University of Missouri Bulletin Law Series

Volume 24 *April 1922* Article 6

1922

Bar Bulletin

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Recommended Citation
Bar Bulletin, 24 Bulletin Law Series. (1922)
Available at: https://scholarship.law.missouri.edu/ls/vol24/iss1/6

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BAR BULLETIN

Editor ----------KENNETH C. SEARS

Associate Editor for Bar Association ----------W. O. THOMAS

OFFICIAL PUBLICATION OF THE MISSOURI BAR ASSOCIATION

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CONFERENCE ON LEGAL EDUCATION

The conference presented several notable angles. It was held in historic D. A. R. Hall, where, but the hour before its convening, so to speak, the World Disarmament Conference was in session. The meeting itself was notable in the number and conspicuous character of the participants and visitors.

There was presiding over the opening session, Mr. Elihu Root; over its second session, Mr. Chief Justice Taft; over its third session, former Director General and Secretary, Wm. G. McAdoo; and over its fourth and final session, former Ambassador John W. Davis. The addresses by these gentlemen—perhaps more accurately designated discussions—and the debates during the two days' conference were vigorous, incisive, illuminating and full of dramatic interest.

There were former Governor Hadley, of Missouri, Dean Stone of Columbia Law School, Professor Samuel Williston, of Harvard, President Angell, of Yale, Draper Lewis of Pennsylvania, Ex-Senator Thomas, of Colorado, James Byrne, former Attorney General Wickersham, Chas. A. Boston, Julius Henry Cohen, of New York, John Lowell, of Boston, and many more, if less known, none the less able, engaged in the debate

on whether the lawyer shall be educated or uneducated, literate or illiterate.

Mr. Root opened the meeting with a climax and closed it with a super-climax. He talked extemporaneously, immediately lifting the subject of discussion to that intellectual altitude where he is wont to move, and where he forcibly upheld the cause of literacy, enlightment and character as prerequisite qualities necessary to be instilled in the lawyer, if he shall be the power for good government and for the maintenance of American institutions he must be if they shall be perpetuated.

Two points Mr. Root especially stressed: the fundamental necessity for character in the lawyer, and the importance of impregnating the lawyer of foreign parentage with the traditions and genius of our institutions, the practical method of accomplishing this being cutaneous absorption through daily contacts and experiences in the life of our American colleges and educational institutions. In the final session, Mr. Root closed the debate with an apotheosis to character, illustrating in his concluding sentences the tremendous advantage a trained intellect, supplied with the storehouse of knowledge education gives, when, in impassioned and epigrammatic words and phrases he drew and quoted, not from the law, but from the wealth of lore his broad education has provided.

Those who attended the sessions throughout know now why Mr. Root, as a debater, lawyer, and statesman is in a class apart. They had the experience of seeing and listening to a man well past seventy whose mind works with the precision of a Corliss engine and the illuminating qualities of a nitrogen lamp, while he speaks with the vigor, emotional energy and impassioned enthusiasm of a man of forty. When he left the platform everyone realized the debate was finished and a loud call immediately went up for the vote on the principal resolution and all pending amendments. The amendments were almost unanimously lost and the resolution carried by a like vote. As Mr. Root passed out the aisle on the way to his train, he was accorded an ovation such as an orator or debater rarely ever receives. Coadjutor and opponent, stranger and friend, alike showered him with compliments and congratulations, hand shakes and praises. One of those who debated against him said later: "I was glad to be licked by him. I would rather take a licking from such a man every day. If I voted on my own amendment I voted against it."

Many of the speakers made the point, if it be a point, that Lincoln and others of our illustrious dead did not have college or law school educations. With as much logic they might have included Moses. The answer made was that Lincoln and the others met the then requirements, and would, were they here now, meet the proposed requirements. In other words, the genius of tomorrow, destitute of worldly goods, will overcome all obstacles and will secure the necessary educational qualifications.

Nor was the meeting wanting in either comedy or pathos. More than once during the session the sublime was heightened by the ridiculous. One speaker, sauve of manner, keen of wit, and with an accent as entrancing as a purling brook, said that down in his state, all the rural districts and small towns would, owing to the general illiteracy and ignorance of the population, be lawyerless, if the standards prescribed by the resolution be attained, because a lawyer so highly educated would not remain in those districts. His efforts to demonstrate that uneducated lawyers are a necessity in some part of his state, was probably on the theory that the blind can best lead the blind. Answering, an eastern speaker, with an east side accent, and a pronunciation reasonably nasal, not satisfied with two years' college training, insisted on a Bachelor's degree and demanded that the embryo lawyer be a master of rhetoric and required to speak the English language. The audience, understanding the words "rhetoric" and "English language", was convulsed.

