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# The North Carolina State Bar

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## THE NORTH CAROLINA STATE BAR

EDWARD L. CANNON, *Editor*

### July Meeting of the Council of the State Bar

The regular quarterly meeting of the Council was held on Friday, July 17, 1942, with all officers and sixteen members of the Council present. The Council was called to order by the President, W. B. Rodman, Jr.

Mr. H. R. Kyser, of Thomasville, newly elected Councillor from the 12th District, took his seat on the Council. He succeeds Mr. Charles W. McAnally, who is now with the United States Army.

The report of the Grievance Committee was read by the Chairman. The Council ordered disbarment proceedings instituted against D. F. Giles of Marion, and against E. C. McCullen, Jr., of Burgaw. The following were appointed members of Trial Committees: in the Giles case, Messrs. Walton, Trivette and Williams; in the McCullen case, Messrs. McLean, Grimes and Warlick. In other cases reported on by the committee, the Council approved continuance for further study.

The Committee on Unauthorized Practice made a report to the Council with reference to certain practices of the federal government calling for competitive bidding on title and abstract work. After considerable discussion and review of the items compiled by the Secretary, the following resolution was unanimously adopted:

"That it appearing to the Council that the United States Government has called for competitive bidding from lawyers to do abstract work and that upon the request of the Government, lawyers have submitted competitive bids for such work—and the question having been raised as to whether such bidding is ethical—now, therefore, be it resolved that it is the sense of this Council that hereafter any competitive bidding for any legal work is deemed to be unethical."

The Unauthorized Practice Committee further reported as to the question of the Lawyers Title Insurance Corporation or any other corporation executing certificates of title. The committee recommended that action be taken if necessary to prevent any such practice on the part of any corporation. After considerable discussion this recommendation was adopted by the Council.

The Unauthorized Practice Committee further recommended that the Secretary make investigation of activities of certain Justices of the Peace in Rockingham County and the Council approved said recommendation.

The report of the Ethics Committee was made by the Chairman and said report recommended that the Council *not* adopt the resolution submitted by the Nash County-Rocky Mount Bar; such resolution in substance being that it is contrary to the best interests of the public and the legal profession for a member of Congress to engage in the practice of law during his term of office and requesting the Council to adopt rules necessary to effectuate this principle. The report and recommendation of the Ethics Committee was adopted by the Council.

The Executive Committee made its report and called attention to the fact that, while the financial condition of the State Bar is good at the present time, careful consideration must be given to financial problems which are certain to be complicated during future months and for the duration of the war. Quarterly receipts and expenditures were verified as presented by the Secretary.

The report of the Legislative Committee was read by the Chairman, said report recommending that paragraph "C," Article "9," page "9" of rules of the Council be changed to read as follows:

Art. 9, Sec. 2, sub. sec. (c)—"Every material allegation of the verified statement not controverted by an answer or to which no answer is made is, for the purpose of the action, taken as true and the trial committee may consider the facts therein contained as conceded and no other proof of the same shall be necessary." The Council unanimously adopted this recommendation.

The report of the Membership Committee was made by the Chairman and said report, dealing with petitions by persons with reference to their status, was adopted with slight modification.

The Secretary presented a resolution of the Board of Law Examiners calling for an addition to the rules of the said Board and being as follows:

"For the purpose of meeting such emergencies as may arise during the present war, the Board may allow such applicants as are qualified to take any regular examination, but who are members of the armed forces, to take the examinations of this Board at or about the same times and during the same or about the same periods through proctors authorized by the Board at or near the stations where the applicants may be located. Any applicant taking an examination under this amendment, shall be required to pay any added expense attached to such examination and the Board may consider the papers submitted by the applicant at such meeting as it may deem proper. For the purposes of effectuating this rule the Secretary is authorized to waive the requirements as to time of filing application. This rule is adopted for the purpose of meeting the emergency created by the present war."

After considerable discussion the resolution was adopted by the Council.

The Secretary made the report on the case of J. W. Hollingsworth, in which the Superior Court in Catawba County affirmed the judgment of the Council.

The report of the committee appointed to make recommendations for the filling of the vacancies on the Board of Law Examiners was presented to the Council. The committee recommended Mr. W. F. Taylor of Goldsboro for the vacancy created by the resignation of H. G. Hedrick. The committee recommended Mr. Luther T. Hartsell, Jr., of Concord, for the vacancy created by the resignation of K. O. Burgwin. Messrs. Taylor and Hartsell were duly elected by the Council for the unexpired terms of Messrs. Hedrick and Burgwin.

