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Wm. Hedges Robinson Jr.

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## THE BALANCE SHEET FOR CO-ORDINATION: ASSETS

*By* WM. HEDGES ROBINSON, JR.

**T**HE future of the American Bar Association and thus of any national bar organization lies with the Boston Convention of 1936; for this convention has before it as its major business the acceptance or rejection of the plan for a more representative national association. From this meeting will come either a national bar association so organized that it can be representative, responsible and aggressive, or a social group more vitally concerned with conviviality and individual progress than with the welfare of the entire bar. The question to be presented at Boston is, therefore, more than an approval or rejection of a new constitution; it is the approval or rejection of a new plan of life.

The proposed plan is the major asset in the present balance sheet for co-ordination. It is born of a series of plans which began with the twentieth century. In its broad phase it represents the new lawyer jealous of his ethics, proud of his profession, keenly aware of his obligation to the public and the courts and conscious of the fact that he is a part of the judicial branch of government. Whatever flaws the proposed reorganization may have, those flaws are largely ones which are inherent in our profession and our present attitude toward our work, toward each other, toward the courts, and toward the public. There can be no doubt that there must be a complete reversal of opinion by the profession and the elimination of public antipathy. But these changes may come if courageous and far-seeing leaders are selected under the new government.

What then is the new government? Briefly, its underlying scheme is the centralization of control in responsible agencies. The present governmental structure is remodeled beyond recognition, for only a very debilitated Assembly and a form of Executive Committee exist while the Conference of Bar Delegates is abolished entirely.

The administration of the association under the plan is vested largely in a House of Delegates consisting of approximately two hundred members, composed as follows: (a) State delegates—chosen one from each state, including the District of Columbia, and Hawaii and one for the territorial group of American possessions. A delegate is nominated by a petition signed by 25 members of the American Bar Association in the state and filed with the Board of Elections not less than 120 days before the annual meeting. Ballots are mailed to each member of the Association within the state, and must be returned to the board 60 days before the annual meeting. The terms of the state delegates is for three years. (b) State Bar Association delegates—each recognized state or territorial bar association is entitled to one delegate, and in addition may have one delegate for every thousand lawyers in the state in excess of 2,000, according to the last federal census; provided, however, no state bar association is entitled to more than four delegates. The term of these delegates is for two years. (c) Local Bar Association delegates—any local association which has at least 800 members, 25 per cent of whom are members of the American Bar Association, is entitled to one delegate, but the additional state bar association delegates are reduced by the number of local bar association delegates within the state. That is, if the local bar associations have two delegates, then the state association cannot have more than two. Their term is two years. (d) Assembly delegates—five delegates chosen annually by the assembly. (e) Affiliated organization delegates—each affiliated organization having 25 per cent of its members belonging to the association is entitled to one delegate. (f) Officials delegates—The President of the National Conference of Commissioners on Uniform State Laws, the Chairman of the National Conference of Bar Examiners, the Chairman of the National Conference of Judicial Councils, the President of the Association of American Law Schools, the Attorney General and Solicitor General of the United States, the President of the National Association of Attorneys General, the Chairman of each Section of the Association, and the Board of Governors are all delegates.

In a general way the membership from the various groups will be:

State Delegates.....	51
State Bar Association.....	82
Local Bar Association .....	11
Assembly Association .....	5
Affiliated Organizations.....	5
Officials Delegates .....	36
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Total .....	190

The powers of the House of Delegates are as follows: (1) To control and administer the association, (2) to submit certain defined questions to the members for a referendum, (3) to elect by a majority vote the officers of the association, (4) to supervise the employees of the association, (5) to establish, discontinue or abolish sections, (6) to approve or disapprove section by-laws, (7) to receive reports of sections and committees, (8) to concur in constitutional amendments by two-thirds vote, (9) to appropriate money and budget funds, (10) to authorize participation of association in litigation, and (11) to reject or approve resolutions offered by the assembly. Meetings of the house may be called at any time by the Board of Governors or upon written request of the majority of its members. Fifty members make a quorum.

Thus it will be seen the house is largely a legislative unit, determining policies and procedure. It has all of the powers of the present convention assembly, and in addition it is more fairly representative in character. A much more exact expression of opinion should come from this body than from present irresponsible, unrepresentative assembly.

