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# The North Carolina State Bar

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## THE NORTH CAROLINA STATE BAR

Kemp D. Battle, *Editor*

### July Council Meeting

The summer meeting of the Council of the State Bar was held on July 14, 1939. There were present Vice-president Geo. C. Green, Secretary E. L. Cannon and Councillors Junius D. Grimes, K. D. Battle, D. H. Bland, Louis J. Poisson, G. H. Hastings, Don A. Walser, J. Laurence Jones, Hayden Clement, B. F. Williams, A. Turner Grant, J. E. Shipman, Julius Martin, II, R. L. Phillips and P. W. Glidewell.

The Council considered report of the trial committee on charges preferred against Attorney L. A. Whitener of Catawba County. After hearing argument of counsel for the respondent and for the State Bar, judgment was entered suspending the respondent from the practice of law for a period of twelve months.

Upon the report of the trial committee appointed to hear charges filed against Attorney R. L. Huffman of Catawba County, the Council entered judgment disbaring the respondent from the practice of law.

A statement of policy was formally adopted to the effect that if any person against whom charges are filed remits any money to any officer or attorney of N. C. Bar, with a view of making good delinquencies in settlements with clients, such sums of money shall be returned to the person remitting same. The Council wished to leave no room for doubt that it does not consider itself in any respect a collecting agency and that tenders of reimbursements are irrelevant to the consideration of complaints.

The Council received from the Board of Law Examiners recommendations of amendments to rules 8 and 9 referring to the status of special students at approved law schools and their general educational background. The Council invited the Board of Law Examiners to send a representative to the October meeting of the Council to discuss these changes before final action is taken.

The Secretary was authorized to employ Mr. S. W. Ruark of Raleigh to assist in prosecuting before the trial committee charges filed against Attorney Jesse A. Jones of Lenoir County.

It was reported that there were several uncompleted investigations by the Grievance Committee and that there were several cases in which trials had been ordered but not yet held. It is anticipated that reports from them will be received at the October meeting.

### October Council Meeting

The October meeting of the Council was held in the Supreme Court room at Raleigh, October 26, 1939, with the following present:

Officers: Fred S. Hutchins, President, George C. Green, Vice-president, Edward L. Cannon, Secretary-Treasurer.

Councillors: Junius D. Grimes, Kemp D. Battle, B. H. Perry, D. H. Bland, Albion Dunn, John D. Warlick, Louis J. Poisson, Dickson McLean, G. H. Hastings, Charles W. McAnally, J. F. Milliken, J. Laurence Jones, Hayden Clement, B. F. Williams, A. Turner Grant, Dover R. Fouts, R. L. Phillips and P. W. Glidewell, Sr.

Councillors Cheshire and Reade were absent because of illness.

Mr. McAnally, who succeeded Councillor Don Walser from the Twelfth District, and Mr. Fouts who succeeded Mr. Shipman from the Eighteenth District, and Mr. Warlick, who had been absent from previous meetings since his election, were welcomed to the Council.

The report of the trial committee which had heard charges filed against Mr. G. V. Fesperman, an attorney who had practiced at Southport, Wilmington and Salisbury, was received. The findings of the trial committee were adopted by the Council and the respondent was disbarred from the practice of law in North Carolina as of October 26, 1939.

Upon report of the trial committee as to charges filed against Mr. Spencer L. Blalock, of Greensboro, the said charges were dismissed and the committee discharged. This action was taken because of the refusal of the complainant, a non-resident, to cooperate in establishing the facts which he had complained of.

The report of the trial committee against an attorney whose name is not divulged was received. Charges of wrongful withholding of funds belonging to a client were reported as not sustained by the trial committee, but upon findings of fact that the respondent had been guilty of negligent inattention to his professional engagements and discourtesy to his client and the State Bar, the President was directed by the Council to write the respondent a letter of private reprimand.

Upon report of the trial committee which had heard charges filed against Mr. William O. Williams, an attorney of Morehead City, the findings of the trial committee were adopted by the Council and the respondent was disbarred from the practice of law in North Carolina as of October 26, 1939.

