

12-1932

The Proposed Integrated Bar Act of Indiana

William T. Fox

Follow this and additional works at: <http://www.repository.law.indiana.edu/ilj>



Part of the [Legal Profession Commons](#)

Recommended Citation

Fox, William T. (1932) "The Proposed Integrated Bar Act of Indiana," *Indiana Law Journal*: Vol. 8: Iss. 3, Article 5.
Available at: <http://www.repository.law.indiana.edu/ilj/vol8/iss3/5>

This Special Feature is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in *Indiana Law Journal* by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact wattn@indiana.edu.



JEROME HALL LAW LIBRARY

INDIANA UNIVERSITY
Maurer School of Law
Bloomington

THE PROPOSED INTEGRATED BAR ACT OF INDIANA

At the request of President Frank H. Hatfield, and for the benefit of those members of the Indiana State Bar Association who did not attend the last Mid-winter and Annual Meetings, and for those lawyers of the state who are not members of the Association, I have attempted to state the substance of the proposed Self-Governing Bar Act (which, by vote of the Association, is to be presented to the next General Assembly for passage), and what its adoption may reasonably be expected to accomplish.

The Act is not an experiment. Seven states have already adopted similar acts (one as early as 1919) and five other states (excluding Indiana) have agreed upon similar acts for submission to the legislatures of their states for enactment. Other states have such an act under consideration.

The constitutionality of such acts has been before the higher courts and upheld, and definition given by the courts of most of the powers in the acts. The proposed Indiana act has been drafted in the light of these decisions, the scrutiny of two committees, the Board of Managers, and the careful study and criticism of several eminent members of the profession not members of either of the committees or Board.

Because the legal profession in the United States is the only profession not closely organized, it has in recent years suffered many encroachments not for the good of either the profession or the public in general, and the profession has been held accountable at the bar of public opinion for many conditions in the practice of law and the administration of justice over which it has no control because not organized to speak or act with authority. Lack of an integrated bar has been very keenly felt in Indiana in recent years when the association has urged the enactment of laws to correct abuses and improve the administration of justice. In most instances the weight of its recommendation has been challenged on the ground that, with only one-third of the practicing lawyers holding membership in the state association, it could not speak for the profession as a whole. Such condition has been a

contributing factor in the failure of the legislature to enact some of the meritorious laws proposed. Out of similar experiences in other states were evolved the acts which terminate such disintegrating influences and which have worked so well in practice that an ever increasing number of states are considering their adoption. In principle, these acts follow the model acts proposed in 1919 by the American Judicature Society and the following year by the Conference of Bar Association Delegates. The participation of the lawyers in the action of integrated bar associations has proved to be real, and not theoretical, and is attested by the marked increase in attendance at the association meetings in those states having the bar association acts. In California it was five fold and about the same ratio was reported in Alabama.

Two-thirds of the lawyers of Indiana receive practically all the benefits of the State Bar Association (other than receipt of the Bar Journal) without expenditure of time or money. This seriously handicaps the work of the Association. Were it not that the officers and committee members personally bear heavy traveling and other expenses, the Association could not function as well as it does. The proposed act requires all lawyers in the active practice to pay a moderate membership fee, and all inactive members to pay a nominal fee.

In most integrated bar acts the association, with the approval of the Supreme Court, fixes the educational qualifications for admission to practice and through its committees conducts the examination. For constitutional reasons this feature was not included in the proposed Indiana act.

It is generally conceded that the discipline of the comparatively few lawyers who have committed crimes involving moral turpitude, or who have to a greater or lesser degree offended against professional ethics, is better handled by the profession than by the courts. In Indiana, and many other states, the method of discipline is by a public trial, in many cases before a jury. In practice, this has resulted in discipline in only the more flagrant cases, and conversely (especially in large cities) has been unfairly used by unscrupulous persons to the detriment of innocent lawyers because of its inherent publicity. The proposed Indiana act provides every safeguard to the accused lawyer in the way of notice, right to be heard, being represented by counsel, etc., and grants an appeal to the Supreme Court as a matter of right. The power of the courts to discipline as it

at present exists, or may hereafter be given, is expressly recognized by the Act. In California about eighty percent of the charges made by laymen of professional misconduct were proved without merit, disposed of without publicity and in many instances without even coming to the attention of the lawyers. Without the provisions of the integrated bar act many innocent lawyers would otherwise be subjected to unjust publicity.

Objection to the proposed act has, in large measure, been due to a misapprehension of its purpose and provisions. It is not revolutionary but deals solely with the machinery for carrying into effect well recognized powers.

The proposed act is not offered as a cure for all professional ills; it is sincerely believed by every one who has worked on the act that it is a marked improvement over the existing situation, and gives the profession opportunities for public service free from many of the present handicaps and restraints, recognizing that since the lawyers are responsible for the conduct of their members they should be given some power of control.

WILMER T. FOX.