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American Bar Association

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THE COORDINATION MOVEMENT OF THE AMERICAN BAR ASSOCIATION

By WILL SHAFROTH

A question was asked recently in a New York State bar examination, "What is the reason for the exception to the hearsay rule which permits the introduction in evidence of dying declarations?"

One answer to that question ran as follows "Dying declarations are permitted in evidence because it is certain that a man will not lie when he is in the presence of his Maker, or when he is going to meet his Maker." There was then a comma and dash, as though the candidate had, figuratively at least, chewed his pencil, then he continued, "but this is not the rule in New York."

I think it is generally true, at least in the past it has been so, that bar association meetings have been largely social gatherings and that when you have a spell of bad weather you can't expect a good attendance. I am very glad to see that that is not the rule in Indiana.

It is a pleasure for me to be down here with you again and to bring you the greetings of the American Bar Association. President Ransom, who was here at your annual meeting, is very interested in this bar association, and he would have been here himself if a previous engagement with another association had not prevented him from coming, but he asked me particularly if I would extend you his greetings and to give you his kindest regards. Incidentally, he is one of the most active presidents that we have ever had. He is getting around the country to every state, and he is extremely interested in this plan of organization of the American Bar Association which is under consideration at the present time.

Address of Honorable Will Shafroth, Director of the National Bar Program of the American Bar Association, delivered at the Mid-winter Meeting of the Indiana State Bar Association, February 1, 1936.
I know you Indiana lawyers are interested in the problems of organization because you are facing them right here in your own bar association. You have had before you, and you have passed on the question of an integrated bar. You have had as we have had in the American Bar Association, the accusation directed against you that you were not representative of the whole bar, that you can not truly speak for all the lawyers of Indiana because you are a voluntary association, and your membership includes less than a major fraction of the lawyers in your state.

That is doubly true of the American Bar Association. We are a national organization, we have been in existence over fifty years. We have had a period of continuous growth and usefulness, and yet today we have in our ranks only about 16% of the lawyers of the nation. When we go to Congress, when we come out with a statement as to the attitude of the American Bar Association on a particular subject, we can truthfully say that we speak for only one-sixth of the members of the bar. Obviously we can't have the influence that we ought to have under those circumstances, and we can't be as effective as we should. That is the heart and soul of the present movement which is under way to make the American Bar Association more representative of the lawyers of the country and to bring it closer home to the average practitioner. Our coordination movement, as we have called it, extends back over a period of five years, because these things don't move in a minute as you yourselves know. Almost every state which has succeeded in getting bar integration has had to work patiently and faithfully and hard over a period of years, but there are now 17 states which have it.

Well, the American Bar Association five years ago started in with the appointment of a committee on coordination and that committee was charged with studying the situation and with bringing about plans for a better organization of the bar.

The first real step, the first principal step, at least, which was taken was taken at Grand Rapids at our meeting in 1933 when we adopted a national bar program. That was
simply an effort to bring closer together the bar associations of the country. Five subjects are on that program, and you know of them because you have been working on them in your Association here. Criminal law and its enforcement; legal education and admissions to the bar; unauthorized practice, selection of judges, and finally, the better enforcement of professional ethics.

They are all problems which vitally concern the administration of justice and the American Bar Association felt that if we could get a program of that kind, if we could put it before the lawyers of the country, if we could say to the active associations, Here is something we want you to devote your effort to, let's have a common effort; we will make progress if we all work together on it, that we would get somewhere.

There is no question that we have gotten places on that program. Just last year three-fourths of the legislatures which met considered the recommendations of the American Bar Association on criminal law, and a number of them were passed.

In the field of legal education 28 states have now adopted the two-year college admission requirement for admission to the bar. I am very pleased, I have been pleased, to know the progress you are making in that direction here. I think the establishment of your Joint Council on Legal Education was a splendid step and when you get the court and the bar examiners and the representatives of your bar association together working for a common purpose, the result is bound to be an elevation of the standards for admission to the bar.

Now, that program which we inaugurated was not alone designed to improve the administration of justice in those particulars directly. It had another fundamental purpose and that was to get a unity of effort to bring the bar associations closer together, to let the state and local associations know what the American Bar Association was doing, and to have the American Bar Association know more what you people were doing.

And now that that ground has been laid, out in Los Angeles our convention gave the coordination committee a
mandate to go ahead, to go further with the matter, and to propose some plan which would give the state bar associations and the principal local bar associations direct representation in the councils of the American Bar Association. In other words, we want a national organization of the bar, and we don't want to confine that only to those 16%, we want to bring the other organizations in, and we know by doing that that we are going to increase our own power, our own influence, and our own membership and that we are going to help the other bar associations at the same time.

So our coordination committees met in Chicago in October and they framed a plan which was printed in our December Journal for making our organization more representative. We received numerous communications and suggestions concerning that plan. Many of the bar associations considered it carefully. Your own Board of Governors considered it and passed a resolution in December endorsing that plan.

