December 1927

West Virginia Bar Association--The President's Address

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

Part of the Legal Profession Commons

Recommended Citation

West Virginia Bar Association--The President's Address, 34 W. Va. L. Rev. (1927). Available at: https://researchrepository.wvu.edu/wvlr/vol34/iss1/11

This Editorial Note 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.
This is a very cautious start toward the rule-making power. It leaves the legislature supreme in matters of procedure and leaves a very limited field for the Supreme Court. It creates a similar situation to that existing in a majority of states in most of which the courts have either declined or neglected to exercise such narrow powers.

There appears to have been up to the present time little interest in the bar in extending this power of the Courts. However, the question is becoming of increasing importance and interest and deserves discussion in this state. We quote therefore the following letter received from Judge Josiah Marvel, the guest of honor at the last Bar Association meeting:

"Thurman Arnold Esq., Dean, Morgantown, W. Va.
Dear Sir:

"Some time during the year I will hope for your cooperation in forwarding the Rule Making Power of the Courts in your State. The plan that we are suggesting to the Presidents of the various Bar Associations in the various States is along the following lines:

1. That they consider the subject and bring in a report in favor of the Rule Making Power of the Courts being granted by the Legislature at the next meeting of the State Bar Association.

2. That they induce the President of every local Bar Association in the State to appoint a similar committee for a similar end.

3. That they use every opportunity to induce the press to favor the proposal and if some news item looking to the appointment of a committee or otherwise is given to the press at the same time, it can be induced to include the arguments in favor of the Committee as a part of the news story.

"I look forward with confidence to your helpfulness in carrying the subject forward in your State.

Very truly yours,
Josiah Marvel."

—T. W. A.

West Virginia Bar Association—The President's Address.—There are certain portions in the address of Nelson C. Hubbard, past president of the West Virginia Bar Association, at the last meeting which deserve more than customary burial in the bound volume of the Bar Associa-
tion Reports. The writer is not at present contemplating the publication of any casebook on Criminal Procedure, but if he ever does the following excerpt from that address will be printed on page one.

"Your honor, Mr. Criminal Judge, is it your court in which the successful party and her friends upon the announcement of the verdict applaud, cheer, shout, take possession of the court room, shake hands with the jury members or kiss them? And do you next graciously pose for the flashlight or moving picture to appear in the newspaper or the film exhibition? Do you like, it, them? Is justice swayed in your court by those columns of the public press which are dominated by the professional sob-sisters, male and female, who strain only for sentimental effects? Or perhaps by the reporter, special writer or news editor whose influence is all the more purposeful and effective because his methods are more calm? Do you enjoy that under-cutting of justice? Do you permit the capable man on your venire to escape jury service by obvious lies? Do you allow parties and witnesses to be dogged by newspaper representatives with cameras up to and within the doors of your court room, dogged also by telephones by day and night, accosted on the sidewalk or in motor cars with demands for interviews and for comments on the testimony which they are expected to give in a trial before you? Are you playing your proper part in the plan of justice, if by permitting these things you share the responsibility for them and for the results? This is not a condemnation but a query. Do you approve a court so administered? If you do not want to be that sort of a judge, who or what is tying your hands and hindering you from making your court, which is so largely yourself, a tribunal of justice?"

Far worse material for a casebook in Equity Pleading and Practice could be found than a second excerpt from this address which we quote as follows:

"Mr. Chancellor: Do you subscribe to the view that counsel must be permitted to file in a cause an endless haystack of papers most of which have little or no bearing upon the issue? Do you penalize him with costs if he introduces voluminous evidence to prove matters which have been pleaded and not denied? Do you require bills of complaint to be clear and reasonably
brief, setting forth a cause of action too plain to be mistaken? Are you one of the judges from whom counsel seeking to postpone the evil day can always get delay? Do you allow endless cross-examination without penalty? Do you—be frank not with us but with yourself—do you render perfunctory decisions which purport to be real opinions in those troublesome cases which are sure to be appealed? If so, is that justice to the party against whom the facts appear to have been found? Would you like to think such things of yourself? Do you permit receivership funds to be dissipated in fees, allowances and expenses where slight benefit to the fund has been obtained? If you want to be a judge in whose court these features are dealt with as you believe to be best, are you not free to accomplish this by rules of your court, made and interpreted and enforced by yourself?"

These two quotations do not require extended comment because they have a remarkable completeness in themselves. They cover more matters than appear from a mere cursory reading. They also leave the following query in the writer’s mind: Was the President spreading propaganda in favor of the rule-making power of the courts, a subject which has received so much attention in various other states and so little in West Virginia?

WEST VIRGINIA BAR ASSOCIATION — DISCIPLINE AND DISBARMENT OF ATTORNEYS—GRIEVANCE COMMITTEE’S REPORT.

—At the recent meeting of the West Virginia Bar Association great interest was taken in the Report of the Grievance Committee and a desire expressed for a study by the Association of a better method of handling grievance committee problems. The Quarterly has attempted to collect material on this subject without finding very much that is available.

The unpleasant task of keeping the bar respectable is generally assumed throughout the United States by grievance committees. Their only sanction is generally the public opinion of the bar association exercised by way of social pressure brought to bear on the offending attorney. Their effectiveness varies in different states depending upon the acuteness of the problem and the zeal of the particular grievance committee. As a general rule there is machinery set up for the disbarment of attorneys by legislative enact-