West Virginia Bar Association--Report of Conference of Commissioners on Uniform State Laws

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

Part of the Legal Profession Commons

Recommended Citation
Available at: https://researchrepository.wvu.edu/wvlr/vol34/iss1/13

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.
ment which must be put in motion by volunteer committees. This is a burden and expense on these committees and evidence of members of bar associations crowding each other to obtain places on grievance committees is not noticeable.

In a minority of the states the matter of discipline can be taken care of under the rule-making power of the court. This is generally supposed to be the most effective method of handling the problem, but investigation as to the practical effects of such provisions is lacking. A report on the problem sufficiently thorough to justify a statement as to the advisability of adopting any particular plan has not been brought to our attention, although theoretically questions of discipline can be most completely handled under the rule-making power.

It is reported, however, on good authority that the Committee on Admissions and Discipline of the American Bar Association is contemplating an investigation, the results of which will be put before the American Bar Association next year. It will attempt to find out what has been done in the various bar associations of the country in the matter of discipline for the last ten years, covering the following:

(1) The number of members of the bar in each county.
(2) The number of charges that have been made against attorneys and the character of the same.
(3) What was done to investigate the charges and whether the investigation resulted in ignoring the charge or pressing the same or the results thereof.
(4) What, generally, was the attitude of the bar in such county in pressing charges against attorneys for breach of their oath of office?

It is too early to say whether this material can be collected before the next meeting of the Bar Association, but if substantial progress is made this information would enable the Association to act with more intelligence in deciding whether changes in present procedure or statutes are necessary in West Virginia.

West Virginia Bar Association.—Report of Conference of Commissioners on Uniform State Laws.—Mr. Randolph Bias brought up at the meeting of the Bar Association the question of the moral obligation of the state
of West Virginia to assist in the support of the Conference of the Commissioners on Uniform State Laws. The matter was discussed and a resolution adopted looking forward to the drafting of legislation on this subject. The editors have made an investigation of the sources of support of this very valuable commission and find that so far the Commission has been handicapped by having no definite funds which it can rely upon. It appears to be supported by appropriations from various state legislatures, by substantial contribution from the American Bar Association and by contributions from state and local bar associations. The difficulty is that with the exception of a few states there is no continuing appropriation for this work. Some states contribute some years, other years other states contribute. It is almost impossible for the Commission to make a budget. For example, in 1926, Virginia, Connecticut, Rhode Island, New York, Pennsylvania, Maryland, Massachusetts, Washington, Ohio, New Mexico, Colorado, Illinois, Maine, Wyoming, Arkansas, North Carolina, Louisiana, Virginia, Delaware and Nevada all contributed amounts varying from one hundred to seven hundred dollars, the average amount being two hundred fifty dollars, or a total budget of something over twelve hundred dollars. In addition the American Bar Association contributed sixty-five hundred dollars and the state bar associations of Georgia, Iowa, Illinois, New York and Texas all contributed.

Neither the state of West Virginia nor the West Virginia Bar Association has ever contributed anything, nor did they pay the expenses of delegates. Most states, though they do not contribute, pay the expenses of their delegates.

This Commission is supposed to be supported by the various states and it will never be completely successful until it is supported by all of them for the sound and psychological reason that a state which pays part of the expense will take more interest in the commission. The failure of West Virginia to contribute in any way is probably due to the fact that the legislature's attention has never been called to the work being done rather than to any lack of confidence of the work of the Commission.

This is a matter which deserves the consideration of the bar before the next legislature. Certainly the Commission
should not be handicapped in its work by the fact that it cannot know with any certainty before the end of the year just how much money it will have to spend or the possible sources of its money.

West Virginia Bar Association—Report of Committee on Criminal Law.—A discussion of the Report of the Committee on Criminal Law of the West Virginia Bar Association centered mostly upon the recommendation in that report that the prosecuting attorney should be permitted in a criminal trial to comment on the failure of the accused to take the stand in his own behalf. The members of the bar who spoke on this proposal looked upon it with unanimous disfavor on the ground that it had a tendency to relieve the state of the burden of proving its case.

In as much as most of the comment which was offered was not in favor of this recommendation, we think it only fair to point out that the recommendation has very substantial support behind it. In fact Dean Pound of the Harvard Law School would go further and take away from the criminal his immunity from being put on the stand and compelled to testify. It is thought by many jurists that the inability of the prosecution to elicit testimony from the party who knows most about the crime, i.e., the defendant, results in illicit attempts to do the same thing by the third degree and that much of the temptation toward subjecting criminals to third degree methods would be removed if the prosecution could put them through a legitimate cross-examination. While we reserve ourselves a doubt on this, we realize it is only fair to the writers of the report to indicate that there is much more support in favor of this recommendation in this respect than appeared upon the floor at the Association meeting.

While we lay no claim to being criminologists, nevertheless, we entertain an unauthoritative opinion to the effect that more protection should be thrown around the criminal prior to his actual trial in court in the matter of searches, seizures, third degree investigations and similar investigating methods and that less is necessary in an open court where a competent judge is on the bench to protect him from the abuse of power by the prosecution.