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Announcements

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Bloomington

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REPORT OF COMMITTEE ON LEGAL EDUCATION

The following letter and draft of a tentative bill are published for the consideration of the members of the Indiana State Bar Association. The members of the committee are especially interested in receiving criticisms from the lawyers of the state to guide them in the drawing of a final draft, which will be presented to the 1931 General Assembly of Indiana:

Mr. W. E. Treanor,
Editor *Indiana Law Journal*,
Bloomington, Indiana.

Dear Mr. Treanor:

Enclosed is draft of "A Bill for an Act Concerning Attorneys at Law, etc.," which has been under consideration by the Committee on Legal Education of the Indiana State Bar Association. The bill is now submitted for publication in the *Journal* and for criticism by the lawyers of the state.

The original bill was introduced in the 1927 legislature, passed the House by a vote of 74 to 9, was favorably reported on second reading in the Senate but failed to come to final reading. In 1929, with amendments to obviate suggested weaknesses, the bill was again introduced but was not pressed for passage in view of the fact that the Bar Association had already planned a rather complete legislative program.

One of the judges of the Supreme Court is a member of the committee, for which reason we have not discussed in committee the question of whether the bill is constitutional. Its author apparently had the view, which is shared by many lawyers and some judges, that one who without education in the fundamental principles of law seeks to practice the profession of an attorney at law, is not of good moral character and for that reason should not be admitted to the bar.

The work of our committee has been to rearrange, condense and simplify the bill. It is not submitted as a finished product.

Constructive criticism will be welcomed by the committee. Letters should be addressed to the chairman, Frank N. Richman, Columbus, Indiana.

May we add that the committee has had one session at Indianapolis attended by all its members and there has been considerable correspondence between the members. Other matters under consideration will be the subject of a later report for publication in the *Journal*.

Respectfully yours,

WALTER R. ARNOLD,
B. HOWARD CAUGHRAN,
CLARENCE R. MARTIN,
HUGH E. WILLIS,
FRANK N. RICHMAN,

Committee on Legal Education.

A BILL FOR AN ACT CONCERNING ATTORNEYS AT LAW
AND REPEALING ALL LAWS AND PARTS OF LAWS
IN CONFLICT THEREWITH AND DECLARING AN
EMERGENCY.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA, That a civil action may be prosecuted or defended by a party in person, or by attorney, after he has been admitted to practice, as hereinafter provided, except that a corporation shall appear by attorney in all cases.

SEC. 2. Every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice. Any person who shall desire to practice law in the courts of justice of this state shall file an application, as hereinafter provided, with the clerk of the supreme court and in all proceedings thereafter held upon said application the burden of proof shall rest upon the applicant.

SEC. 2. Such application shall be on a blank form furnished by the clerk, upon request, and shall contain a verified statement of the name, age, place of birth, place of residence for the past five years, the names of schools or colleges attended, if any, and the time of such attendance; and if the applicant has completed a course in legal study in any college or university or has pursued a course of legal study in some law office, or has pursued any other course of legal study the application shall

state the legal subjects studied by the applicant and the duration of such study.

SEC. 4. Such applicant for admission shall inclose with his application a statement under oath by two freeholders and householders of the county in which the applicant resides, stating the length of time they have known the applicant preceding the filing of his application and specifically stating the place in this state where the applicant has resided during the preceding six months and that during all of said six months such applicant has been a resident of this state.

SEC. 5. Every application for admission to practice law shall be filed with the clerk of the supreme court, sixty days before the opening of either the May or November terms of the supreme court, which petition shall be accompanied by a fee of twenty-five dollars. The funds so raised shall by the clerk be kept separate from his other funds and any surplus remaining after the payment of the fees, mileage and other expenses of the committee hereinafter provided, shall be subject to the disposition of the Supreme Court.

SEC. 6. The supreme court is hereby empowered to appoint a Committee of Bar Examiners consisting of one reputable practicing attorney from each supreme judicial district of the state, which committee is hereby authorized to examine all applicants for admission to practice law, as to whether they possess the requisite constitutional requirements for such admission. The committee shall require the applicant to appear in person before said committee at such time and place as the committee may designate, there to be examined concerning his constitutional qualifications for admission to practice law.

