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THE NORTH CAROLINA STATE BAR

KEMP D. BATTLE, *Editor*

January Council Meeting

The January meeting of the Council of The North Carolina State Bar was held in the supreme court building in Raleigh on January 13, 1939. President Hutchins, Vice-president Green, Secretary Cannon, and Councillors Grimes, Battle, Bland, Dunn, Cheshire, Poisson, Reade, Hastings, Walsler, Milliken, Jones, Grant, Shipman, Martin, and Phillips were present.

The final account of Mr. Henry M. London, retiring Secretary-treasurer, was received and approved. The balance on hand as of December 1, 1938, was \$483.38.

As a matter of convenience to the councillors involved, the membership of trial committees previously appointed in the cases of Louis A. Whitener and R. L. Huffman was revised. The same committee will now hear both cases and is composed of Messrs. Milliken, Hastings, and Martin.

Mr. R. H. Wettach, Assistant Attorney General, Mr. Julius C. Smith, of Greensboro, Mr. G. H. Hastings, of Winston-Salem, Mr. John H. Anderson, Jr., of Raleigh, and Mr. C. H. Gover, of Charlotte, were appointed as a Committee on Administrative Law to serve with a similar committee of the North Carolina Bar Association.

To provide financial assistance in printing the annual proceedings of The North Carolina State Bar, the president and secretary were authorized to accept for publication advertising matter approved by the president and by the chairman of the Executive Committee from law book publishers, hotels, and other reputable concerns.

The committees on Legislation and Law Reform reported several alternative bills concerning dues of members of the State Bar, unauthorized practice of law, and selection of justices of the peace, and the proposed bill giving the supreme court power to make rules of practice for the inferior courts. After considerable discussion it was concluded to sponsor a bill increasing the fees of members of the Bar from \$3.00 to \$5.00 per annum.

An explanation of this action is made by the editor of this department on his own responsibility. When the bill incorporating the Bar was introduced in the legislature in 1933 it provided for annual fees of \$5.00 per year. The bill encountered some opposition and as a compromise measure, to gain support for the bill, the sponsors accepted

an amendment reducing the fees to \$3.00 per year. In the early days of the organization its income was sufficient and indeed it built up a respectable surplus. It was operating at that time with a part-time secretary and had no paid investigator of grievances. The secretary also served without additional compensation as secretary of the Board of Law Examiners. Subsequently it was found that the investigation of complaints could not be satisfactorily made by individual lawyers serving on request without compensation. The Council then employed Mr. A. A. F. Seawell, Jr., as an investigator on a salary basis. He worked under the supervision of Mr. J. B. Cheshire, chairman of the Grievance Committee. Thenceforth the surplus which the treasurer had accumulated gradually began to shrink. Furthermore, the Board of Law Examiners were urgent in their request that a full-time secretary be employed who would investigate the character of applicants for license as well as complaints of unethical conduct. The Council reached the conclusion that a full-time secretary was necessary for efficient administration. Mr. London was unable to serve on a full-time basis. Mr. Cannon was elected at the October, 1938, meeting with the knowledge that unless the income of the organization could be increased his office could not be maintained. As between an increase to \$4.00 and an increase to \$5.00, there was some difference of opinion. The view prevailed, however, that \$4.00 dues would not solve the problem except for a few years. A smaller number of lawyers is being admitted to the Bar now than formerly. The pressure on lawyers to abandon the practice because of the shrinkage of professional income is making some inroads upon our membership. Unless present trends are reversed, the aggregate number of lawyers in active practice ten years from now bids fair to be substantially less than it was ten years ago. It was concluded, all things considered, that it would be better to make the change to the \$5.00 fee at one time than to ask the legislature to authorize \$4.00 fees now and \$5.00 fees later.

The bill which is to be introduced in the legislature increasing the fees will also amend the act incorporating the Bar so as clearly to bring to the attention of superior court judges the necessity of taking appropriate action to withhold the privilege of practicing law from those lawyers who do not pay their dues.¹

The Council reaffirmed its approval of the passage of legislation to improve the administration of justice in the magistrates' courts as proposed by a committee of the North Carolina Bar Association. It also expressed its approval of the proposal to confer upon the supreme court the power to regulate procedure in the inferior courts. A special

¹ The bill referred to in the text has been passed substantially as recommended by the Bar, and is now N. C. Pub. Laws 1939, c. 21.

committee was appointed to draft a bill to confer upon the Council jurisdiction to take measures seeking to curb the unauthorized practice of law.

A resolution was received from the Bar of Pitt County petitioning for the adoption of a canon of ethics prohibiting judges, recorders, and solicitors of criminal courts inferior to the superior courts from practicing law in the counties where they hold office in courts which have concurrent jurisdiction with their respective courts and from appearing in criminal cases in courts of justices of the peace and of the superior courts of their respective counties. After discussion final action upon the proposal was deferred until the April meeting at which time an opportunity will be afforded to any person affected by the canon to file a protest or to be heard.

In accordance with a practice agreed upon a couple of years ago, a committee was appointed at the October meeting to recommend two nominees for each of two vacancies on the Board of Law Examiners occasioned by expiration of terms. The committee recommended for one vacancy Mr. Kingsland Van Winkle, of Asheville, and Mr. D. Ed Hudgins, of Greensboro; for the other vacancy Mr. George B. Green, of Kinston, and Mr. John H. Anderson, Jr., of Raleigh. Upon ballot Messrs. Van Winkle and Green were re-elected to succeed themselves. (It may not be amiss to explain that Mr. George B. Green, of Kinston, on the Board of Law Examiners, is a different person from Mr. George C. Greene, of Weldon, Vice-president of the State Bar.)

The president announced the election of Mr. John D. Warlick, of Jacksonville, as Councillor of the Sixth District, succeeding Mr. F. E. Wallace, elected to the state legislature. Mr. Warlick was assigned to the Grievance Committee. Judge Dunn was appointed on the Special Committee on the Unauthorized Practice of Law, succeeding Mr. Wallace. Mr. J. Laurence Jones was appointed as a member on the Special Committee on Law Lists, succeeding Mr. B. M. Covington, and Mr. Milliken was added to that committee.

The Grievance Committee through Chairman Cheshire made a report of some length. In a number of cases recommendation was made that no action be taken, and the recommendations were followed. It is not customary to give publicity to cases in which prosecution is not directed. In some cases continuance was granted for further investigation by the Grievance Committee. Prosecution was directed on charges filed against Mr. W. T. Shore, of Charlotte, and a Trial Committee was appointed consisting of Messrs. Dunn, Grant, and Shipman. Prosecution was also directed on charges filed against Mr. W. O. Williams, of Morehead City, and Messrs. Grimes, Warlick, and Poisson were

appointed on the Trial Committee. Prosecution was directed on charges filed against Mr. G. V. Fesperman, of Wilmington and Salisbury, and Messrs. Jones, Walser, and Phillips were appointed as a Trial Committee. Prosecution was directed on charges filed against Mr. Jesse A. Jones, of Kinston, and Messrs. Perry, McLean, and Williams were appointed on the Trial Committee. The president was authorized to engage counsel to assist prosecution of these charges in his discretion.

Mr. R. P. Reade was appointed to represent the North Carolina State Bar at the Centennial Celebration of Duke University, to be held at Durham, in April, 1939.

The president requested that members of the Council give thought to the project of instituting a public relations program along the lines followed by bar associations in other states.