



1918

## News, Notes, *and* Advertisements

Virgil Chapman  
*University of Kentucky*

Elihu Root

Kentucky Law Journal

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# Kentucky State Bar Association

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## NOTES.†

### THE NECESSITY FOR RAISING THE STANDARDS OF PREPARATION FOR THE BAR.\*

By Elihu Root.

Why is it that these defects exist in American administration  
of justice? \* \* \* \*

†By the Editor-in-Chief.

\*An excerpt from the masterly address of this eminent lawyer and statesman on "Public Service by the Bar." It is the sincere hope of the editor that every lawyer and every lawmaker will give this article the careful perusal which it deserves. It deals with a subject of great moment to our State.

I think that the underlying cause of this defective administration of justice is that the Bar and the people of the country generally, proceed upon a false assumption as to their true relation to judicial proceedings. Unconsciously, we all treat the business of administering justice as something to be done for *private benefit* instead of treating it primarily as something to be done for the *public service*. \* \* \* \* There are indeed two groups of men who consider the interests of the community. They are the teachers in the principal law schools and the judges on the bench. With loyalty and sincere devotion they defend the public right to effective service; but against them is continually pressing the tendency of the Bar and the legislatures and, in a great degree of the public, towards the exclusively individual view.

The public tendency is exhibited at the very beginning of the whole business in permitting *admissions to the Bar without adequate education* and training. Few ideas have been more persistent throughout this country than the idea that the prevailing consideration in determining admission to the Bar should be that every young man is entitled to his chance to be a lawyer and that all requirements of attendance in offices and law schools and for difficult examinations are so many obstacles in the way of liberty and opportunity, defenses of aristocratic privilege and derogations from democratic right. The law schools have been slowly winning their way along the lines of better training for the Bar, but the progress is very slow and the pressure for brief and easy ways to get a license to practice is continuous. \* \* \* \*

One consequence is the excess of lawyers that I have mentioned.

Another consequence is that the efficiency of our courts is reduced, their rate of progress retarded, the expense increased, their procedure muddled and involved by an appreciable proportion of untrained and incompetent practitioners; by badly drawn, confused, obscure papers difficult to understand; by interlocutory proceedings which never ought to have been taken and proceedings rightly taken in the wrong way and inadequately presented; by vague, haphazard ideas as to rights and remedies; by ignorance of the principles upon which our law of evidence is based; by igno-

rance of what has been decided and what is open to argument; by waste of time with worthless evidence and useless dispute in the trial of causes; by superfluous motions and arguments and appeals; and by the correction of errors caused by the blunders of attorneys and counsel. In many jurisdictions there is a considerable percentage of the Bar whose practice causes the courts double time and labor because the practitioner is not properly trained to use the machinery furnished by the public for the protection of his clients. In the meantime other litigation waits and the public pays the expense.

There is another evil arising from defective education. These half-trained practitioners have had little or no opportunity to become imbued with the true spirit of the profession. That is not the spirit of mere controversy, of mere gain, of mere individual success. To the student of the law, there comes from Hortensius and Cicero, and Maesherbès and De Seze, and Erskine and Adams, from all the glorious history of the profession of advocacy, great traditions and ethical ideals and lofty conceptions of the honor and dignity of the profession, of courage and loyalty for the maintenance of the law and the liberty that it guards. It is to be a Bar inspired by these traditions, imbued with this spirit, not commercialized, not playing a sordid game, not cunning and subtle and technical or seeking unfair advantage—a Bar jealous of the honor of the profession and proud of its high calling for the maintenance of justice—that we must look for the effective administration of the law.

The old customs under which the young law student was really guided and instructed in the law office of the established practitioner, under which the youth was impressed by the example and spirit and learning of his senior, are rapidly passing away. In the greater part of the country these customs no longer continue. The law school has taken the place of the law office, and the rights of the people of the United States to have an effective administration of the law require that *the standards of the best law schools shall be applied to determine the right to membership in the Bar*. When we compare our own method with the test of the three years' probation of the French Licentiate and the arduous four years' training of the German Referendar, we may realize how little the Amer-

ican people have had in mind the protection and promotion of the public interest in requiring competency at the Bar.

No one can help sympathizing with the idea that every ambitious young American should have an opportunity to win fame and fortune. But that should not be the controlling consideration here. The controlling consideration should be the public service, and the right to win the rewards of the profession should be conditioned upon fitness to render the public service. No incompetent sailor is entitled to command a public ship; no incompetent engineer is entitled to construct a public work; no untrained lawyer is entitled to impair the efficiency of the great and costly machinery which the people of the country provide, not for the benefit of lawyers, but for the administration of the law. \* \* \* \*

The present condition of our law presents very strong reasons why lawyers should awake to a sense of responsibility for another and still more serious service which will require a Bar *made strong by the application of stringent tests for admission, and by the best work of the best law schools in its training.* \* \* \* \*

The only way to clarify and simplify our law as a whole is to reach the lawyer in the making and *mold his habits of thought by adequate instruction and training*; so that when he comes to the Bar he will have learned to think not merely in terms of law, but in terms of jurisprudence.



