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## Redeeming the Bar

Jacob J. Lieberman

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*The Prophet Unprofited*

Out of the book of Exodus the speaker shuddered for the Democratic candidate in his Mosaic garb fearing lest his followers out of the land of bondage should cry forthwith for the flesh pots of Egypt and say "what shall we drink?" And that the streams gushing from the rocks stricken by his rod might disappear in the desert at the State line. The election, said the speaker,

was in reality a plebiscite and the church bells to ring on the morrow, "as though for a new St. Bartholomew's Day," were not, in the view of the speaker, ringing for the tariff or the Boulder Dam, however well they might.

At the conclusion of the address Mr. Shafroth took occasion to thank Mr. Walker and the meeting adjourned.

—V. A. M.

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## *Redeeming The Bar*

By JACOB J. LIEBERMAN, of the Los Angeles Bar (formerly of Denver)

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THE California State Bar Association is no more. In its place is a public corporation created by the act of the California Legislature of 1927, known as "The State Bar of California". In other words, California now has an incorporated Bar headed by a Board of Governors. The first Governors are the Chief Justice of the Supreme Court of the State of California, and four members appointed by the Chief Justice from the Bar of the State at large. These first Governors constitute the State Bar Commission whose duty it is to place the State Bar act in operation. The first meeting of this Commission has been called for November 18th. In the meantime elections have been held in accordance with this act throughout the State, to make up the first official Board of Governors, succeeding the State Bar Commission. The meeting of November 18th is the organization meeting of the new public body known as the State Bar of California, and it will consist of one member elected from each Congressional District of the State of California, and four members elected from the State at large, who shall hold office for the period of one year, and until its successors are

elected and qualified. There are eleven Congressional Districts in California, therefore, the permanent Board of Governors will consist of fifteen members, who will, at this organization meeting, and annually thereafter, elect their officers consisting of a President, three Vice-Presidents, Secretary and Treasurer. The latter two officers need not be members of the State Bar.

The act provides—"that the State Bar shall be governed by the Board of Governors," which shall be charged with the executive functions of the State Bar and enforcement of the provisions of the State Bar act, and shall have the power to appoint such committees, officers and employees as it may deem necessary or proper, including local administrative committees, and shall likewise have "power to aid in the advance of the science of jurisprudence, and in the improvement of the administration of justice."

Another power of great importance and great significance is that which this Board has, subject to the approval of the Supreme Court and to the provisions of the act, to fix and determine the qualifications for admission to practice law in the State, and to constitute and appoint a committee of

not more than seven members with power to examine applicants, and recommend to the Supreme Court for admission to practice law those who fulfill the requirements. The present rules for admission to practice continue only until such time as the Board of Governors shall, with the approval of the Supreme Court, adopt new rules. In view of the recent influx of Denver lawyers to Los Angeles, this causes the writer to note here the caution to those who may be contemplating a similar step, that delay may be costly, for no one can predict what the Board of Governors may do about establishing regulations for admission to the Bar from a foreign State. At present an attorney in good standing of any other State may be admitted upon motion and proper recommendations after investigation by the Bar Examining Board.

Another extremely broad and powerful weapon placed in the hands of the Board of Governors is the power to disbar members or to discipline them by reproof, public or private, or by suspension from practice, and to pass upon all petitions for reinstatement, subject to review by the Supreme Court, provided a petition be filed with the Supreme Court for a review of the decision of the Board of Governors within sixty days after the decision shall have been filed with the Supreme Court, and the burden is placed upon the petitioner to show wherein such decision is erroneous or unlawful. The Board is given power, subject to the laws of the State, to formulate and declare rules and regulations necessary or expedient for the carrying out of the act, and to adopt rules and regulations, which, when approved by the Supreme Court, shall be binding upon all members of the State Bar, and the willful breach of any such rules shall be punishable by suspension from the practice of law for a period not to exceed one year, although this power of

suspension, etc., has been given to this Board, the present powers of the Courts to hear disbarment cases, are not to continue. The Board of Governors is given the power of compelling attendance of witnesses and the production of books, papers and documents pertaining to matters under investigation, or to the trial or hearing. No member of the Bar of the State of California, who fails to register with the State Bar prior to its annual meeting, will be allowed to practice law in the State of California, and thereafter no person shall practice law unless he shall be an active member, in good standing, in the State Bar, which of course includes the prompt payment of annual membership fee.

The registration in connection with the organization of this new State Bar has revealed some interesting figures, showing 7,872 lawyers practicing in the State of California who have registered in time to participate in the first election for the Board of Governors. Of these 2,738 are practicing in the City of Los Angeles, with 499 lawyers in Los Angeles County outside of the City of Los Angeles. This means that there are at least as many lawyers actively engaged in the practice of law in the State, County and City aforesaid as have so far registered. Undoubtedly more will awaken at the last moment to the realization of the importance of their enrollment in the new organization.

In view of the organization of the new State Bar, and in view of the powers which were given to it, by the legislature, the California State Bar Association, at its last meeting held in September, by act of its members, dissolved. The local bar associations will, of course, continue as heretofore.

