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## Announcements

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## ANNOUNCEMENTS

### *Interesting Questions Pending in Upper Courts*

Are the lawyers of the state interested in having called to their attention before final decisions questions of general interest pending in the Supreme and Appellate Courts?

In the December issue of *THE JOURNAL* the following announcement was made:

"President Loudon L. Bomberger suggests that it would be of interest and value to the profession if *THE JOURNAL* would carry a statement of cases pending in the Supreme and Appellate Courts involving law questions of general interest. If lawyers appealing cases involving such questions will forward to the Editor copies of their briefs in such cases, a new section will be added to *THE JOURNAL* giving the profession this information as early as possible after the questions are presented."

The Editor has received no such briefs and has therefore not been able to carry statements of any such questions in this issue.

If such an addition to *THE JOURNAL* is desired by the lawyers of the state, we shall appreciate it if attorneys for Appellants will send one copy of their briefs to the Editor at the time they are filed in the upper court.

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## SUGGESTIONS OF CHANGES IN METHOD OF SELECTING JUDGES IN INDIANA

The bar associations in a number of the larger cities have recently had under discussion the question of a change in Indiana of the method of selecting judges and the various suggestions that have been made to date upon that subject. The following excerpt from the discussion before the Hammond Bar Association on January 19 contains a good resume of proposals which have been made, including the action taken in the 1937 Legislature upon the subject:

The problems of a separate election, increased tenure of office and reducing the number of elections by making the terms of all judges expire at once could all be solved by constitutional amendment; but that method is beyond our reach just now. The last General Assembly proposed four or five constitutional amendments and referred them to the next session. Should they be approved, they must go to the electorate and, under Section 2 of Article 16 of the constitution, no further amendments may be proposed until those now pending shall be disposed of.

The next question for consideration is the most practicable method of selecting the candidates to be voted for at an election. Shall it be done by a primary election or shall it be done in some other way? Some consideration is being given to the idea of a primary in which only those admitted to practice law shall be entitled to vote. The idea back of this plan is that the lawyers know the members of the bar and their qualifications and that they can be trusted to select good candidates. Under such a scheme they would function much as local political party conventions used to function before the direct primary system was adopted. The plan would not contemplate that the lawyers should in effect make the election or too narrowly limit the field. They would merely select a reasonable number of candidates for each office and in effect say to the voters that any one of the candidates so selected would be acceptable. Then the voters would make the final choice. The responsibility of the bar as a whole for the selection of good material would be substituted for the present responsibility of political parties. An obvious query in connection with this plan is whether, in those communities having a large number of lawyers and including a good many of the wrong kind, sinister influences could be made more effective in influencing the votes of the members of so limited a group than should they be required to operate upon the electorate as a whole.

Other possibilities include the nomination of judicial candidates by some non-partisan group; but the selection of that group must necessarily be carefully contrived and again the objection arises: that the smaller the group, the greater will be the opportunity for the effect of sinister influences.

The final possibility, insofar as we have thought it out, is a direct primary for the nomination of judicial candidates at which the electorate as a whole may vote. Should such a primary be held simultaneously with the primary for other offices, the main objection has already been pointed out. Should such a primary be held separately, the question of expense is sure to arise. Yet the great probability is that under our constitution as it exists, such is the best method available.

It may be profitable by way of furnishing food for thought to point out what has so far been attempted in Indiana.

In its first annual report in 1936, the Judicial Council recommended to the General Assembly a bill for the nomination and selection of judges by separate ballots to be voted at the time of holding primary and general elections for other offices. It would have applied to the election of circuit, superior, probate, criminal, juvenile and city judges and prosecuting attorneys. It required all candidates to be licensed to practice law, which is not now required. Candidates would become such by filing a written declaration, supported by petitions to be filed by a quarter of one per cent of the voters, but not in excess of four hundred. Primary ballots would have been prepared by the election commissioners, as separate ballots, bearing no party label and no statement of the political affiliations of any candidate and with the usual provision for rotation of names. The two candidates for judicial office receiving the largest vote at the primary would have been placed on a similar separate ballot and voted for at the following election. Everyone entitled to vote at all would have been entitled to vote for the selection of judges both at the primary and at the election.

