



UNC
SCHOOL OF LAW

NORTH CAROLINA LAW REVIEW

Volume 26 | Number 3

Article 1

4-1-1948

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, *North Carolina State Bar*, 26 N.C. L. REV. 245 (1948).

Available at: <http://scholarship.law.unc.edu/nclr/vol26/iss3/1>

This Note 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 editor of Carolina Law Scholarship Repository. For more information, please contact law_repository@unc.edu.

THE NORTH CAROLINA STATE BAR

THOMAS P. PRUITT, *Editor*

In 1936, the North Carolina State Bar and the NORTH CAROLINA LAW REVIEW made an agreement by which the members of the State Bar might obtain the LAW REVIEW at a special subscription rate, payable at the time payment of dues is made, and that in return for this service the LAW REVIEW would devote a department to matters of general interest to members of the State Bar. The first editor of the State Bar Department was Kemp D. Battle of Rocky Mount. He was succeeded by Edward L. Cannon of Raleigh, Secretary of the State Bar. Both Mr. Battle and Mr. Cannon deserve great credit for the work they did in preparing material for publication in the LAW REVIEW during the past eleven years.

At the October Council Meeting, two changes in the above agreement were made. The First Vice President of the State Bar was designated as Editor of the State Bar Department, and the special subscription rate was increased because of printing and publication costs. Plans are under consideration for the expansion of the State Bar Department, and it is the hope of the Council and of the LAW REVIEW that members of the State Bar will cooperate with the new editor in providing material of general interest to the lawyers of North Carolina. Suggestions should be sent to Mr. E. L. Cannon, Secretary of the State Bar, Raleigh, N. C., or to the new editor, Mr. Thomas P. Pruitt, Hickory, N. C.

July Meeting of the Council of the North Carolina State Bar

The quarterly meeting of the Council of the State Bar was held on July 25, 1947, having been continued from July 18. The following officers and councillors were present: Officers: Fred B. Helms, President; Joseph B. Cheshire, First Vice President; Thomas P. Pruitt, Second Vice President; and Edward L. Cannon, Secretary-Treasurer. Councillors: Messrs. Grimes, Norman, Banzet, Bland, Poisson, Hastings, Mann, J. L. Jones, Scott, Trivette, Hutchins, and G. A. Jones.

Mr. W. T. Covington, Jr., President of the Mecklenburg County Bar Association, appeared before the Council in connection with a request made to the Council to consider a proviso in the proposed fee schedule for Mecklenburg County that had been filed with the Council and written statements from the Mecklenburg Bar and its committees. The Council discussed at some length the Mecklenburg proposals and upon motion, the matter was referred to a joint committee to be composed of the Ethics Committee and the Committee on Unauthorized Practice.

In the report of the Ethics Committee, the Council ruled it improper for an attorney to solicit business. The Council further approved the recommendation of the Ethics Committee in finding that it was improper for an attorney to allow the use of his name in advertising courses at business schools. The Council further adopted the recommendation of the Committee finding that it would be improper for a judge to undertake to represent parties seeking parole. The Council directed the Secretary to advise the Childrens' Home Society that it would not be improper for them to employ counsel but that such counsel as was employed by said Society could not ethically represent actual or prospective adoptive parents.

President Helms advised the Council that in accordance with their instructions he had appointed Charles R. Jonas, of Lincolnton, to represent the State Bar on the Commission to Study the Administration of Justice. The Council approved the appointment.

The application for reinstatement of Spencer T. Thorne, of Columbia, North Carolina, was continued for further study.

The Council heard the report of the Unauthorized Practice Committee which made several recommendations for proceedings against parties engaging in unauthorized practices and heard a report of the action of the Guaranty Bank and Trust Company of Greenville in connection with advertising policies of said company.

Upon suggestion of the Grievance Committee the Council continued study of the matter of service upon members of the Bar outside of the state in disbarment proceedings.

The Executive Committee reported that a check of receipts and disbursements found the same to be correct. The Council heard the report of Mr. Poisson, Chairman of the Legislative Committee, which covered the bills sponsored in the Legislature by the State Bar. These bills had been previously taken up by the Committee at the April meeting.

The Special Committee on Publications had no formal report except to call attention to the offer of the NORTH CAROLINA LAW REVIEW to provide additional space for matters of interest to the State Bar. Action was deferred until the October meeting.