There are several points pertaining to the assembly that need clarifying in the present draft. One is the provision relating to the reduction of state bar association delegates whenever local bar association delegates are selected. Every recognized state association shall have one delegate, regardless of the number of local bar association delegates there may be. Suppose, however, that more than three local associations can qualify for delegates, then is each qualified local bar association

entitled to a delegate regardless of the fact that there may be more than three such associations? If the state is allowed only three local bar associations, some association will be unrepresented. No method of selection of the three delegates is made for a situation of this kind. Section six of article five should be clarified on this point, even though there is no present indication that this question can rise for a number of years.

Very frequently state bar associations in non-integrated or non-federated states are not representative in any degree of the lawyers within the state. Colorado, Connecticut, Florida, Kansas, Maryland, Massachusetts, New Jersey, New York, Pennsylvania and Texas have state bar associations whose membership is less than 35 per cent of the lawyers in the state. On the other hand, local associations in Denver, New Haven, Baltimore, Boston and New York City have nearly as many, if not more, members than the state association. To permit the state bar association a representation and to deny it in some cases to the local association does cause a certain lack of representation. In addition, in some states, such as Louisiana, two state bar associations exist. For the House of Delegates to select one or the other as the qualified association is a delicate task whose commission is apt to breed politics and engender unpleasantness. There is no doubt, however, that the proposed constitution should do much to increase state bar association membership and by that means may overcome obstacles and make the qualified associations more representative.

The executive branch of the proposed governmental structure is the Board of Governors. In composition and in its powers it is very similar to the present Executive Committee. The president, the chairman of the House of Delegates, the last retiring president, the secretary, the treasurer, the editor-in-chief, and one member from each federal circuit to be selected from the house compose its membership. It has power (1) to administer the affairs of the association when the house is not in session, (2) to make the publication useful and of practical assistance to the members, (3) to present the duties of the assistant secretaries and the executive secretary, (4) to recommend the establishment or abolition of the sec-

tions, (5) to arrange the program for the annual meeting, (6) to appropriate money, and (7) to authorize intervention of the association in litigation or controversy.

The assembly under the new plan is practically without power. Consisting of all members of the association in good standing present at the convention, it will become chiefly a sounding board for the president's speech and for the reports of the committees. Its only powers are to elect five members to the House of Delegates, to refer questions to the entire membership for a referendum vote, and to amend the constitution by a two-thirds vote provided 200 members are present. It does not have the power to select the officers of the association.

Officers of the Board of Governors and chairman of the house are nominated by the state delegates to the house, meeting at least 70 days prior to the annual convention, and the house elects all officers. However, if a majority of the state bar associations in any federal circuit so signify their desire, the board member from that district may be elected by a direct mail vote. In addition, if any 200 members of the association, of which not more than 100 are in one state, shall desire to nominate any person to any office in the association they may file a nomination petition with the Board of Elections.

The sections and committees exist virtually the same as at the present and will meet during the convention period as before. Because of the limited functions of the assembly, membership and interest should be increased in the section meetings.

Of course, certain powers remain with the membership as a whole. Chiefly these are to vote on referred questions, to select delegates to the house, to attend the assembly, and upon certain conditions to nominate the officers of the association.

The final bit of reorganization centers around the Journal. Instead of being composed of a self-perpetuating board as before, it, too, will assume a more representative character. The Board of Editors will consist of eight members, the president, the chairman of the house, five members selected for a term of five years by the Board of Governors, and an editor-in-chief selected by the other members of the board. This

body will govern the Journal, subject to the approval of the Board of Governors.

This, in brief, is the new plan of government. It takes cognizance of the fact that an attempted government of the affairs of the association by 27,000 members results in the control of the association by the few. It attempts to substitute direct and quasi-proportional representation for the present convention assembly. This is a firm, sensible plan, and if officers who may be selected under it are keenly aware of their obligations, the American Bar Association may become truly what its name signifies.

