



UNC
SCHOOL OF LAW

NORTH CAROLINA LAW REVIEW

Volume 15 | Number 4

Article 4

6-1-1937

The North Carolina State Bar

North Carolina Law Review

Follow this and additional works at: <http://scholarship.law.unc.edu/nclr>



Part of the [Law Commons](#)

Recommended Citation

North Carolina Law Review, *The North Carolina State Bar*, 15 N.C. L. REV. 438 (1937).

Available at: <http://scholarship.law.unc.edu/nclr/vol15/iss4/4>

This Comments is brought to you for free and open access by Carolina Law Scholarship Repository. It has been accepted for inclusion in North Carolina Law Review by an authorized administrator of Carolina Law Scholarship Repository. For more information, please contact law_repository@unc.edu.

THE NORTH CAROLINA STATE BAR

KEMP D. BATTLE, *Editor*

The quarterly meeting of the Council was held in the Supreme Court room at Raleigh, on April 16, 1937, every Councillor being present except Mr. S. W. Black of the Twentieth District who had previously tendered his resignation. It seems worthy of comment that of the nineteen Councillors scattered from the sea coast to the mountains not one has failed to consider attendance at the Council meetings as engagements of importance. Since the Council was first organized it has been observed that its members have always endeavored to shape their professional and private affairs so as not to interfere with Council attendance, and this has been just as true of those Councillors who have had to travel two hundred miles or more, as of those nearer at hand. The resignation of Mr. Black was received with sincere regret. He has discharged his duties with admirable fidelity, earnestness and intelligence.

Mr. Julius C. Smith, President of the State Bar, was unavoidably prevented from attending this meeting, being absent at an important insurance conference in Texas. Vice-president Charles G. Rose of Fayetteville presided in his stead. The appointment by President Smith of a Committee on Administrative Law, as authorized at the preceding meeting of the Council, was announced. The Committee consists of Robt. H. Wettach of Chapel Hill, G. H. Hastings of Winston-Salem, A. D. McLean of Raleigh, W. W. Sledge of Durham and C. H. Gover of Charlotte. The Committee has selected Mr. Wettach as chairman. Its work will be followed with interest.

Mr. Hayden Clement, Chairman of the Committee on Legislation and Law Reform, reported passage by the General Assembly of the bills amending the act incorporating the North Carolina State Bar. These amendments have filled certain gaps in the charter of the organization pointed out in the opinion of the Supreme Court in the much discussed case of *In Re Parker*, 209 N. C. 693, 184 S. E. 532 (1936), Note (1936) 14 N. C. L. REV. 374. For a discussion of these amendments see page 330 of this issue of the REVIEW.

Upon recommendation of the Grievance Committee a hearing was ordered upon charges filed against Mr. James F. Ashby of Mount Airy and a trial committee was appointed consisting of Messrs. Hayden Clement, A. Turner Grant and Walter C. Feimster. The case will be prosecuted by Mr. A. A. F. Seawell, Jr., the Council's investigator.

Charges against two other members of the Bar were, upon recommendation of the Grievance Committee, dismissed; and two other cases were left with the Committee for further investigation.

In connection with one of these cases the Council was again brought face to face with the fact that it has no procedure for procuring service by publication as a preliminary to hearing of charges against attorneys who have departed from the bounds of the State. It may become advisable to supply this omission by further legislation.

A report of the committee appointed to conduct hearing of charges filed against Mr. Robt. E. Denny, attorney of Moore County, was made to the Council and after discussion judgment was entered suspending the respondent from the practice of law in the State of North Carolina for a period of six months, effective immediately.

The report which was made at the January meeting by Councillor B. H. Perry, Chairman of the Committee on Unauthorized Practice of Law, summarized in 15 N. C. L. Rev. 301 (April, 1937), has evoked considerable discussion. On the one hand the view has been urged that the Bar was incorporated to serve the broad purpose of protecting the public and the lawyers against abuses in the practice of law whether by attorneys or by laymen. The advocates of this view suggest that the act incorporating the Bar, when viewed in its entirety, reveals this purpose on the part of the Legislature, and that the Council is not limited to specially enunciated powers but is vested with a broad authority to engage in activities patently designed to achieve the general ends sought. In other words "a general welfare clause" is thought to be discerned in the general purpose of the Act.

On the other hand it is pointed out that the State Bar is a statutory body with specific powers and duties. So far as discipline is concerned those powers are stated in N. C. CODE ANN. (Michie, 1935) §215(9), (11). These sections specifically refer to attorneys. There are no specific general powers granted in the Act which would enlarge the specific powers pointed out in those sections. It is further suggested that money collected by compulsory dues can be expended only in accordance with the terms of the Act, which contains no authorization for the expenditure of funds in prosecuting laymen for illegal practice of law. Indeed, the General Assembly has placed that duty elsewhere. N. C. CODE ANN. (Michie, 1935) §§199(a)-199(g) prohibits in detail the unauthorized practice of law. Section 199d definitely imposes upon the Solicitor the duty to bring indictments and to bring civil action for injunction upon request of a member of the Bar or any Bar Association. According to this view the law makers have selected the Solicitor as the proper party to proceed and by inference have made him the sole

moving party. Under this power the Council must limit its activities to investigation and to stimulation of action by Solicitors and to encouragement of local associations to do likewise. The success of the Junior Bar at Asheville in the proceedings against the Carolina Motor Club offers a happy illustration of what can be done along this line.

It is hoped that the increasing interest in this problem and the active debate as to methods of procedure will soon eventuate in an aggressive campaign to restrict auditors, accountants, Justices of the Peace, Clerks of Superior Court and others to their proper spheres of activity. The Council will welcome suggestions from members of the Bar and would welcome a discussion by the editors of the *LAW REVIEW* of the legal problem presented.