Mr. J. Laurence Jones, Chairman of the Special Committee on Federal Employers Liability Act Cases, reported on the passage by the House of Representatives of the so-called Jennings Bill and called attention to further developments in the matter of solicitation of cases in North Carolina. He pointed out that all members of the North Carolina delegation supported the measure excepting Messrs. Redden and Deane. The Council authorized the Secretary to use such assistance as might be necessary in continuing investigation of solicitation of such cases in North Carolina.

The Council authorized the President with the assistance of the Secretary to prepare the program for the Annual Meeting on October 24. The Council adjourned.

October Meeting of the Council of the North Carolina State Bar

The regular quarterly meeting of the Council of the State Bar was held in Raleigh, October 23, 1947, with the following officers and councillors present: Officers: Fred B. Helms, President; Joseph B. Cheshire, First Vice President; Thomas P. Pruitt, Second Vice President; and Edward L. Cannon, Secretary-Treasurer. Councillors: Messrs. Grimes, Norman, Banzet, Bland, Brown, Warlick, Bailey, Poisson, McLean, Reade, Hastings, Spruill, Scott, Williams, Hayes, Queen, and Glidewell.

New members of the Council since the July meeting were presented by the President, the same being Messrs. Julius Brown, Kyle Hayes, John M. Queen, and J. F. Spruill.

The Ethics Committee offered its report and the joint report with the Unauthorized Practice Committee designated to consider the matter presented by the Mecklenburg County Bar Association. Following discussion the Council unanimously approved and accepted the report of the joint committee and instructed the Secretary to advise the Mecklenburg Bar that in their opinion the proposed amendment to their fee schedule was a violation of the Canons of Ethics and the same was not approved by the Council.

Judge Bland, Chairman of the Executive Committee, reported that receipts and disbursements for the quarter had been checked and found to be correct. The Committee further reported that during the present year \$500.00 had been placed in surplus but that there was no certainty that the same would be maintained through December 31. The Council approved the authorization previously given by the President and the Executive Committee for the Secretary's attendance at the meeting of the American Bar Association at Cleveland, Ohio.

Following discussion by the Chairman of the Legislative Committee, Mr. Poisson, and statement by the Secretary dealing with discussions of the Administrative Practice Act and the Jennings Bill, the Council instructed the Secretary to advise members of Congress from this state that it favored the pending Administrative Practice Act.

The Council approved the recommendation of the Board of Law Examiners for change in the rules so as to provide for filing of applications on or before January 15 for those applying to take the March examinations and directed the Secretary to certify the same to the Supreme Court.

In connection with the report of the Unauthorized Practice Committee, the Council noted the action of the North Carolina Realtors

Association at their recent convention at Myrtle Beach, South Carolina, wherein they adopted a resolution indicating their intention to continue the unauthorized practice of law as set out by Chapter 84, General Statutes. In the light of the resolution of the Realtors Association which undertook to appoint a committee to deal with this matter, the Council directed the Secretary to make further inquiry into the practices of the realtors and bring such action as may be necessary in the premises.

The Grievance Committee made reports on complaints received and made recommendations for dismissal in all except one matter held for further investigation.

Judge Varser, Chairman of the Board of Law Examiners, appeared before the Council and informed them of discussions being held with the Deans of the Law Schools.

The application for reinstatement of Spencer T. Thorne, of Columbia, North Carolina, was continued until the January meeting.

Dean R. H. Wettach appeared before the Council in connection with the matter of publications and following the statement of the Secretary and the statement of Dean Wettach, the Council approved the proposal of the NORTH CAROLINA LAW REVIEW for increase in subscription price to \$2.00 per year and accepted the proposal of Dean Wettach and the LAW REVIEW to make additional space available for matters of interest to the State Bar. The President suggested that the First Vice President be designated as the member of the Council responsible for editorial work in any increase in publication of material in the LAW REVIEW.

The Council elected new members to serve until the January meeting on the following committees: Mr. Brown on the Grievance Committee, Mr. Spruill on the Unauthorized Practice Committee, Mr. Hayes on the Ethics Committee, and Mr. Queen on the Ethics Committee.

The Council re-elected E. L. Cannon as Secretary for the year 1947-1948.

The Council adopted a motion to have the incoming President appoint a special committee to deal with problems with the Industrial Commission.

The Council directed the Secretary to continue to handle statements to the Press for publication regarding the Council and the State Bar.

Mr. Helms expressed his appreciation for the support of the Council during the year and the Council unanimously commended the fine work of President Helms during his term of office.

