

December 1933

The National Bar Program

Frank C. Haymond

West Virginia Bar Association

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



Part of the [Legal Profession Commons](#)

Recommended Citation

Frank C. Haymond, *The National Bar Program*, 40 W. Va. L. Rev. (1933).

Available at: <https://researchrepository.wvu.edu/wvlr/vol40/iss1/3>

This Article 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 ian.harmon@mail.wvu.edu.

THE NATIONAL BAR PROGRAM

FRANK C. HAYMOND*

The West Virginia Bar Association, at its Forty-ninth annual meeting at Clarksburg on October 19, 1933, indorsed the plan recently adopted at the Grand Rapids meeting of the American Bar Association to bring together local, state and national bar associations in a movement to coordinate their efforts in order that an expression of the opinion of the members of bar associations may be obtained on particular questions of importance to the profession and of interest to the public generally. The ultimate purpose of this plan, which has been designated as the National Bar Program, is the development of a definite and permanent method of coordinating the organization and the activities of bar associations throughout the nation. A general outline of the coordination movement is contained in a resolution prepared by the writer, approved by the Executive Council of the Association, and adopted by the Association on the first day of the Clarksburg meeting. The text of the resolution, which was published in the November 1933 issue of the American Bar Association Journal, as part of an article dealing with the National Bar Program, is as follows:

“WHEREAS, at the recent conference of Presidents and Secretaries of state and local bar associations, called by the President of the American Bar Association, at Grand Rapids, Michigan, which conference was held August 29, 1933, in conjunction with the Fifty-sixth annual meeting of the American Bar Association, a National Bar Program was adopted by the conference and approved by the Executive Committee of the American Bar Association, having for its purpose the coordination of the activities of bar associations generally to the end that an expression of the opinion of the bar as a whole may be obtained on particular questions of importance to the profession and of interest to the public generally through community of effort between state and local associations and the American Bar Association, resulting ultimately in some definite and permanent plan of coordination of the organization and activities of bar associations throughout the nation.

THEREFORE BE IT RESOLVED, that the West Virginia Bar Association hereby approves the plan formulated by

* Chairman of the Executive Council of the West Virginia Bar Association and member of the Marion County Bar.

the conference of bar association officials and pledges its support and cooperation to the National Bar Program adopted by the conference; and be it further

RESOLVED, that the President of this Association appoint such special committees as may be requisite to enable this Association to cooperate with and participate in the plan adopted by the conference and to consider the matters embraced in the National Bar Program sponsored by the conference, and that he select the subject or subjects embraced in the National Bar Program for consideration by such committees of this Association during the ensuing year and notify the Executive Secretary of the American Bar Association of such selection; and be it further

RESOLVED, that the Secretary of this Association transmit a copy of this resolution to the President of the American Bar Association."

The need of coordination of effort among the bar associations of the country has long been recognized by members of the profession who have given consideration to the subject. For many years attempts have been made within the American Bar Association to make that association a representative organization and to bring about in some way closer contacts between that association and the approximately thirteen hundred and fifty state and local bar associations existing in the various states of the Union. The American Bar Association, which was founded at Saratoga Springs, in 1878, from its inception has been, and still is, a voluntary association. The newer idea of the integrated or all inclusive bar has not yet, in any appreciable degree, invaded its ranks. At various times the idea of converting it into an association composed of representatives of smaller units has been advanced but has made little, if any, definite progress. Obviously an association with a present membership of twenty-seven thousand seven hundred and fifty American lawyers from all part of the nation could not exist or function on any federated basis and the result is that the American Bar Association has grown from the original membership of a few score to its present vast numbers without any effort or intention to exist and develop as a representative association. The most casual consideration of the organization of the association clearly discloses this situation. It is governed by an Executive Committee of fifteen members composed of the President, the retiring President, the Secretary, the Treasurer, the Editor of the American Bar Association Journal and the Chairman of the General Council, all of whom are ex-

