PROCEEDINGS

THE ANNUAL MEETING

The Annual Meeting of the Indiana State Bar Association was called to order at 10:00 o'clock by President James R. Newkirk, in the Assembly Room, Claypool Hotel, Indianapolis, Indiana.

At this time President Newkirk called for committee reports.

COMMITTEE ON NECROLOGY

MR. HUGUENARD: Mr. Chairman, at the request of your Secretary I submit this report: Deaths of members of which the Secretary has been advised since the last annual meeting are as follows:

Andrew J. Hickey, LaPorte
William H. Hill, Vincennes
Edgar D. Randolph, Lafayette
Fred N. Prass, Lafayette
Russell Willson, Indianapolis
Albert Baker, Indianapolis
John Morris, Fort Wayne
Harry B. Tuthill, Michigan City
Alonzo Bales, Winchester
Vernon Helmen, South Bend
Zach T. Dungan, Huntington
A. K. Sills, Lafayette
Clyde A. McCoy, Fort Wayne
Robert E. Stoelting, Vincennes
E. F. Chenoweth, Portland
Wirt Worden, LaPorte
LaVerne Norris, Michigan City
William F. Brooks, Bedford
Lew M. O'Bannon, Corydon
Ray Deahl, Goshen
Charles W. Kuhne, Fort Wayne
Warren B. Allison, Jeffersonville
*Samuel L. Mitchell, Salem
W. W. Sharpless, Garrett

* In military service.

John R. Browne, Marion
A. R. Stimson, Huntingburg
Clarence V. Shields, LaPorte
James C. Fletcher, Knox

TREASURER'S REPORT

The Treasurer was charged on June 30, 1942, with the sum of $1,379.22.

RECEIPTS

Dues	$7,103.50	
Advertising, Indiana Law Journal	1,223.33	
Sale of Law Journals	199.31	
Miscellaneous	17.75	
		$9,923.11

EXPENSES

Indiana Law Journal		
Printing (5 issues)	2,274.56	
Salary of Editor	1,000.00	
Postage Fees	69.25	
		3,343.81
Secretary-Treasurer (Salary and Office)	2,000.00	
Expense of Meetings	905.62	
Stationery	171.41	
Postage	227.25	
Special Printing	41.93	
Officers	74.07	
Committees	700.88	
Board of Managers	14.63	
Inter-American Bar Association	100.00	
Miscellaneous	80.09	
		4,315.88
		$7,659.69
Leaving a balance on hand June 30, 1943, of		$2,263.42

BUDGET AND AUDITING COMMITTEE

Verne G. Cawley, chairman

At the request of President Newkirk, the Budget Committee has also acted as an Auditing Committee.

BUDGET

Attached to this report is a schedule showing the budget as well as the actual receipts and disbursements. The actual receipts exceeded the estimated receipts and budget by $2,118.89. The actual disbursements exceeded the estimated expenditures and budget by $1,234.69. The increase in dues amounted to $1,603.50, of which amount $300.00 represented the dues of $10.00 each from thirty sustaining members. The income from advertising in the Law Journal exceeded the estimated income by $423.33. The reason for this increase was that invoices for advertising carrying six issues were paid for, while the budget only took into consideration the payment of advertising appearing in four issues, as there were only four issues during the fiscal year. The cost of printing the Journal exceeded the estimated cost by $274.56, because a portion of this amount represented payment for an issue of the Journal put out prior to the payment of the past fiscal year.

It is not known why the expense of meetings exceeded the estimated expense by $505.62.

Disbursement for committees exceeded the estimated expense by $500.88. This was due to an appropriation of $400.00 for the Legislative Committee and $100.00 for the American Citizenship Committee, which expenditures were not included in the budget.

This year's operations resulted in a gain of $884.20.

AUDIT

The committee has examined the Secretary-Treasurer's records and find that he started the fiscal year with a balance on hand of $1,379.22; received during the year $8,543.89; expended during the year $7,659.69, and ended the year with a balance on hand of $2,263.42, which is $884.20 more than he had on hand at the beginning of the year.

Our examination of his records satisfies the members of the committee that his records are accurate and all receipts have been accounted for, and all expenditures were those which were authorized.

It is impossible, at least for this auditing committee, to make an audit that is of any value. The committee recommends to the Board of Managers, in which recommendation the Secretary-Treasurer joins, that his records be audited

annually by a C.P.A. Only by employing a C.P.A. can it be determined whether all amounts received have been accounted for and whether all expenditures made were authorized.

One member of the committee, the Hon. John H. Morris, because of illness was unable to participate in the auditing that was made.