SEC. 7. After having examined such applicants, the committee on or before the first day of the succeeding term of the Supreme Court shall make its recommendations to the judges of the Supreme Court on the constitutional qualifications of all applicants for admission and the Supreme Court shall have the right to accept or reject the recommendations of the committee.

SEC. 8. The committee shall examine all applicants who present themselves for such examination on the following subjects: Constitutional law, including both the Constitution of the United States and the Constitution of the State of Indiana, equity, trusts, real and personal property, evidence, wills, decedents' estates, landlord and tenant, mortgages, contracts,

quasi-contracts, sales, partnership, agency, corporations (both private and municipal), public utilities, criminal law and procedure, torts, negotiable instruments, persons, conflict of laws, pleading and practice, brief making and legal ethics. In addition to the above legal subjects, the committee may examine the applicant on the constitutional history of the United States and that of England related thereto.

SEC. 9. After such examination of applicants who present themselves, as provided in section 8 hereof, the committee shall make its recommendation on each of such applicants and also on the applicants who fail to present themselves for examination, and if an applicant has by the committee been found qualified to practice law, the committee may recommend his admission to practice to the supreme court, and if the committee finds that an applicant is not qualified for admission to practice law, such finding shall be considered prima facie evidence of the lack of the constitutional requirement of good moral character and thereupon it shall recommend to the supreme court that said applicant be not admitted to practice.

SEC. 10. All applicants for admission shall present themselves for admission to practice before the supreme court on the second day of the term of said court, or at such other time as the court may designate, following the filing of their applications, (provided they have been on file sixty days, as aforesaid) and the applicants may be further examined by the supreme court concerning their constitutional qualifications to practice law.

SEC. 11. Each member of the Committee of Bar Examiners shall receive for his or her services a fee of ten dollars per day for each day such member of the committee shall attend the examinations conducted pursuant hereto and in addition shall receive ten cents per mile for each mile traveled in going to and returning from the meetings of such committee. Such money shall be paid out of the fund provided by the fees paid by the applicants. The expense of printing and postage in connection with such examinations shall also be paid out of such fund.

SEC. 12. If an applicant shall be by the supreme court found not entitled to admission to practice law, said applicant may file another petition at any succeeding term of the supreme court.

SEC. 13. Whenever any person has by the supreme court been found entitled to practice law it shall admit him to prac-

tice, and he shall be entitled to receive from the clerk of the supreme court a certificate of admission, which certificate shall authorize him to practice law in all courts of justice of this state.

SEC. 14. An attorney residing outside of the State of Indiana who has been duly admitted and is licensed to practice law in any other state of the United States, or in the District of Columbia, and who is still a member in good standing of the bar of such state or district, may be admitted by any court to practice in any particular cause in this state during any term of such court, upon motion of any attorney duly admitted to practice in this state, and upon such non-resident attorney's taking an oath faithfully to discharge his duties as an attorney at law.

SEC. 15. Any attorney who has been regularly admitted in any other state of the United States, or in the District of Columbia, where qualifications for admission to the bar are substantially equivalent to those required of applicants for admission in this state, and who has been regularly practicing or teaching law in such other state or district of the United States for a period of three years immediately preceding his residence in the State of Indiana, and who is still a member in good standing of the bar of such state or district may, by the supreme court, upon application, be admitted to practice law in the State of Indiana after he shall have become a legal voter in this state, provided, that such other state or district shall have a reciprocal provision for admitting attorneys from Indiana.

SEC. 16. The application provided in section 15 shall contain the name, age, place of birth, place of resident for the preceding three years, the names of schools and colleges attended, if any, and shall, in addition thereto, contain a recommendation for admission from the presiding judge of a court of general jurisdiction in the county in which such applicant practiced or taught his profession for the three years preceding his residence in this state, together with a recommendation from another judge of a court of general jurisdiction of the same county or of any adjoining county or circuit. Such attorney shall appear before the supreme court of this state and may by the supreme court be examined as in other cases provided herein.

