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Conference of the Bar Association Delegates

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Conference of the Bar Association Delegates

May 8th, 1926.
To the Denver Bar Association:

As delegate representing the Denver Bar Association, I attended the conference of Bar Association Delegates held in the City of Washington, D. C. on April 28th, 1926. Inasmuch as the sole question considered by this meeting involved the statutory incorporation of State Bar Associations, with the result that the matter was left for decision with the respective states, I do not feel that I should burden you with a lengthy report and the action of the conference itself precluded my making any formal recommendation.

The question of statutory incorporation of state and local Bar Associations is one which has arisen, primarily on account of the desire of members of the Bar to bring into one body all of the practicing lawyers within a given community, namely, the State, in order that such Associations may command more from members of the Bar in the way of public service and at the same time maintain a high standard of ethics through quick and speedy discipline of those who depart from the line of legal ethics. Objection to such a course of procedure is three-fold; first, it demolishes the high traditions and standards of voluntary Associations; second, it places the profession upon the basis of a trade-guild; and thirdly, it is an attempt by the lawyers as a class to legislate good morals into the souls of its members.

The affirmative side of the question was supported by Honorable Charles J. Hughes, Judge Goodwin of the Illinois Bar and Mr. Cohen of the New York State Bar. The opposition was led by William D. Guthrie, President of the Association of the Bar of the City of New York, with whom concurred the New York County Bar Association, the Illinois Bar Association and the Chicago Bar Association.

The meeting adjourned after devoting the entire day to a spirited debate upon the subject and the passage by the delegates of a resolution declaring that the question was one solely for each state to decide for itself marked a victory for the opponents of the measure.

Personally, I am not in favor of the measure, and inasmuch as the same has already been under discussion before the Colorado State Bar, the issue may be considered as having been decided in the negative in Colorado.

The question considered at the meeting is fully discussed in the Journal of the American Judicature Society, Volume 2, No. 4, copies of which can be supplied on request, addressed to such Society at 31 West Lake Street, Chicago, and the report of William D. Guthrie, President of the Association of the Bar of the City of New York, the Secretary of which is prepared to furnish copies on request, to whom members seeking further information on the subject are referred.

Respectfully submitted,

GEORGE K. THOMAS,

GKT-J.

Delegate.

CONVENTION PARAGRAPHS

The Finance Committee reports over \$25,000.00 collected on the entertainment fund. This is a very excellent showing, but it will facilitate not only the work of the Committee, but also the whole work of the convention program if the lawyers will send in at once to the Committee the amount of their pledges. Please don't wait until the last minute, and don't wait to be dunned, but send in your check at once to R. L. Stearns, Secretary of the Committee, First National Bank Building.

The response of the lawyers to the request for automobiles is very slow and disappointing. Only about one hundred cards have so far been returned, out of one thousand sent out, and there are very few offers so far of extra cars. Perhaps this matter of having an adequate supply of private automobiles is the most important single feature of the entertainment program; and unless the lawyers volunteer promptly a very heavy additional burden of work will be thrown onto the Committee. Furthermore, unless a substantial number of extra cars can be obtained by lawyers from their friends, a serious item of expense will have to be incurred.

Send in your automobile card at once, or telephone Myles P. Tallmadge, Main 554 about it.

Miss Mary F. Lathrop, who has handled publicity for the American Bar Association headquarters, has also been made Chairman of the publicity for the local committees.

The Secretarial Committee has divided its work among the following sub-committees:

Publications (Denver Bar Record and Jealous Mistress Booklet, etc.):

Leroy McWhinney, Chairman
Joseph Sampson
Robert H. Dunlap

Headquarters organization and equipment, Information Bureau, etc.:

Carl Whitehead, Chairman
Charles E. Works
Hudson Moore
Kent S. Whitford

Telephone Arrangements:

Nicholas Lakusta

General Printing:

Theodore A. Chisholm

Badges and Photographs:

Lawrence Lewis

The Committee on Automobile trips has been somewhat reorganized, due to pressure of work of some of its members, and Stephen R. Curtis is now Chairman of that sub-committee.

