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BENCH AND BAR

SUGGESTED LINES OF ACTIVITY FOR THE WEST VIRGINIA BAR ASSOCIATION.—A study of what is being accomplished in law reform by many bar associations in other states prompts some suggestions for activities in West Virginia. Some work of substantial benefit has been accomplished in this state by the state bar association, but nothing so far as we know in the way of substantial reform by any of the local associations; and it must be admitted that our state association has not yet in a large way set itself to the task of solving our many problems. We call attention to some points in a suggested program.

FIRST: The first great desideratum is the publication of a bar organ to supplement but not to duplicate the **LAW QUARTERLY**. The proposal is not to suspend or abolish the latter, but to issue a bar bulletin devoted to the news of the profession, both at home and abroad, and to many live problems, giving information as to how they are being handled in other states, and stimulating interest and aiding as far as possible in their solution.

SECOND: There should be a careful study of the work being done by the American Bar Association and by those of some of the other states, with a view to improvement of the relations between the profession and the public. This is a subject of growing importance. The preparation and publication of newspaper articles dealing with the functions of the lawyer and his proper relations to the public has in some states resulted in marked improvement. Perhaps the best work of this kind has been done in California and Louisiana. If lawyers are selected having the requisite special qualifications for this kind of work they can render a very high order of service. There is here a field for study and development that is little understood and yet that offers almost unlimited opportunities for promoting a better understanding and allaying unjust criticism.

THIRD: The subject of admissions, discipline, suspension and disbarment of lawyers needs to be studied anew and many changes effected in our present methods. Our procedure governing admissions is inadequate. It does not afford a proper test of fitness for admission to the bar. Our examinations should be far more searching and thorough. Character tests have never in this state until recently received serious attention, and even now they are inadequate. The subject of overcrowding of the profession

is becoming more acute all the time here as in other states. Whether the bar examiners have any right to deal with this problem is a subject upon which competent students differ. Our procedure for disbarment, discipline or suspension is inadequate, and should have at the hands of the bar a thorough overhauling. No more fruitful field for study and action than this could be presented to our state bar association.

FOURTH: Nothing has been done in West Virginia relating to the education of the lawyer after admission. Some bar associations have given this matter careful attention, and adopted and put into operation procedure leading to highly beneficial results. If the subject were dealt with by local bar associations and by the state association in an intelligent way it would materially improve the ethics of the local bars and otherwise prove beneficial.

FIFTH: In the matter of procedure there is hardly any point at which there is not room for improvement. The old common law jury of twelve, with its unanimous verdicts, is out of harmony with the age. The belief is well-nigh universal among the leaders of the American Bar that there is here a fruitful field for reform. The work accomplished in Maryland and in Connecticut is alone sufficient to convince the impartial mind of the need of active attention to the subject by state and local bar associations.

SIXTH: Half the states have abolished the grand jury for all practical purposes and substituted therefor the information method. The weight of opinion seems to be that the grand jury should not be abolished, but that the machinery should be retained, ready to be called into action in special cases. Every twenty or thirty years we might need a grand jury, and if so we would as well retain the machinery, as it can be done without cost, but at the same time it should be recognized that the consensus of opinion is that for all practical purposes the grand jury has outlived its usefulness. It is unduly cumbersome and expensive, and an impediment rather than help in the effective administration of the criminal law. The state bar association should set itself to the task of studying this question, and if the conclusions arrived at support our thesis it should frame proper legislation and throw the whole force of the bar behind it with a view to effecting proper reform.

SEVENTH: Our system of court organization is antiquated. Unification in court organization is being generally urged by the best critics of the subject. True, no state has yet effected a unified

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system of court organization, but such action has been taken in some of the largest cities of the country. If organized under a unified system whereby courts would be made responsible to some authoritative head, with certain powers of business administration, including the power of assignment of judges, there can be little doubt that their efficiency would be greatly enhanced, with a great saving of expense in administration, both on the criminal and on the civil side.

EIGHTH: The proper exercise of the rule-making power by the courts rather than by the legislature is now generally accepted as necessary to the effective administration of justice. Reaching far back in our history the practice has prevailed of surrendering this power to the legislative branch, so that the legislatures rather than the courts have determined the rules that should guide the courts in their procedure. This idea is fast fading, and more and more the demand is pressing upon us that the courts assert their power and formulate their own rules. The subject is a very large one and cannot be discussed here. It offers a field for study by the state association and for united action to make really effective the power of the courts in this important phase of legal procedure.