officio members holding a one-year term, and nine members elected for a term of three years so chosen that three such members are elected each year. The officers and the members of the Executive Committee are elected by the members of the association attending its annual meeting. Nominations of officers and members of the Executive Committee are made by the General Council of the association which is composed of one member from each of the states and territorial divisions, and the members of the General Council are elected for a term of three years by the members of the association from the respective states and territorial divisions who attend the annual meeting of the association. Thus it will be seen that the association is wholly non-representative of those members of the bar who do not attend its sessions or participate in its activities. And when we realize that at present less than twenty-eight thousand of the one hundred and seventy thousand members of the bar in the United States maintain membership in the association and that approximately five percent only of its members attend the annual meetings, the truth of the assertion that the American Bar Association represents only that portion of the legal profession which holds membership in and attends the sessions of the association becomes impressively evident. This, in short, is the history of its structural progress from the beginning. Despite the statement of its founders that the organization should consist of a body of delegates representing the profession in all parts of the country, the section of the association known as the conference of bar association delegates, created under the leadership of Elihu Root in 1916, is the only unit of the association in which the principle of representation receives any practical recognition or undertakes to function to any noticeable extent.

Let it not be understood that the statement that the American Bar Association is not representative of the members of the profession throughout the country implies in any wise that its pronouncements and its activities in the professional realm are without influence or the support of the members of the profession generally. The fact is that the profession as a whole, and the public generally, accept its views and regard its policies as those of the lawyers of America, but this result springs from the high professional standards uniformly advocated and maintained by the association which are reflected in its declared policies which in turn have aroused the admiration and gained the confidence of the laity and secured the acquiescence rather than the opposition

of the members of the profession at large. But in no sense can the policies adopted and the pronouncements delivered by the association be said to result from or to give voice to the ascertained or expressed opinion of the bar of America as a whole.

This fact is well known to those who have been active within the American Bar Association and whose efforts in the past have developed and dominated its policies. They realize, and have for some time, that the American Bar Association numbers among its members many of the foremost lawyers of the land; that it has adequately staffed headquarters with contacts throughout the country, and, in its Journal, a means of nation wide communication; that it enjoys a prestige second to none in the professional world; and that it is in every way well equipped to deal with problems national in scope and of importance to the bar as a whole and to organize for cooperation of effort. They realize, further, that though only about twenty percent of the lawyers of the nation are members of the national association most of the lawyers of the country are members of local bar associations. And finally, they also realize that the efforts to make representative of the bar the action of bar associations and to coordinate their mechanics and their political organizations have not kept pace with the growing demand from the profession for unity and cooperation of effort. The realization of the existence of these facts and of this situation, in recent years, has created and developed the movement which resulted in the call by the then President of the American Bar Association, a member of the bar of this state, of the conference of bar association officials to undertake to obtain, through coordination of activities, the results which the association, up to the present, has been unable to accomplish through coordination in organization and structure within its ranks and in those of state and local associations.

After opening the conference President Martin addressed it and pointed out the necessity of coordinating bar association activities, outlining the aims and purposes sought to be accomplished. He described present conditions with which the lawyer of today is confronted in these words:

“At present we have distinctive teachers of the law who have never tried a case; lawyers who claim to be counselors only; and advocates who occupy seats at the trial table in various courts and commissions. We have cooperation between lawyers and lay agencies in credit and collection mat-

ters; automobile associations agree to and do sell the work of lawyers prior to the happening of a cause of action, for a certain sum; testamentary work and the administration of estates generally is rapidly finding its way into the trust departments of companies organized for that purpose; title companies are encroaching upon the domain of the lawyer in various cities and combating with him the right to practice law in that realm; corporations are being formed in Washington and elsewhere to handle new business brought about by the recent federal legislation; laymen are admitted to practice before some of the departments in Washington, particularly in tax matters, on a par with members of the legal profession; and, in the realm of international law, we now have practitioners who have never been members of the bar. The economist and the sociologist each is taking the place of the lawyer in many fields of research previously occupied exclusively by men of legal minds. And, into this atmosphere, and as a part of it, perhaps because lawyers have chosen to be specialists, has come the so-called criminal lawyer, the ambulance chaser, and last but far the most important, the politician who, in newspaper parlance, is always a prominent member of the bar. Indeed, at no time in the history of our profession in America, has the bar been confronted with problems more profound, more far reaching in importance to its future — problems which challenge its very right to exist as a profession — than at the present moment.”