INDIANA STATE BAR ASSOCIATION
Fiscal Year
July 1, 1942 - June 30, 1943

COMPARISON BETWEEN BUDGET AND ACTUAL RECEIPTS AND DISBURSEMENTS:

	Budget	Actual	Increase	Decrease
Dues	$5,500.00	$7,103.50*	$1,603.50	$
Advertising, Indiana Law Journal	800.00	1,223.33	423.33	
Sale of Law Journals	100.00	199.31	99.31	
Miscellaneous	25.00	17.75		7.25
Total	$6,425.00	$8,543.89	$2,126.14	$ 7.25
Increase of actual receipts over budget	$2,118.89			
Printing Law Journal 5 volumes	$2,000.000	$2,274.56**	$ 274.56	$
Salary of Editor	1,000.00	1,000.00		
Postal Fees	50.00	69.25	19.25	
Misc., stationery, reprints, etc.	50.00			50.00
Secy-Treas., salary and expenses	2,000.00	2,000.00		
Expense of meetings	400.00	905.62	505.62	
Stationery	175.00	171.41		3.59
Postage	200.00	227.25	27.25	
Special printing	50.00	41.93		8.07
Officers	100.00	74.07		25.93
Committees	200.00	700.88***	500.88	
Inter-American Bar Association	100.00	100.00		
Miscellaneous	100.00	94.72		5.28
	$6,425.00	$7,659.69	$1,327.56	$ 92.87
Increase of actual disbursements over budget		1,234.69		
Gain for Year		884.20		

* This includes $300.00 for Sustaining Members.

** The budget included four (4) issues, but five (5) were printed.

*** This includes $400.00 appropriated for the Legislative Committee and $100.00 for the American Citizenship Committee, which amounts were not included in the Budget.

MR. CAWLEY: I move the adoption of the report.

. . . The motion was duly seconded, was put to vote and was carried . . .

PRESIDENT NEWKIRK: Is Mr. Dowling here for the report of the Committee on the Integration of the Bar?

MR. CARLISLE: Mr. President, if there is no report, I have a motion to make with respect to that committee. I offer the following resolution and move its adoption:

WHEREAS, it has been determined that the Supreme Court of Indiana has jurisdiction over the discipline and disbarment of members of the bar, and

WHEREAS, the need for including in any plan for the integration of the bar provision for the discipline and disbarment of members of the bar no longer exists, now

THEREFORE BE IT RESOLVED, that the Association's Committee on Integration of the Bar be instructed to omit from any plan by way of legislative enactment or rule of court for the integration of the bar any provision for the discipline and disbarment of members of the bar.

I would like to have a second to that motion.

. . . The motion was duly seconded . . .

MR. CARLISLE: I would like to make one supporting statement in explanation. The Supreme Court, it has definitely been determined, has control and jurisdiction over the disbarment proceedings. We have confidence in the Court, and it seems to some of us that the adoption of the resolution and the elimination from any future plan for the integration of the bar will bring back into this association many useful members who at the present time are showing their opposition to the integration, at least to the disciplinary features, by remaining out of the association.

PRESIDENT NEWKIRK: The motion to adopt the resolution was seconded. Is there anyone else that wishes to address anything toward this resolution?

MR. FOX: Mr. President, I have always felt that the opposition to the integration of the bar has been due to the fact that an undue emphasis has been placed upon one of the minor things of integration—that is, discipline. The major reason for integration of the bar is to have an all-inclusive

membership, whereby we can work better not only for our profession but for our profession as the aid in the administration of justice.

I believe this is a very worthwhile step—really a step forward that will make it that much easier to get our bar an all-inclusive bar. I did not know the motion was coming up, but it certainly appeals very strongly to me.

. . . The motion was then put to vote and was carried . . .

SPECIAL COMMITTEE

In Re: Beamer vs. Waddell

Judge Charles A. Lowe, chairman

This Committee, composed of Hon. Carl M. Gray, Hon. Howard S. Young, and myself came into existence in July, 1942, by appointment of Hon. Carl Wilde, who was then President of the Association.

At the time of this appointment by President Wilde, there was pending in the Supreme Court of Indiana an original action, bearing number 27728, which was filed by Hon. George N. Beamer in his capacity as Attorney General of the State of Indiana against William B. Waddell, a member of the Bar, seeking revocation and cancellation of Waddell's admission to practice law.

The petition filed by the Attorney General sets out eleven specific incidents of misconduct. The various acts were interrelated only as they involved a well formed plan or scheme to collect money paid into the hands of various courts for and on behalf of incompetent persons, insane persons, and minors.

The respondent was duly served with process and filed a motion to set aside the return upon the ground that the Supreme Court of Indiana was without power to disbar attorneys duly admitted to practice law.

The Attorney General filed an able brief in support of such right. In addition, your Committee applied for and obtained the right to appear as amicus curiae on behalf of this Bar Association and duly filed a brief supporting the power and the authority of the Court to disbar.

We presented our argument upon the theory that the method of disbarment provided by Statute furnished an alternative method of procedure which in no way, deprived

the Supreme Court of its inherent power to purge its records by revoking the respondent's right to practice law.

We took the position that good moral character is a prerequisite to admission to the Bar, and that the continued possession of such good moral character is a condition precedent to the rightful continuance in the practice of the law; that loss of good moral character therefore requires suspension of the right to practice.