Probably more history was made in the year just passed than in any other twelve-month period in the annals of human achievement. With stupendous events passing in such rapid succession that the finite mind can scarcely contemplate the change, with new leaders appearing daily on the horizon of world affairs, we were prompted to take a retrospective view and count the number of national figures that had passed to that "undiscovered country" during 1917. From that list we have culled the following names of especial interest to our readers. All of these men were lawyers except Sir William J. Herschel, of India, discoverer of finger-print identification, who died Oct. 24. The others follow chronologically: Wayne McVeagh, former Attorney General of the United States, Jan. 10; G. W. Guthrie, Ambassador to Japan, March 8; Congress-

man Cyrus A. Sulloway, of New Hampshire, March 11; Richard Olney, former Secretary of State, April 4; Joseph B. Foraker, former Senator from Ohio, May 10; Joseph H. Choate, former Ambassador to Great Britain, and dean of the American Bar, May 14; Belva A. Lockwood, Washington lawyer, and only woman who ever ran for President of the United States, May 19; Senator Harry Lane, of Oregon, May 22; William Henry Harrison Miller, one time law partner of President Benjamin Harrison, and Attorney General under the latter's administration, May 25; Judson C. Clements, Interstate Commerce Commissioner, June 17; William H. Moody, former Associate Justice of the Supreme Court of the United States, July 1; John W. Kern, Senator from Indiana, August 17; Don M. Dickinson, former Postmaster General, Oct. 15; Paul O. Hustung, United States Senator from Wisconsin, Oct. 21; "Private" John Allen, Confederate veteran, ex-Congressman from Mississippi, and far-famed humorist, Oct. 30; General Charles H. Grosvenor, Union veteran, and former Ohio Congressman, Oct. 30; John W. Foster, former Secretary of State, Nov. 15.

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The Circuit Judges' Association of Kentucky held its annual meeting in Louisville December 27 and 28. Judge Charles Kerr spoke on "Needed Legislation and Changes of Procedure." Judge Shackelford Miller was on the program for an address, and Judge B. J. Bethurum delivered an instructive and entertaining speech on the famous fight between the Old Court and the New Court parties in Kentucky a century ago.

Judge Walter P. Lincoln and Judge Bunk Gardner led the discussion which took place in denunciation of the employment of the "third degree" in large cities, charging that the "anti-sweating" law had not remedied this abuse of power on the part of some officials.

Officers were elected for the ensuing year as follows: Walter P. Lincoln, president; J. R. Layman, first vice president; Will H. Field, secretary-treasurer.

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The Commonwealth Attorneys' Association met in annual session also December 27 and 28. J. W. Waugh spoke on "Laws

Seldom Enforced." Governor A. O. Stanley appealed eloquently for rigid enforcement of law and condemned with his usual vehemence the practice of lynching.

The Commonwealth attorneys in joint session with the circuit judges listened to addresses by Thos. D. Slattery, United States District Attorney, on "How Prosecutors Can Help Win the War," and Colonel G. W. Blain, Judge Advocate at Camp Zachary Taylor, on "Courts-Martial."

The following officers were elected for 1918: Henry De Haven Moorman, president; B. S. Grannis, first vice president; Jack Fisher, second vice president; Stephen L. Blakey, secretary-treasurer.

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Two prominent Kentucky lawyers and members of the State Bar Association were recent victims of terrible accidents. Redford C. Cherry, of Bardstown, was killed, as were his wife and son, in a railroad wreck. Mr. Cherry came originally from Warren county. He had served as county attorney of Nelson county and was reckoned one of the strong young men of his profession in Kentucky. Alex. P. Humphrey, Jr., son of Judge Alex. P. Humphrey, of Louisville, was killed at an aeronautic training camp when the plane in which he was flying fell several hundred feet. At a recent meeting of the Louisville Bar Association, Judge Henry S. Barker, former Chief Justice of the Court of Appeals, delivered an eloquent and touching eulogy on the life and deeds of the brave young lawyer-aviator.

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Judge Frank Daugherty, of Bardstown, former Commonwealth attorney of the "Shoe-string District," and prominent in the Kentucky Bar Association, was seriously injured in the same wreck that killed Mr. Cherry, but the latest report from his bedside is that he will recover.

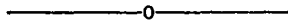
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The annual meeting of the Louisville Bar Association was held December 28. Colonel E. F. Trabue, chairman of the Judicial and Legislative Committee, made a forceful appeal to the members of the Louisville bar to co-operate with the Kentucky State Bar Association in an effort to raise the standard for admission to the bar.

Colonel Trabue, who has served as chairman of the State Bar Association's Committee on Legal Education and Admission to the Bar, has always been one of the foremost champions of higher standards. The members of the Louisville Association will do all they can to assist the State Association in accomplishing this badly-needed reform.

The Investigating Committee reported some unethical practice in bankruptcy proceedings. The writing of letters soliciting this kind of employment was vigorously denounced. There was some discussion of the plan of Judge Landis, of Chicago, in appointing a cabinet of lawyers whose duty it is to select a list of attorneys from which trustees in bankruptcy must choose their counsel.

According to those who have studied the matter closely the above-mentioned evil is largely attributable to the ease with which too many men are admitted to the bar. They enter the practice often unprepared and with no appreciation whatever of the dignity of the profession. They become "hammer and saw lawyers," with little or no conception of the spirit of laws, the ideals of justice and the duty of the lawyers as officers of the court.



On motion of George R. Smith, a graduate of the College of Law of the University of Kentucky, class of '15, the Fayette Bar Association recently purchased a beautiful service flag for the circuit court room. The flag contains fifteen stars, one for each member of the Association who is either in a training camp or "over there."



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