HUGH McLEAN,
General Convention Secretary.

THE ANNUAL MEETING

Falling upon a holiday, when Denver lawyers are wont to seek the repose to be found only in the fastnesses of the nearby hills, it was not surprising that the Annual Meeting should have been marked by a somewhat smaller attendance than usual. But a livelier meeting we have seldom had and certainly none more enjoyable, despite the small attendance.

Judge Butler, introducing the first speaker, Mr. J. K. P. McCallum, said that it had been a good many years since the Civil War and not many veterans of that great conflict were left. Mr. McCallum, however, was one of those veterans and it was, therefore, appropriate that we should have a few remarks from him upon the occasion of Memorial Day.

A Veteran Speaks

"Your old sergeant-at-arms now be-

gins to function for the first time," declared Mr. McCallum. Being a member of the Denver Bar Association, he said, was in itself evidence of respectability and to take an active part in its affairs was to take another step toward high public esteem. He referred to the fact that Judge James H. Teller, who was present at the meeting, had called the convention to formulate the organic law of the State of Dakota and that he had also been a member of that convention. If the new officers of the Association lived up to their duties as well as Judge Butler and the last officers of the association had lived up to theirs, they would do well indeed, he said. Holding aloft the gavel of the sergeant-at-arms made by his own hands, he urged that these new officers maintain the high standards of the organization.

Tallmadge Reports

Myles P. Tallmadge, Chairman of the Committee on Automobile Transportation for the American Bar Association Convention, announced that the committee had been greatly disappointed by the return made to its appeal for automobiles. Of 900 cards sent out, only 150 had been returned and only 120 cars had been arranged for while at least 400 to 500 cars would be needed to provide for the 2000 to 2500 people who would need transportation. It was a big job, he declared; the trips had been advertised; and the members must respond generously with their automobiles or the committee's plans would not succeed. He urged that those who had not already made return, do so at once.

Dr. Norlin Is Introduced

President Butler, introducing Dr. George Norlin, President of the University of Colorado and the speaker of the evening, said that many years ago Punch had declared that fame consisted in dying on the field of battle and then having your name misspelled in the official gazette. Even when the name is not misspelled, it is astonishing how soon persons prominent in their day and generation are forgotten. John Bright was one of those who had been nearly forgotten and yet sixty or seventy years ago his name had been one to conjure with; it had been a household word in both England and America; and he ought not to be forgotten. It was a special

privilege, he declared, to have Dr. Norlin tell us something about this illustrious man. Dr. Norlin then delivered his scholarly address which will appear in full in the July issue of the "Record" and for this reason is not reported here.

Officers Are Elected

Following Dr. Norlin's address, the following new officers for the ensuing year were unanimously elected: James A. Marsh, President; Peter H. Holme, First Vice President; Henry W. Toll, Second Vice President; and Karl C. Schuyler and Charles C. Butler, Trustees.

Mr. Marsh Accepts

James A. Marsh, responding to a demand for a speech from the audience, expressed his appreciation of the high honor conferred upon him and of the manifestation of confidence implied by his election. He said that he felt in somewhat the same position as the bridegroom who, after being congratulated by the clergyman, whispered to him, "Parson! Parson! Won't you please pray for me?" The parson turned and looked at the bride and he did. Mr. Marsh thought the Association exceedingly fortunate in having had Judge Butler to preside over its affairs, and it was a fact that he was responsible for having brought the Association to its present standard of excellence which could only be maintained by the earnest and sincere cooperation of every member. With this kind of cooperation, he was hopeful of another successful year ahead.

Mr. Toll Tells Why He Accepts

Senator Toll, also called upon for a speech, likewise expressed his sincere appreciation of the honor of being connected in any official capacity with the Association which was, he declared, now among the first ten or twelve leading bar associations in the country. He hoped, he said, that at the end of the new administration it would have been found so successful that we would find ourselves discussing, not minimum fees but maximum fees for the members.