The cause was argued orally before the Court on Tuesday, January 5, 1943, by Hon. George N. Beamer, Attorney General, and on behalf of your Committee, by the Chairman of your Committee. All the members of your Committee attended the hearing.

On January 26, 1943, the Supreme Court rendered its decision in an opinion[1] written by Judge Curtis G. Shake.

The Court did confirm some of the grounds of our argument. Thus, the Court said:

"Good moral character being a prerequisite to the granting of the privilege of practicing law, its continuance is a condition precedent to the right to retain such a license." (p. 1021)

At another place in this opinion, the Court said:

"As a general proposition, a Court authorized to admit an attorney, has power to suspend or disbar him in the absence of legislation vesting exclusive jurisdiction for that purpose in some other tribunal."

The Court summarized its holding thus:

"To summarize, we hold that every Court of general jurisdiction possesses plenary power to discipline the members of its own Bar and those practicing before it; that by necessary implication, the Act of 1931 vesting exclusive jurisdiction in this Court over admission to the Bar, and the rules adopted pursuant thereto, render all attorneys of the State, amenable to the jurisdiction of the Court as effectually as if they were admitted by it; and that for the reasons heretofore stated, the Act of 1937, giving Courts jurisdiction of disbarment in certain cases, is not exclusive. The Act of 1937, is, therefore construed as providing a cumulative procedure for disbarment by Circuit and Superior Courts which in no way circumscribes the jurisdiction conferred upon this court by the Act of 1931."

[1] See, Beamer, Attorney General vs. Waddell, 45 N. E. (2d) 1020.

With regard to your Committee's contention, that the Supreme Court possesses inherent power to disbar, the Court said: "It has not been necessary to consider the subject of the inherent powers of this Court so ably advanced in the briefs of the Attorney General and amicus curiae. If such powers exist and are applicable to a situation like the one before us, no injury to them results by reason of the fact that we have not been called upon to exercise them in this instance."

The Court overruled the respondent's motion and ordered him to answer within fifteen days.

The further history of this case is enlightening. After the decision of the Court, as referred to above, the respondent, upon his representation that his answer would be upon the merits, obtained an extension of time, from January 23rd to February 25th, 1943.

On that date, without answering to the merits, he asked for a reconsideration of the prior ruling of the Court. This rehearing was denied, and he filed no answer thereafter.

On March 23rd, 1943, he tendered his resignation to practice law in the State of Indiana. The Court held that the consequences of the default had attached prior to his resignation and entered an order of disbarment and ordered his name stricken from the roll of attorneys.[2]

While your Committee and the Attorney General were not able to persuade the Supreme Court to adopt wholeheartedly the theory of the inherent power of the Court to disbar, the Court did assume jurisdiction over the conduct of all attorneys in Indiana, whether members of the Supreme Court or otherwise, and whether admitted originally in the Circuit or in the Supreme Court. This is a victory, which we believe will have a wholesome and restraining influence upon those members of the bar, who like the respondent, Waddell, forget their public duties and obligations, in their eagerness to advance their own selfish purposes, even at the expense of the unfortunate, the infirm and the immature. We heartily commend the judgement of the members of our Supreme Court for its decision.

We believe, however, that the Court has inherent powers, such as we have urged to regulate, discipline and control the

2. Beamer, Attorney General vs. Waddell, 47 N. E. (2d) 608 (March 29, 1943).

bar of this state, to admit and to disbar, and even, if necessary, for the better regulation of the bar and the improvement of the administration of Justice to integrate the entire bar of the State under such inherent power.

We offer this report to the Indiana State Bar Association not only as a report of our work, as members of the special committee, but for the further purpose of permitting this Association, by its approval of this report, to say unqualifiedly to the Supreme Court that we stand behind the efforts of the Court to discipline and regulate the bar of this state and to weed out and uproot those who would use their high prerogatives as members of the bar to consume the portion of the unfortunate, the afflicted and the helpless.

The adoption of the report was moved, seconded and carried.

MR. MILLER: Mr. President, following that report I wish to introduce the following resolution and move its adoption:

BE IT RESOLVED, that there is hereby created a standing committee of the Association to be known as the Committee on Disbarment and Readmission, such committee to be appointed by the President and to consist of eleven members. It shall be the duty of the Committee to represent the Association before the Supreme Court and the Board of Law Examiners in matters involving disbarment and readmission.

Now, this committee should be as I have said in this resolution appointed by the Chair from over the state, and it will be the duty of this committee to see that every member of the bar gets a fair show. If a disbarment proceedings comes up against him, if he is entitled to an able defense, we shall allot that to him; if he is entitled after the committee has made a thorough investigation to be disbarred, we should assist in that. This is just fact-finding—a protection to our association and to every member who practices law. I think that this procedure would be fair not only to the members in good standing but also those who have been accused of things of which they are not guilty. It would also be an aid to the Supreme Court in deciding whether or not a man is guilty of things of which he has been accused. If he is guilty, he should be disbarred, and it ought to be the business of this committee, composed of eleven good lawyers,

honest men in this state, to help the Supreme Court and the organizations to maintain those standards and protect us.