There was introduced in the last session of the General Assembly a bill which would have applied to the candidates for all judicial offices including judges of the Supreme and Appellate Courts, but not including justices of the peace. Three years of practice would have been required for the qualification of a candidate and he would have become a candidate upon filing his declaration and petition substantially as was provided for in the recommendation of the Judicial Council. The bill provided for a different arrangement of candidates on the ballot. If the incumbent of judicial office was to be a candidate, the bill would have required him to be listed first with a statement of the fact that he was the incumbent. The other candidates would have been listed according to the number of years they had been in the practice, or according to their ages in case their years of practice should have been the same. It contained the additional provision that if any candidate should have received a majority of the votes cast in the primary, that result would have amounted to his election. The bill also provided for a separate non-partisan ballot in the general election, should no candidate receive a majority at the primary; and on the ballot to be voted at the election the names would have been arranged in the order of the number of votes received by the candidates at the primary, or according to their years of practice or ages in case of a tie. On second reading this bill was amended by striking out everything after the enacting clause and substituting the bill recommended by the Judicial Council, with minor changes of language but no change in substance. I do not know exactly what happened to this bill thereafter but we all know it did not pass. Neither do I know whether this bill is the one which was supposed to have been sponsored by the Indiana State Bar Association; and if it was not and there was still another bill introduced, I have not been able to get a line on it up to this time.

It will be apparent from what has been said that in this discussion it has been possible only to review the problems which we face and the reasons for considering a change. There is a considerable amount of research to be done before the making of definite plans can be attempted and the actual job of working out a sound and practicable plan will be tremendous. A satisfactory result will require the thoughtful consideration and cooperation of the members of the bar of the state as a whole to the end that not only may the general plan be good but that it may satisfactorily provide for the handling of local problems.

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## LOCAL BAR ASSOCIATIONS

### *Indianapolis Bar Association Holds Legal Institute*

On December 15, 16 and 17 the first Indianapolis Legal Institute was held at the Lincoln Hotel under the auspices of the Indianapolis Bar Association. The speaker for the occasion was Professor Austin W. Scott, of Harvard Law School, and his subject was "Current Problems in the Law of Trusts With Special Reference to the Law of Indiana."

Lectures were held from 4:00 to 6:00 each afternoon, and the average attendance was approximately 250. The meetings were received enthusiastically by those present. Professor Scott was an interesting speaker, with complete mastery of his subject. His lectures dealt with the various problems connected with the creation and administration of a trust. The fact that the problems were considered with reference to Indiana law made the lectures particularly valuable to his listeners.

The practicing lawyers of Indianapolis are eager for more meetings of the same nature, and it is believed that the Legal Institute will become a permanent part of the program of the Indianapolis Bar Association. If practicable, two institutes will be held this year, and plans are now under way for the first one in the spring.

*The Evansville Bar Association* is trying an interesting experiment in discussions designed to improve the bench and bar. At the January meeting the judges of the three courts told the lawyers "in a rather forceful manner" how they desired practice conducted in their courts and pointed out faults of the lawyers which should be corrected. They invited similar criticism of their conduct of the courts by those who practice in their courts.

At the February meeting the lawyers are to tell the courts how they think the conduct of the courts may be improved.

*The East Chicago Bar Association* on December 9 were hosts to the various Lake County Bar Associations, under the rule of the First District Bar Association Council to allot one meeting each year to each of the Gary, Hammond, Whiting, Crown Point and East Chicago associations. Approximately ninety persons attended the meeting. Addresses were made by Hon. Will M. Sparks, Judge of United States Circuit Court of Appeals, and Mr. Loudon L. Bomberger, President of the Indiana State Bar Association. This association has been incorporated recently. We are advised that the purpose for incorporating was to make it possible for the bar to act as a unit if the necessity should arise in the disbarment of any of its members or for bringing action against anyone for unauthorized practice of law.

*The Warren County Bar Association* met on December 3 and arranged for members of the association to deliver addresses in the various schools of the county on December 10. Five members of the association made such addresses on that date.

