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THE NORTH CAROLINA STATE BAR

KEMP D. BATTLE, *Editor*

July Council Meeting

The Council of the North Carolina State Bar met in the new Justice Building, at Raleigh, on July 12, 1940. There were present: President George C. Green, Vice-President L. P. McLendon, Secretary Edward L. Cannon, and the following Councillors: Junius D. Grimes, K. D. Battle, B. H. Perry, D. H. Bland, Albion Dunn, John D. Warlick, Louis J. Poisson, Dickson McLean, R. P. Reade, G. H. Hastings, J. F. Milliken, Hayden Clement, B. F. Williams, A. Turner Grant, Dover R. Fouts, R. L. Philips, and Kester Walton.

The petition of former Judge John H. Harwood, of Bryson City, for restoration of his license to practice law was withdrawn with the consent of the Council.

A hearing upon the application of Mr. E. H. Smith for reinstatement was, at his request, continued to the October meeting.

Pursuant to the judgment of the Council, at the April meeting, Mr. Robert S. Eaves appeared and received a private reprimand for unprofessional conduct. The reprimand was delivered by Councillor B. F. Williams on appointment of the President.

A special committee, appointed to consider amendments to the charter of the State Bar, made three recommendations.

The first recommendation was merely the provision for machinery by which the Board of Law Examiners shall reissue license when the Council, in accordance with existing authority, shall revoke disbarment or suspension.

The second recommendation concerned the existing practice by which members of the trial committee on disciplinary hearings are eligible to vote in the Council in the final action of that body upon charges of professional misconduct. There has been some criticism to the effect that members of the Trial Committee should not participate in the consideration of their report, nor vote upon the final disposition of such charges. The committee was directed by the Council to prepare an amendment to our existing legislative charter providing that members of the Trial Committee shall not participate in the consideration, or vote upon disposition, of the charges which have been the subject matter of their report.

The third recommendation, which will also be the subject matter of an amendment, was that an additional office of Second Vice-Presi-

dent be created with the view of giving a president two years experience on the Council before being advanced to the presidency, in the normal course of events.

The petition of Mr. B. F. Brittain, a disbarred attorney of Asheboro, N. C., for restoration of his license, was heard and discussed at some length. Action was deferred until the October meeting for additional information.

Upon recommendation of the Grievance Committee, trial was ordered by the Council upon charges filed against Mr. J. W. Hollingsworth, Attorney at Law of Newton, N. C., whose license was restored from a former disbarment at the January meeting of the Council. The committee to hear the new charges will be Councillors Hastings, Grant, and Fouts.

Charges filed against another attorney were referred to the resident judge of the district of his residence, because the complaint concerned his actions as a commissioner under proceedings pending before the courts, the Council taking the view that if the charges were well founded, misconduct relating to a matter which was under the immediate supervision of a Superior Court Judge should be acted upon by him.

Complaints against one or more other attorneys were dismissed, and in three cases action was deferred for further investigation by the Grievance Committee. It is not the policy of the Council to make public the names of attorneys against whom charges are filed, unless and until trial is ordered.

The Secretary made an interim report upon efforts which are under way to reduce the cost to attorneys of subscriptions to the Advance Sheets of North Carolina Reports and the bound volumes. It is expected that a full report on this will be made at the October meeting, and it is likely that some success will be realized.

A second report of the Trial Committee, appointed to hear charges filed against Attorney Jesse A. Jones, of Kinston, N. C., could not be acted upon at this meeting, as counsel for the respondent had requested further time for presentation of his case.

Upon report of the Committee on Unauthorized Practice, the President was authorized to engage counsel to take action against Mr. M. L. Flow, a Justice of the Peace of Monroe, N. C., unless some satisfactory understanding can be arrived at.

The Committee on Unauthorized Practice was directed to confer with a committee proposed to be appointed by the Association of Public Accountants to endeavor to reach an understanding as to complaints of unauthorized practice on the part of members of said association.

Secretary Cannon was instructed to confer with Mr. Thad Eure, Secretary of State, concerning forms being furnished by his office for the use of parties proposing to organize private corporations.

Mr. Fred S. Hutchins, of Winston-Salem, was elected as representative of the North Carolina State Bar to the House of Delegates of the American Bar Association. Mr. Hutchins is to complete the term of Mr. Julius C. Smith, who has resigned.

The President was authorized to employ additional counsel, if necessary, to procure action upon the trial of charges filed against Attorney W. T. Shore, of Charlotte.

The Secretary reported that he had received more than a score of individual petitions to be relieved of payment of dues to the N. C. State Bar. The Council instructed the Special Committee which has been considering that matter to examine these petitions in detail and make recommendations at the next meeting.

The Committee on Legal Ethics was instructed to consider and make a report to a later meeting concerning the proposed adoption by the Council of the Canons of Judicial Ethics of the American Bar Association. The Council has adopted the Canons of Legal Ethics as approved by the American Bar Association, with some modifications to meet local conditions. It is now proposed that the Canons of Judicial Ethics shall be similarly adopted.

The question was raised as to whether Canon D, of the Code of Legal Ethics, is applicable to the appearance of mayors exercising judicial jurisdiction in other criminal courts. The opinion of the Council that mayors so exercising judicial functions are within the terms of Canon D, was directed to be sent to the Attorney General.

