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The September Meeting

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The September Meeting

MONDAY, September 12th found the travelers returned from the recent American Bar Association convention at Buffalo back in full force at the luncheon meeting at the Chamber of Commerce.

The Man from the National Chamber

Somewhat before the members present had partaken of dessert President Stearns introduced Mr. John L. Powell of Washington, D. C., as a representative of the National Chamber of Commerce. Mr. Powell indicated in some brief remarks the origin and functions of his constituent organization and solicited the support of the legal profession in the advancement of its offices. Among the points of interest made by Mr. Powell, were his references to the beginnings of the Chamber in 1912 at the suggestion of Mr. Taft, the then President, the successful functioning and eulogistic reception by all presidents since then, including Mr. Coolidge, the slogan of the organization "never to favor anything for business which is not good for the whole country;" and finally the speaker's esteem for the legal profession and the reliance of his organization upon the bar, as evidenced by the fact that two of the eight presidents of that body were lawyers.

Mr. Stearns Presides

Upon calling the regular meeting to order, Mr. Stearns commented upon the fact that this was the first meeting of the current year, that the policy would be continued of having a regular monthly meeting on the first Monday of each month.

The Chair felicitated the gathering upon the presence of a number of distinguished visitors including Judge Robert E. Lewis, Judge John

C. Pollock, and Judge George C. Scott constituting the bench of the U. S. Circuit Court of Appeals then sitting, also Mr. E. E. McInnis of Chicago, and Mr. Henry P. Brown of Boston.

Iliad and Odyssey

The Chair then indulged in some entertaining reminiscences and statistics in regard to the Buffalo convention from which he had but recently returned. He said that there was a large Colorado delegation consisting of sixteen members. The registration, he said, was somewhat less than the Denver meeting and he then enumerated in some detail some of the proceedings. Among the items of local interest he referred to the election of Mr. W. L. Boatwright to the office of President of the Association of Attorney-Generals. Some discussion was had of the functioning and difficulties of these various "Sections of the association" each dedicated to a particular branch of law. He characterized as historic the introduction of the Lord Chief Justice of England by Chief Justice Taft of the United States Supreme Court. Applause greeted the announcement that Mr. James Grafton Rogers of the Denver Bar had been honored by election to one of the trusteeships in the national association.

Herald of Uniformity

The Chair then introduced Mr. Forrest Northcutt as one of the delegates to the Conference of the Commissioners on Uniform State Laws. Mr. Northcutt, after briefly outlining the origin and procedure of the conference, mentioned the representative character of the membership including judges and law professors of

national reputation. The conference, he said, had reported suggested legislation upon the subjects of "Real Estate Mortgages" as a new proposal and amendments to the subjects of "Motor Vehicles" and "Chattel Mortgages". The text of the suggested laws upon "Business Corporations," "Trust Receipts," and "Public Utilities" were considered section by section discussed and approved—the procedure being, according to Mr. Northcutt, to pass report of final recommendation of these proposed laws only after a year's further consideration. As evidence of the careful consideration allotted these recommendations, he noted that the Business Corporations act had been under consideration for 15 years and the Real Estate Mortgages act considered upon six different occasions.

He advanced some interesting statistical information upon this subject noting that the conference had been in existence for thirty-five years during which time 42 proposed uniform laws had been recommended. Of these only the "Negotiable Instruments" law had been enacted by all the States—the warehouse receipts act being second in popularity. If all 42 laws had been universally adopted, in excess of 2 thousand enactments would have been required, whereas approximately 400 represented the total number actually made law to date, of which only three states have adopted as many as eighteen. The greater proportion of these acts have dealt with subjects of commerce—254 in number. Social legislation on the other hand, being the proposed Child Labor, Workmen's Compensation etc., enactments, have been poorly received. Under the circumstances it was manifest that the need was to procure a response upon the work on the conference already done and not to proceed with new proposals of law. In this con-

nection Mr. Gilbert H. Montague, chairman of the analagous committee of the New York Bar Association, was quoted by Mr. Northcutt as calling attention to the function of the proposed laws as affording models of legislative form even where not so generally accepted as to have the attribute of national uniformity.

The tendering of these enactments to some legislatures was likened by Mr. Northcutt to the biblical casting of pearls to which he hastened, amidst laughter, to except the legislature of his home state. He closed with a comment upon the impracticability of the present adoption by Colorado of the mortgage act. The conference, helped, he said, to keep the subject of uniformity before the state legislatures, rather than to let it go to the Federal Congress. In closing he referred to the hospitable entertainment tendered by the Erie county lawyers.

