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New Procedure Act

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NEW PROCEDURE ACT

ACT OF PARTICULAR INTEREST TO ATTORNEYS
PASSED BY BOTH HOUSES OF THE LEGISLATURE ON
JANUARY 29, 1937, AND SIGNED BY THE GOVERNOR
ON JANUARY 30, 1937.

SENATE BILL No. 89

A BILL FOR AN ACT concerning civil, criminal and statutory proceedings.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF INDIANA, That in any proceedings now or hereafter pending before any court, or body, or official, existing under the constitution or laws of this state, wherein certain limitations of time are or may be fixed by law or rule for doing any acts therein, if any emergency exists or arises by reason of war, or insurrection, or pestilence, or act of God, which prevents the performance of any act which is essential to substantial justice, such court, or the judge thereof in vacation, or body, or official shall have power to find and declare the existence of such emergency and the time during which it existed, and to enter such finding and declaration of record; and in computing the time during which such act is required to be done under the limitations fixed by law or rule, the time during which such emergency existed shall be excluded, and shall not be considered.

SEC. 2. In the event any court, or judge thereof, or body, or official aforesaid shall be unable to act for any reason, the Supreme Court of Indiana is hereby empowered, upon petition therefor, to grant such relief, in place thereof and shall certify its order to such court, or judge thereof, or body, or official; and the supreme court is empowered to regulate all such procedure by rule.

SEC. 3 This act shall apply to all such proceedings now or hereafter pending in this state and shall be retroactive to and including October 1, 1936.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

*Approval of Five Law Schools Reported by American Bar Association
Committee on Legal Education*

Five law schools were added to the approved list of the American Bar Association through action of its Council on Legal Education and Admissions to the Bar, which met in Chicago on December 29. This makes a total of ninety-four law schools which have been approved by the American Bar Association as meeting its standards. The schools affected were: The University of Buffalo School of Law, Buffalo, N. Y.; *Indiana Law School, Indianapolis, Ind.*; Chicago-Kent College of Law, Chicago, Ill.; Detroit City Law School, Detroit, Mich.; and The Kansas City School of Law, Kansas City, Mo. These schools were given provisional approval, final approval in each case being reserved until a further inspection has been made within a two-year period to determine that the present standards are being maintained.

A report made to the Council showed the considerable progress which has been made in recent years in improving the standards of legal education and admissions to the bar in the various states. At the present time thirty-two states require, effective either now or in the future, a minimum of two years of college education, in addition to law training, as a qualification for taking the bar examinations. Thirty-nine states are reported as requiring a minimum of three years of law study. Only one state, Arkansas, now permits a candidate for a lawyer's license to take the bar examinations without submitting proof of some general education or legal training.

"The remarkable progress which has been made in the direction of increased bar admission requirements," said Mr. James Grafton Rogers of Yale University, Chairman of the Council, "shows that there is now a general realization of the necessity that a man coming to the bar should have a broad general education and a specialized legal training at a good law school. The states which have adopted the requirements of two years of college education contain three-fourths of the lawyers of this country. An even larger percent of the candidates coming to the bar now have some college education in addition to their law training. It seems probable that within a short time this will be a requirement in every state in the Union."

The Legal Profession Mobilizes for Action

By WILL SHAFROTH, Director of the National Bar Program of the
American Bar Association

The first fully organized meeting of the House of Delegates of the American Bar Association held in Columbus on January 5, 6 and 7, constituted an important event in the history of bar organization in this country. For the first time accredited representatives of every state bar association, of the largest local associations, of the most important

national organizations in the Legal Profession, and of the membership of the American Bar Association, met together to consider and act on matters of importance to the profession.

A very representative group gathered at Columbus for this meeting. The sessions were presided over by the President of the American Bar Association, or the Chairman of the House of Delegates, and about two dozen presidents of state bar associations were among the one hundred fifty delegates who answered the roll at the opening session. The members of the Board of Governors of the American Bar Association, judges and ex-judges of state Supreme Courts, section and committee chairmen of the American Bar Association, and representative lawyers from every part of the country, participated in the sessions of this national legislative body of the legal profession.

The State Delegates, one from each state in the Union, directly representing the membership of the American Bar Association, met before the opening session of the House and nominated officers for next year, further nominations by petition being permitted under the new Constitution. Arthur T. Vanderbilt of Newark, New Jersey, was nominated for the Presidency, Messrs. George M. Morris of Washington, D. C., Harry S. Knight of Sunbury, Pennsylvania, and John H. Voorhees of Sioux Falls, South Dakota, were renominated for their present offices, and Joseph W. Henderson of Philadelphia, Pennsylvania, D. A. Simmons of Houston, Texas, and William G. McLaren of Seattle, Washington, were nominated for positions on the Board of Governors from the Third, Fifth and Ninth Circuits, respectively.