October Council Meeting

The Council of the State Bar had its fall meeting in the Department of Justice Building at Raleigh, on October 24, 1940, the day prior to the General Meeting of the State Bar. There were present President George C. Green, Vice-President L. P. McLendon, Secretary E. L. Cannon, and the following councillors: Junius D. Grimes, First District; K. D. Battle, Second District; B. H. Perry, Third District; D. H. Bland, Fourth District; Albion Dunn, Fifth District; Jos. B. Cheshire, Seventh District; Dickson McLean, Ninth District; R. P. Reade, Tenth District; G. H. Hastings, Eleventh District; M. G. Boyette, Thirteenth District; J. Laurence Jones, Fourteenth District; A. Turner Grant, Seventeenth District; Dover R. Fouts, Eighteenth District; Kester Walton, Nineteenth District; and P. W. Glidewell, Sr., Twenty-first District.

Mr. M. G. Boyette, succeeding Mr. J. F. Milliken from the Thirteenth District, took his place on the Council and was assigned to the Executive Committee.

Mr. C. W. McAnally, Councillor from the Twelfth District, was granted a twelve-months leave of absence for service with the National Guard.

Councillor Walton was substituted for Councillor Fouts on the Trial Committee to hear the Hollingsworth case. Mr. Fouts is retiring from the Council because of election to the Legislature.

Mr. B. F. Brittain, formerly an attorney of Asheboro, who at a previous meeting had made application for a restoration of his license to practice law, appeared and presented the matter further. After full discussion the application for restoration of license was denied.

It was decided to ask the Legislature to amend the act incorporating the Bar in two respects; first, by providing for two vice-presidents instead of one; and second, to clarify the machinery by which the Board of Law Examiners shall issue licenses. The second amendment is a mere matter of form and requires no comment. The first amendment is urged in order to provide a longer term of experience on the Council on the part of prospective presidents. The first two presidents of the State Bar served for two terms. The next two presidents each served for one term. This has resulted in the vice-president being promoted to the presidency after only one year's acquaintance with the business of the Council. It is thought that a longer term of such experience will be useful to future presidents.

It was decided to amend the regulations governing the business of the Council by providing that members of the Trial Committees shall not vote upon the disposition of their reports.

The Council heard a report from a special committee upon the matter of waiving dues for persons who hold licenses to practice law but who do not actively practice. The line of demarcation observed by the Committee on the specific cases reported by it was that attorneys, who though licensed to practice law, were in fact not doing so but were engaged in other occupations, should be relieved of dues pending their return to practice, but that attorneys who are full-time employees in work substantially legal in character, for which their law training and license have given them special qualifications and doubtless assisted in procuring the employment, should pay dues. Trust officers doing probate work for trust companies furnish a typical illustration. The Committee was continued to report on further applications for remission of dues as received.

The Executive Committee's report showed the financial affairs of

the Council to be in good shape. Concerning the question of publishing of the Schedule of Courts by the Council in continuation of the labor formerly performed by the late Mr. Henry M. London, it was decided that the Legislative Committee should sponsor a bill in the Legislature directing the Secretary of State to assume charge of the publication of such court schedules. The Executive Committee further reported completion of an arrangement by which members of the Bar, who purchase the advance sheets of the N. C. Reports at the time they remit their dues to the Bar, will receive a reduction in price on the advance sheets.

Upon report of the Trial Committee appointed to hear certain charges against Attorney Latham A. Wilson, judgment was entered that prayer for judgment be continued for a period of twelve months, at the end of which time the Council will enter such judgment as then seems appropriate, the respondent to pay the costs of the proceeding.

Application of Mr. E. H. Smith for restoration of license to practice law was, at his request, continued to the January meeting.

Upon recommendation of the Grievance Committee, a hearing was ordered upon charges preferred against Attorney H. Hannah, Jr., of Rocky Mount, N. C., and Councillors Grimes, Perry, and Dunn were appointed as Trial Committee.

A hearing was also directed upon charges filed against Attorney A. A. Tarlton of Charlotte, and Councillors Grant, Boyette, and Williams were appointed on the Trial Committee.

Other cases pending before the Grievance Committee were continued to the next meeting.

On recommendation of the Committee on Legal Ethics and Professional Conduct, the Council adopted the Canons of Judicial Ethics as adopted and promulgated by the American Bar Association.

Upon recommendation of the Committee on Unauthorized Practice of Law, the President and the Committee were authorized to employ counsel to bring suit to restrain and enjoin C. B. Brantley, Jr., a notary public of Spring Hope, from engaging in the practice of law.

Similar authorization was made in reference to the Home Detective Agency, Greensboro.

On complaints as to T. E. Cox, a Justice of the Peace of Ramseur, the Secretary was authorized to ascertain the source of Mr. Cox's appointment and if by the Governor to report the facts to the Governor.

As to complaints concerning the Arrow Service Co. of Schenectady, N. Y., and the International Creditors' Association of Chicago, it was decided that information concerning these firms be reported to the Committee on Unauthorized Practice of the American Bar Association.

The report of the Trial Committee to hear complaints filed concern-

ing Jesse A. Jones, a practicing attorney of Kinston, was received by the Council and considered at great length. Mr. Jones was present with his counsel and the case was argued by his counsel and by attorneys for the State Bar. The final decision was that the charges were sustained by the Council and the respondent was ordered disbarred from practice.

The Council, meeting again on October 25, in adjournment from the preceding day, completed the final proceedings in the case of Jesse A. Jones.

The Council endorsed the proposed legislation for conferring upon the Supreme Court power to make rules for civil practice, and the President was authorized to appoint a committee to assist in procuring its passage.

It was decided to suggest to the Board of Law Examiners that the application to be signed by persons desiring to stand the examination for admission to the Bar contain a question as to whether the applicant has read the Canons of Legal Ethics.

Mr. E. L. Cannon was re-elected Secretary-Treasurer of the Association to serve for the ensuing year. The report of the Secretary-Treasurer covering the past year's work was received and accepted.