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THE NORTH CAROLINA STATE BAR

KEMP D. BATTLE, *Editor*

January Council Meeting

The January meeting of the Council of The North Carolina State Bar was held in the Department of Justice Building in Raleigh, on January 10, 1941. There were present President L. P. McLendon, Vice-president W. B. Rodman, Jr., Secretary E. L. Cannon, and the following Councillors: Junius D. Grimes, First District, Washington; K. D. Battle, Second District, Rocky Mount; B. H. Perry, Third District, Henderson; D. H. Bland, Fourth District, Goldsboro; Albion Dunn, Fifth District, Greenville; J. B. Cheshire, Seventh District, Raleigh; Louis J. Poisson, Eighth District, Wilmington; Dickson McLean, Ninth District, Lumberton; R. P. Reade, Tenth District, Durham; G. H. Hastings, Eleventh District, Winston-Salem; A. Turner Grant, Seventeenth District, Mocksville; Fred D. Hamrick, Eighteenth District, Rutherfordton; Kester Walton, Nineteenth District, Asheville; R. L. Phillips, Twentieth District, Robbinsville; and P. W. Glidewell, Twenty-first District, Reidsville.

Mr. Fred D. Hamrick, of Rutherfordton, named Councillor from the Eighteenth District, succeeding Mr. Dover Fouts, was introduced and took his seat in the Council. Mr. Fouts had resigned in consequence of his election to the State Legislature.

Upon the report of the committee appointed to conduct the trial of charges against Mr. B. S. Hurley, a practicing attorney of Troy, judgment was entered that the respondent be disbarred from the practice of law. Notice of appeal to Superior Court was given by counsel for respondent.

The report of the committee to conduct the trial of charges filed against Mr. Paul Strickland of Burlington was deferred to the July meeting.

Mr. T. C. Hoyle, Jr. of Greensboro, appeared on behalf of the Home Detective Agency, against which the Council had authorized proceedings to enjoin the unlawful practice of law. Mr. Hoyle expressed the willingness of his client to modify forms which they had been using to accord with the views of the Council. After discussion, it was decided that the Council should not undertake to advise in the preparation of forms and no action was taken toward rescinding the previous action.

Mr. I. M. Bailey appeared to discuss the action of the Council at its October meeting in adopting a set of Canons of Judicial Ethics,

pointing out that some of the judges felt that the Council was exceeding its authority in this respect. The Council had previously proceeded on the theory that although it had no power to discipline judges for action as such, nevertheless it would be a wholesome thing to have an authoritative expression of the conscience of the Bar as to certain matters of judicial propriety. After considerable discussion it was decided that it was wiser for the Council to raise no controversial issue on the subject and the previous action in adopting the Code of Judicial Ethics was rescinded.

Protests from the Rocky Mount-Nash County Bar Association and also from members of the Bar of Halifax County in opposition to Canon D of the Code of Legal Ethics were received. This canon forbids judges and solicitors of inferior criminal courts to appear in criminal proceedings in other courts of their counties. The Committee on Ethics was directed to have a hearing on this subject in advance of the next Council meeting.

Upon recommendation of the Grievance Committee, trial was ordered on charges filed against Mr. S. R. Lane, an attorney of Rich Square, and Councillors Dunn, Poisson and McLean were appointed on the trial committee.

Additional charges filed against attorney H. Hannah, Jr., of Rocky Mount, were referred for trial to the committee previously appointed in his case.

Upon recommendation of the Grievance Committee, trial was ordered on charges filed against Mr. C. W. Beaman, of Wilson, and Councillors Grimes, Perry and Warlick were appointed on the trial committee.

Upon recommendation of the Grievance Committee, trial was ordered on charges filed against Mr. W. C. Gorham, of Morehead City, and Councillors Grimes, Warlick and McLean were appointed on the trial committee.

On charges filed against other attorneys, in some instances cases were continued for further investigation, and in other instances the charges were dismissed. It is not the custom of the Council to make public the names of attorneys where such course is followed.

It was decided to seek from the Legislature amendments to the act incorporating the Bar, to provide for the election of two vice-presidents instead of one, and to clarify the machinery to be followed by the Board of Law Examiners in case of restoration of license. It was also decided that the Legislative Committee will sponsor a bill to amend C. S. §198 to further define the phrase "practice of law", with a view of tightening the restrictions against the practice of law by unauthorized persons.

Such legislation if adopted would have the effect of terminating the present custom of some Clerks of Superior Court and Registers of Deeds and their employees in rendering free service of a type customarily performed by lawyers. Support of the Legislative Committee was also authorized as to proposed legislation directing the Secretary of State to make publication at public expense of schedules of courts, continuing the service heretofore performed by the Legislative Reference Librarian, the late Henry M. London. The Secretary reported, however, that printing of the schedule of the courts would be assumed by the Secretary of State without legislation.

Legislation to be sponsored by the North Carolina Bar Association for conferring the rule making power upon the Supreme Court, and regulating the selection of Justices of the Peace, was again endorsed.

The Committee on Unauthorized Practice reported complaints against L. A. Lutterloh, a Justice of the Peace of Burlington. It was decided that these complaints should be forwarded to the Governor's office, the magistrate in question having been appointed by the Governor.

The special committee on dues reported concerning efforts of the committee to arrive at some clear and satisfactory policy in reference to relieving from payment of dues attorneys who retain their license but are not engaged in active practice. One member of the committee expressed the opinion that the Council had no authority to take such action. After considerable discussion the Legislative Committee was authorized to draft and submit to members of the Council by correspondence, a proposed amendment to the act incorporating the Bar, authorizing the Council to classify membership.

Messrs. C. W. Tillett, of Charlotte, K. O. Burgwin, of Wilmington, and Irving Carlyle, of Winston-Salem, were re-elected to the Board of Law Examiners.