Fourteenth Annual Meeting of the North Carolina State Bar

The Fourteenth Annual Meeting of the State Bar was held in Raleigh on Friday, October 24, 1947, with President Fred B. Helms presiding. Following the invocation by Dr. Broadus E. Jones of the First Baptist

Church of Raleigh, welcome was extended by Judge W. C. Harris, Senior Superior Court Judge. Charles R. Jonas of Lincolnton gave the response and John C. Rodman of Washington brought greetings as President of the North Carolina Bar Association.

Due to illness, Justice M. V. Barnhill of the Supreme Court was unable to deliver his scheduled address. Judge S. J. Ervin, Chairman of the Commission for the Improvement of Justice in North Carolina, discussed the work of the Commission and pointed out the difficulties involved in making changes looking to improvements in the administration of justice in North Carolina. Judge Ervin expressed high hopes, however, for the success of the Commission's work. Judge L. R. Varser, Chairman of the Board of Law Examiners, made an interesting and informative report regarding the work of the Board of Law Examiners.

The afternoon session was devoted to the address of Judge John J. Parker of the United States Circuit Court of Appeals. It is difficult to summarize this splendid address. Basing his argument for improving the administration of justice on the fundamental proposition that the supreme duty of the lawyer is to change the law to meet changing conditions of society, Judge Parker urged that it is therefore the peculiar obligation of the lawyer to attend to the improvement of procedure and practice in the courts. He reviewed the history of improvement in judicial administration in England and in this country, relating to the activity of the American Bar Association, in which he had a leading part, and which culminated in the federal rules of procedure and in other reforms in the federal court system.

Judge Parker presented the need of improvement in state judicial systems as much more important because state courts are closer to the people and the great bulk of litigation takes place in state courts. The American Bar Association has approved, after many years of study by various committees, a program for improving the administration of justice throughout the United States. From the large number of recommendations, Judge Parker discussed five principal items of this program.

1. *The integration of the judiciary so as to get maximum efficiency of the courts.* It was Judge Parker's opinion that the system of rotating judges is wasteful and inefficient and no longer capable of handling the legal business of a modern industrial state. The inherent weakness of the system of rotation shows itself particularly in the administration of receiverships in North Carolina and in the practical impossibility of instituting pre-trial practice, which Judge Parker said was the greatest procedural improvement in recent years. He also urged the need of supervision and management of the judiciary under some administrative

officer, who would be responsible for seeing that the legal business of North Carolina was efficiently and promptly handled.

2. *Improvement of the jury system.* To accomplish this, Judge Parker argued for a better method of selecting jurors of intelligence and character and means of compelling jurors to serve, once they are properly selected. To improve our jury system, Judge Parker would restore to some extent the common law power of the judge to array the evidence and declare and explain the law arising thereon and would require lawyers to except to the charge of the court before the jury retires. The latter change would prevent the practice of going over a charge with a fine-tooth comb after the case is concluded in order to find error, a practice which denies the trial judge the right to enlighten the jury as to the law applicable to the facts of the particular case.

3. *Improvement of the rules of procedure and practice along the lines of the Federal Rules.* The purpose here is to get rid of useless technicalities in the courts. North Carolina practice is based on the idea that a judgment must be given in accordance with the pleadings, whereas under the federal rules, *the case as made by the evidence* is the crucial thing. To accomplish such an improvement, the rule-making power should be vested in the North Carolina Supreme Court with such restrictions as to the effective date of the rules as the Legislature may decide.

4. *Improvement in appellate practice.* The principal change suggested in this connection was to permit counsel to bring up the original record without having to print it or to narrate the record. Counsel could print such parts of the record as they desired the court to read in an appendix to their briefs. This change would result in great savings of time, money and effort.

5. *Improvement of the practice in administrative agencies and tribunals.* Judge Parker stated that lawyers should quit trying to hamstring administrative agencies by foolish laws, but rather they should recognize the necessity of these agencies of government in modern society and endeavor to make their procedure conform to fundamental ideas of due process of law. Judge Parker suggested the Federal Administrative Procedure Act as a model to use in drafting legislation to improve procedure and practice before North Carolina agencies, boards and commissions.

Judge Parker urged his hearers to act before it is too late. He pointed out the growing tendency in business contracts of removing disputes from the courts to arbitration. Such a tendency to by-pass the courts can be corrected only by fearless endeavor to bring our state

procedure and practice into harmony with the needs of the times in North Carolina.

An interesting discussion followed, and a motion was passed to publish Judge Parker's address and send it to all members of the State Bar. Approximately 500 members were present for the annual meeting.

Officers elected for the year 1947-48 were Joseph B. Cheshire, Raleigh, President; Thomas P. Pruitt, Hickory, First Vice President; and J. B. James, Greenville, Second Vice President.

