

December 1940

The West Virginia Bar Association Announcements

Follow this and additional works at: <https://researchrepository.wvu.edu/wvlr>



Part of the [Law Commons](#)

Recommended Citation

The West Virginia Bar Association Announcements, 47 W. Va. L. Rev. (1940).

Available at: <https://researchrepository.wvu.edu/wvlr/vol47/iss1/5>

This The West Virginia Bar Association is brought to you for free and open access by the WVU College of Law at The Research Repository @ WVU. It has been accepted for inclusion in West Virginia Law Review by an authorized editor of The Research Repository @ WVU. For more information, please contact researchrepository@mail.wvu.edu.

THE WEST VIRGINIA BAR ASSOCIATION
ANNOUNCEMENTS

1. At the annual meeting of the West Virginia Bar Association at White Sulphur Springs in August, 1940, the Association adopted resolutions to request the Supreme Court of Appeals of West Virginia to promulgate court rules covering the subjects of (1) objections to instructions to juries, (2) method of selection and empaneling of juries, and (3) elimination of the pleas of *son assault demesne* and *molliter manus imposuit*. These proposed rules, approved by the Association, are as follows:

Proposed Rule Relating to Objections to Instructions to Juries.

Objections, if any, to each instruction shall be made when the same is offered, and specific grounds of objection only will be considered; provided, however, that in all cases this rule shall be liberally construed by the courts to prevent manifest injustice being done to any losing party on account of the giving of an erroneous instruction to the jury.

Proposed Rule Relating to Selection of Juries.

(a) Provide that the drawing of names by lot from the jury box for jury service be made by the clerk, in the presence of the judge of the court and the jury commissioners, and that if for any reason the judge is unable to be present, he shall enter an order of record appointing a commissioner in chancery of the county to attend in his place;

(b) Provide for a uniform system of selecting by lot the panel of twenty jurors from which the jury of twelve is to be selected; and,

(c) Adapt and employ as the method to be used for the purpose of selecting the panel the provisions of Sections 6 and 12 of Article 1 of Chapter 52 of the Code.

Proposed Rule Obviating the Necessity of Filing Pleas of Son Assault Demesne and Molliter Manus Imposuit.

It shall no longer be necessary for a defendant in any action to file any one or more of the pleas of (a) *Son Assault Demesne* when self-defense, or the defense of another, is relied on as a defense to the action; or (b) *Molliter Manus Imposuit*, and in any action where it has heretofore been proper, under the rules of common law pleading, to file any such plea, or pleas, the defendant may give in evidence under the plea of the general issue of not

guilty any matter which could be given in evidence under any one or more of such pleas if the same had been filed therein by the defendant.

2. At a meeting of the Executive Council of the Association held at Clarksburg on September 21, 1940, a resolution was unanimously adopted requesting the Supreme Court of Appeals to give more publicity to the members of the bar regarding proposed changes or additions to court rules, under the appellate court's rule — making power. This resolution is as follows:

RESOLVED by the Executive Council of the West Virginia Bar Association:

(1) That before finally adopting and promulgating, under the provisions of Chapter 51, Article 1, Section 4 of the Code, rules governing pleading, practice and procedure in the trial courts of the state which may from time to time be recommended by the Judicial Council of West Virginia, the Supreme Court of Appeals of West Virginia is respectfully requested hereafter to give more widespread notice and publicity of such proposed rules to and among the members of the legal profession in West Virginia than is now expressly provided for in the aforesaid statute; and that, at the least, written notice of such proposed rules be given to the members of the Executive Council of the West Virginia Bar Association, to the Secretary of the West Virginia Bar Association, to the six Vice Presidents of the West Virginia Bar Association, and to the President of each local bar association in West Virginia, in addition to the President of the West Virginia Bar Association and the respective circuit judges of the state, now mentioned in said statute. It is respectfully suggested that additional notice of any pending proposed rules might be given to the profession generally by insertion of such rules in *Syllabus Service* and in the printed argument docket of the Supreme Court of Appeals.

(2) That after suitable publicity has been given to such proposed rules, any member or members of the bar, as well as members of the judiciary, be permitted to make their comments on such rules in writing to the Supreme Court of Appeals of West Virginia, and that such written comments, whether favoring or opposing the proposed rules, be considered by the Court, in the absence of any formal hearing, prior to final action on such rules.

(3) That copies of this resolution be sent to the President and members of the Supreme Court of Appeals of West Virginia for their consideration.

3. At the annual meeting of the Association in August, 1940, the Association also took action requesting its Committee on Legislation to attempt to get favorable action by the 1941 State Legislature upon the following different measures sponsored by the Association:

- (1) A bill reducing the appeal limit from circuit courts to the Supreme Court of Appeals from eight months to five months.
- (2) The uniform Declaratory Judgments Act.
- (3) A bill permitting the state and the defendant equal jury strikes in felony cases.
- (4) A bill requiring notice by a defendant in a criminal case of intention to interpose the defenses of alibi and insanity.
- (5) The bar integration bill.
- (6) A bill to change the present rule of liability of the owner or operator of a motor vehicle to a gratuitous guest who is injured, so as to require showing of wanton, willful or gross negligence.
- (7) A bill to remedy the situation disclosed by the case of *Pettry v. Shin*, 120 W. Va. 20, holding that process issued by a justice of the peace can be served only by a constable.
- (8) A bill to require the filing and indexing of notice of claims for taxes due to the State of West Virginia or a political subdivision thereof.

ADMISSIONS TO THE BAR.—The following thirteen applicants successfully passed the State Bar Examination, held at Charleston, September 11-13, 1940:

John C. Ailes	Martinsburg
Wood Bouldin, Jr.	Charleston
Douglas W. Brown, Jr.	Huntington
John L. Colmar	Wheeling
William Francis Goodykoontz	Bluefield
Grover Foster Hedges, Jr.	Spencer
John Newton Harman, III	Welch
John J. Justice	Williamson
John Tracy Keenan	Parkersburg
Charles W. Loeb	Charleston
Sam Lyle MacCorkle	Charleston
Leslie Darr Price	South Charleston
Clarence Rogers	Salem