A petition was received from former Judge John H. Harwood for reinstatement of his license to practice law. Mr. Harwood was invited to appear before the Council and he requested a continuance of his petition because of absence of his counsel. Continuance was granted.

A petition was received from Mr. J. W. Hollingsworth, a disbarred attorney of Newton, requesting that his license to practice law be reinstated. Mr. Hollingsworth had been disbarred by action of the Superior Court a number of years ago after a plea of *nolo contendere* to an indictment for false pretense. Mr. Hollingsworth presented letters of commendation of his character from Judge Warlick of the Sixteenth Judicial District, the Clerk of the Superior Court of Catawba County and various residents of that county. Protests against reinstatement were received from two attorneys of Catawba County. After discussion, action upon the application was continued until the January meeting.

An application was received from Mr. E. C. West, formerly a practicing attorney in Harnett County, for restoration of his license to practice law. Mr. West had been disbarred by the Council some two years previously, the disbarment being affirmed upon appeal to court. Mr. West presented a number of letters of commendation of his character from attorneys and other citizens of Harnett and Cumberland counties. A statement of opposition from members of the Bar of Harnett County was also received. After discussion, the application for reinstatement was denied.

It was decided that upon receipt of future applications for reinstatement to practice law the Secretary of the State Bar should give notice to local bar associations so that they might take action thereon if they desire.

There were no reports from the committees on Legislation and Law Reform, Legal Ethics and Professional Conduct, and Unauthorized Practice of Law.

At the request of President Hutchins, Professor Albert M. Coates of the Law School at Chapel Hill appeared and discussed the practicability of organizing a series of legal institutes for giving specialized type of legal instruction to practicing attorneys. It was pointed out that similar institutes had been successfully conducted for county attorneys, judges of inferior courts and various local officials. New phases of the law are rapidly developing with which practicing attorneys could usefully devote some time in acquainting themselves. The Social Security law, the National Labor Relations Act, the Wage and Hours law and the multiplication of new taxes are all fields with which practicing attorneys are inadequately acquainted. Development in the fields of domestic relations, corporations, torts, etc., could also be usefully explored. Mr. Coates offered the facilities of the Institute of Government with its staff and new building at Chapel Hill, for use in this connection. President Hutchins, in thanking Mr. Coates, expressed the

hope that it might be found possible to use such legal institutes in an effort to revitalize the interest of practicing attorneys in their local and district bar associations. The President was authorized to appoint a committee of five, who would probably be non-members of the Council, to attempt to sponsor a series of legal institutes, coordinating them if possible with district bar activities.

Upon recommendation of the Board of Law Examiners, minor amendments were adopted to rules 8 and 9 of the Rules Governing Admission to the Practice of Law. The purpose of these amendments was to give greater flexibility in the choice of subjects studied by special students admitted to the three approved law schools of this state. The amendments were explained and advocated by Deans Van Hecke, Horack and Stansbury.

Upon recommendation of the Grievance Committee, upon charges filed against Attorney Robert S. Eaves of Rutherfordton, trial was ordered. The trial committee will consist of Mr. J. Laurence Jones, Mr. Julius C. Martin, II, and Mr. R. L. Phillips.

Action upon charges filed against two attorneys was continued for further investigation and charges filed against a third attorney were dismissed.

A committee consisting of Councillors Perry, Hastings and Bland was appointed to make nominations for vacancies to occur in the Board of Law Examiners at the January meeting.

President Hutchins asked for directions of the Council as to whether the Secretary should undertake to make collections of dues from persons holding licenses to practice law in North Carolina, who are not in the general practice of law but are doing legal work as employees of trust companies and holders of government positions. The Secretary was directed to make further investigation of this matter and report back to the January meeting.

Mr. Edward L. Cannon was re-elected as Secretary-Treasurer for the ensuing year.

President Hutchins, in retiring, expressed his thanks to the members of the Council for their sympathetic cooperation during his term of office. His good wishes were heartily reciprocated by the Council.

