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An American Bar in the Making

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AN AMERICAN BAR IN THE MAKING*

The lawyer is so inseparably connected with the administration of justice that he serves very well as an index, to employ a word common among financiers and economists. Or, to adapt a political catch-phrase we may say: "As goes the bar, so goes the administration of justice."

It is timely then to consider whether the bar is moving, and if so, in what direction.

Not infrequently we come across references to a golden age of the American bar. This golden age is never clearly defined, but it is supposed to have existed in a few decades preceding the Civil War. Nobody is now living to refute the idea that in those times the bar was far more adequate to its responsibilities than since. Perhaps the bar did then come nearer to its historic ideals than it ever has since, but, even granting this, we are inclined to be skeptical of the claim that conditions were then super-excellent. There were great lawyers then who individually rendered distinguished service as counselors, advocates, judges and statesmen. But as much can be said for every period in our national history. There was then less of the commercial spirit in the bar, it is true, for the temptations were not so great. And as for the bar as an entirety it is certain the tasks which it confronted at this distant time were slight compared with the tasks of our day.

We prefer to believe that the golden age of the American lawyer is in the future. Some evidence in support of this belief will be set forth in this article.

It may well be argued that there has never been as yet in all our states any real bar at all. In nearly all of them there has been no bar, but rather a number of individuals licensed by the state to make a living in the practice of law. There is a difference. A very little consideration of what the word bar is understood to mean in the leading nations of the world reveals the difference.

There was a fairly general disposition both before and after the Revolution to prevent the formation of an Ameri-

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It was felt by many eighteenth century patriots that the bar was one of the needless and harmful factors in European civilization which America should escape. And the idea took a strong hold in the minds of pioneers, who distrusted expertness in any field, and believed that the law should be made so simple and plain that the average man could fully understand it. This was all before steam began to remake the world, when there was reason for the philosophy that taught that nothing more was needed to perfect society and the state than to excise old evils and provide political liberty.

This naive philosophy proved utterly untenable in the nineteenth century. Lawyers multiplied and lawyers insisted that lay judges should be restricted to petty jurisdiction. The law became not more simple and plain but progressively more complex and inscrutable. There was work for lawyers on every hand, and yet the old prejudice against a bar with exclusive powers—or privileges, if you wish—and definite responsibilities, appears to have had its intended effect.

We will not insist on this theory. The failure of the lawyers to create a bar may have been due less to prejudice than to conditions which prevailed throughout the greater part of the country during all of the past century. In the smaller states on the seacoast, where conditions altered least, there was an approach to a collegiate formation of lawyers. But west of the mountains, where pioneering conditions were contemporary with the distracting and disorganizing influences incidental to changing industrial and commercial practices, it is not unfair to say that in every state there have been a multitude of lawyers, and no bar.

Toward the end of the century the trend was toward adjustments and settled conditions and it was then that the bar organization movement began to become conspicuous. Most of the state bar associations have a history of about thirty years. While coming into being largely in response to a desire for social relations there appears also to have been a more or less conscious appreciation of the need for organization as a means for meeting public responsibilities. At any rate the larger considerations soon began to exert an influence, once the machinery was created.
Voluntary Associations Have Accomplished Little

Looking back from 1920, it is clearly seen that the efforts of the bar associations to establish professional standards of conduct, to assist the court, to solve problems of procedure and generally to perform the work of a real bar were steadily advancing, keeping pace fairly well with the slow increase in membership in the associations. One might sum up the history of the movement in 1920, by saying that a great deal of needed machinery had been set up to serve the public functions of the bar, especially in the field in which bar responsibility peculiarly lies—that of the administration of justice—and a great deal of effort had been expended. But it would have to be said also that this voluntary association failed to enlist a good share of the bar—in most states more than half—which must be presumed to be worthy and loyal. And worse still it would have to be admitted that two or three decades of these efforts achieved very little of the programme. Possibly the only considerable progress lay in the setting up of impartial boards of examiners to put an end to the ridiculously low requirements for admission, and in this field the results were meager and the bar associations themselves refused again and again, in virtually every state, to adopt a reasonable standard of legal education. In fact there was very little accomplishment to show for a vast amount of planning and effort, and that fact doubtless explains why a large proportion of the profession in most states refused to join the associations.