The new plan is, therefore, the major asset in the balance sheet, but there is another which is almost of like importance. It is the gradual awakening of lawyers to a professional consciousness. This awakening can be seen in the plans submitted for the reorganization of the national association. It can be seen in the general spread of both the integrated and the federalized state bar associations. It can be seen in aggressive campaigns against unauthorized practice and against the shyster. It can be seen in the growing desire of bar associations to increase membership and to furnish aid to their members. This awakening holds the promise for the legal profession in America. There can be no doubt that the bar has long been somnolent. It has been negligent of its duty to the courts and to the profession. It has made no attempt to contact the populace and to spread a better understanding of the spirit of the law. It has made little effort to reform procedure and gear it to the needs of the day. Instead, it has allowed a hostile public opinion to exist against the legal profession. It has permitted our courts to bog in the morass of legalisms and judicial laziness. It has let our courts and our prosecuting attorneys be openly tainted with political corruption. It has suffered the enormous growth of dictatorial administrative bodies, openly hostile to the lawyer. It has allowed practitioners and adjusters to practice law without hindrance. Against the shyster, it has acknowledged defeat, permitting the federal government to eject them from the profession. Without retort it has allowed the legal profession to be vilified and the term lawyer to become synonymous with shyster. Because of these things and many more

the bar cannot command respect of the public. Yet, if the lawyer is to exist, he cannot see these things continue. They must be resisted vigorously. Therefore, the arousing of the lawyer to his responsibility by encouraging better bar organization, by spreading information about legal reform, by insisting on a higher standard of ethics and higher planes of legal education, by waging campaigns against unauthorized practice, by encouraging more modern means of selecting judges, and by making the lawyer aware that he is a part of the judicial branch of government, must be part of a gigantic campaign in every state. It must be a national, militant movement.

Some start along this direction has been made by the American Bar Association in its co-ordination plan by securing hundreds of committee lawyers to work together on the subjects of the national bar program and also by the dissemination of information concerning integration and federalization. As a result there has been a gradual awakening of the profession to its responsibilities. Unfortunately, the awakening is slow. It needs forceful and understanding publicity and well-directed activity. What publicity the national association has supplied has been largely unplanned and personal. Publicity must come from a national headquarters conceived with two purposes: (1) To inform the public, and (2) to arouse the lawyer.

In that the national bar program has begun to create a consciousness among lawyers of professionalism, it should rank as the second asset on the balance sheet. Under the proposed government splendid opportunities exist for intelligent publicity which will benefit every lawyer and bring the public to a close appreciation of the problems of the legal profession. No committee can handle publicity and, fortunately, the plan does away with such a committee. The drafters of the plan expressly state that they believe publicity can be better handled and directed from national headquarters. If the officers who may be selected under the new form of government realize the value and necessity of publicity, the American Bar Association can be the largest factor for the improvement of justice and for the strengthening of the legal profession that has yet existed in this country.

The third asset is the attempt by the association to give more service to its members. This can be seen in the idea of the service letter. It is noticeable in the Conference of Bar Examiners, which will give to bar examiners character information about those seeking admission to the bar and which attempts to improve the type of bar examinations. The idea of service can be perceived in the section work. New publications, such as Legal Notes on Local Government, sponsored by the Section of Municipal Law, are attempting to bring assistance to the lawyers specializing in certain fields; while the Section on Legal Education is constantly endeavoring to raise legal education requirements in the states. These are healthy signs. Possibly the day may not be so far away when the American Bar Association will mean as much to the profession and to the public as the American Medical Association does in its field, and when the Journal of the former will be as essential to the lawyer as the Journal of the latter is to the doctor.

There is a growing recognition of the necessity that a bar association should give service. That is significant; and the proposed plan would be that much stronger if in its preamble it would make mention of the fact that the American Bar Association desires to be of service to its members.

So these are the assets: (1) Proposed plan of government, (2) an awakening of legal consciousness, and (3) the beginning of the service idea. Against these assets are set the liabilities of (1) the individualistic attitude of the lawyer, (2) inadequate and doubtful public relation, (3) present status of bar associations, (4) low returns for association dues, (5) duplication among existing organizations, and (6) the present organization of the American Bar Association. While the assets are less numerous than liabilities, yet they have greater potentialities. If the Boston convention ratifies the proposed plan, then the way is open for a truly national organization. With adequate governmental machinery and visionary leaders the American Bar Association can gain much in prestige and influence. Whether the balance sheet will show a profit or loss remains with the Boston convention and the leaders it selects.