



1929

Bar Association Appointments/Notice

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on this proposition: "The air space which is now used, or which in the future may be used, in the development of the underlying land is the private property of the land owner to which he is entitled to the exclusive use and control."

In that case it appeared from the evidence that planes taking off and landing from the defendant's air field passed over plaintiff's property between the heights of 100 and 1000 feet and it was claimed by the plaintiff that this was a trespass and also a nuisance and should be enjoyed by a court of equity upon those grounds.

The court, however, held that the regulation by the Secretary of Commerce under the United States Air Commerce Act of 1926 and the provision of the statute of the State of Massachusetts fixing 500 feet as a minimum altitude of flight by aircraft and allowing a free flight above that altitude to be a proper regulation both by Congress under the interstate commerce clause and by the state legislature of Massachusetts under the police power, and that such acts were not unconstitutional as depriving the owner of the land, of his property without due process of law either under the federal or state constitution.

The court further held that the flight of airplanes at lower altitude in order to reach or take off from the airport necessitating flight over the land of an adjoining property owner at altitudes of less than 500 feet and as low as 100 feet was a trespass upon the premises of the owner of such adjoining land but under the evidence in the case held not to be such a trespass as to warrant injunctive relief.

In view of the fact that there will be no further meeting of this Association until after the next session of our Legislature, your Committee recommends that this subject be given due consideration by our Legislative Committee before the convening of the legislative session next winter, and that after such study and investigation as they may deem proper, that such Committee prepare a North Dakota Air Commerce Act and submit same to the Executive Committee of this Association; and that in case same shall be approved by the Executive Committee, that such proposed Act be submitted to the next legislative assembly for passage.

Respectfully submitted,

JOHN O. HANCHETT, Chairman.

BAR ASSOCIATION APPOINTMENTS

The annual meeting of the Association will have for its consideration the following matters of appointment:

First, Selection of three members of the Bar for recommendation to the Supreme Court as candidates for appointment to the Bar Board, the term of John Knauf, of Jamestown, expiring in January, 1931.

Secondly, Selection of five members of the Bar to represent the Association on the Judicial Council, the terms of all present members expiring in January, 1931.

The Executive Committee desires to direct attention to the fact that no provision is made in the Association's Constitution or By-Laws for the method of selecting those to be presented to the consideration of the Supreme Court for the Bar Board appointment. Several methods have been employed in the past. One was the general referendum

method of nomination and the selection of the three receiving the largest number of votes. In such cases the choice represented only a small minority of the members of the Bar. The second method was the preparation of a ballot by the Executive Committee, the ballot containing double the number of names to be presented to the Court. This resulted in a more expressive vote, but, usually, with some of the names carrying a small minority vote. The third method, used only once in an emergency, was the direct selection of the names by the Executive Committee.

It is clear that, if the present method of selecting those to be recommended to the Supreme Court is to continue, definite provision should be made in the Constitution and By-Laws for the method of selection.

Chapter 124 of the 1927 Session Laws provides the method for selecting the Bar Association representatives on the Judicial Council. Section 1 of that Chapter states, "five members of the Bar who are engaged in the practice of law, who shall be chosen by the Executive Committee of the State Bar Association."

The selection of members of the Judicial Council will, therefore, rest upon the Executive Committee to be formed following the 1930 annual meeting.

FINANCIAL STATEMENT

Receipts

Balance on hand date of last report	\$1,096.51
Received from Bar Board, balance 1929 fees	150.00
Received from Bar Board, 1930 fees, 529	2,645.00
Received from Banquet Committee, 1929	155.00
Total	\$4,046.51

Expenditures

1929 Annual Meeting Expense	\$ 362.76
1930 Annual Meeting Expense (to date)	25.00
1929 Banquet	155.70
Printing and Postage	77.17
Miscellaneous	192.41
North Dakota Law Review, balance 1929 and one-half 1930	200.00
Annual Proceedings 1929 (December Bar Briefs)....	392.30
Citizenship Committee, Prizes (1929)	200.00
Citizenship Committee, Expense (1929)	27.54
Secretary-Treasurer	710.00
Bar Briefs	311.50
Executive Committee	159.31
President	215.79
Total	\$3,029.48
Balance on hand	\$1,017.03

R. E. WENZEL,
Secretary-Treasurer.

NOTICE

Copies of the July and August issues of Bar Briefs, carrying the printed reports of committees, will be available at the Devils Lake meeting.