Only six years ago the outlook was indeed discouraging. A whole generation of lawyers had tried to organize a bar and had only made a start. Of affirmative measures for relief of justice so little had been achieved that the general condition throughout the country was worse than it had been thirty, or forty, or fifty years before.

A New Era Opens

But today a better report can be made. It is now very evident that the legal profession realizes that it is primarily responsible for the work of making justice in the courts practical and efficient. It is understood and admitted that the profession calls for exceptional training and high character. The campaign for the established bar association
standards of legal and pre-legal education is well started. The vital importance of efficiency organization in the courts is coming to be understood. Progress is being made in the campaign for the restoration to the courts of the fullest measure of rule-making authority. Judicial councils are being established to afford needed administrative direction in the judiciary. The bar associations are accepting their responsibility for obtaining justice for the poor through simple procedure in legal aid organizations. Even in the most difficult field of all, that of correcting abuses in the selection of judges through popular suffrage, the bar associations are orientating themselves and creating machinery to enable them to exert a guiding influence. Finally, but probably most important of all, there has emerged since 1920 the idea of an integrated bar in every state.

These are all new movements and all tend to dissipate pessimism. During these few years of progressive thinking the American Bar Association has led the way. It stands committed to the principles above outlined. Directly through the Conference of Bar Association Delegates, which it sustains, and indirectly in numerous ways, it lends its influence toward stimulating growth and activity on the part of all state and local associations.

A new and a strong movement is inaugurated. In many states the lawyers most conspicuous in the associations are those who indicate adherence to the principle of professional responsibility for all the great work of adapting modes and machinery of justice to new conditions. In nearly every state the associations are reaching out to embrace a larger membership with all that means of increased influence. In some states the evolution toward integration through voluntary associations has been rapid. Probably Delaware is the best example of such a state. Although the youngest of state bar associations that of Delaware, owing to peculiar advantages, appears to have gone farthest.

Since the proposal has been urged that every lawyer be required by law to contribute to the support of his state bar, and that he be given an equal voice with every other lawyer in the government of its affairs, and be subject to its supervision, greater progress toward the bar's self-consciousness and toward a commonly accepted ideal of meeting responsibilities has been made in five years than in the
preceding twenty-five years. So stimulating has been this principle of an integrated state bar that even in states which have definitely refused to seek legislation to create the status the ideal has nevertheless triumphed. If not by legislation, how then is integration to be won, is the problem which such states inevitably undertake to solve.

And in other states the struggle to obtain needed legislation is doing more to advance bar integration than anything else in the entire history of the state.

On the part of all who sense the situation the ideal does not stop at mere statutory organization, but aims at that condition best called integration, which makes of the bar a self-conscious body united in spirit as well as in form. Statutory compulsion is merely one way of furthering the movement—a shortcut to self-governing powers which might otherwise require a whole generation of effort.

**Is Bar Act Compulsory or Permissive?**

It is submitted that to call the statutory organization "compulsory" is unfair. Ordinarily by the time a state bar association has convinced its own membership of the desirability of such an act and has converted enough unorganized lawyers and legislators to secure passage of a bill, that part of the bar which feels any compulsion is negligible. The great majority look upon the act as one unlocking latent powers, whereas compulsion implies a limitation of freedom. It can be stated unhesitatingly that the average state bar, not organized by statute, is restricted in its powers in a variety of ways, by lack of money, by lack of cohesion, by lack of democratic opportunity for participation, by lack of machinery to enforce its will on unworthy lawyers, whether members or non-members. If there is any limitation of powers or freedom under the bar acts proposed by the American Bar Association and the American Judicature Society, that limitation is hard to find. Such acts are great charters of power; power which cannot be entrusted to loose, voluntary associations with their unavoidable clique control.

**Lawyer's Duty to the Bar**

With all the sermonizing about the duties of the lawyer it remained until the present year for a statement of one of
his indisputable duties. Until Julius Henry Cohen addressed the Conference of Bar Association Delegates in session in Washington last April, the duties of the lawyer were understood to extend only to his client and to the courts. To these Cohen added the duty of the lawyer to his own collegiate body, the bar. The point is readily accepted the moment it is stated. All the lawyers of a state together possess undoubted duties, notably those pertaining to the administration of justice, and particularly the duty to keep their own ranks up to a very high standard of conduct. Such duties have been sensed in the past and probably the reason they have never been clearly stated is that the powers correlative to the duties have never been conferred or acquired.

