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# Bar of Other States

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### *Judges and Politics*

(Movements in other states as reported in American Bar Association Journal, January, 1935.)

The Michigan State Bar Association, after three years' study by its committee on judicial selection, approved of a plan at this year's convention which is especially timely. The plan is for executive appointment for good behavior, subject to confirmation by the state judicial council, and with provision for involuntary retirement after hearings to be conducted by the judicial council. It is timely in view of the fact that an initiated amendment to the constitution to provide for non-partisan nomination and election of judges was defeated on November 6. Plans are being made for a citizens' convention to consider amendments to be submitted to the voters at the 1935 spring election and the press says that the appointment of judges is on the agenda. The non-partisan election amendment was not generally favored by the bar but was nearly carried by the voters. There are reasons for believing that the people are prepared to "get the judges out of politics." Half of the state's judges have been appointed and tenure ordinarily is for life. No long step is proposed.

The Kansas Bar Association at this year's meeting voted for an appointive judiciary and authorized introduction of a resolution in the coming legislature for submission of an amendment to the constitution. Success is not anticipated immediately but the Association is bucked up for as long a campaign as may be needed.

The success in the recent election in California, whereby appointment of judges is made possible for counties which adopt the new constitutional provision, is due to the untiring efforts of the Los Angeles Bar Association and the California State Bar. Aid came from the state Chamber of Commerce, which was induced by the State Bar to sponsor this amendment. One differing only slightly, sponsored directly by the State Bar, and applicable only to Los Angeles County, was narrowly defeated.

In Washington too the new State Bar has squared itself to get the judges out of politics. Selection is to be made for the accustomed terms by a majority of a commission of eleven members, comprising the governor, three lay citizens chosen by the governor, and the members of the State Bar board of governors. Provision is made for retirement for cause by the commission. The plan was approved in a state-wide referendum of the bar.

The results of the Bar referendum on the recommendations contained in the reports of the Legislative Committee and the Committee on the Selection of Judges of the Washington State Bar are contained in the October issue of the State Bar Review.

Under the head of "Selection of Judges," the Bar was asked first, "Do you favor any change in the plan of selecting judges?" and the vote was 739 in favor of change as against 357 opposed. The next question was, "Do you favor a Constitutional Amendment, providing for the appointment of judges of the Superior and Supreme Courts?" and it was answered in the affirmative by 590 and in the negative by 464. The last question was, "Do you favor such constitutional amendment and legislation as may be necessary to provide for the appointment of Supreme and Superior judges by a commission consisting of the governor of the state, the governors of the State Bar Association and three electors to be appointed by the Governor?" This proposal carried, 581 to 403.

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## *Weak Lawyers Clog Reform**

An annual over-production of poorly-trained lawyers is one of the greatest obstacles to quicker justice and legal reform in America, according to all recent authoritative investigators of the subject.

Ten thousand new lawyers are admitted to the bar every year, and 20,000 candidates annually take bar examinations. One year's new admissions to the bar in the United States are more than all the lawyers put together now practicing in England, Scotland, Ireland and Wales.

The numbers of lawyers in America are also getting bigger in proportion to the total population. Back in 1920 there was one lawyer for each 862 of population, but in 1930 there was one lawyer for every 764.

Low standards of admission to the bar; low standards of training in law schools; too many law schools; and a practice of recruiting students in legal "diploma mills" closely analogous to ambulance chasing are among the conditions now existing which it is now the object of some of the most prominent lawyers in the country to clean up.

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* By Richard L. Strout, reprinted from Utah Bar Bulletin, Vol. IV, p. 12.

If the NRA could establish a quota for lawyers, observers believe, one of the most serious obstacles to legal reform would be ended over night. There is a bigger proportional annual over-production of lawyers, the records indicate, than there is of wheat and hogs in the Corn Belt, and of cotton in Dixie.

For a long time the American Bar Association has been struggling to do something about it; the American Judicature Society is making heroic efforts to secure an incorporated bar as a solution; the Wickersham Commission mentioned the matter, and practically every recent authoritative commentator has deplored existing legal disorganization.

Admittedly, slow progress toward higher standards is being made, but it is agreed on all sides that this would be materially accelerated if the general public could understand the matter, and would throw its support into the reform.

After years at cross-purposes the American Bar Association and the Association of American Law Schools recently agreed to work together, and set up the modest minimum standards that full-time law schools should ask at least two years of college work followed by three years of professional work, before granting degrees. However, most states grant admittance to the local bar with far less careful qualifications.

