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## Report of Program Committee Relative to Matters Pending Before the West Virginia Bar Association

Charles G. Baker

J. H. Brennan

Joseph R. Curl

Tom B. Foulk

T. Brooke Price

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BENCH AND BAR  
REPORT OF PROGRAM COMMITTEE RELATIVE TO  
MATTERS PENDING BEFORE THE WEST VIRGINIA  
BAR ASSOCIATION

The Program Committee, appointed at the meeting of the West Virginia Bar Association held in Huntington on November 17th and 18th, 1932, offers this list of pending matters pursuant to the resolution of that meeting. The association required the collection of all matters taken up but not carried through to final disposition. In a few instances it was required that this committee assign subjects to committees, but these are the rare exceptions. The publication of this list is the duty of this committee exclusively, and the responsibility has not been passed to the Executive Council.

The length of the list precludes a discussion of the several items. The references given, however, are to pages in the current year book and, generally, a discussion will there be found. The committees to which the several subjects are assigned are noted. This committee makes no recommendation except where such recommendation is indicated by the association records; of its own initiative it makes none. There is, of course, a general association recommendation that all these matters receive attention, and some of them have received approval.

The chief purpose of this publication is to bring all current matters before the bar of the state for consideration and discussion — particularly in local bar associations — before the annual meeting to be held in Clarksburg this fall.

I. *Matters of general public interest*

(1) Constitutional

1. The report of the Constitutional Commission on reform of the judicial system as proposed by the redraft of article eight of the constitution. Reported favorably by Joint Committee on Constitutional Provisions and Judicial Administration and Legal Reform and referred to incoming Committee on Legislation with recommendation of association to the legislature that it submit amendments to voters. Proposed amendments, sections proposed to be amended and very elaborate discussion in joint committees' report and paper of Hon. James A. Meredith, pp. 116-160. No action by legislature so far.

(The next three matters are subordinate to No. 1, and re-

quire no action unless favorable action on No. 1 is found impossible).

2. The establishment of intermediate appellate courts. (See President Bell's address, year book 1931).

3. The selection, tenure and removal of judges. (See paper of Mr. Frank Haymond, year book 1930).

4. The proposal to permit more than one circuit judge in a circuit.

5. The matter of tax reform generally. Not disposed of, but no definite action taken and no specific recommendation made.

## (2) Legislative

1. The matter of the judicial council. A bill passed in 1931 was vetoed. Referred, in 1931, to Committee on Judicial Administration and Legal Reform. Reported favorably, 1932, and referred to Committee on Legislation for action. No favorable action received. Pp. 161-170. In the light of two successive failures, while it is hoped the association will persevere, your committee calls attention to the suggestion concerning a judicial council of the association, at least as a temporary measure. P. 75, last paragraph, p. 76.

2. The proposal for a general revision of the divorce law, including four specific recommendations, p. 55:—

a. Provision that parties to divorce a mensa et thoro may remarry without permission of court.

b. Remove statute of limitations (three years) on adultery.

c. Allow court to revise or modify five-year restriction on remarriage in case of adultery.

d. Amend Code 48-2-16 so as to put beyond question the right of the party against whom a decree a mensa et thoro is entered to sue for absolute divorce for subsequent misconduct of other party. All referred to Committee on Judicial Administration and Legal Reform. Pp. 39-55.

3. Instructions to juries. Referred by association, without specific recommendation, through this committee to Committee on Judicial Administration and Legal Reform. Pp. 196-204.

4. Declaratory judgments. Attempted legislation failed in 1931. Pending without reference.

5. Dispensing with bills of exceptions. Pending without reference.

6. The hearing of chancery causes in open court. No ex-

tended discussion since 1926 — see that year book.

7. Proposed changes in law of death by wrongful act. Pending without reference. See paper of Mr. Russell S. Ritz, year book 1931.

8. Judicial pensions. Action recommended by Committee on Legislation, 1931.

9. Costs in circuit and appellate courts. Suggestion without recommendation or action. Pp. 10-11, 16.

10. The correction of the suggested errors, ambiguities or deficiencies listed in group 2 of the report of the Special Committee on Code Correction. Referred by the association, through this committee, to the Committee on Judicial Administration and Legal Reform with the request that they approve or disapprove each suggestion and submit bills to make the corrections recommended. As space forbids dealing with each *in extenso*, we list the sections by chapter, article and section reference and refer to pp. 101-106. The statutes in question are:— 3-7-13; 31-1-14; 31-1-28; 31-1-63; 31-1-79; 31-8-32; 38-2-22; 38-4-6; 38-4-30; 55-12-2; 59-1-34.

In this connection it may be mentioned that your committee is advised that the Committee on Legislation has secured the legislative correction of the manifest errors listed in Group 1 of this report.

11. Proposed revisions in criminal law and procedure.

a. As recommended by the Committee on Criminal Law, 1931, in its report concerning the American Law Institute Code.

b. In regard to strengthening prosecution and enlarging the power of the court over instructions to juries. See paper of Mr. Harry H. Byrer, year book 1930.

12. The study, for the purpose of comparison, recommendation or disapproval, of the Bank Collection Code (31-4A) and the Uniform Bank Collection Act of the National Conference of Commissioners on Uniform State Laws. In hands of Committee on Uniform State Laws. Pp. 62-63.

### (3) Judicial

(1) Uniform rules of practice in circuit courts. Final report to be made by Special Committee on Uniform Rules of Practice at next meeting. Note carefully proposed rules, pp. 187-194.

(2) Proposed changes of procedure in Supreme Court of Appeals. See year book 1931, pp. 100-103.

a. Pointing out errors.

b. Cross-assignment of errors.

## II. *Association matters of general interest*

1. Bar integration. Submitted, without specific recommendation, for the careful study of the bar. Valuable report and suggested bill, pp. 171-186.

2. The matter of salaries of the faculty of the College of Law. Pp. 29, 31-37. With this should possibly be included the matter of an increased appropriation for the library of the College of Law. Pp. 90-91. In hands of Executive Council.

3. The proposed rule of the code of ethics requiring an attorney to keep his clients' money in a bank account separate from his own. Referred, in 1931, to Committee on Judicial Administration and Legal Reform.

4. The Cooperation with American Law Institute by annotation of its restatements.

a. Conflict of Laws.

b. Contracts.

Each of these is in the hands of a special committee with the cooperation of a member of the faculty of the College of Law.

5. The general matter of coordinating the work of bar associations, local, state and national. Entered on this program because suggested (pp. 16, 18), but no reference ordered and no specific suggestion made.

## III. *Matters concerning the Association only*

1. The establishment of a standing Committee on Unauthorized Practice of Law. Awaiting formal action only.

2. The matter of publication of special association articles in the West Virginia Law Quarterly. Pp. 58-59. Partially complied with by this publication.

3. The semi-centennial meeting to be held in Wheeling in 1936. Plans in hands of Executive Council.

4. Three pending disbarment proceedings. No details necessary for publication.

Respectfully submitted,

CHARLES G. BAKER

J. H. BRENNAN

JOSEPH R. CURL

TOM B. FOULK

T. BROOKE PRICE

Program Committee.