A hundred references could be cited to the glorious services of lawyers to state and nation and yet it needs to be said also that there has never been a time when individual lawyers have not employed professional privilege and opportunity to disgrace the profession. This has not been equally true of any other civilized country. But in our country it has been so common and so continuous as to be assumed to be unavoidable.

Aside from the various direct and indirect advantages which the public must be presumed to derive from an integrated bar, there is the advantage of being able to hold that bar responsible for its own shortcomings. An old story is somewhat pertinent here, that of the Irish captain in our Civil War who was leading a charge. Observing with disgust that his company broke ranks and scattered over a hillside, he shouted: "Close up, close up! Divil a one of ye can the enemy hit if ye scatter so." Just so the vile element of the bar finds concealment and shelter in the scattering of the profession and just so the public finds it all but impossible to hit a single one of them.

At the present time there is much greater diversity among state bars in respect to organization than was ever the case before. In a few it is still true, as was generally true ten years ago, that not one-fourth of the bar is enrolled in the state organization. But in a majority of the states the associations have moved up to forty or fifty per cent organization, and in some the voluntary organizations embrace
nearly all active practitioners. Delaware is probably at the top and Iowa has gone a great way. And there are states in which conditions remain practically what they were a century ago, small states with no large cities, states in which the bar has never permitted a slump in personnel and in which the older ideal of discipline has succeeded fairly well. The less populous New England states fall in this class. Then there are states like Ohio where the first enthusiasm for statutory organization was like seed falling on stony ground, which had no depth. But while the seed has not produced grain as yet, neither has it "withered away," for the present effort is to build up the voluntary associations to the point where they can achieve their purpose of statutory organization.

Then there is the very interesting instance of Washington with its plan for affiliating local bar associations with the state association to produce a unitary and almost inclusive membership. This has gone far enough to yield experience. It proves to be a swift method for attaining a large membership and stimulating local associations. But so far it has failed in Washington to create a centralized efficiency organization. The state association is still but a body expressing itself through an annual town meeting. And a difficulty has arisen because the percentage of membership in 1926 is less than that of 1924. There is a tendency for the large membership obtained by an enthusiastic canvass, to fail to stick. The individual member is given no assured part in control. He only pays.

Very recently two other progressive states, Oregon and Minnesota, have adopted the affiliation plan as a route toward statutory powers, and in the constitutions adopted in those states provision is made for a governing board composed of representatives chosen by the several districts which constitute the local units of organization. Under that system the individual member does more than merely pay. He shares equally in the control with every other member.

**Experience Is Being Gained**

Coming finally to the states in which the bar has been unified by acts of legislature we find interesting diversity. In North Dakota an unfriendly "agrarian" legislature assessed
a stiff annual license fee on the bar. But that first act of
compulsion had a beneficial effect, for at the next session of
legislature the bar asserted its power and secured an
amendment whereby a share of the license fund should be
allocated to the purposes of the state bar association, and
membership was assumed forthright to be universal. In
this indirect way North Dakota's bar took a long step
toward integration. It has been wonderfully stimulated
and strengthened in every way, but it has not yet taken the
needed step of providing a strong central board resting
upon the suffrage of the entire membership. This is a
matter likely to be accomplished at any time, either through
legislation or without it.

The Alabama state association fought its bill for organ-
ization through to success and is gradually developing the
powers which are conferred. In Idaho the situation was
quite different, for there the bar bill was sponsored and
passed by lay legislators, who wanted to see the bar regi-
mented so that it could react to public opinion. Professional
opinion was almost universally hostile, but the experience
of two years converted nearly all objectors. The Idaho bar
finds itself strong, that only a few years ago was weak, too
weak even to hold a good annual meeting and meet its
meager budget. Concerning the New Mexico statutory bar
we lack information, and would welcome an article giving
experience to date. Apparently the bar bill was enacted
there through the support of a few highly respected
members.