A few years ago, fourteen states did not require applicants to show any definite amount of general education at all; eighteen other states did not require even high school diplomas; one state required only grammar school education; one state required only a year's law study, while nine other did not even fix a definite time limit.

A badly trained bar affects particularly the law courts, because, as explained by Dean Roscoe Pound of the Harvard Law School, economic conditions have turned leaders of the bar "almost wholly away from the criminal courts."

"This turning of practice in criminal causes to unorganized, undisciplined, de-professionalized individual money-makers," he writes, "must be recognized as not the least factor in the condition of which we complain today."

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### *Disciplinary Procedure of French Bar**

In preparing his address to the Tennessee State Bar Association, entitled, "A Unified and Self-Governing Bar," Professor Edson R. Sunderland made a study of the bar of France from original sources, and reported as follows:

In France the bar, which includes every practicing advocate, is entirely under the regulation and control of its own members.

In every locality where there are six or more lawyers there is an organized bar, having a governing council elected by the members. The membership of the council varies from five to fifteen, depending on the size of the bar, that in Paris, however, consisting of twenty-four. Council members are elected by direct votes of the registered lawyers belonging to the bar, but only those lawyers are eligible who have been registered for a certain number of years.

All disciplinary power over members of the bar ordinarily rests in the council, but if it is for special reasons unable to function, matters of discipline go to the court of appeal.

The council may impose penalties consisting of warning, reprimand, suspension or disbarment. Where the warning or reprimand carries with

* Reprinted from State Bar Journal of California, Vol. IX, No. 1.

it loss of eligibility for membership in the council, and in every case of suspension or disbarment, an appeal lies to the court of appeal.

The details of French disciplinary procedure differ among the various bars. Generally the president, when presented with a complaint, names an examiner to make a preliminary investigation. Quite commonly this part of the proceeding is kept secret, even from the lawyer against whom it is directed, and he is informed of it only when the council decides to pursue the matter. If the case continues, the examiner hears what the accused has to say after he has been informed of the facts presented against him. The examiner may call witnesses, seek information from magistrates, and require the production of records. Every protection provided by the criminal law must be accorded to the accused. He must be confronted by the witnesses and informed of the evidence against him.

Eight days after the examiner has made a report to the council, the accused appears before that body, and is accorded the assistance of one of his brethren. The session of the council is secret. Its decision is rendered by majority vote, and is entered on a special register. The accused is then notified of the result by the president of the bar.

In case of an appeal the hearing takes place in chambers and is not public.

That the standards of conduct of French lawyers are of the highest and most exacting character is universally recognized, and even slight infractions bring the prompt and vigorous censure of the bar. Self-government, if not the only cause of the enviable position of the bars of France, has at least made possible the development of the best professional traditions and practice.

The entire text of Professor Sunderland's address was published in Tenn. L. R., June, 1933, and Missouri Bar Journal, July, 1933.

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### *California Bar Attacks Ambulance Chasers**

The State Bar of California has acquired a method of identifying lawyers who engage in ambulance chasing. It has various legal remedies available; a statute which makes the racket a conspiracy, the penalty for unlawful practice of law, contempt procedure, and in Los Angeles an ordinance which, under heavy penalties, forbids "the solicitation of tort claims or choses in action." This ordinance is used to prosecute the lay solicitors of claims and avoid asking juries to decide whether the respondent's conduct constitutes the practice of law. The ordinance, borrowed from a Texas statute, was upheld in McCloskey v. Tobin, 252 U. S. 107. It is likely to be adopted in other cities.

During the past twelve months the State Bar has been closing in on ambulance chasers through special administrative committees, one for Los Angeles County and one for the San Francisco Bay district. These committees began with a thorough study of court dockets, which yielded much information, as shown in reports to the president published in the State Bar Journal for September, 1934. Both committees uncovered transgressors and instituted prosecutions which were entirely successful as to respondents who did not leave the country.

As usual, it was found that the victims of accidents were being swindled. While the business was pretty well scotched, the committees recommend that they be kept in the field for further services.

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* Reprinted from Journal of the American Judicature Society, Vol. XVIII, p. 111.

The Los Angeles ordinance was very effective in convicting lay solicitors, alias adjusters. It was found that much of their crooked work was done without the benefit of counsel. Where they could, and this was commonly the case, they proceeded to "adjust" in a rough and ready fashion, and sometimes without yielding a cent of dividend for the injured person. The ordinance was adopted at suggestion of the Los Angeles Lawyers' Club and the Club proceeded with the prosecutions.

The text of the ordinance and a full account to date were published in the State Bar Journal for July, 1934, p. 165.