The resolution was duly seconded and carried.

PRESIDENT NEWKIRK: I happened to know that this resolution was going to be presented, and this is one matter which should have immediate attention, and I decided to have ready a committee which I will announce at this time: Donald L. Smith, Chairman; Alan Boyd, Howard S. Young, Louden Bomberger, Howard McFadden, Harlan Montgomery, Ira Church, Howard Townsend, Allison Stewart, Paul Wycoff, and another who I will announce later.

COMMITTEE ON AMERICAN CITIZENSHIP

Oscar A. Ahlgren, chairman

In the past years our Indiana State Bar Association like many organizations has given much emphasis to the teaching of American Citizenship.

In this connection, we have sponsored and encouraged the adoption of various legal mandates, whereby direct responsibility for such task has now been developed upon the public and parochial schools of our state. (Chapter 249, Acts of 1937) And it is gratifying to report that our public and parochial schools have been directed in this work by the Department of Public Instruction. Mr. Malan, superintendent of the department, has produced and distributed to all school administrators in our state a most inspiring publication dealing specifically with this undertaking.

During the past years we have expended money for prizes in public and parochial school essay and oratorical contests, dealing with citizenship. This year no such programs were had, other than our financial prize money contribution to the American Legion Oratorical contests held in the state.

We have sponsored also with other organizations befitting programs in our industrial areas for the foreign born on their induction to American citizenship. This year was no exception, and the custom should be continued.

We also have in the past reminded the entire citizenry of its responsibilities and obligations on Citizenship Days, and this year, presumably because of the war, only isolated observances were held. While war makes us more conscious of

our obligations, nevertheless, these observances should be encouraged.

It is difficult to measure and evaluate the results of our own efforts, or the combined efforts of all organizations in the program on citizenship. We believe, however ,that the combined effort during the past years has been a worthy contribution, making for vigilance in the immediate days preceding the present war.

We have come to know that modern war is not declared, but is discovered, and does not begin by the clashing of armed forces on frontiers or seas. Warfare of today starts in the press, over the radio, and on the screen, and it attacks the minds of people. These, together with so-called Fifth Columnists, are bent on creating unrest suggesting faults in the political and economic welfare of the people. Surely, we must all be comforted in knowing that the past combined efforts on the teaching and training of American citizenship has created some bulwark to such attacks. In this regard we have been prepared, and hence we must always continue with our program on citizenship.

During the immediate year the committee has not been as aggressive as in the past, although the general objectives have at all times been stressed. The reason we had no coordinated program during this year was due to the fact that as lawyers we were called upon to assume many other civic responsibilities occasioned directly by the war.

The chairman and several others of the committee have served for many years, and we who retire from membership on the committee hope that the new chairman and members will give consideration to current and post war planning in its relation to a nation resolved to be free; and that all of our citizens, young and old, native and foreign born, be made to see through every blandishment of those who would challenge our form of government.

We believe that the torch of American Citizenship must be attended, cared for and loved; otherwise it will flicker and burn low. Hence, American Citizenship, with its responsibilities and obligations, bespeaks the support and cooperation of all Americans.

COMMITTEE ON LEGISLATION

George R. Jeffrey, chairman; Carl M. Gray, reporting.

The Legislative Committee held its first meeting on January 15th at Indianapolis. All members of the Committee were present, as were also Henry M. Dowling and Verne G. Cawley, who discussed respectively the Integrated Bar Bill and the proposed Bill on Perpetuities.

During the discussion various members of the Committee proposed several amendments to the Integrated Bar Bill, to which Mr. Dowling assented and which changes he said he would make.

Following this, on various occasions, Mr. Batchelor and some of the Committee members conferred with George Henley and Matthew Welsh and found each of them willing to be extremely helpful, as was John Kendall.

It was determined at this time to make every effort to introduce the Non-Partisan Election of Judges Bill, although the various members of the legislature had held out no hopes to us that it might pass.

Following this Committee meeting, the Integrated Bar Bill was prepared in form for introduction, and it was introduced by Mr. Henley and Mr. Welsh, they being co-authors of the bill.

After several weeks of effort, we were able to get the Non-Partisan Bill introduced, but it was promptly referred to the Committee on Education, and we were never able to hear from it again.

During this time members of the legislature made various checks on how they thought the vote might go, and finally after a very careful count of possible votes they concluded that there was no chance to pass this bill. They reported that the hostility heretofore incurred was not present at this session, but that many members felt in view of the decision in the case of Beamer v. Waddell that further consideration should be given to the form of the bill and that neither this bill in its present form nor any similar bill should be offered for passage at this legislature.