One distinguished defender of the inalienable right of ignorance and illiteracy to remain supreme, lest some poor genius be denied the right to make money as a lawyer, said that the whole matter was well illustrated by the experience of a young Easterner who came to his (the speaker's) country, with letters of introduction from his parents, his pastor and others, and, upon presenting them to a president of a bank for introductory purposes, the banker interrupted him with the remark that he didn't give a damn about his religion, but to let him see his collateral. Such argument is unsound in theory and in practice. Its application was that character in a lawyer is of no consequence; that the important thing was that he get results; that he supply the evidence necessary to win; in short, that he vitalize the philosophy that; "The end justifies the means".

The affirmative of the debate appeared to me to have the better of it, as it was practically conceded by the negative that the educational facilities the country over are such that one, whether he be rich or poor a genius or otherwise, can get an education if he wants it. As I listened to the debate, particularly to the negative, I was forced to the conclusion that there is a general misconception, even among lawyers, as to the purpose and functions of the legal profession, in that it is conceived to be, by many, a business, the purpose of which is to provide a means of livelihood for its members, rather than a franchise granted by society, primarily for the purpose of protection and benefit to society itself. Emphasis on this distinction to the Bar and laity, alike, will strengthen the Bar and increase the respect of the laity for it. It is a bit curious that those who conceive the profession to be merely a means of livelihood to its votaries, fail to realize that it has been established by the most irrefragable evidence that no investment pays such big dividends as an

investment in education. I think it may be demonstrated that the money value of an education exceeds the money value of any known commodity. Lawyers or laymen interested in that proposition will do well to secure from the Department of the Interior, educational bulletin No. 22, for the year 1917, entitled, "The Money Value of an Education". They will there find an analysis of statistical data fairly establishing that the child with no schooling has but one chance in one hundred fifty thousand to perform distinguished service, while the child with elementary education has four times the chance, and the child with high school education has eighty-seven times that chance, and the child with college education has eight hundred times that chance.

From the debate it seems obvious to me that one of the principal causes responsible for loss of public respect for the Bar, as a whole, is that the Bar is not keeping abreast educationally with the other learned professions or businesses. Mining, medicine, engineering, chemistry, journalism, manufacturing, banking, transportation, the ministry, the army and the navy, have each set an educational standard far beyond that set by the bar. The lawyer whose education is limited to familiarity with the statute for forcible entry and detainer and whose admission to practice was procured by motion of the county sheriff, may inspire his hill district clients, but he would hardly be expected to challenge the admiration of the college trained men now dominating every industry and every branch of every industry, as well as every learned profession.

The meeting had its social side and setting. There was the reception and tea at the New Willard Hotel in honor of Mrs. Taft, wife of Mr. Chief Justice Taft; the reception at the White House, when the President and Mrs. Harding and Attorney General Daugherty received the visiting delegates and their wives, and also some dozen or more private receptions and formal dinners in honor of the occasion. The reception at the White House was not an ordinary formal reception, at which a delegation was formally received by the President and Mrs. Harding, but was what might be called a "White House Party". The White House was decorated especially for the occasion, those attending being individually invited and admitted by personal card issued to each. The guests assembled in the great ball room of the White House, beautifully decorated for the occasion, and from there passed to the green room, where each was introduced by name to, and was welcomed by the President and Mrs. Harding and Attorney General Daugherty, in words and fashion of hosts receiving their friends. The introductions over, the guests went at will about the White House parlors, gaily chatting with each other and partaking of the hospitality and refreshments.

W. H. H. PIATT

Kansas City, Missouri.

KANSAS CITY MUNICIPAL COURT

An effort to secure a unified court for Kansas City in the recent session of the Missouri legislature resulted in the passage of a compromise bill which gives that city an inferior civil court of good organization and powers. It is a court very similar to the Civil Court of Milwaukee. Ten years ago the establishment of such a court in any large city would have been considered cause for thankfulness. There still remains as much opportunity for such a court to render good service, but with further experience the ideal has advanced and today anything short of complete unification of courts in any large city is recognized by progressives as a makeshift.

The disadvantages of the new court are that it remains a justice of the peace court and its judges are known as justices of the peace, and their salaries are but $3,500 and $4,000 for the associate justices and presiding justice, respectively. The first objection is not substantial, but the salary limitation will make it difficult, if not impossible, to get high class professional material for judges.

The good features are that the court is given rule-making and administrative authority and responsibility for management is centered in the presiding justice. There are to be a chief clerk and chief constable who are to be subject to the "superintending control" of the presiding justice, together with their deputies.