The lawyers of California have had altogether the most
interesting and vital experience in efforts to integrate. It
was evident from the outset that a hard fight would be
needed to overcome opponents, both within and without the
bar. Its "self-governing bar bill" was very carefully work-
ed out and a campaign of education on the broadest pos-
sible lines was undertaken. Joseph J. Webb, chairman of
the committee, spent 133 days in one year visiting every
county to address lawyers and to interview editors and
legislators. The campaign was so carefully worked out
and thoroughly fought that finally almost every lawyer and
judge and editor in the state was lined up for the bill and
it passed with only a few dissenting votes in the house and
and senate. The governor vetoed it with over 3,000 personal
messages of appeal on his desk. That governor lost his fight for renomination and the new governor is an open friend of the bill. So it appears as certain as anything can be that California will soon be giving an illustration of the way a bar organized by law operates in a great populous state with two metropolitan districts.

The experiment gains added importance from the fact that New York objectors to statutory organization say that it can be useful only in such sparsely settled states as North Dakota, Idaho and New Mexico. The California bar thinks differently and looks eagerly to the time when the test can be made.

Meanwhile the movement registers greater success in the west than elsewhere. Beginning with Minnesota and proceeding westward and southward there is an almost continuous arch of states which have either obtained statutory powers or are consciously marching toward them. Minnesota, Washington and Oregon proceed by way of the affiliation plan. North Dakota, Idaho and New Mexico have their statutes. California can be counted on to fill the arch in a very short time. Meanwhile the movement is discussed and fought over in a score of central, southern and eastern states. And wherever the bar has enough vitality to originate a movement at all the effort itself is seen to be more stimulating and beneficial than anything that has happened before.

Possibly the northwestern states profit somewhat by nearness to the Canadian provinces. Among the western provinces statutory organization of the bar was a settled thing when they were given autonomous government. Those provincial bars have always had the power to manage their own affairs and discipline their members. They conduct bar examinations and admit to practice; they collect dues from every member; they manage their affairs through a representative board. Starting with adequate legal powers they never permitted their bars to become spotted with ignorant or rascally members.

Our states, lacking such powers of control, have created first social and exclusive organizations. In the field in which the Canadian bars have best succeeded the states have made a wretchedly poor showing. But they have
pioneered along their own lines, proving that a bar can develop many lines of useful activity expressed in committee reports and addresses submitted at annual meetings. It should be noted that the Canadian bars merely exercised their legal powers and did not conduct general meetings or promote social relations. The failure of the official bars to do these things led, during the last decade, to the creation of unofficial associations to develop the functions common in our state associations. So now in Canada they have the statutory powers operating as formerly through benchers who meet strictly for business purposes, and the social, and other functions difficult to classify, in the hands of voluntary associations. We think that it is unfortunate to have the bar functioning in two distinct organizations when one would suffice. As between the Canadian situation and that of the typical state, we unhesitatingly declare for the former as the better, but hold that the ideal situation implies a single state organization. But this is not to be considered antagonistic to local associations adapted to local needs.

WHAT AN INTEGRATED BAR CAN DO

In view of the awakening of the bar and the approach to integration in so many states it is timely to consider what a properly organized, inclusive bar shall conceive to be its duties and activities beyond those specifically mentioned in the law. We assume that its purely social activities will not be neglected and that it will provide a forum for the hearing of learned papers on appropriate subjects. But it occurs at once that the great, the most significant work lies in the field of judicial administration. This is the work that never foresees its own end, and which lies peculiarly, if not exclusively, in the hands of the bar.

It is in solving the great problems of rendering justice, not only in a technical sense, but according to modern standards of efficiency, that the bar has its unique responsibility. In the long run the bar will stand or fall in public estimation according as it succeeds in rendering justice through the courts and all the machinery of the law. This responsibility largely, but not wholly, comprises the collegiate duty of every lawyer to the entire bar, for only
through the entire bar may this essential function of government be discharged.

The administration of justice includes such large subject matter as legal education and requirements for admission; the selection and tenure of judges; the regulation of civil and criminal procedure; the organization of courts and their administration broadly and in detail. Of course in much of this field the bar shares a responsibility with the legislature and with the judiciary. We incline to the view that a capable bar will take far more than half of the responsibility. Power always gravitates to the most competent agency.

The bar has some duty as well toward the proper development of the substantive law, if only for its own sake. This duty is not so intimate as the duty in respect to judicial administration, but the two are related and an argument can be made for both. Indeed, we see the bar of the country—the substantive law being largely national rather than state—now organizing to restate and unify and clarify the body of unwritten substantive law.

