beardsley, of the American Bar Association, given at the last annual meeting of the Indiana State Bar Association; 4,000 copies of which are available for distribution; (2) a condensed statement of facts regarding integration; (3) arguments in favor of the movement; (4) answers to arguments against it; (5) and a sample 15-minute address upon the subject; (6) a questionnaire of 16 questions, explaining, briefly and simply, the nature and advantages of integration; (7) maps showing the spread of the movement in the United States. An urgent request has also been sent to the 73 counties to obtain formal action by the local bar associations, early in the fall, favoring integration. A suggested form of resolution has been furnished for this purpose to each of the local associations.

It is the present intention to introduce in the General Assembly of 1941, an Integrated Bar Bill substantially the same as that presented at the 1939 session.

## REPORT OF COMMITTEE ON CANONS OF ETHICS

JOHN R. BROWNE, Chairman

Your Committee reports that it has made studies of Legal Ethics and Professional Discipline based largely upon reports of specific cases appearing in the American Bar Journal and kindred publications.

Your Committee has been informed that some of the State Bar Associations have adopted or pledged adherence to the Canons of Ethics of the American Bar Association and steps have been taken by these State organizations to bring the same to the attention of their several local bar associations. This would seem to be a practical way to widen the scope of professional education on the subject.

Your Committee recommends that similar action be taken by this Association.

## REPORT OF THE AUDITING COMMITTEE

WADE H. FREE, Chairman

We find that the books of the said Secretary-Treasurer are correct and we recommend the approval of the Treasurer's report.



## REPORT OF THE INDIANA JUDICIAL COUNCIL

BERNARD C. GAVIT, Secretary

Since the last meeting of the Indiana State Bar Association the Judicial Council has published an extensive study of the inferior court system of this state. The Council has before it a bill to supersede the justice of peace and city courts by a system of county courts of limited jurisdictions. The bill is the result of several years of study and if the bill is finally recommended by the Council it is hoped that the bar of the state will interest itself in this part of the Council program.

In the Fourth Annual Report of the Council, the Council reprinted an act for the organization of trial courts into district organizations to the end that all of the trial judges in a given district and throughout the state will be available for service in other courts where additional or special judges may be needed or required. This bill has recently been redrafted and will come before the Council and it is anticipated that its previous recommendation on this bill will be renewed.

At the request of the Indianapolis Bar Association the Secretary's office of the Judicial Council redrafted a bill for the non-partisan election of judges which the Council had originally recommended in its First Annual Report. After several conferences the bill has been redrafted, but the bill still follows substantially the original bill. Copies have been submitted to the Board of Managers of the Indiana State Bar Association with the end in view that this association take some appropriate action on this subject.

A year ago last fall the Judicial Council recommended to the Supreme Court consideration of a substantial adoption of the new Federal Rules of Civil Procedure. Last fall the Supreme Court indicated that it thought it inadvisable to promulgate a comprehensive revision at this time and suggested that the Council present a limited number of new rules of greatest importance. In January of this year the Council made such a presentation and the Supreme Court accepted some of the suggestions and promulgated a revision of its rules to become effective September 2, 1940.

During the past year the Council has been engaged in a survey of the legal profession in Indiana. The survey has undertaken to include the income of this group. Due to financial difficulty this part of the program may not be completed this year.

The Council has also undertaken a study of the delay incident to the taking of cases under advisement and the statistics on this matter will be published in the next annual report.

At this time, the Association was addressed by Mr. L. L. Bombérger on the subject, "The Non-Partisan Election of Judges."<sup>1</sup>

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<sup>1</sup> For the text of this address see, *supra*, p. 57.

## NECROLOGY REPORT

WILLIAM H. HILL

I am sure that every members of this association who has been in the habit of attending our annual meetings will not forget the Honorable John C. Chaney, who always stood before you and made his report of those who had passed on during the preceding year.

I shall not try to take his place this morning in making a report of the Committee on Necrology.

While I shall read these, I trust that every member here, who knows of others, will give their names so that the Secretary can have a proper list.