Rather than take a chance upon defeating the bill, the members of your legislative committee felt that they should not continue their active efforts to pass the bill at this session. Consideration was then given as to whether to with-

draw the bill or whether to merely let the bill die in Committee, and the decision of your legislative committee was guided to a very great extent by the recommendations of the members of the legislature who suggested that they felt the best thing to do was to let the bill die in committee.

This was done, and that ended to a great extent the activities of your legislative committee, the remaining activities being confined to contacts with the calendar to see whether any bills of an unfriendly nature were up and should be killed.

The Committee recommends that a further study be given of the matter, with a view to considering whether to introduce some form of Integrated Bar Bill at the next session.

The adoption of the report was moved, seconded, and carried.

MESSAGE FROM THE INDIANA SUPREME COURT

Honorable H. Nathan Swaim

On the state of affairs of the Supreme Court, I can report to you that we are up to date with our work. In fact, we found ourselves so out of work this spring that we again turned to a revision of the rules as you now, undoubtedly all know. We spent considerable time and very serious thought on the changes we have made in those rules. We did not make as many changes or as radical changes as some lawyers suggested. We made more changes than other lawyers thought desirable. The Supreme Court of Indiana, its present constituent at least, is firmly of the opinion that we should not discard all law and start over. We are equally firm in our belief that we should strive in court procedure, especially appellate procedure, to have as simple and as direct a path as possible to decisions on the merit. We recognize the fact, however, that you can not abolish all rules of procedure and say to a losing attorney, "Just express your dissatisfaction with the judgment and your desire to have it reversed," and leave it up to the court and the opposing party to find out what is wrong, and go through the records and search for a mistake. We don't think it would be fair to either the courts or the opposing parties or the trial courts to go that far, and we haven't gone that far.

In making changes we recognized the fact that it often happens when you have certain language under consideration

for rule or statute and you have one thing particularly in mind, you may write something in the rules, correct one evil, and thereby create an even more serious evil. We have learned that sitting around our conference table that we consider and discuss language having one thing in mind and entirely overlook many real questions which the resourceful lawyers of the state later raise.

We hope there will be not too many instances of that in these revised rules. Whether the result as a whole is good or bad they do become effective on September 6, and we would strongly advise all of you before you attempt to practice under those rules to carefully study them and try to figure out what we meant by them. You must remember that rules that are in effect are just as binding on the court as they are on the attorneys. It is too late to go astray on the rules after you have taken the step and then come to the court and beg for mercy. We may inadvertently overlook a lot of violations of the rules, but if our attention is called to a violation we have no choice, the rules must be followed, even if it goes to the extent of having to dismiss the appeal.

MESSAGE FROM THE INDIANA APPELLATE COURT

Honorable Wilbur Royse

The Appellate Court is not completely up-to-date but we are now practically up-to-date, and I believe you might be interested in some recent statistics.

On July 1, 1942, there were 80 cases ready for assignment or assigned to the judges. In the period of July 1, 1942 to July 1, 1943, there were 138 new cases filed. In the same period there were 166 opinions handed down. On July 1, this year, we had 36 cases ready for assignment, or assigned and yesterday we handed down 3 opinions of those 36 cases. So at this time we have approximately 33 cases, and I believe that we are nearer up-to-date than we have been at any time in the recent history of this court.

Judge Swaim has said something about the rules. The Supreme Court invited us to discuss with them these rules and we believe that the members of the association will find that they have simplified appellate procedure. I believe that you will find them far more efficient than the old rules.

At this time President Morris of the American Bar Association addressed the assemblage.[1]

COMMITTEE ON WAR WORK

Jeremiah H. Cadick, chairman

Your Committee reports the continuation and enlargement of the activities previously reported at earlier meetings of the Association. The personnel of the District Chairman remains the same as reported at the semi-annual meeting in January but there have been changes in the membership of the local committees due to the entrance of several members of the committees into the armed services. The size of the Committee remains the same, being 116 committeemen located in every county seat and 11 District Chairmen.

The activities fall into three general classifications: giving free legal services to members of the armed forces and their dependents; recommending lawyers for appointment as Government Appeal Agents and Associate Government Appeal Agents; and a new activity—cooperation with Legal Assistance Officers in the various army posts in the state and assisting them in giving legal help to the personnel of these posts.

The activity which consumes the greatest amount of time of the committee members continues to be the giving of free legal services to the members of the armed forces and their dependents and to men about to enter the service. This is a continuation of the service begun in 1940. A large proportion of the cases arise under the provisions of the Soldiers' and Sailors' Civil Relief Act. Beginning in the middle of last year when a very large number of men were being called to the service through the Selective Service System, there were many calls for the preparation of wills and powers-of-attorney and for advice in matters relating to the disposition of the property of men about to leave for the service. The number of such calls has declined recently because fewer men having family responsibilities are now being called into the service.