The court has jurisdiction throughout the county in tort and contract cases involving not more than $1,000. The act contains a drastic provision concerning jury demands, for the party who demands jury trial may be required to deposit a sum sufficient to pay all the fees of the jurors.

It is required by the new law that justices shall be lawyers. This will doubtless result in considerable improvement in the administration of justice in Kansas City in the smaller civil causes, but the new court will be subject to all the limitations inherent in an inferior court.—Journal, American Judicature Society, Vol. V, p. 4.

CONSTITUTIONAL LAWYERS—Unless he sits on the Bench of the Supreme Court and hears, day after day, the astonishing discussions and distinctions there presented, no man can fully realize the extent to which ingenuity and refinement of constitutional discussions are rapidly converting the members of our profession in this country into a group of casuists rivaling the Middle Age schoolmen in subtlety of distinction and futility of argument.—Mr. Justice Clarke, before New York University Law Alumni.

CONFERENCE OF BAR ASSOCIATION DELEGATES

The Conference of Bar Association Delegates held at Washington in February of this year, will be a landmark in the history of the American Bar. At this great meeting there were in actual attendance delegates from forty-four state bar associations, the District of Columbia, and one hundred fourteen city and county associations in all parts of the United States, a delegate from the Far Eastern American Bar Association in China, delegates from three Canadian Associations, and representatives from a large number of the great colleges, state universities and law schools of the country. The Missouri Bar Association had three delegates in attendance and there were also delegates from the St. Louis, Kansas City, St. Joseph and Springfield Bar Associations. I believe it is not going too far to say that this conference and the resolution it adopted represent the most important and far reaching step ever taken by the American Bar.

That a resolution such as was adopted should have met with opposition in the conference was to have been expected. The conference was not "packed" for any particular program. Delegates were not selected from any of the associations with any particular program in view nor were any of them instructed beforehand what sort of a program to stand for or how to vote. The opposition was a valuable thing, because it brought about a full and complete discussion of the resolution from all points of view and the delegates were thereby fully informed on all sides of the question before the final vote.

The most significant feature of the conference from my view is the fact that substantially all of the arguments presented by those opposed to the resolution were presented not from the viewpoint of the welfare of the public generally or even of the welfare of the Bar generally, but from the viewpoint of the welfare of a comparatively few individuals. The desirability of college training for the lawyer or other professional man is no longer questioned in enlightened circles today. If college training be not desirable then the entire educational system of the whole country, which it has taken so many years and so much money to build up, is wrong. The opposition did not seriously question the desirability of college training for the lawyer nor the fact that a requirement of two years of college work would elevate the standards of the Bar and thereby benefit the Bar and the public at large; but rather they centered their attack upon the proposition that such a requirement would prohibit many deserving young men from becoming lawyers. They cited the great self-made lawyers of the past as well as many prominent lawyers of the present day who have succeeded without college training. They argued that these men would have been barred from the practice of the law by the standards set up in the resolution. But it seems too clear for

argument that with the splendid educational facilities of today, the vast majority of men who have the courage, initiative and ability to become able lawyers without the advantage of a college education can very easily secure two years of college training by the expenditure of only a comparatively small portion of the effort, ability and self denial required to reach a commanding position at the Bar. Surely we should not adopt a standard generally to cover the isolated instances here and there in which it may not be possible to secure this training. Legislation generally goes on the theory of the greatest good to the greatest number, and practically all legislation results in some hardship to a few persons. The right to practice law is not inalienable. Is it better that the public and the Bar as a whole shall continue to suffer from the work of ignorant, incompetent and poorly trained lawyers or that the standards of the Bar shall be raised by the adoption of more stringent educational requirements, even though the latter course may result in a few isolated instances in barring young men from becoming lawyers and forcing them to seek other lines of avocation?

Is the law a learned profession? We say it is and surely it ought to be, but in Missouri the only educational requirements for admission to the Bar are that an applicant shall have completed a course in a grade school or have acquired an education equivalent thereto, and be able to pass the state Bar examination on legal subjects. It is well known, of course, that any man may cram for such an examination and pass it and at the same time have little knowledge of the fundamentals of the law. Can we, therefore, say that a man must be learned in any proper sense of that word in order to enter the profession of the law in this state?

The resolution adopted by this conference represents the almost unanimous expression of the best legal and educational thought of the country and I hope the requirements it provides may be adopted at an early date in Missouri. MURAT BOYLE

Kansas City, Missouri.