This list I have is as follows:

R. L. Bailey, Indianapolis	Daniel Kelley, Valparaiso
Mm. S. Beck, Indianapolis	Samuel Keltner
James Bingham, Indianapolis	Anson L. Kerr, Evansville
John C. Chaney, Sullivan	C. B. Kessinger, Vincennes
Lewis A. Coleman, Indianapolis	Samuel D. Miller, Indianapolis
Edwin Corr, Bloomington	Webster V. Moffett, Bloomfield
Judge John W. Craig, Greensburg	Eil P. Myers, Elwood
William Daly, Valparaiso	Daniel Ortmeier, Evansville
E. W. Force, Gary	Noel C. Purvis, Tipton
Charles French	Harney Semones, Danville
Frank Groninger, Indianapolis	John C. Taylor, Danville
Kleber W. Hadley, Indianapolis	Rollin A. Turner, Greensburg
Oscar Haney, Hammond	William Vesey, Fort Wayne
John E. Hollett, Indianapolis	Benjamin Willoughby, Vincennes
Omer Jackson, Greenfield	Clarence H. Wills, Kokomo
Charles Johnston, Crawfordsville	Carl E. Wood, Indianapolis

At this time the Honorable Milo Feightner delivered the Presidents Annual Address.<sup>1</sup>

## REPORT OF YOUNG LAWYERS' SECTION

PHILIP E. BYRON, Chairman

It is indeed a pleasure to be able to report to the members of the Association that the Young Lawyers Section has successfully completed the first year of its existence.

During the year the Section continued the practice of entertaining the newly admitted members of the bar with luncheon meetings in the same manner as was followed in the past by the Young Lawyers Committee, except that this activity was coordinated with the work of the Association's Membership Committee to the mutual advantage of both groups.

In the matter of the Integration of the Bar, the Section gave assistance to the Associations' Committee and provided some of the members for the enlargement of the Committee of Thirty to the present "Committee of 100". The members of the Section have cooperated with Mr. Henry M. Dowling in the distribution of educational material to the members of the bar throughout the state, in arranging meetings of local bar associations for discussions of the subject, and in personally

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

interviewing lawyers in their respective communities for the purpose of stimulating interest in this movement. The Section is desirous of extending its efforts in this behalf and stands ready to perform any functions to it directed by the Association, in addition to the continuation of the program already inaugurated.

It is appropriate to further report with the passing of the first milestone in the history of this Section, that it is apparent that the fears of three or four years ago about the organization of the Section creating a separate and distinct group of young lawyers entirely divorced from the Association have been dispelled by the accomplishments of this first year and the increased interest in the affairs of the Association manifested by the members of the Section.

#### REPORT OF THE NOMINATING COMMITTEE

FRANK N. RICHMOND, Chairman

I present the following nominees and move that the nominations be closed, that the Secretary of the Association be instructed to cast the ballot of the members for these nominees, as follows:

FOR PRESIDENT—Roscoe C. O'Byrne, Brookville

FOR VICE-PRESIDENT—Carl Wilde, Indianapolis

FOR MEMBERSHIP ON THE BOARD OF MANAGERS  
(2 year term)

Third District: Verne G. Cawley, Elkhart

Fifth District: Roscoe D. Wheat, Portland

Sixth District: Roy W. Adney, Lebanon

Seventh District: Norman F. Arterburn, Vincennes

Eighth District: John K. Chappell, Petersburg

Ninth District: William H. Dobbins, Columbus

In addition the Committee is required to name as nominees of this association for members of the House of Delegates of the American Bar Association, two members, and it has been customary in the past to name as those members, the President and Vice-president of the association, therefore, the Committee nominates for those two offices, Roscoe C. O'Byrne of Brookville, and Carl Wilde of Indianapolis.

The Association then elected the nominees to the offices specified in the report of the committee.

Upon the motion of Judge Buente the membership of the association expressed its sincere thanks to the outgoing officers.

The meeting adjourned at twelve o'clock noon.

At the annual banquet an address was delivered by Dean Wilbur F. Katz of the University of Chicago Law School on the subject, "National Defense and Individual Liberties."<sup>1</sup>

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<sup>1</sup> For the text of this address see, *supra*, p. 31.