Mr. B. F. Williams advised the Council of the death of Mr. Walter C. Feimster of Newton, a former member of the Council. Mr. Feimster's death was the first among either the past or present members of the Council. President Rodman upon motion of the Council appointed Messrs. Williams, Jones and Spears as a committee to draft resolutions in memory of Mr. Feimster and it was ordered that a copy of the same be sent to the members of his family, and that the same be spread upon the minutes of the Council. There being no further business, the Council adjourned at 5:15 P.M.

#### October Meeting of the Council of the State Bar

The regular quarterly meeting of the Council was held in the Justice Building, Raleigh, on October 22, 1942, with the following members present: Officers—W. B. Rodman, Jr., President, Washington, N. C.; Marshall T. Spears, 1st Vice-President, Durham; Frank S. Spruill, 2nd Vice-President, Rocky Mount; Edward L. Cannon, Secretary, Raleigh. Councillors—Z. V. Norman, Plymouth; B. H. Perry, Henderson; D. H. Bland, Goldsboro; Albion Dunn, Greenville; Jos. B. Cheshire, Jr., Raleigh; L. J. Poisson, Wilmington; Dickson McLean, Lumberton; R. P. Reade, Durham; G. H. Hastings, Winston-Salem; M. G. Boyette, Carthage; J. Laurence Jones, Charlotte; John A. Scott, Statesville; B. F. Williams, Lenoir; Eugene Trivette, North Wilkesboro; Fred D. Hamrick, Sr., Rutherfordton; Kester Walton, Asheville; and P. W. Glidewell, Sr., Reidsville.

The Council was called to order by the President, W. B. Rodman, Jr. Minutes of the last meeting were read and approved.

The Grievance Committee report was made by the Chairman and the Council adopted the recommendations of the committee and ordered disbarment proceedings instituted against W. L. McCoy, of Franklin, and against Vernon D. Strickland, of Rich Square.

The Ethics Committee report was made by the Chairman and approved by the Council. The committee had a brief report as to inquiries made during the quarter. In one case the committee advised that it had ruled that a member of the Council could not represent an attorney in a case where the charges had been reported to the Council and, in the other case, it ruled that an attorney was not required to pursue appeal in the Supreme Court when the client had failed to pay the costs involved in such appeal.

The Unauthorized Practice Committee in its report recommended that the Council institute proceedings against G. W. Williams, a Justice of the Peace in Rockingham County and that counsel assist the solicitor in prosecuting the case. The Council adopted the recommendation of the committee. Report was made by the Secretary at this point as to his filing with the Governor of objection to the reappointment of a Justice of the Peace in Rockingham County.

Mr. Murray Allen of the Raleigh Bar appeared before the Council and called their attention to the activities of the Bar of Puerto Rico in connection with insurance for the members of the Bar. Mr. Allen urged the Council to give some thought and study to the question of adopting some method of providing insurance to the members of the Bar in this state. The Council ordered a committee appointed by the President for the purpose of studying the subject and reporting back to the Council.

The Secretary made his report to the Council, indicating the financial condition of the State Bar to be good, but warned of the decrease to be expected in the revenue for the duration of the war. Further report was made by the Executive Committee on these points.

At the afternoon session the Council heard Prof. M. T. Van Hecke, of the University of North Carolina Law School, discuss the Board of Legal Examiners set up in Washington. Numerous questions were asked by the Council and Prof. Van Hecke was thanked for his appearance and the information given in connection with the Board.

Delegations from the 4th and 7th District Bars appeared before the Council to ask that some consideration be given to the question of the fees set by the Federal Land Bank in Title and Abstract work, and further as to matters handled by the Production Credit Associations. Mr. E. R. Malone spoke for the 7th District delegation and Mr. V. R. Johnson made a short statement for the 4th District whose full committee failed to appear. Mr. Harry D. Reed of the Federal Land Bank appeared and indicated that the Land Bank could not make any change in its policy. After some discussion the Council ordered the President to appoint a committee to study the question and report back to the Council.

The Executive Committee reported on the financial condition of the State Bar as per the reports of the Secretary and called the attention of the Council to the anticipated reduction in income for the year 1943. The committee recommended that the Council approve the printing of the rules of the Council and the Board of Law Examiners and the State Bar Act, as presented by the Secretary. The Council adopted the recommendation.

The Board of Law Examiners reported to the Council as follows: The Board of Law Examiners recommends that the Council approve a change in the rules of the Board as follows:

Amend Rule No. 16 as follows:

16. Effect of Disbarment, Suspension or Disciplinary Proceedings. No one who has been suspended or disbarred from practicing law in this or any other state, or by any Federal Court and whose sentence of suspension has not expired or whose sentence of disbarment has not been rescinded, and whose license to practice has not been restored, or against whom there are pending in any State or Federal Court charges, or proceedings undisposed of relating to his professional conduct shall be allowed to stand any examination held after the adoption of these rules, or admitted to practice law in this state by comity or otherwise. No one shall be admitted to practice law in this state by examination or comity who fails to disclose fully to the Board, whether requested to do so or not, the facts relating to any disciplinary proceedings or charges, relating to his professional conduct, whether same have been terminated or not, in this or any other state, or any Federal Court or other jurisdiction.

