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## Success of the Bar Association Amendments to the Constitution

T. W. A.

*West Virginia University College of Law*

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WEST VIRGINIA BAR ASSOCIATION NOTES

SUCCESS OF BAR ASSOCIATION AMENDMENTS TO THE CONSTITUTION.—The Executive Committee of the West Virginia Bar Association are to be congratulated in their successful efforts in urging the passage before the last Legislature of House Joint Resolution No. 4 and Senate Joint Resolution No. 12.

The first of these was for the amendment of Section 10, Article 8 of the Constitution by permitting more than one circuit court in a circuit. The second was for the amendment of Article 8 of the Constitution by adding Section 31 transferring jurisdiction in matters of probate from the county court to the circuit courts.

This represents the culmination of the effort of many years on the part of the Bar Association to have these two amendments passed. They were both approved by the Association at its last meeting and the Executive Council were unremitting in their efforts to fully inform the Legislature as to their necessity. Mr. T. Brooke Price of Charleston, Mr. Kent Hall of Wheeling, Mr. Charles Paul, Jr., of Wheeling and Mr. Berkeley Minor, Jr., of Charleston, all wrote short pamphlets explaining the purpose of these amendments in detail. The Executive Committee summarized and answered all the arguments which had been urged against them, which summary was presented to all of the legislators.

The members of the Committee on Judicial Administration and Legal Reform brought the matter to the attention of the legislators from their eight districts. The most effective work, however, was done by Mr. David C. Howard of Charleston who appeared before the committees of the Legislature and is largely responsible for the passage of both of these amendments.

Little need be said in the pages of this Quarterly as to the advantages to be gained by amending the Constitution in these particulars as the matter has already been discussed in much detail before the Association. The amendment regarding the number of circuit judges will relieve the congested calendars in many of the counties and offer opportunities for other counties to obtain more judges when the necessity arises. The old system of probate administration by the county court had nothing in its favor excepting the natural deference one feels toward old age. It was a constant source of delay and duplication of effort in probate matters.

It must be remembered by the Association, however, that there

is still a campaign for education before it when these amendments are submitted to the voters of the state. They must not be permitted to fail because of indifference or lack of information, and if they do fail it will only be because of those factors, because there is no actual opposition to them that the writer knows of, and no valid arguments against them. For the convenience of the bar we quote the resolutions in full.

“House Joint Resolution No. 4.

Originating in the Committee on the Judiciary; reported out January 30, 1929, with the recommendation that it do pass.

‘Providing for the submission to the voters of the state of an amendment to the constitution of the state as follows:

Amending section ten, article eight.

Resolved by the Legislature of West Virginia, the Senate and House of Delegates both concurring therein:

‘That the question of the ratification or rejecting of an amendment to the constitution of West Virginia shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred and thirty, which proposed amendment is as follows:’

Proposed Amendment

That section ten of article eight of said constitution of West Virginia be amended to read as follows:

Section 10. The legislature shall divide the state into circuits, and shall determine the number of judges to be elected in each circuit. Each of the judges so elected shall hold his office for a term of eight years unless sooner removed in the manner prescribed in this constitution. The judges of the circuit courts in office when this article takes effect, shall remain therein until the expiration of the term for which they have been elected in the circuits in which they may respectively reside, unless sooner removed as aforesaid. A vacancy in the office of a judge of the circuit court shall be filled in the same manner as is provided for in the case of a vacancy in the office of a judge of the supreme court of appeals. During his continuance in office the judge of a circuit court shall reside in the circuit of which he is the judge. In those circuits where there shall be elected more than one judge, the business of the circuits shall be apportioned between the judges thereof, in such manner as may be prescribed by law. The judges may hold courts in the same county or in different counties within the circuit at the same time or at different times, as may be prescribed by law.”

“Engrossed Senate Joint Resolution No. 12  
(By Mr. Hugus)

‘Providing for the submission to the voters of the state of an amendment to the constitution of the state as follows:’

Amending article eight by adding section thirty-one.

Resolved by the Legislature of West Virginia, the Senate and House of Delegates both concurring therein:

‘That the question of the ratification or rejection of an amendment to the constitution of West Virginia shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred and thirty, which proposed amendment is as follows:’

Proposed Amendment

That article eight of said constitution of West Virginia be amended by adding section thirty-one, to read as follows:

Section 31, Jurisdiction in all matters of probate, the appointment and qualification of personal representatives, guardians, committees and curators, and the settlement of their accounts, shall hereafter be vested exclusively in the circuit court. Provision shall be made by the legislature for the appointment by each circuit court of a probate commissioner in each county who may be authorized by general law to exercise the powers and discharge the duties of the circuit court with respect to all or any of the matters above mentioned in this section, under the supervision and subject to the control of said court. Said probate commissioner shall hold office at the pleasure of said circuit court, but his compensation shall be fixed by general law.”

There will be submitted two other amendments to the Constitution at the same time. One is to amend Section 51 of Article 6 of the Constitution by giving control of the budget to the governor. (House Joint Resolution No. 3, Enabling Act H. B. 117.) The other is to amend Section 1 and Section 16 of Article 7 of the Constitution by creating the office of lieutenant governor at a salary not exceeding \$1,000 a year and providing for ending the terms of office of the elective state officials at midnight preceding the first Monday following the second Wednesday in January following their election. (Senate Joint Resolution No. 8, Enabling Act, S. B. 230.)

—T. W. ARNOLD.