### Sixth Annual Meeting

The sixth annual meeting of the North Carolina State Bar was held at the Sir Walter Hotel, on October 27, 1939, President F. S. Hutchins presiding. As a full program had been arranged, President Hutchins announced that he had concluded to dispense with the usual address of welcome with response and proceeded to introduce

Hon. John C. M. Vann of Monroe, who delivered a delightful address on "The Lawyer and His Profession". Mr. Vann's description of the life, character and professional activities of the small town and country lawyer was a gem of understanding and appreciation. It will be published in the proceedings of the annual meeting and every lawyer should read it. He will think better of himself and his life work.

Hon. Karl A. McCormick, Proctor of the Eighth Judicial District of New York, then spoke on "Unauthorized Practice of Law". Mr. McCormick gave a very interesting review of a number of problems arising out of this most difficult subject. No one could have heard him without realizing that in spite of the difficulties and intricacies of the problem involved the subject must be explored and action taken based in the final analysis on promotion of the interest of the public and not upon any selfish or limited point of view.

Hon. Charles A. Beardsley of Oakland, Cal., President of the American Bar Association, spoke on "War and the Administration of Justice". The address was broadcast over a radio hook-up and was doubtless heard by many laymen as well as by the lawyers who were present. It will be found in the formal proceedings when published and is commended to those lawyers who were not present to enjoy it.

Hon. Bolitha J. Lawes, U. S. District Judge of the District of Columbia, spoke on "Pre-trial Procedure". The address by Judge Lawes was an extremely interesting and impressive discussion of this important new weapon in improving the administration of justice. His own experience in administering pre-trial procedure in the District of Columbia, viewed in connection with the remarkable results which have been likewise accomplished in Detroit and Boston, is an inspiring illustration of what can be done to put greater celerity, economy and efficiency into the disposition of legal disputes. The conviction is being driven home to lawyers that one important factor in the decrease of litigation is the belief of the public that the results achieved by our courts are too expensive, too slow and too uncertain to make a resort to the law tolerable to anyone who can possibly avoid it. No one could have heard Judge Lawes without realizing that many of the complaints against the work of our courts is susceptible of amelioration. Pre-trial procedure and the new Supreme Court rules are an effective beginning of the long delayed reformation to which the practice of law is certainly going to be subjected. It is to be hoped that the legal profession will carry this reform through itself and not have reform forced upon it by laymen, justly impatient of our excessive conservatisms and complacency.

After recess for lunch, Hon. Harry McMullan, Attorney General of North Carolina, made an interesting report on the work being conducted by his office in the Recodification of the Statutes of North Carolina. The lawyers listened with great interest to the plans which have been evolved for doing this difficult but needed work.

Mr. Paul F. Hannah, of the Bar of the District of Columbia, Chairman of the Junior Bar Conference of the American Bar Association, spoke on the subject of "The Bar Banishes the Blackout". His address, the perusal of which is commended to those who did not hear it, contained a provocative discussion of what has been accomplished by the Junior Bar in various communities in improving relations between our profession and the public.

Hon. Burt J. Thompson, Vice-president of the American Judicature Society, spoke on "Legal Institutes". His address, which inspired and interested those who were present, will be of great assistance to the committee which will undertake in North Carolina a program of such activities.

The State Bar received and joyfully accepted an invitation to attend the fiftieth wedding anniversary of Judge and Mrs. Heriot Clarkson which will be celebrated at the Hotel Charlotte, Charlotte, N. C., on Friday, December 8, 1939, from 8 to 11 p.m.

During the period allowed for open forum, Professor Albert M. Coates, of the Law School at Chapel Hill, supplemented the address of Mr. Thompson by recounting some of the plans of operation by which the Institute of Government at Chapel Hill had conducted successfully conferences of specialized groups of public officials in North Carolina.

Mr. R. O. Everett, of Durham, brought to the attention of the meeting the events which are planned at Fayetteville in commemoration of the one hundred and fiftieth anniversary of the adoption by North Carolina of the Federal Constitution. Fayetteville is staging an ambitious celebration, both enjoyable and instructive, and the lawyers of the state will find their time repaid if they attend.

Election of officers next being in order, Mr. George C. Green, of the Halifax Bar, was unanimously elected President and Mr. L. P. McLendon, of the Guilford Bar, was elected Vice-president, the election of both officers being by acclamation. A vote of thanks was tendered to retiring President Hutchins and the meeting then adjourned.