There have been a considerable number of litigated cases although the proportion of litigated matters handled by the Committee is small. It is the uniform policy of the Committee to adjust all controversies without litigation if

1. For President Morris' address see infra p. —.

possible. However, the cases involving litigation have included a wide variety of actions including actions to foreclose mortgages, proceedings to quiet title to real estate, cases involving domestic relations and many others.

The passage of the Dependents' Allowance Act had a considerable influence on the work of the Committee. Soon after the effective date of the Act, a great many calls were received from dependents of service men for assistance in preparing and filing the forms required in order to obtain their allottments. The act had another and unexpected effect on the work of the Committee. It provides for the deduction from the pay of a member of the armed forces of certain specified sums for the benefit of the service man's dependents, the addition to this sum of a contribution by the government and the total of these two contributions constitutes the allottment to the dependent.

By the terms of the Act the wife is a so-called "Class A" dependent and is entitled to receive an allottment from her husband's pay without regard as to whether she is in fact dependent upon her husband for support. Judging by the correspondence received by the Committee a large number of the men now serving in the armed forces are unhappily married and greatly resent having a deduction made from their pay for the benefit of their wives.

While some of these unhappy marriages are due to the unsettled conditions now prevailing, many of them are not the direct result of a man's military service and it is a serious problem for the Committee to know how to act in such cases. If the Committee undertakes to get divorces without charge in such cases, the members will be literally deluged with work and it is to be doubted if it is socially desirable that the Committee engage in such activity. In view of these considerations the Committee has decided that as a matter of general policy it will not act in divorce cases.

Circular 74 was issued by the War Department on March 16, 1943. It states that the War Department and American Bar Association have agreed to sponsor jointly a plan to make adequate legal advice and assistance available throughout the military establishment to military personnel. The Commanding Officer of each post, camp and station is directed to establish a Legal Assistance Office at such post and the Commanding Officer of any other installation, in-

cluding an overseas command, may if he deems it advisable establish such an office. The Legal Assistance Officer is designated from among the legally trained men at the post and is required to be a commissioned officer. The plan contemplates that in the United States, committees such as this, as well as committees of local bar associations, will designate such civilian lawyers as may be required to assist the Legal Assistance Officer in the performance of his duties. The Legal Assistance Officer as such is specifically prohibited from appearing in Court and it is contemplated that all litigated matters be handled by civilian lawyers.

So far as I have been informed, there are now in operation four Legal Assistance Offices within the state, they being located at Camp Atterbury, Fort Benjamin Harrison, Stout Field and Baer Field and I understand that a Legal Assistance Office is to be established at Freeman Field. These offices have not been operating for a long enough time to accumulate much experience but the Committee has been in touch with all the Legal Assistance Officers who have been appointed and the services of the Committee have been tendered to them and are being utilized. The establishment of the Legal Assistance Offices has greatly increased the number of requests for legal help coming from outside the state on behalf of soldiers whose homes are in Indiana. A large number of these requests come from men who are in domestic difficulties and unfortunately, the Committee cannot do a great deal to help in most of these cases but all other requests have been promptly complied with.

The relations of the Committee with Indiana Selective Service Headquarters remain cordial and mutually cooperative. It is our desire to again express to Colonel Hitchcock and to the other members of his staff our very deep appreciation for their continued cooperation and help.

Major Krieg of the Indianapolis Bar, formerly the Legal Officer at the state headquarters, has recently been transferred to national headquarters at Washington. He has been of enormous help to the Committee and we regret seeing him leave Indiana but rejoice in his new position which is an advancement.

The District Chairmen of the Committee and the Association owe a tremendous debt of gratitude to the local committeemen who have served and are continuing to serve

so faithfully in their communities. They are the men who have been on the firing line and have devoted large amounts of time to the work which we are trying to do and are responsible for whatever degree of success has been attained.

COMMITTEE ON ILLEGAL PRACTICE AND GRIEVANCES

Robert B. Stewart, chairman

Your Committee on Illegal Practice of Law and Grievances hereby reports as follows:

No instance of Illegal practice of the law has been referred to this Committee.

There have been numerous cases of grievance. The grievances, for the most part, have been raised by Law List Companies whose clients have referred business to lawyers (sometimes with small items of costs advanced) and have received no reports or unsatisfactory reports as to progress or collections made. Such troubles probably could be reduced to a minimum by periodic reports by the lawyer involved or by the immediate return of impossible or undesirable collections or items of business. Seldom is there a question of honesty involved—usually the problem is caused by procrastination and neglect.

The Committee is impressed with the fact that the Law List Companies take the responsibility of making recommendations of Attorneys of their own selection to their clients and then expect the Committee and the Bar Association to keep the standards of the Attorney selected up to the recommendation made by the Law List Companies. These Law List Companies could probably reduce their grievances to a minimum if they would select their Attorneys with greater care. In other words, the Committee feels that the Law List Companies often use the Committee to pull out chestnuts that they knew, or should have known, were not perfect when they put them in the fire.

