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## Preparation and Transmission of Original Records

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activities during the period covered thereby and evidences the impartiality and fairness with which they have conducted all their examinations of applicants for license to practice law. The statistical matters therein demonstrate beyond all question that all criticisms to the contrary have been groundless. We have not now, nor have we at any time since the work of conducting law examinations was first committed to the Law Faculty, found anything but praise for their work.

And now, upon their resignations, it is with great reluctance that we accept the same, and it is upon the condition that in the new appointments made one member of the law faculty, a member of the Bar, be included. It is therefore ordered that the following members of the Bar of the State be constituted the new Board of Law Examiners, namely: B. Mason Ambler,<sup>3</sup> Henry Craig Jones, J. O. Henson, Robert S. Spilman and Joseph M. Sanders; and to whom, or to the members they may designate, the records, books and papers of the retiring Board may be delivered for safe keeping. And they may also select from their number or from the outside a competent secretary.

A true copy.

Attest:

WILLIAM B. MATHEWS,  
Clerk Supreme Court of Appeals.

PREPARATION AND TRANSMISSION OF ORIGINAL RECORDS.—The Clerk of the Supreme Court of Appeals has sent the following letter to the Clerks of the Circuit Courts of West Virginia:

STATE OF WEST VIRGINIA  
IN THE SUPREME COURT OF APPEALS  
CHARLESTON

December 1, 1919.

TO THE CLERKS OF THE CIRCUIT COURTS OF WEST VIRGINIA.

GENTLEMEN:—

Your attention is especially called to Section 5 of Chapter 135 of the Code, providing for the preparation and transmission of original records to this office or to a judge of this Court in vacation.

*Deposit or Bond for Costs.*

In the case of State ex rel E. W. Brown vs. Herbert Skeen,

<sup>3</sup>B. Mason Ambler having refused to accept the appointment, James W. Ewing of Wheeling was appointed in his place.

Clerk, in which a peremptory writ of mandamus was awarded on the 25th day of November, 1919, it is held:

1. The provision of sec. 5 of ch. 135 of the Code, requiring a litigant seeking an appeal or writ of error from a decree or to a judgment of a circuit court, before transmission of the petition and record to the Clerk of the Supreme Court of Appeals or a judge thereof, "to deposit with the clerk of the circuit court a sufficient sum of money to defray the expenses of the preparation and indexing of the record, fees for filing the petition and making and certifying necessary copies of orders, costs of transmission and return of the record, and the making of a transcript of the record, or file with the clerk a bond conditioned to pay the same, in a penalty and with sureties to be fixed and approved by said clerk," and the clerk to "endorse on the petition that such deposit has been made or such bond filed," contemplates such procedure as a prerequisite to action upon the petition by the appellate court or its judges and prompt and unembarrassed filing of the transcript after allowance of the appellate process, and not mere security of payment of the fees and other compensation of the clerk of the circuit court.

2. If such clerk certifies that the required deposit has been made, when in fact it has not been nor the required bond given, he cannot withhold the transcript for non-payment of his fees and compensation, by reason of an agreement on the part of the appellant to make a further deposit or pay his charges in full before the delivery of the transcript, or his legal right to collect such fees and compensation.

It is, therefore, necessary before having a petition and record considered by this Court that the proper endorsement of the circuit clerk should be made upon the original petition, forwarded with the record.

#### *Preparation and Transmission of Original Record.*

It is also necessary properly to arrange the papers as nearly as may be in the order of filing and entry thereof, showing the dates of entry, numbering the papers and annex thereto a table of contents or index referring to such numbers. This table of contents or index should be given in sufficient detail to enable the Court readily to find any pleading, deposition, order, exhibits (by description and not by number alone), or other portion of the record. The court reporter's index to the transcript of the evidence is not a sufficient index to the entire record.

The petition and record must be transmitted by registered mail or valued express and not otherwise, unless delivered by the clerk or deputy in person, and, if by express, the expressage should be prepaid and the amount deducted from the deposit made. When the file is returned to your office it is sent collect, cost of which likewise is to be deducted from said deposit.

If the original papers, in any case, are not properly arranged, indexed and the necessary certificate of the clerk is not endorsed upon the petition, this office is directed by the Court to return the same for correction and proper arrangement.

*Making and Indexing the Transcript.*

If the writ prayed for is allowed, the transcript should be made as promptly as possible and transmitted to this office as soon as completed and compared, inasmuch as the petitioner has only six months in which to mature his appeal or writ of error. The original petition is retained in the files of this office, so the copy on file in your office need not be copied or forwarded with the transcript. Briefs of counsel should never be copied into the transcript. Rule XIII of the Rules of Practice requires a complete page index giving the component parts and each deposition of the record as shown in such transcript.

A strict observance of the foregoing will obviate the necessity and expense of returning records for re-arrangement as well as the additional danger of being lost in transit.

Very truly yours,

WM. B. MATHEWS,  
Clerk Supreme Court of Appeals.

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ORGANIZATION OF THE NEW BOARD OF LAW EXAMINERS.—At the request of the Supreme Court of Appeals, the newly appointed State Board of Law Examiners met in Charleston on January 14th. Organization was effected by the election of H. C. Jones as Chairman of the Board and William B. Mathews as Secretary. Only slight changes were made in the rules governing examinations which had been adopted and followed by the former Board. The principal change provides that the bar examination will be held hereafter only in Charleston. As heretofore examinations will be conducted twice each year on the two days commencing with the