Mr. Johnson Starts Something

Mr. L. B. Johnson, Chairman of the Minimum Fees Committee, then read the report of his committee. He suggested that the schedule of fees was not in any sense an arbitrary one but

merely a sort of guide for lawyers who were uncertain as to what charges should be made in particular cases. For the sake of bringing the matter to a head, he then offered two resolutions; the first, to adopt the schedule; and the second, to appoint a standing committee to have charge of the administration of the matter.

Oliver Objects

The question being thus opened for discussion, Mr. Oliver Toll was recognized and said that the committee had referred to two advantages offered by the schedule of fees: the first, that it would be the means of satisfying laymen as to the reasonableness of lawyers' charges; and the second, that it would inform the lawyers as to the proper fees to be charged in given cases. There was a third element, he thought, which should be considered—that it would tend to increase fees, and the fact that it was not mentioned by the committee suggested that we should not take or seem to take any such action. As to the first alleged advantage—that the schedule would satisfy clients—it was a plausible one but he thought that it would reduce the profession to the level of an ordinary business. Even if we were to adopt a schedule of fees, Mr. Toll thought it a mistake to put it as a schedule of minimum fees, which in the mind of the layman will be a schedule of ordinary fees and none of us wanted to take the position that he is charging more than the minimum. For all practical purposes, he thought, the schedule would prove to be one of ordinary fees rather than minimum fees, and he thought it would put us in a much better position if we would frankly call it a schedule of ordinary fees; there was nothing to gain by calling it a schedule of minimum fees and there was a great deal to lose for we would thereby be put upon a commercial basis. If we are trying to inform lawyers as to what are proper fees, let us do it in an accurate way, Mr. Toll pleaded. It was a very un-lawyerlike way to adopt a program that was not practical, and there was in reality no such thing as a minimum fee because the canons of the American Bar Association had declared that the amount of a fee in any given case was to be determined by the circumstances. He did not want to be put in the position of not wanting to take

a case because the minimum fee schedule stood in the way, and he thought it misleading and inaccurate to speak of legal fees as a standard article in which there is little difference regardless of the difference between the experience and ability of lawyers. He thought that we should clearly state that the schedule did not apply to unusual cases and that it had no application to cases where special ability and qualifications are involved.

Schaetzel Explains

Mr. Jacob Schaetzel, secretary of the committee, replying to Mr. Toll, told what other bar associations throughout the country were doing in the matter of establishing schedules of minimum fees. He read an article from a 1920 issue of the American Bar Association Journal describing what had been accomplished by the Illinois State Bar Association after adopting such a schedule and setting forth the increased cost of living and other reasons for its adoption. Many of the schedules adopted, he said, were based upon this Illinois schedule. Such a schedule did not tend to establish fees, he said, but merely suggested a minimum and the advantage was that it provided a 'starting point.' He also explained that the word "minimum" would not necessarily be applied to the schedule but that that would be left to the judgment of the committee under the resolution. Mr. Schaetzel then referred in some detail to the schedules adopted by the bar associations of Minneapolis, Milwaukee, Seattle, Dade County, Florida, Portland, Oregon, Mesa County Colorado, and elsewhere, and told of his own experiences where uncertainty as to the proper fees to charge had worked injustice either to himself or to brother lawyers. Either inadequate fees or exorbitant fees, Mr. Schaetzel thought, worked serious injury to the profession and the proposed schedule was a means of correcting this condition.

Judge Starkweather Cautious

Judge Starkweather then called attention to the fact that while there were about 1100 members of the bar in Denver, only fifty were present at the meeting, and urged that no action be taken until all had been given full opportunity to consider the question. He proposed a postponement to this end until a special meeting could be

called for the express consideration of the matter.

Judge Butler explained that it was not the desire of the committee to obtain final action at the meeting but merely to discuss the question in a general way.