Wallbank on Miscellany

Mr. Stanley Wallbank was then introduced as one of the representatives at the conference of the Bar Association delegates. Mr. Wallbank after a statement to the effect that his voice was lame and almost sick and was like the Volstead act "in need of assistance and enforcement," delivered himself of his report in dulcet tones which entirely belied his self deprecatory utterance. He said that the conference of the Bar Association delegates was not unlike the convention of the "Sections" on specific law subjects to which Mr. Stearns had previously made reference: that its function was to devise and supervise contact between the American Bar Association and the local associations of the various states; that it sprung from the effort of Messrs. Elihu Root and others to create a forum for the study and recommendation of helpful sugges-

tions for local bar association activities. In this character, it had been graced by many chairmen of impressive abilities among whom were Mr. Root, Mr. Davis and Mr. Hughes as well as Mr. McChesney of Chicago who was the chairman at this conference. Mr. Wallbank reviewed a paper by Mr. McChesney on the leadership of the Bar, its waning influences, the causes and remedies. Mr. McChesney decried the overweening influence of the corporation client. He referred to the time when the corporation president, upon desiring advice, donned his top hat and went to the lawyer, in contrast to the present arrangement where the same president now presses a button and the lawyer comes to him. It was the view of Mr. McChesney that the bar should assert its position.

Mr. Wallbank recounted the report of the Committee on Rules of Court, of which Mr. Marvel of Delaware was the chairman. The report was described as elaborately digesting the powers of the judiciary in each state and ending with the recommendations of the committee. The report of Mr. Grinnell of Boston, Chairman of the Committee of Judicial Councils was summarized by Mr. Wallbank as narrating the helpfulness of these bodies in various of the states. The conference, he reported, voted for the merger of these two committees.

He referred to the report of Judge Barth of St. Louis, Chairman of the Committee on Judicial Selection and the unfinished report of Mr. Dodd of Chicago on Requirements for Admission as well as an interesting report and discussion by Mr. Sheriff of Chicago on Cooperation between Bar and Press, mentioning editorials in the Chicago Tribune and the New York World themselves deprecating the trial of criminal causes in the

newspapers, describing such conduct as "Journalistic Lynch Law". The report of Mr. Goodwin of Chicago, 18 years Chairman of the Committee on State Bar Organization, was described as provocative of "fire works." Reference being made to the organization of five states: North Dakota, Alabama, Idaho, New Mexico and California, Messrs. Taft and Marshall of New York City were described as vigorously urging the exclusively local character of interest entailed in such a discussion—the former calling up the record of vote of previous conferences to that effect and the latter further emphasizing the peculiarities of the Manhattan situation of 25 thousand members in the state bar, 20 thousand in the City, and the distinction between the city and county association all as evidence of the peculiar metropolitan problem in this connection. To these matters, answer was had from Mr. Cohen of that city. As a result the report was ordered filed and the personnel of the committee thereafter to be designated by the Chairman of the council. Mr. Wallbank referred to a unique device in judicial selection reported by Mr. Ridgeway of California whereby the California bar was permitted to vote upon any judicial candidate either for or against or without opinion. Mr. Wallbank named the new officers of this Section and referred to the record attendance of this branch of the convention.

Legislators

The Chair then called upon Mr. Henry W. Toll to report the progress of the conference of the American Legislators Association which owed its paternity to Mr. Toll and had honored him with important official position at its head and the chair in this connection made felicitous

reference to the sign on the Ford "I do not choose to run in 1928".

Mr. Toll described the assemblage as a national clearing house, not only for legislation, but also for after dinner stories and he regaled the luncheon with some of those anecdotes. Among these were the story attributed to Mr. Silas Straun about the private whose sergeant had not exactly called him "a block-head", but had told him to pull down his cap because the woodpeckers were coming. There appeared the ubiquitous oratorical bore who, after the delivery of a stereoptican lecture found only one member of the audience when the lights went up, as to whom, inquiry developed his reason for staying to have been that he was to give the next speech on the program. Answers to questions upon examination for admission to the Bar were cited disclosing that Disraeli was the Archbishop of Canterbury and Magna Charta a first class battleship. Professor Williston was credited with the account of the auto accessory purchaser who inquired for a horn which need not be loud but must have a "mean contemptuous snarl."