NINTH: Section 23, chapter 130 of the Code of West Virginia, 1923, brought forward into the official Code as chapter 57, article 3, section 1, figures so largely in our litigation that it ought to have the especial attention of the state bar association. The question is, should this section be repealed, as resulting in more harm than good, as is urged by many competent thinkers. It has been repealed in some jurisdictions. Should any action of that kind be taken in West Virginia?

TENTH: Are two days sufficient for the annual meeting of the state bar association? Should it be lengthened to three days in order to give opportunity to discuss and consider questions presented? Should we have a mid-winter session, as in the state of Ohio?

ELEVENTH: Is not a closer relationship between the College of Law at the University and the bar desirable? Should there not be improvement in our mutual understandings? The manner in which the law faculty has aided in many directions in working out the problems of the profession in recent years has been a subject of general comment and satisfaction. The profession should know more about the work of the Law School in its endeavor to prepare young men and women properly for admission to the bar, and

should lend to the law faculty a more active cooperation in its work. And the Law School should use every endeavor to understand what the problems of the profession of the state are, and as far as possible aid in their solution. It would not be easy to improve upon the spirit that has been manifested by the College of Law for many years, but there is yet much to be done to improve the mutual understanding and cooperation between it and the legal profession.

TWELFTH: Is the old voluntary unincorporated bar association really adequate to cope effectively with present day problems? Is not a more effective method of organization indispensable? Should not the state bar be integrated and organized under legislative enactment, as has been done in many other states? In nearly all the states that touch West Virginia earnest and effective work has been done in that direction, but no state bar east of the Mississippi, except that of the state of Alabama, has yet been so organized. In Ohio and Michigan bills have been prepared by the state bar associations, but they have encountered sufficient opposition thus far to defeat their enactment. Is it not high time that the profession in West Virginia were giving this subject an intensive study, with a view to action at the earliest possible date looking to state bar integration? The efficiency of the bar in such an organization would be greatly enhanced. The old problem of getting wholesome legislation enacted would be in a large measure solved, since experience has shown that by the concentrated effort of the bar through such organization it can procure practically any legislation it deems desirable of a wholesome and practical kind in the direction of law reform. Unless the subject is studied generally, strong opposition is likely to develop in the profession. An example is afforded by the state of Idaho, where the integrated bar act was passed in the face of the determined opposition of the lawyer members of the legislature, though after it was enacted they came around and have become its loyal supporters. In Ohio and elsewhere such antagonism has been encountered, so that it is not easy to get enacted into law a measure of this kind, even though full of promise of good to the profession and to the public.

THIRTEENTH: The necessity of having a bar organization clothed with the requisite powers to enable it to marshal the whole strength of the profession behind important measures proposed for the common good has not been more forcefully illustrated than in the utter helplessness and inactivity of the state bar when the op-

portunity was presented to have submitted by the legislature to the people for adoption the proposed constitutional amendments recently prepared by the Governor's Commission appointed for the purpose. The work done by the Commission is excellent. Its proposals are a long stride forward, and if adopted would in a large way contribute to improvement in the administration of justice, to greater efficiency and less expense in the functioning of our governmental machinery, and otherwise simplify and improve our fundamental law. To the bar more than to any other class or group the people have a right to look for reform in this important matter. But notwithstanding the opportunity here presented to the bar to render a great public service, nothing was done and the proposals were pigeon-holed by the legislature. The bar with its strength organized and marshaled under a state integrating act with its force behind the proposals could, we think, have brought about their submission and final adoption. The bar has shown its fitness to organize everything but itself. Why not by proper legislative enactment organize the bar for effective action in the larger matters that concern it and the public?

—THOMAS COLEMAN.

APPLICANTS FOR ADMISSION TO THE BAR.—The following five applicants successfully passed the State Bar Examination, held in Charleston on March 9 and 10, 1932.

Andrew S. Alexander, Jr.	Charleston
Robert R. Smith, Jr.	Huntington
Robert James Thrift, Jr.	Fayetteville
Joseph Greenlief Travis	Welch
Vickers B. Watts	Huntington