Ernest Earnestly Protests

Mr. Ernest Morris, who next spoke, agreed with Judge Starkweather but thought that we should not bind the members of the bar at all in such a matter. He said that Judah P. Benjamin had a good fee rule. He, it seems, charged first a retainer, then a refresher, and third, a finisher. We should look on the profession as a profession and not as a business, he declared, and the question was whether or not we are commercializing the law and reducing it to a mere wage schedule basis. He had never heard of the doctors doing this, he said, and he thought we were lowering the profession to a business level by the proposal. We were entering upon an interminable task, he said, that would reflect little glory upon the Denver Bar Association. We had tried to fix fares for the Tramway Company, for taxicabs and rates for hotels, and if we studied the modern history of England and America we would find that there had been a constant struggle over the fixing of wages and hours of labor; that the whole process was not in accord with the ideal of the legal profession. It would be far better for the lawyers not to form a labor union; the judges of the supreme court and other legal public officers were underpaid notoriously and yet they had taken no action to raise their salaries. The best solution of the problem, he thought, was not to bind any lawyers but to refuse to take any action on the fixing of fees. Any action we took, he declared, would be misinterpreted by the general public and the preliminary report had already been grossly misinterpreted as an attempt to form a union to increase compensation. He therefore favored laying the report of the committee on the table.

Gould Gives Facts

Mr. Albert J. Gould, secretary of the association, rose to give the members a few facts developed by his correspondence on the question. The New Orleans Bar Association had written expressing great interest in the prog-

ress of the matter and inquiring as to what we had accomplished; the September issue of "the Record" had invited comments from members of the bar; a committee had been appointed and had spent a great deal of time and energy in studying the question; and we should give an opportunity to all lawyers in Denver to express themselves. Mr. Gould then suggested a referendum as a solution and thought that a ballot might be included in the June issue of "the Record," with a return envelope for this purpose. Many other associations, he said, had sent in for our schedule and had expressed approval of the idea, and many lawyers had written in telling how the schedule had helped them in fixing fees. He thought definite and final action should be postponed until the September meeting which should be a special meeting for the consideration of the question.

Schaetzel Takes Another Turn

Mr. Schaetzel then read excerpts from an article in the Saturday Evening Post, which he thought stated the crux of the whole matter. There were 1,000 working hours in the year and this afforded a working basis for fixing fees. A \$5,000-a-year man should charge \$5.00 an hour; a \$10,000-a-year man, \$10.00 an hour, etc. The estate fees in our proposed schedule, he said, had been recommended by Judge Luxford of the County Court. He also

moved that the matter be laid upon the table until the September meeting and meanwhile thoroughly discussed.

Strong Strongly Opposes

Judge Strong expressed his disapproval of the whole plan in no uncertain terms and moved for an expression of opinion on the question, to which Mr. Gould responded that if an informal vote were taken at such a small meeting it would be misleading and the resulting publicity would be harmful. Felder Cook then moved that the schedule be sent out by the secretary and Judge Butler explained that it had already been sent out in the April issue of "the Record." A motion to continue the matter to the September meeting for further consideration was then adopted.

President Butler then brought the meeting to a close with a short speech expressing his thanks to the association for its cooperation and expression of confidence in his efforts in its behalf.

—J.C.S.

MINIMUM FEES.

Now here's a wheeze
Concerning fees—
The Law of compensation
May oft succeed
But what we need
Is more remuneration.

—J.C.S.

Does Denver Need a Municipal Court?

Whether it does or not, Denver is far behind most American cities in its lower courts' methods. This much has been learned by the special committee of The Denver Bar Association and The Chamber of Commerce appointed to recommend improvements in the present system.

That Denver needs more magistrates for its lower courts is obvious. A charter amendment would provide additional judges. Whether such change would be all that might be required is a serious question.

The committee has sent inquiries to various American cities of the relative size of Denver and is receiving much aid from the replies which thus far have been received from Atlanta, Columbus, Minneapolis, Providence,

Portland, Oregon, Seattle, New Orleans and Rochester. From these letters and a study of the Municipal Court statutes of Ohio and Illinois, it is apparent that American cities of any importance have generally relegated police and so-called Justice Courts to oblivion. Municipal Courts have arisen instead and have proved satisfactory.

Jurisdiction Greater

Generally, these Municipal Courts have all the criminal jurisdiction formerly held by Justice Courts. They have jurisdiction of all violation of city ordinances and of civil matters except divorce and purely chancery cases and questions involving title to real estate. Jurisdiction varies in