Inter Alia

Many expressions were made, Mr. Toll said, of the cordial appreciation to the American Bar Association delegates of the hospitality which they had enjoyed at the Denver meeting of the year previous. Mr. Toll made complimentary reference to the Denver Bar Association as "the first godfather of the Legislators' Association." Referring to legislative activity and the previous reference of Mr. Northcutt, Mr. Toll disclaimed any intention to "trample on the pearls of uniformity or turn again and rend." Among the interesting personal references to which Mr. Toll gave voice in his re-

port was the account of a talk with Professor Wigmore so engrossing as to keep both the Professor and the speaker in the ante chamber during one entire session. At the end of the talk, however, the Professor expressed himself to be a complete convert.

Six Points

Mr. Toll very lucidly expressed the six functions of the legislators organization to be as follows: first, as a "clearing house" for the legislative reference bureaus dedicated to research and drafting of proposed statutes in the light of the best thought on the subject obtainable anywhere in the country; second, as "an informational switchboard" to connect the legislative draftsman with the best source of information in the United States on the subject of his proposed statute; third, as a "bulletin" to the 7500 legislators in the United States coming to them between sessions "when the orgy was not in progress;" fourth, as "an annual conference for legislators open to good, bad and indifferent alike". Mr. Toll estimated that between one third and one-fifth of all legislators are lawyers and that of these perhaps 10% might be induced annually to combine the American Bar Association convention with the meeting under discussion; fifth, the "meeting of the legislative assembly," consisting of 96 representatives of the State legislature being one representative from each branch and each State, is designed to bring legislation closer to the source of information by the removal of intermediaries. As an example the speaker referred to the benefits of the direct expressions to this body of Professor Williston on the Negotiable Instruments act. It also finds a utility according to Mr. Toll by effecting an interstate legislative cordiality

in anticipation of compacts between the States similar to that involved in the Colorado River situation; sixth, and finally, the organization would design to derive the advan-

tage of the specialist and expert through committees on special subjects as for example "taxation."

V. A. M.

The Constitution and Dynamic Sociology

By VICTOR ARTHUR MILLER, of the Denver Bar

IN pursuance of the policy of the RECORD to afford opportunity for discussion by the members of the Denver Bar Association on topics controverted or otherwise, the colleagues of the writer on the board have afforded this opportunity for the expression of certain views of his own stimulated by the recent celebration of Constitution Week.

It is not the function of this article to indulge in eulogy upon the Constitution nor to attempt any instruction or analysis upon any of the great precepts of Federal organization. Such expression, if directed to a group of lawyers, would be a work of supererogation.

It is proposed to discuss, and that not particularly in accordance with any traditional treatment, the single, greatest and most characteristic feature of the fundamental organ of our government. The one preeminent principle in the American Constitution, the one consideration for which, above all others, it is worshipped by its friends and execrated by its enemies, is its militant protection of individual man.

Few would disagree with Dean Pound that the authorship of the constitutional principle in our polity which protects the individual is in the alliance of the Puritan and Pioneer with the classic economic and social philosopher of the eighteenth Century, the proponent of the laissez faire doctrine. Certainly, so far as argument can proceed in personam, no truth was

ever discovered in a happier atmosphere than the mental background of the three characters thus named. The Puritan and particularly the American Puritan, Burke's "Essence of Dissent" was, as is agreed by all historians of the frontier, concentrated to a selective type of an even higher order in point of courage, brains and energy as he pushed settlement to the West. He was therefore the very cream of the cream of all ancestral stock on earth and to his iron virtues of enterprise, self-reliance, thrift, and endurance was added the humanitarian thought of the intellectual giants of a humanitarian era—blending in the authorship of the Constitution.

Nor can the most vigorous opponent of the individualist policy of the American Constitution deny to it, its external effect in times past as a beneficent, if not vitally necessary element, in developing our country and protecting it from the tribulations of other lands at other times. It cannot be doubted from a historical standpoint that unrestrained power over the individual vested in any kind of government has through all the centuries proven to be an abysmal failure. This is true whether the government was an absolute monarchy or an absolute democracy an oligarchy or mob rule. From the massacre by ballot of the Athenian generals after the battle of Aegospotamos through the religious persecutions of Louis XIV and James II, an unbridled legal authority of man over man has resulted in governmen-