The general atmosphere of the meeting was one of work, and a considerable amount of business was transacted.

One of the most interesting sessions was that held Wednesday night on Judicial Selection. The discussion was opened by Judge John Perry Wood of Los Angeles, Chairman of the American Bar Association Committee on Judicial Selection and Tenure. He referred to the evils of the elective system which have resulted in the necessity for judges to indulge in political activities, and stated that the use of appointment by a dual agency consisting of a responsible body to nominate a list of candidates and an appointing agent such as the Governor, had been advocated in thirteen states in which concrete plans had been formulated. "In nine of these states," he said, "tenure subject to an election at which the electors vote to continue or retire the incumbent but with no competing candidate, has been advocated." He was followed by Judge Charles M. Thomson, President of the Chicago Bar Association, who spoke on the unsatisfactory results which the elective system had had in Chicago. After considerable discussion a resolution was passed by a four to three majority, recommending as the most acceptable substitute for direct election of judges, the filling of vacancies by appointment by the Governor or other elective official from a list named by

another agency composed of high judicial officials and other citizens. The resolution also provided that if further check upon appointment was desired, it might be obtained by confirmation by the State Senate or other legislative body, and that the appointee should be eligible for reappointment thereafter or should go before the people upon his record with no opposing candidate.

At its last session, the House acted favorably on a resolution introduced by Mr. John Kirkland Clark of New York, urging the placing "under selective Civil Service on a merit basis of all positions in the Federal administrative service affecting the administration of justice below the grade of assistant secretary, except bureau department and independent agency heads, assistant heads, their legal counsel, personal and confidential assistants; and that all non-Civil Service employees now holding such positions be required to take examinations designed to test their fitness for retention in the Federal Service."

A further significant resolution passed in view of proposed plans of reorganization of the federal administrative service, requested that before public hearings are held on any such proposed reorganizations, the reports of the experts which have been studying these questions be printed and a number be forwarded to the headquarters of the American Bar Association at the same time such copies are sent to members of Congress. By this resolution the House went on record as demanding that the representatives of the legal profession should be informed of proposed changes in the federal administrative service in sufficient time to enable them to advise and participate constructively in this important work.

The House endorsed in principle the work of the National Bankruptcy Conference as embodied in the Chandler bill designed to modernize and clarify the substantive and procedural provisions of the present Bankruptcy Act, but did not commit itself to the approval of any specific section of the bill and reserved the right to present objections and suggestions in reference to definite provisions of the bill. It also recommended that the Connally hot oil act and the oil states compact be extended by Congress for two years, and adopted a resolution suggested by Mr. Newton D. Baker of Cleveland, that the Committee on Administrative Law consult with other interested agencies and prepare a bill in reference to a Federal Administrative Court for presentation to the House at the annual meeting in Kansas City during the week of September 27th.

Without opposition it adopted the recommendation of the Association's Committee on Unauthorized Practice disapproving the Wagner bill in reference to practice before federal boards and commissions and rejecting a proposal for legislation prohibiting advertising by banks and trust companies of their services in the administration of estates. The ground of this action was the position taken by the committee that the

practice of law by laymen and lay agencies can not be regulated in a satisfactory manner by a legislative act.

The discussion on the subject of "Over-crowding of the Bar and Limitation of Admissions to the Profession" produced a general agreement among the speakers that an arbitrary limitation of admissions was unwarranted but that the efforts of the profession to raise the standards of legal education should be continued and will inevitably result eventually in a diminution of numbers. It was realized that little was known about actual conditions in the profession, and a special committee was provided for by a resolution to consider a study of the economic condition of the bar of the United States and of the opportunities for legal service to the community available to the bar, and the extent to which the lawyers of the country are fulfilling such opportunities.

An interesting discussion of administrative tribunals and their development brought out the need for a segregation of the functions which these bodies are now performing, and a review of their decisions on the law and on the facts such as would be brought about by an administrative court.

The meeting was a business meeting but the entertainment features were pleasant and the Columbus Bar was most hospitable. It provided a delightful dinner with cabaret entertainment, and the Ohio State Bar Association were hosts to a number of the members of the House on a trip from Columbus to Dayton where a banquet by the Ohio State Bar Association was held in their honor.

The significant thing about the meeting in Columbus was the demonstration that a competent body of delegates now exists which represents directly well over half of the practicing lawyers in the United States. We are now assured that the legal profession may make its opinion felt and its voice heard nationally on those important problems in regard to which leadership devolves upon the bar.

The profession has mobilized for service.