Another duty which the bar is rapidly assuming is that of affording justice for persons unable to pay for it in the usual way. An integrated bar will find means for discharging this clear duty far better than has been possible up to this time, and the need for it is likely to grow as more people come to live in populous centers where their contracts are numerous and commonly with strangers.

We may add to the foregoing duties of the bar that of acting as intermediary between the courts and the public, and especially through relations with the public press. There are obvious points of co-operation between press and bar which give the greatest promise. So far thought is too much limited to the side of restrictions—preventing lawyers and judges from using the press for selfish and undignified purposes and preventing the press from publishing colored and incorrect reports of trials. There are important affirmative measures which will loom larger when present abuses shall have been corrected, as they assuredly will be when the bar realizes its duty and its power and adopts a proper attitude toward the press. The press will always interpret the courts to the public and the bar should see that the means for correct interpretation is afforded.
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And the bar should see that the press is correctly informed concerning the needs of the courts and should establish connections so that the press can aid the public work of the bar in the administration of justice.

RIGHT ORGANIZATION UNLOCKS GREAT FORCES

A mere sketching of opportunities for public work which only the bar can perform is impressive, but has the defect doubtless of creating a feeling of fatigue in advance of real effort. The lawyer who has read thus far is doubtless made to feel that bar integration implies superhuman struggles. It remains then to dissipate this feeling, for it is not justified.

One of the great advantages of bar integration is that the public work of the bar is to become far easier than it has been, as well as far more successful. The organizing of the entire bar on a collegiate basis gives opportunity for many members to do work from which they have been virtually barred. Wherever one goes among lawyers conscious of the responsibilities of the profession he meets with the sense of futility which exists and which discourages effort. In twenty-five years of voluntary bar association history—a whole professional lifetime—very few things have actually been accomplished by the bar. For every worthy amendment of procedural law there have been at least two inexpert and regrettable amendments. The few whose interest and talents could be enlisted have toiled disproportionately, but ninety-five per cent of their toil has resulted in no constructive action. The problem of curbing the unworthy members is more critical now than a quarter of a century ago.

The plain fact is that the problems have grown in numbers and in difficulty with the growth of population and industry and social organization and the efforts to solve these problems have thus far borne very little fruit. The unorganized bar is no true bar at all. The partly organized bar cannot unlock the talents and the aspirations of all individual lawyers. It cannot curb shysters and give the bar even the reputation for decency throughout which it must possess. The voluntary and exclusive association has been a fine thing just so far as it has represented pioneering to-
ward a truly integrated bar. When it becomes an obstacle to integration it becomes a foe to its own causes.

The foregoing is, of course, a mixture of argument with fact. But it seems reasonable to suppose that the bar can and must, eventually unlock the great powers of individual members who will gladly divide the work to be done and make the task not only possible, but actually much easier than has been the case in the recent past. It is not to impossible labors that the idealist summons the bar, but to the creation of machinery which will unlock the power inherent in the profession and afford it opportunity to serve more easily as well as more effectively than at present. The devoted efforts of innumerable lawyers in the past have been pathetically hopeless as well as heroic.

There is no more impressive thing in all history than the way an aggressive people, having achieved national independence and unity, swarmed across a continent and carried their customs and ideals and laws and habits to the farther coast. Possibly the degradation of the bar was an unavoidable incident in the wild scramble. But in our times very different conditions are imposed. We are seeing from ten to twenty millions of people added to our population every decade, and a sharp trend toward urban congestion. The problems of the near future are as remote from those of western pioneering as the immigrant's risk of being scalped is different from our present hazard of being run down on the boulevard by a motor coach. A higher order of statesmanship will be needed in a nation of two hundred millions of people whose combative instincts find no outlet in a fight against external nature, but turn toward social and political stresses. The liberty we love will be conserved only through a government which deserves and receives the highest respect. In its monopoly of administering justice the bar of the nation must carry the responsibility of seeing that justice prevails.

**MODEL BAR ORGANIZATION ACT**

The report of the Committee on State Bar Organization presented at the Denver meeting, July 13, of the Conference of Bar Association Delegates, contains a brief report on the

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special meeting held in Washington on April 28 of this year. The special meeting was reported quite fully in the June number of the JOURNAL. The report also contains the text of the bar organization acts adopted in Alabama, Idaho and New Mexico, the bill which was vetoed in 1925 by the governor of California and the draft constitution written for the Oregon State Bar Association to permit of adopting the "affiliation" plan which has resulted in great growth and strength in Washington. Copies of this report may be had on application to the secretary, Mr. Herbert Harley, 920 City Hall, Chicago.