SEC. 17. Every person admitted to practice law under the provisions of this act, shall, before proceeding to discharge his

duties as an attorney at law, take the following oath: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and of the State of Indiana; that I will maintain the respect that is due to the courts of justice and to judicial officers; that I will counsel or maintain such defenses, actions or proceedings only as appear to me to be legal and just; that in defending a person charged with a crime, I will properly advise my client that he may avail himself of any defense which the Constitution of the United States and the State of Indiana guarantees to a person charged with a criminal offense; that I will employ such means only as are consistent with truth and that I will never seek to mislead a court or jury by any artifice or false statement of fact or law; that I will maintain inviolate the confidence and preserve the secrets of my clients; that I will never encourage the commencement or continuance of any action or proceeding from any motive of passion or interest and that I will never reject for any consideration personal to myself the cause of the defenseless and oppressed, (so help me God)."

SEC. 18. An attorney until discharged, shall have authority to bind his client in any action or special proceeding by his agreement filed with the clerk, or entered upon the minutes of the court, and not otherwise; to receive money claimed by his client in an action or special proceeding, during the pendency thereof, or afterward; and, upon the payment, or settlement by compromise thereof, and not otherwise, to discharge any claim or acknowledge satisfaction of a judgment.

SEC. 19. No judgment shall be rendered against any party upon the agreement of an attorney where the party has not been notified or personally entered his appearance, unless the written authority of the party be first produced and its execution proved to the satisfaction of the court.

SEC. 20. The court or judge may, on motion of any party, showing reasonable grounds therefor, or within the discretion of the court, require an attorney to produce the authority under which he appears and, until he does so, may stay all proceedings by him on behalf of the party for whom he assumes to appear.

SEC. 21. If it be alleged under oath by a party for whom an attorney appears, that he does so without authority, the court may at any step of the proceedings, relieve such party from the consequence of the attorney's act; and if it shall appear to

the satisfaction of the court that such attorney has appeared without authority, the court may, upon motion, summarily compel the attorney to repair the injury consequent to such assumption of authority.

SEC. 22. Any attorney who is guilty of deceit or collusion, or consents thereto with intent to deceive a court or judge may, by the courts, be adjudged in contempt of court, and be proceeded against as in other contempt proceedings. And if such deceit or collusion result in any injury to a party to a judicial action or proceeding, the attorney shall forfeit to the party injured treble damages, recoverable in a civil action.

SEC. 23. Any attorney may be suspended from practicing law for any period not exceeding one year or may be disbarred from practicing law for any of the following causes:

First: When he is guilty of wilful disobedience or violation of an order of the courts.

Second: If he shall have violated any of the obligations contained in the oath prescribed in Section 17 of this act.

Third: If he shall have been convicted of a felony or of a crime involving moral turpitude, subsequent to his admission.

SEC. 24. Proceedings to suspend or disbar an attorney shall be brought in the county in which the attorney is a resident or in which he maintains an office for the practice of his profession. Such proceedings may be instituted by the committee of Bar Examiners or by any citizen or any bar association in the state which may prefer charges against him, and shall be in the name of the State of Indiana on the relation of such committee, citizen or bar association, as the case may be.

SEC. 25. If proceedings are brought to suspend or disbar an attorney as hereinabove provided, the committee of bar examiners, citizen or bar association preferring the charge shall make complaint by petition in writing and verified by the person or one of the persons making the complaint. Notice shall be served on the attorney as in proceedings for contempt and after the accused attorney shall have had five days' notice of the filing of such petition, said attorney shall appear and file answer to such charges or suffer judgment of suspension or disbarment by default. If he appears he may file pleadings as in other civil actions.

SEC. 26. The trial on proceedings for suspension or disbarment shall be summary in its nature and triable by the court.

The defendant shall have the right to a change of judges as in other civil actions but he shall have no right to a change of venue from the county in which the action is filed. From an adverse judgment either party shall have the right of appeal to the Supreme Court. The procedure as to motion for new trial, bond and other steps in perfection of the appeal shall be the same as in term time appeals in other civil actions. The bond shall be in sufficient amount to cover all costs. If the judgment of the trial court shall be against the accused attorney he shall stand suspended or disbarred as the case may be and shall have no right to practice law or perform any of the acts of an attorney at law while said appeal is pending.