Judge L. R. Varser, Chairman of the Board of Law Examiners, requested the Council to approve the above change in the rules and the Council approved and adopted the same. The Board of Law Examiners met separately from the Council and during their session they adopted a resolution as follows:

"It is ordered by this Board that an examination will be given after the February graduation of the Law Schools in this state, for applicants who are about to go into the armed services of the United States prior to the August 1943 examination, and who have completed the pre-legal and legal educational requirements. Let notice of this be given to the Deans of the Law Schools in this state and to those who are regularly engaged in teaching law. This privilege will not be extended to those who may be able to take the regular August examination 1943."

President Rodman announced that Trial Committees in cases ordered to trial and also the special committees ordered appointed by the Council would be appointed by the incoming President.

The Secretary announced that Edward Harding Seawell, son of Supreme Court Justice A. A. F. Seawell, and a member of the Bar, has been reported missing in action in the Pacific. He is the first member of the Bar of this state to be reported missing. The Council ordered the Secretary to convey to Judge Seawell and his family the deep regret and sympathy of the Council and the Bar of the state.

The President announced that the American Bar Association had requested the Council to elect a representative to the House of Delegates of that Association. Mr. L. J. Poisson of Wilmington and Mr. Fred S. Hutchins of Winston-Salem, whose term has expired, were nominated. Upon counting of the vote it appeared that Mr. L. J. Poisson was elected.

The Council expressed its appreciation to Mr. W. B. Rodman, Jr., the President, for his untiring service as both Vice-President and as President.

There being no further business the Council adjourned at 5:05 P.M.

#### **Ninth Annual Meeting of the State Bar**

The ninth annual meeting of the North Carolina State Bar was held in Raleigh on Friday, October 23, 1942. W. B. Rodman, Jr., of Washington, President, presided over the sessions.

Rev. M. O. Sommers, Pastor of the First Presbyterian Church of Raleigh, gave the invocation.

Welcome was extended by former Governor J. C. B. Ehringhaus, and response was given by Hon. W. L. Mann of Albemarle, President of the 13th District Bar.

Governor J. M. Broughton gave the first address of the morning session. His subject was "The Courts and the Public." The governor reminded the lawyers that the courts are financed by taxes and that the public has a vital interest in the speedy administration of justice. He warned that the bench and the bar should coöperate in seeing that unnecessary delays are eliminated and that the courts function fully for the benefit of the public. His address was a forthright statement of the defects in the present system and the need for action on the part of the bench and bar to improve the procedure and administration in the courts.

Carl McFarland of Washington, D. C., former Assistant Attorney General and at present Chairman of the Section on Administrative Law of the American Bar Association, gave a thought-provoking address on the subject of administrative processes. He stated that while federal legislation had been stalled by the war, there was opportunity for states such as North Carolina to consider legislation in connection with ad-

ministrative procedure. He pointed to the complexity of the administrative process and to the tremendous number of agencies having administrative authority.

Colonel John D. Langston, Chairman of the National Planning Council, Headquarters Selective Service, and a member of the Goldsboro Bar, delivered an outstanding address on the afternoon program. The subject of his address was "War and the Bar." Colonel Langston paid high tribute to the Bar of America and the work that it is doing in the war effort and especially in connection with the Selective Service System. He warned his audience that there were grave problems to be solved after the war, and that democracy should not be termed as inadequate. While democracy might at times seem slow, he said, no totalitarian forms of government could compare with it and its power when it got in motion.

Following his address to the annual meeting, Colonel Langston broadcast a condensation of his address over a Mutual Coast-to-Coast hookup, under the auspices of the State Bar.

Judge W. C. Harris of Raleigh, Senior Judge of the Superior Court, delighted the meeting with one of his inimitable talks on the subject "Rationing as a Judge Would Apply It to Lawyers in Court." The Judge gave his audience some prescriptions for improving the courts and the profession, all of them coated with humor. He proposed to ration lawyers in their arguments to the jury, a ration on judges' charges to the grand jury—he would require them to spend at least a few minutes in advising the grand jury of their duties. The Judge also proposed a ration on receiverships so that creditors would get something. His other suggestions will appear in the Proceedings.

Hon. Marshall T. Spears of Durham was elected President for the coming year, succeeding Mr. Rodman. Frank S. Spruill of Rocky Mount was elected 1st Vice-President and Fred J. Coxe of Wadesboro was elected 2nd Vice-President. Edward L. Cannon continues as Secretary.

In spite of the conditions of travel and the large number of members in the armed forces, the attendance at the sessions was equal to that of last year.