The conference was addressed by members of the Executive Committee of the American Bar Association, by members of its special committee on coordination of the bar, and by one of its former Presidents, and listened to a letter from the Honorable Elihu Root containing a message from that distinguished leader in which he declared that the rapid changes in social forces and organization imperatively demand from the bar of the United States an active exercise of its influence upon our laws and the administration and enforcement of law; that, for the performance of this duty, there must be in the bar a new coordination of consideration, discussion and seasoned opinion and means for impressing the conclusions thus reached upon all thoughtful citizens; that this would require further organization to facilitate the process of discussion and authentic statement; and that the American Bar Association must move forward in this direction or forfeit its rightful claim to leadership.

The plan adopted by the conference and approved by the Executive Committee of the American Bar Association embraces the present selection of four special subjects for consideration,

action and report to that association by the state and local bar associations throughout the land, and contemplates the formation of a central agency within the American Bar Association to act as a clearing house or contacting force between the national association and the state and local associations. The operation of the plan will mean in practice a coordination of bar association work and activities instead of any effort to coordinate the political organization of the various bar associations, local, state and national. The movement contemplates no change in the internal political structure or organization of any association, and it does not undertake to deprive any association of autonomy or to regulate or govern it in any way. It should not in any wise be confused with the separate and distinct movement to create an integrated or all inclusive bar which deals with the structure and the organization of bar associations. The service performed is offered, not sold. The immediate working of the coordination principle will, however, require the various local associations to approve the plan of the conference and to cooperate and support it by appropriate action through committees, or other means, in considering one or more of the selected subjects, taking definite action thereon, and reporting such action to the American Bar Association. In this way the conference seeks to obtain the composite opinion of the lawyers of the country acting through and expressed by bar associations on any or all of the approved topics. The information thus acquired should be highly interesting and instructive as, though a comparatively small percentage of the lawyers of the country holds membership in the American Bar Association, most American lawyers are members of some local association, and the opinions of the local associations should fairly represent the legal profession as a whole. In short, the plan offers the lawyers of America an opportunity and a method of expressing their views upon any worthwhile subject. The subjects chosen by the conference and approved by the Executive Committee for consideration and report during the current year, all of which are regarded as of present importance to the profession and of interest to the public, are: (1) Criminal Law and Its Enforcement; (2) Legal Education and Admissions to the Bar; (3) Unauthorized Practice of the Law; and (4) Selection of Judges and Bar Activities in Connection Therewith.

It is the expressed opinion of the conference that, if this coordination movement is adopted and is successful, the profession

will be able to discharge its duty to the public to a much greater degree than it is doing at present and regain its rightful place of leadership in our national life which it now appears to be in danger of losing, will accomplish something concrete and practical, and should influence public opinion and professional thought and present a united front in shaping and securing the enactment of intelligent and effective legislation in state and nation. The newly elected President of the American Bar Association, Earle W. Evans, of Kansas, in a recent open letter to all members of the bar, states his attitude concerning this movement in these words:

“I feel that this is a great opportunity for the bar to exert its influence and by a unity of effort in terms of work make an important contribution to the improvement of the administration of justice. I personally believe this movement is designed to promote the public welfare and I pledge myself to give the full support of my administration to it.”

Steps have been taken by those at the head of the West Virginia Bar Association to comply with the preliminary requirements of the National Bar Program and at this time the four approved subjects have been selected for consideration by appropriate committees and the proper officials of the American Bar Association have been notified of this action. The work of considering and reporting upon these subjects remains and it is expected that worthwhile results will be accomplished before the next annual meetings of the State and National Associations in 1934.

The action of the West Virginia Bar Association in approving the National Bar Program is to be commended. It demonstrates that this association, which secured for this State the distinction of being the first to approve and adopt the higher educational standards promulgated several years ago by the American Bar Association and now in force in nineteen states in which fifty-three percent of the practicing lawyers of the country are located, is still among the leaders of the movement to further the progress of the legal profession and promote the administration of justice, and that it stands at the front with those from all parts of the country who launched the coordination movement which has aptly been referred to as the most recent concerted effort of the legal profession to accomplish worthwhile results in the realm of law.