Another class of grievances arise as between client and Attorney, the client alleging that his attorney failed to do the work for which he was employed, or did it unsatisfactorily or the charge for the service rendered was objectionable. These problems can not be avoided entirely. For example, many people, if they lose a case, find fault with every one including the Court, jury and their own attorney. One case presented a dispute of attorneys who worked together, but

did not agree on a division of the compensation paid. While these misunderstandings can not be fully avoided, they might be reduced by exchange of letters, written contract or written memoranda definitely naming terms of employment and pertinent matters, and by a lawyer emphasizing to his client that the law is not a perfect science and the outcome of litigation, like a surgical operation, can not be definitely predicted.

The adoption of the report was moved, seconded and carried.

COMMITTEE ON PUBLIC RELATIONS

Judge James J. Moran, chairman

I deeply regret to report to the body that it was impossible for the Committee to function. Scattered over the state widely, we made two efforts, one at the mid-winter meeting, and one last night. Only a couple were present.

As I say, the Committee, being of a nature which concerns the public, and the chief matter now, of course, is the winning of the war, the War Committee really has absorbed this Public Relations Committee. I seriously doubt whether there is any necessity of continuing during the war.

As a member of the body, I am going to make a motion that this Committee be dropped for the time, if I get a second to it.

. . . The motion was seconded . . .

JUDGE BUENTE: I feel that right now is perhaps one of the most important times to keep that Committee alive to tell the people about what that other Committee is doing, the wonderful work our organized bar is doing.

We are neglecting a very important phase of selling ourselves to the people if the Public Relations Committees throughout the United States failed to function and if they dissolve I feel it will be a very serious mistake, and I hope that Judge Moran will consent to continue in his activity and put more emphasis on this part of the work rather than less.

MR. CADICK: I would like to second the remarks of the last speaker. I feel that the organized bar now has more to sell to the public than ever before. The bar is working ardently and for the public interest, and I think it is very important that that be called to the attention of the public.

I don't feel that the activities of the Committee on War Work have in any sense done away with the necessity of the Public Relations Committee. I think that committee is necessary to bring the work that the bar is doing in this respect and all other respects to the attention of the public, and I would regret very much to see that Committee dropped.

PRESIDENT NEWKIRK: Judge Moran, will you withdraw your recommendation?

JUDGE MORAN: Yes, but I want to make a remark first. It occurs to me that the work that is being done by the lawyers over the state is of such a nature and of such a character that it is bringing to the public in a fine way the things that we are doing. Now, by their work you will know them, and it occurs to me there is an overlapping to this committee and I will yield.

PRESIDENT NEWKIRK: He was speaking against the motion.

JUDGE MORAN: I withdraw it. I thought all the time that the War Committee was so perfect that having another active body would probably interfere with it.

PRESIDENT NEWKIRK: The recommendation has been withdrawn and otherwise the report will be approved if there is no objection, and the Public Relations Committee will be retained.

COMMITTEE ON JUDICIAL SELECTION AND TENURE

L. L. Bomberger, chairman

At the last session of the General Assembly, your Committee, with the cooperation of the Legislative Committee, caused the introduction of a bill for the non-political selection of judges, commonly known as the Richards' Plan. This bill embraced the principles which received the approval of your Committee in its report at the annual meeting in 1942.

This bill was introduced in the House, and referred to the Committee on Elections, which did not report it out.

Inasmuch as the Association has failed to obtain favorable legislation from the last two sessions of the General Assembly, your Committee recommends that serious consideration be given to the introduction of a Constitutional

amendment to be presented at the 1945 session. It is understood that pending amendments are or will be out of the way by that time, so that the General Assembly can consider new proposals for amendments.

Your Committee believes that a ceaseless campaign of education should be carried on by the Association to inform the citizens of Indiana on this general subject. We do not deem it advisable at this time to discuss any proposed plan or to rehearse the experiences of other states. That may be properly left for study by the incoming Committee.

We recommend that the Association reaffirm its approval of the principle of non-political selection of judges; that it approve the principle of originating nominations by the Bar; that it instruct the incoming Committee on this subject to undertake an early study of the various methods of judicial selection other than by political nomination and election; and that the Committee be instructed to report with recommendations at the mid-winter meeting of the Association following this annual meeting.

The adoption of the report was moved, seconded, and carried.

MEMBERSHIP COMMITTEE

Carl Gray, chairman

I am delighted to report to you that there has been a net gain in membership of 35 during this past year. We started the year with a membership of 1650. We gained 79 new members and we lost 44 members. There are 30 sustaining members in the Association.

COMMITTEE ON LEGAL EDUCATION

John E. Morland, chairman

This year marks the close of ten years of progress in legal education in Indiana. Ten years ago we had nine schools, five of them non-accredited. Today there are only four law schools in the state. All of them have accredited standing. But while we have made great progress in legal education and corresponding progress with reference to requirements to admission to the bar, we are today facing one of the greatest crises in legal education, not only in Indiana, but also in America.