The incorporated Bar of the State of California is the result of many years of effort upon the part of the lawyers of the State. The purpose of incorporating the Bar (and, therefore, the

chief arguments used in its favor) are briefly summarized thus:

1. To secure a better administration of justice.
2. To place full responsibility upon the bar, both as to qualifications for admission to practice and conduct after admission.
3. To see that every lawyer recognizes "that one who practices law holds a position of public trust and that his primary duty is to be faithful to that trust."
4. To organize the bar upon an efficient and businesslike basis.

The reasons for incorporation of the Bar have suggested the title of this article—"Redeeming the Bar". The desire for an incorporated Bar was evidently the result of a desire so to control the Bar as to redeem it in the eyes of the world. In the words of the Honorable Charles E. Hughes, "the administration of justice is the concern of the whole community, but it is the special concern of the Bar. We are ministers of justice and no lawyer is worthy of any reputation in the profession, whatever his ability may be, if he does not regard himself first and last as a minister of justice in the community in which he practices."

Mr. Hughes, in speaking of the objects of the organized bar, expresses himself thus: "To unify and make more effective the support of the ethical standards of the profession; to give expression to preponderant sentiment as against those who misrepresent the profession and bring it into disrepute; to keep the streams of justice pure; to preserve the traditions of an independent bar, zealous of individual liberty, resisting every encroachment of power, and demanding and dignifying the service of an incorruptible bench; to achieve by unwearied and intelligent labor the removal of obstacles to the speedy vindication of individual and public rights."

The fear which some lawyers have as to the danger of such an incorporated bar, and perhaps the chief opposition to it, is that the great powers concentrated in the board of governors will result in the formation of a machine so powerful as to dominate the profession and dictate the selection even of the members of the bench.

I understand that Alabama, North Dakota, New Mexico and Idaho already have incorporated bars, successfully operating.

In keeping with the desire to redeem the profession in the eyes of the public has been another measure now in effect in the State of California. By constitutional amendment adopted November 2, 1926, the people of the State of California created what is known as a Judicial Council consisting of the Chief Justice of the Supreme Court, one associate Justice of the Supreme Court, three Justices of the District Courts of Appeal, four Judges of the Superior Courts, one Judge of a Police or Municipal Court, and one Judge of an inferior court assigned by the Chief Justice to sit thereon, for terms of two years, of which the Chief Justice or acting Chief Justice is Chairman.

It is the function of the Chairman to expedite judicial business, and to equalize the work of the Judges, and he must make provision for the assignment of any Judge to any court of a like or higher Justice to assist a court or Judge whose calendar is congested, to act as Judge who is disqualified or unable to act, or to sit and hold court where a vacancy in the office of Judge has occurred.

Under these powers of the Chief Justice, and of the Judicial Council, it is hoped that one of the chief causes of the failure of justice may be eliminated, to wit the laws delays, and the bench and bar be thus both redeemed in the eyes of the public.

Until very recently a case at issue in Los Angeles in which both parties were ready for trial would normally be set on the calendar for eighteen months hence in the Superior Court of Los Angeles County, although that court has a Secretary whose business it is to transfer cases from one Department to another, where, for example, one Court has several cases ready for trial, and the calendar in another court "blows up" leaving the Department free to try other cases.

Recently one of these Departments of the Superior Court in Los Angeles County (which is the equivalent of the District Court at Colorado)—and there are now thirty-eight departments of the Superior Court—was set aside to handle what is known as the short cause calendar cases being sent to this department in which the parties agree to submit the entire case within the limitation of one hour. Already the council has accomplished wonderful results. The investigation and recommendations of the Judicial Council resulted in the legislature this year increasing the number of Judges in Los Angeles County upon the Superior Bench from twenty-eight to thirty-eight. Judges have been assigned from the Superior Bench to the District courts of Appeals to relieve the congestion, and Judges from outside Counties have been assigned to the larger Counties where the calendars are congested, and during the summer as many as ten outside Judges were sitting at a time, assisting in hurrying up the calendar. The Council is constantly working upon suggested changes in procedure, both criminal and civil. The clouds of congestion are still darkening the horizon in the Los Angeles Court, and in the appellate courts, but the light of relief is commencing to shine through, and unless litigation increases disproportionately California will, before long, have a

situation where justice may be obtained within a reasonable time.

(In view of the constantly increasing intercourse, commercially and otherwise, between Colorado and California, request has been made that the writer furnish the Denver Bar Record with a series of articles throwing light upon such differences between the law and procedure of the two States as may be of interest or of value to the Bar of Denver. This is the first of the series.)

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### Communications

A gentleman who follows closely the proceedings of the Committee on Professional Ethics has, in a communication touching upon some of the questions previously presented for the Committee's opinion, taken occasion to submit the following to the chairman:

"I am always embarrassed by the word "ethical". In my own mind degrees of lawyers' undesirable conduct are ranked: undignified, unprofessional, unethical, and unbearable. Placing any given conduct in its class is often difficult, but I have specific conduct in mind for defining each class:

*"Undignified—*

Carrying the breakfast egg to his office on his coat.

*"Unprofessional—*

Refusing a case because there is little or no money in it.

*"Unethical—*

Expressing a public opinion as if an uninfluenced opinion when in fact his opinion is influenced.

*"Unbearable—*

Lying, cheating."

Believing the classification indicated may be of interest to readers the point is passed on to the Record.

E. D. UPHAM