SEC. 27. Such appeals shall by the supreme court be given preference over other civil appeals and shall be determined at the earliest convenient time. If the supreme court reverse a judgment of disbarment or suspension, then the accused attorney shall automatically be restored to his right to practice law. On such appeal the supreme court may weigh the evidence.

SEC. 28. When an attorney, on request, refuses to deliver over money belonging to a person from whom he has received it, or papers belonging to a person from whom he has received them, in the course of his professional employment, he may be required after reasonable notice, on motion of any party aggrieved, by an order of any court of record in the county in which the aggrieved party lives, to return such money or papers to the person, for or from whom they were received, within a specified time, or show cause why he should not be punished for contempt.

SEC. 29. In cases contemplated in the last preceding section, the court by whom such order is made, may, after hearing, render judgment as in other cases for contempt, and may in such judgment suspend the attorney from practicing in any of the courts of this state for any length of time not exceeding six months. Judgment may also be rendered against the attorney for the amount of money withheld, deducting reasonable fees, if any are due, and costs paid by the attorney. If there has been unreasonable delay the court may add ten percent for damages. The judgment shall be enforced by execution without the benefit of stay or appraisement laws. The court may also render any judgment and make any order respecting papers or property withheld that may be necessary to enforce the right of

the party aggrieved, provided, however, that such attorney shall have a lien on money, papers or property in his possession, for any fees he may be entitled to from the complaining party.

SEC. 30. In case any attorney has been disbarred from practicing in the courts of this state, the person, so disbarred, may, after five years from the rendition of the judgment of disbarment, apply to the supreme court to be reinstated to the practice of law. And the supreme court in its discretion may reinstate any such applicant.

SEC. 31. It shall be unlawful for any person to hold himself out as a practicing attorney, or to conduct the trial of a case in any circuit, criminal, city, justice of the peace, probate, juvenile, commissioner's or other court in this state, or to engage in the business of a practicing lawyer, without first having been duly admitted to practice in the supreme court, as herein provided: Provided, however, That the provisions of this act with reference to admission to practice shall not be construed to apply to any person who has been regularly admitted to practice law in any of the circuit or superior courts of this state prior to the taking effect of this act.

SEC. 32. Any person who shall violate any of the provisions of the foregoing section, shall be deemed guilty of a misdemeanor, and on conviction, may be fined in any sum not less than ten dollars nor more than one hundred dollars, to which may be added imprisonment, not exceeding six months.

SEC. 33. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

SEC. 34. If any section, provision, clause or sentence of this act should be held invalid, such invalidity shall not affect such portions of the act not so held invalid and which are susceptible of enforcement.

THE PURPOSES AND PLANS OF THE INDIANA CRIME CONFERENCE

The following statement of the plans and purposes of the Indiana Crime Conference was made to the mid-year meeting of the Indiana State Bar Association by the Hon. James A. Van Osdol:

Mr. President and Members of the Indiana State Bar Association:

I have been requested to present for your consideration the purposes and plans of the Indiana Crime Conference, held in this

city on October 11th and 12th last. The purpose of that conference is set forth in the concurrent resolution adopted by the 1929 session of the Indiana General Assembly, pursuant to which the governor called that conference.

What I shall endeavor to do is to present briefly the purposes and plans of the committee which that conference requested the governor to appoint and which he did in the closing hours of that meeting: that committee is now known as the "Indiana Committee on Observance and Enforcement of Law." It is composed of twenty-seven members of this state chosen from various walks of life.

That committee organized and divided itself into five special committees with an executive committee and assigned to each of the special committees a definite field for its investigation. These special committees report their findings and recommendations to the general committee from which the latter will formulate the recommendations which it will finally report to the governor.

You may be interested in knowing something of the divisions or fields into which the work of this committee has been divided. Without burdening you with an enumeration at this time of all of the related subjects that are grouped under the respective heads or assignments, it may be sufficient to say that the five separate fields are designated and assigned in the following order:

First. The apprehension of the criminal.