So again we met in January in Chicago and this time we had our general council, which consists of one man from each state, we had our executive committee, we had the coordination committees and we had the representatives of sections and other committees and we spent three days there going over that plan in detail, section by section. We made a few changes. We increased a little bit the power of the Assembly which is the group which attends the American Bar Association meetings and we made the plan a little easier of amendment but substantially it is the same as it was then.

Now, in very brief, the plan is this. It creates a House of Delegates which is vested with the legislative power of the Association.

That House of Delegates will be about 165 members. It is made up first of what we call state delegates, that is equivalent to our present general council, one man from every state, selected by mail ballot of the members of the American Bar Association in that state. Those state delegates are in the House of Delegates as members, and they also constitute a Nominating Committee which meets in advance and nominates officers.
Secondly, there are the state bar association delegates. Every state bar association will have at least one representative in that assembly elected in such way it sees fit and no state bar association will have over four. The number of members it will have is determined by the number of lawyers in the state according to the last federal census.

We further recognize the larger local associations. Every local association with a membership of 900 or more, 25% of whom belong to the American Bar Association, is entitled to a delegate in that assembly.

In addition, the Board of Governors are ex-officio members of the assembly, that is our present executive committee, the section chairman, five members from the Assembly or the group which attends our annual meeting, and certain other ex-officio people. So that we have a large group representative of the entire bar. We also have representatives of other national organizations such as the Judicature Society, the Law Institute, Association of Attorneys-General, and other associations of that character.

Now, those people, as I say, are vested with the legislative power of the Association, which is exercised in the interim between meetings now by our executive committee or board of governors, but they do not have the sole power. At each convention we have our assembly which constitutes the people, the members of the Association, who attend the convention and we intend to give them just as interesting and stimulating a program as they have ever had in the past.

Now, the assembly has the power in any case where a resolution which it passes is not approved by the House of Delegates, then to refer that entire matter to the membership of the Association by a referendum by mail ballot, so that you still have in the assembly the power to have the membership of the Association pass on any question which the House of Delegates refuses to act on.

I was very interested in Mr. Hill's report on the method of nominating officers which he has suggested because it is quite similar to the method which is proposed in our own constitution. Our method is simply this. These delegates
or general council meets, that is one man from each state is elected by mail ballot of our members from each state. These state delegates meet 70 days before our annual meeting and propose candidates for the offices of President, Vice-President, Secretary and for members of the Board of Governors who are to be elected that year. That is published. Not later than forty days before the annual meeting, two hundred members in good standing may file a nominating petition, provided not more than one hundred of the members are from one state.

So you have two types of nominations; one by this nominating committee, another forty days in advance of the annual meeting by petition. We didn't provide in our draft for any nominations from the floor. I notice in yours you have a provision that nominations from the floor can be made by two-thirds vote of the membership. We felt that when those nominations were proposed in advance, it gives the members ample opportunity to know who is going to be nominated and gives the members who stay at home the opportunity to consult with their delegates who are going to have the opportunity of going to the meeting, and there won't be a surprise nomination made at the convention.

Those are the principal things which are proposed. Of course, there are a great many details, provision for a referendum, provision for this annual assembly, which will have an open forum where resolutions can be introduced and discussed, and there is provision for a committee which is going to devote its time and make its recommendations on this problem of giving service to the members of the Association. That is something that every bar association has to think about because if we are going to increase our membership, if we are going to do more good we have to give our members more service in the practice of the profession. We have to give them something which will make the bar association of tangible benefit. We hope under this new setup to be able to develop something of great value along that line.

Now, as your President has said, we have brought down and established out here in the lobby an information desk. We
brought down a young lady from our office in Chicago. This is the first time this experiment has been tried, but we want you to have full information about this plan. We want you to make arrangements now to come to Boston. We want you to consider taking membership in the American Bar Association, if you are not already a member. This group is a group of men who are interested in bar activity and bar organization, otherwise you would not be here. If that is the case, you ought to be a member of the national organization of your profession and ought to help us out in this effort we are making, to make it more representative and more democratic.

Now, before I close, I want to read you something which rather amused me. You know lawyers are pretty freely criticized by people these days. We get it in the neck in the press, and probably because the laymen do not entirely understand us. Here is an Associated Press dispatch from Kansas City, and as this was printed in the paper, I suppose I may be excused for the profanity which is contained therein. Here is the dispatch:

The following is a part of a transcript filed in a damage suit:

Q. Doctor, in plain language, please tell the jury the cause of the patient's death?

A. In plain language, he died of an edema of the brain that followed a cerebral thrombosis or possibly embolism that followed in turn an arteriosclerosis combined with the effect of a gangrenous cholecystitis.

A Juror Well, I'll be damned.

Judge Ordinarily I would fine a juror for anything like that, but I can't in this instance because the Court was thinking the same thing.

Well, Mr President, I am very happy to have been with you and happy to have attended this splendid meeting. I hope I will see you all in Boston.