*The Logansport Bar Association*, continuing its program plan for the study of important recent legislation, is now studying the Uniform Trustee's Accounting Act passed by the 1937 Legislature. The report from this bar indicates that they have found the act to be far reaching in its application, and that it presents many interesting problems. It is hoped that at a later date THE JOURNAL may be permitted to publish at least some of the results of this study.

*The Indianapolis Bar Association* is actively sponsoring a program for the non-partisan selection of judges and for the improvement of the judiciary. Committees have been appointed to promote this program, viz.: a Judiciary Committee composed of Russell J. Ryan, Chairman, Joseph J. Daniels, Paul G. Davis, Fred C. Gause and Frank B. Ross; and a Committee on Amendment of the Law composed of Clyde H. Jones, Chairman, James L. Gavin, Hubert Hickam, James M. Ogden and Charles O. Roemler.

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### LIST OF NEW MEMBERS

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|---------------------------------------|---|
| Frank P. Heath, Indianapolis (J).     | Robt. W. Millikan, Washington, D. C. (J). |
| Robert F. Charles, Marion (J)         | Herman L. Trautman, Evansville (J).       |
| Elmer E. Friedline, Jonesboro (R).    | Howard E. Sutherland, Indianapolis (J)    |
| Harry P. Dies, Evansville (J).        | Albert M. Campbell, Indianapolis (R).     |
| Claude C. Phillips, Hammond (R).      | C. B. Kessinger, Vincennes (R).           |
| Thos. V. Happer, Elkhart (R).         | J. Walter Yeagley, South Bend (R).        |
| Jos. O. Carson, Indianapolis (R).     | Judge Hal C. Phelps, Peru (R).            |
| Jos. O. Carson, II, Indianapolis (R). | Edwin McClure, Indianapolis (R).          |
| Louis F. Niezer, Fort Wayne (J).      | John A. Barr, Gary (R).                   |
| Chas. C. Delnicki, East Chicago (R).  | Willard D. Wharton, Logansport (J).       |
| Robert L. Daerr, East Chicago (J).    | Joseph Mosny, East Chicago (R).           |
| Leo Van Tilbury, Mishawaka (R).       | Jas. L. Lewis, Vincennes (J).             |
| Lawrence Huffman, Hammond (R).        | Robert E. Reel, Vincennes (J).            |
| Robert C. Brown, Hammond (R).         | Robert Wm. Morris, Vincennes (J).         |
| A. J. Maloof, Indianapolis (J).       | Arthur Lee Hart, Vincennes (J).           |
| A. B. Harris, Indianapolis (J).       | Matthew E. Welsh, Vincennes (J).          |
| Pauline Caldwell, Martinsville (J).   | Horace A. Foncannon, Vincennes (R).       |
| Garfield H. Rogers, Connersville (J). | H. M. Robbins, Vincennes (R).             |
| Robt. B. Hartzog, Goshen (J).         | T. Ralph Alsop, Vincennes (R).            |
| Fay W. Leas, Fort Wayne (R).          | Frederick F. Eichhorn, Gary (R).          |
| Nathan C. Nelson, Decatur (R).        | Hugh E. Carroll, East Chicago (R).        |
| R. F. Baird, Jr., Fort Wayne (J).     | Adolph G. Emhardt, Jr., Indianapolis (J). |
| F. O. Friedline, Jonesboro (R).       | Ralph W. Husted, Indianapolis (J).        |
| Noel Mark Lanham, Indianapolis (J).   | Karl M. Jacobs, Indianapolis (J).         |
| Edward C. Hays, Marion (R).           | O. B. Hanger, Indianapolis (J).           |
| Julian T. Lett, Marion (R).           | John J. Cooper, Indianapolis (J).         |
| Robert T. Caine, Marion (R).          | Curtis E. Plopper, Indianapolis (J).      |
| Hamilton C. Dowell, Indianapolis (J). | Merle Calvert, Indianapolis (J).          |
| L. Hewitt Carpenter, Marion (J).      | Harry M. Stitle, Jr., Indianapolis (J).   |
| Cleon W. Mount, Tipton (R).           | Thompson Kurrie, Indianapolis (J).        |
| Donald D. Bradway, Indianapolis (J).  | Max Klezmer, Indianapolis (J).            |