Second. Trial and commitment.

Third. Supervision, reform and release.

Fourth. Prevention of crime.

Fifth. What legislation if any the working out of this problem requires.

Without meaning to minimize in the least the importance of the fields assigned to the other committees, for they are all important, we call attention to committee number one which deals with the apprehension of the criminal and a study of how to better co-ordinate our police agencies; local, state and federal. Crime is organized as never before and until the agencies having to do with the apprehension and prosecution of the criminal are better coordinated and modernized the state will remain under a serious handicap in its efforts at law enforcement.

This committee has prepared a hand-book setting forth in more detail the plan of this work and what is embraced in the fields assigned to the respective committees, with suggestions of the different departments and institutions in which may be found record and data, more or less helpful in their study and investigation.

This committee is impressed with the belief that any plan which it may propose as a remedy for the present situation, must merit the approval and support of enlightened public opinion and is therefore inviting the public to make a dispassionate investigation of this problem in all its phases. On this point I quote from that hand-book the following: "For this purpose the committee will ask the support of all citizens and organizations interested in the cause of good government, who are willing to render assistance in bringing about a better spirit of law observance and law enforcement than seems to prevail in our state at this time."

In thus placing this question before the citizens of this state, we do not mean to imply that the crime problem is peculiar to Indiana. It is a national one, but the obligation to assist in its solution is an individual one.

A copy of that hand-book as soon as it is off the press will be sent to each member of this association.

On the 25th of this month there will be a conference between this committee and a number of citizens of this state who represent various organizations and groups which this committee hopes to interest in the support of this program, to the end that there will be intelligent public opinion strong enough to support such measures as may be finally recommended.

This committee is impressed with the magnitude of this undertaking, and is not conceited enough to think that it is going to be able to find in this one study a complete solution of the present problem. Its hope, backed by an enlightened public opinion, is to point the way through which substantial relief may be found for present ills. In the end public opinion will be the determining factor.

As we see it, the crying need of this hour is to instill into every man, woman and child in this land an intelligent appreciation of law. Some people respect the law because they have to; the measure of their respect is the fear they have of its penalties, but that is not the kind of respect we must have.

If our government is to endure, the dominant portion of our citizenship must entertain a respect for law that comes from an intelligent understanding of the part law plays in our scheme of government.

We boast that ours is a government of laws where *life, liberty* and *property* are protected by law. Doubtless many of us indulge that boast giving little if any thought to what it really means. We must learn to respect law for the law's sake.

We refer to law generally and not to any particular law when we ask you: is the law worthy of your respect? Is it rendering you any service today? Let us see.

Suppose each one of you in this room could be absolutely convinced that at this very moment in your own community, law observance and law enforcement had ceased to exist. That your courts and all your law enforcing machinery had suddenly been rendered impotent. That no one there any longer entertained any respect for law or any fear of its penalties; and suppose you knew that every criminal and evil minded person in your community knew of that condition. What would you do?

We all know the answer. You would not remain in this room another minute. Each of you would hasten home to make sure that all that life holds dearest was safe. You'd arm yourself, and bar your door against possible invasion.

You don't do that simply because you know that the law is protecting you and yours this very minute. It's your ever present guardian.

What have we of man's creation that is so essential to your temporal well being as our country's laws?

Yet what are they worth if not respected and enforced?

If there is evidence that our country's laws are not respected and not enforced as they should be, then whose duty is it to see that such a condition is remedied? You may answer that such is the duty of every good citizen and that answer is good as far as it goes but it is not the whole answer.

Don't you think that a special duty in this regard rests on the legal fraternity?

When the public mind begins to dwell upon the question of law and law enforcement it just naturally thinks of the courts and the lawyers.

The conviction now in the mind of the general public that the criminal laws of the country are not properly enforced is a chal-

lenge to the legal profession to do its part toward finding a remedy. If our profession fails to make an honest effort in this behalf it will justly deserve the penalty which will follow, in loss of public confidence. Can we afford that?

MID-YEAR MEETING

A full account of the Mid-year meeting will appear in the February number of the Journal.