The report contained also the model act drafted several years ago by the committee of the Conference of Delegates. For the convenience of readers of this JOURNAL the act is reprinted in this number.

MODEL BAR ACT—1920

Section 1. BOARD OF COMMISSIONERS ESTABLISHED. Be it enacted (etc.) that there is hereby established a Board of Commissioners of the State Bar, consisting of fifteen members, to hold office for three years and to be selected in the manner hereinafter provided. The Board shall have perpetual succession, use a common seal and be authorized to receive gifts and bequests designed to promote the objects for which it is created and the betterment of conditions surrounding the practice of the law.

Section 2. SELECTION OF COMMISSIONERS. The Board of Commissioners shall be selected by the members of the State Bar, who shall vote by ballot. The ballots shall be deposited in person or by mail with the Secretary of the Board, or such other officer as it may designate. There shall be an annual election for the purpose of selecting successors to the Commissioners whose terms expire and for the purpose of filling vacancies. The Board shall fix the time for holding the annual election and prescribe rules and regulations in regard thereto not in conflict with the provisions of this act. The Board shall, in accordance with its rules, give at least sixty days' notice of the time for holding the election each year.

Section 3. FIRST ELECTION OF BOARD. For the purpose of the first election of Commissioners the Clerk of the Supreme
Court, with two assistants to be selected by himself, shall constitute an election and canvassing board; they shall

(a) set a time for closing the voting not less than sixty days from the time of notice to the members of the State Bar;

(b) notify all such members by mail of the time for voting and the time for closing nominations, which latter time shall be thirty days from the time of mailing notice;

(c) receive nominations and prepare a ballot containing the names of all persons nominated according to the provisions for nomination hereinafter set forth;

(d) mail such ballot to every member of the State Bar at least fifteen days before the time for closing the voting;

(e) receive and canvass the vote and certify the names of the fifteen candidates receiving the largest number of votes to the Secretary of State as the first Board of Commissioners.

See the California bill for a simpler mode of initial organization.

Section 4. NOMINATIONS. Nomination to the office of commissioner shall be by the written petition of any ten or more members of the Bar in good standing. Any number of candidates may be nominated on a single petition. For the purposes of the first election the petitions shall be sent through the mails to the above provided election and canvassing board. Thereafter such nominating petitions shall be mailed to the secretary within a period to be fixed by the rules made by the Board of Commissioners.

Section 5. ORGANIZATION OF THE BOARD. On the fourth Tuesday following the certification of their names the first Commissioners shall meet at the office of the Clerk of the Supreme Court and organize by the selection of the following officers of the State Bar and its Board of Commissioners, namely: a president, a first and second vice-president and a secretary. The Commissioners shall be divided into three groups holding office for one, two and three years, respectively, and at the first meeting their terms shall be determined by lot. Their successors shall hold office for three years.
Under the language used the officers will be chosen from among the elected Commissioners, for otherwise there would be more than fifteen members of the Board. It is presumed that there will be a salaried assistant secretary who will relieve the Secretary of all but the supervision of the work of this important office.

Section 6. Authority Conferred. The Board of Commissioners shall have power to determine, by rules, the qualifications and requirements for admission to the practice of the law, and to conduct examination of applicants, and they shall from time to time certify to the Supreme Court the names of those applicants found to be qualified. Such certifications shall entitle such persons to be enrolled in the Bar of the State and to practice law. The Board shall formulate rules governing the conduct of all persons admitted to practice and shall investigate and pass upon all complaints that may be made concerning the professional conduct of any person admitted to the practice of the law. In all cases in which the evidence, in the opinion of a majority of the Board, justifies such a course, they shall take such disciplinary action by public or private reprimand, suspension from the practice of the law, or exclusion and disbarment therefrom, as the case shall in their judgment warrant. The Supreme Court may in any case of suspension or disbarment from practice review the action of the Board, and may on its own motion, and without the certification of any record, inquire into the merits of the case and take any action agreeable to their judgment.