BAR ASSOCIATIONS—The duty to maintain and transmit these traditions unimpaired stands in the forefront of those debts which every lawyer owes to his craft; and since it is a thing only to be performed effectively by concerted action, it forms in and by itself a sufficient reason for the formation of bar associations and makes the call to membership in them imperative. Not only have the bar associations of the United States done vital work in guarding the standards of professional training and conduct, but they offer the only avenue to solidarity, and in the last resolve the most effective means of inspiration and of discipline. The profession should not rest content until every lawyer worthy of the name is inscribed upon their rolls.—John W. Davis before New York State Bar Association.

WASHINGTON RESOLUTION

RESOLVED; That the National Conference of Bar Association adopts the following statement in regard to legal education:

1. The great complexity of modern legal regulations requires for the proper performance of legal services lawyers of broad general education and thorough legal training. The legal education which was fairly adequate under simpler economic conditions is inadequate today. It is the duty of the legal profession to strive to create and maintain standards of legal education and rules of admission to the bar which will protect the public both from incompetent legal advisers and from those who would disregard the obligations of professional service. This duty can best be performed by the organized efforts of bar associations.

2. We endorse with the following explanations the standards with respect to admission to the bar, adopted by The American Bar Association on September 1, 1921:

> Every candidate for admission to the Bar should give evidence of graduation from a law school complying with the following standards:
>
> (a) It shall require as a condition of admission at least two years of study in a college.
>
> (b) It shall require its students to pursue a course of three years' duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only part of their working time to their studies.
>
> (c) It shall provide an adequate library, available for the use of the students.
>
> (d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

3. Further, we believe that law schools should not be operated as commercial enterprises, and that the compensation of any officer or member of its teaching staff should not depend on the number of students or on the fees received.

4. We agree with the American Bar Association that graduation from a law school should not confer the right of admission to the Bar, and that every candidate should be subjected to examination by public authority other than the authority of the law school of which he is a graduate.

5. Since the legal profession has to do with the administration of the law, and since public officials are chosen from its ranks more fre-

quently than from the ranks of any other profession or business, it is essential that the legal profession should not become the monopoly of any economic class.

6. We endorse The American Bar Association's standards for admission to the Bar because we are convinced that no such monopoly will result from adopting them. In almost every part of the country a young man of small means can, by energy and perseverance, obtain the college and law school education which the standards require. And we understand that in applying the rule requiring two years of study in a college, educational experience other than that acquired in an American college may, in proper cases, be accepted as satisfying the requirement of the rule, if equivalent to two years of college work.

7. We believe that the adoption of these standards will increase the efficiency and strengthen the character of those coming to the practice of law, and will therefore tend to improve greatly the administration of justice. We therefore urge the bar associations of the several states to draft rules of admission to the Bar carrying the standards into effect and to take such action as they may deem advisable to procure their adoption.

8. Whenever any state does not at present afford such educational opportunities to young men of small means as to warrant the immediate adoption of the standards, we urge the bar associations of the state to encourage and help the establishment and maintenance of good law schools and colleges, so that the standards may become practicable as soon as possible.

9. We believe that adequate intellectual requirements for admission to the Bar will not only increase the efficiency of those admitted to practice but will also strengthen their moral character. But we are convinced that high ideals of professional duty must come chiefly from an understanding of the traditions and standards of the bar through study of such traditions and standards and by the personal contact of law students with members of the Bar who are marked by a real interest in younger men, a love of their profession and a keen appreciation of the importance of its best traditions. We realize the difficulty of creating this kind of personal contact, especially in large cities; nevertheless, we believe that much can be accomplished by the intelligent cooperation between committees of the Bar and law school faculties.

10. We therefore urge courts and bar associations to charge themselves with the duty of devising means for bringing law students in contact with members of the Bar from whom they will learn, by example and precept, that admission to the Bar is not a mere license to carry on a trade, but that it is an entrance into profession with honorable traditions of service which they are bound to maintain.

COMMERCIAL COURTS—The present Judge who sits in the Commercial Court, Mr. Justice Bailhache, is carrying on the traditions of the Court with the greatest success and the fullest confidence of all who appear before him. I asked him how long he was taking at present to try his commercial cases, and he said that the average time from the time you went to the Judge to the time the case was heard was two months. Now, in the United States no commercial case is heard under a year. And these quick hearings in our Commercial Court are the things that have struck lawyers over here from the United States. Apparently in the United States they are still in the stage that we used to be in. They are using the old English forms and particulars for delay, freely availed of by defendants who want to be dilatory. There the plaintiff complains that he cannot get a decision, because the judges, being popularly elected, are tied down by strict rules of procedure. Here the speed is such that the defendant may howl because the case is decided before he has time to turn around.—Lord Justice Scrutton, 1 Cambridge Law Journal, p. 17.

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