The Board of Commissioners shall also have power to make rules and by-laws not in conflict with any of the terms of this act concerning the selection and tenure of its officers and committees and their powers and duties, and generally for the control and regulation of the business of the Board and of the State Bar.

In certain states the Supreme Courts have held that they possess exclusive control over admission to practice. It is suggested that in such states the second sentence of Sec. 6 be altered to read as follows: “The approval of the persons whose names are so certified, by the Supreme Court, shall entitle them to be enrolled in the Bar of the State and to practice law.”
Section 7. LICENSE FEE. Every member of the State Bar shall, prior to the first day of July in each year, pay into the State Treasury as a license fee the sum of . . . . dollars, and the fund thereby created shall constitute a separate fund to be disbursed by the State Treasurer on the order of the Board of Commissioners.

Section 8. DISBURSEMENTS. For the purpose of carrying out the objects of this act, and in the exercise of the powers herein granted, the Board shall have power to make orders concerning the disbursement of said fund, but no member of the Board shall receive any other compensation than his actual necessary traveling expenses connected with attending meetings of the Board.

Section 9. DISCIPLINE—PROCEDURE. The Board of Commissioners shall establish rules governing procedure in cases involving alleged misconduct of members of the State Bar, and may create committees for the purpose of investigating complaints and charges, which committees may be empowered to administer discipline in the same manner as the Board itself, but no order for the suspension or disbarment of a member shall be binding until approved by the Board. The Board or any such committee may designate any master in chancery or notary public to take testimony under oath in any such investigation.

Section 10. SUPREME COURT’S POWER TO ANNUL RULES. The Supreme Court may annul or modify any rule or regulation adopted by the Board relative to discipline or admission to the Bar.

Section 11. POWER OF SUBPOENA. In the investigation of charges of professional misconduct the Board, and any committee appointed by it for this purpose, shall have power to summon and examine witnesses under oath and compel their attendance and the production of books, papers, documents and other writings necessary or material to the inquiry. Such summons or subpoena shall be issued under the hand of the secretary of the Board and shall have the force of a subpoena issued by a court of competent jurisdiction, and any witness or other person who shall refuse or neglect to appear in obedience thereto, or who shall refuse to be sworn or testify or produce books, papers, documents or other writings demanded shall be liable to at-
tachment upon application to the Supreme Court of the State or to any judge of any court of record for the district where the investigation is conducted, as in cases for con-
tempt.

There are rulings in some states that one cannot be pun-
ished for contempt for refusal to testify before notaries or
masters under commissions issuing out of courts of other
states, but as the powers of discipline here given relate to
the right to practice in the courts of the state and are in aid
of the courts in the administration of justice, it is thought
that the refusal to obey the summons or subpoena may law-
fully be made the subject of contempt proceedings, even
in the states referred to.

Section 12. RIGHTS OF ACCUSED MEMBER. Any member of
the Bar complained of shall have notice and opportunity to
defend by the introduction of evidence and the examination
of witnesses called against him, and the right to be repre-
sented by counsel. He shall also have the right to require
the Secretary to summon witnesses to appear and testify
or produce books, papers, documents or other writings nec-
essary or material to his defense in like manner as above
provided.

Section 13. RECORD OF PROCEEDINGS. A complete record of
the proceedings and evidence taken by the Board, com-
mittee, or commissioner shall be made and preserved by
the Board, but it may, where sufficient reason appears, and
the accused gives his consent, cause the same to be ex-
punged.

Section 14. ANNUAL MEETING OF BAR. There shall be an
annual meeting presided over by the President of the State Bar, open to all members of the Bar in good stand-
ing, and held at such place as the Board of Commissioners
may designate, for the discussion of the affairs of the Bar
and the administration of justice. At noon on the last day
of such meeting the annual election shall close and the
ballots be canvassed and the result announced.

Section 15. UNLAWFUL PRACTICE OF LAW. If any person
shall, without having become duly licensed to practice, or
whose license to practice shall have expired either by dis-
barment, failure to pay his license fee, or otherwise, practice or assume to act or hold himself out to the public as a person qualified to practice or carry on the calling of a lawyer, he shall be guilty of an offense under this act, and on conviction thereof be fined not to exceed Five Hundred Dollars, or be imprisoned for a period not to exceed six months, or both.

Section 16. REPEALER.