This presents two chief problems. One of those problems is the consideration of the treatment of the law students who are now in the armed forces. There are 25,000 law students who have left their law schools to enter the service of their country. The Association of American Law Schools has considered what to do for these men, whether to offer law courses to them at the stations where they may be located, whether to promote extension courses in law for them, or whether to ask the government and interested agencies to supply law libraries for certain centers. One thing that has been proposed has been the furnishing to these men of law journals that would mean for us the Indiana Law Journal for law students from our state. The West Publishing Company has a standing offer to any dean who will report the presence of one of his students in the armed forces and will supply the advanced sheets of the United States and of the state from which the student comes.

A question that is raised in this connection is how much good can we do these boys? Now the meeting of our committee last night considered for several hours various problems and among them this: how much time does the law student now in the armed forces have for the consideration of the law? It was the consensus of the opinion of your Committee that not too much can be done for them now. But rather we should think of how they should be treated upon their return.

A suggestion that was made by Major Wood of the Committee was that we consider accelerated courses for these returned law students, so that in the shortest possible time they may be permitted to complete their work and enter the profession.

A similar problem which concerns us is the present legal students who are in the armed services, of which there are at least 25,000,—Shall we give them war credit and thus shorten the amount of time they will have to spend in college before they enter law school? This is a problem which we dealt with during the last war, but which will be much more important this time because of the greater prolongation of this struggle in comparison with the first World War. It is the opinion of your Committee that the study of this problem should be continued. These men are going to substitute two, three and possibly four years of war experience

for those years that otherwise would have been spent in pre-legal and legal education. Shall we discount that, shall we give that due consideration, and help them to find their place in the profession, and this is a problem of the profession, for we have found a decreasing attendance that challenges us to wonder where is the lawyer of tomorrow coming from?

So our Committee feels that the chief among our problems was the maintaining of our facilities for the reception of these men who are now in the armed forces, and I am happy to report to you that the four standard law schools of Indiana propose to continue to operate and to hold their facilities intact for the duration in order that they may be ready to render that valuable service which they will be called upon to render at the close of the war.

The war, it seems to me is largely a lawyers' war. It is the struggle of law against tyranny. It is the struggle of decency against injustice. And so I feel no apology for making this report to you, but I do want to say this one thing in conclusion, the law schools can't do much for these boys. Do you know a law student in your community who is in the war? Be a big brother to him. Let us return in the profession to those days when the older men in the law gave instruction and inspiration to the one who was going to take his place. That is a challenge to each of you who may know some boy whose legal education has been interrupted.

REPORT OF THE COMMITTEE ON ADMINISTRATIVE LAW

Isador Kahn, chairman

In its last report this Committee stated that it was of the opinion that some form of legislation should be enacted under which there would be the greatest degree of uniformity of procedure by administrative boards and agencies. The Committee is still of that opinion. Appropriate, simplified and uniform procedure will go far in helping to solve the many problems which are involved in the immense number of cases that are being acted upon by administrative bodies. The thought was expressed in these words by Robert M. Benjamin in his recently published book entitled "Administrative Adjudication in the State of New York":

"On the part of the administrator there must be not merely an intention to do justice, but an appreciation that justice is only half done if the person dealt with cannot recognize it. To this end procedure may contribute almost as much as the right substantive result."

In considering how administrative bodies are now functioning we must give full weight to the impact and demands of the war. We may even justify some of the actions, orders and directives on the theory that they are required during the emergency. However, there is substantial danger if we are not alert that these actions, orders and directives may be considered controlling precedents in post-war controversies. It must be remembered that most, if not all, of the orders of recently created administrative agencies are now being permitted to stand unchallenged in the courts because of the patriotic motives of those who are affected thereby.

It is again suggested that at the earliest opportunity legislation should be enacted pertaining to administrative agencies which should provide, among other things, the following:

1. Opportunity for a review by a court of competent jurisdiction;
2. A speedy determination of the controversy both by the administrative body and the reviewing court;
3. A requirement that testimony taken before an administrative body, or any sub-division or agent or agency thereof, should be in accordance with the established rules of evidence;
4. All ultimate facts shall be found only when established by a fair preponderance of competent evidence; and
5. The establishment of a well defined formula under which subpoenas and subpoenas duces tecum may be issued, and also fixing the conditions under which agencies, and their representatives, may inspect books, papers and records of persons under investigation.

The decisions and orders of the National War Labor Board are still most striking and dramatic. It is perhaps not improper to include in this report a brief discussion of Section 7 of the recently enacted "War Labor Disputes Act." This Section which gives statutory status to the War Labor Board, purports to confer jurisdiction on the War Labor

Board only with respect to disputes "which may lead to *substantial interference* with the war effort," whereas the Executive Order under which this Board formerly functioned granted jurisdiction over disputes "which might interrupt work which contributes to the effective prosecution of the war." It is too early to say how the Board will now interpret its jurisdiction. It seems obvious, however, that under Section 7 the Board's jurisdiction was intended to be confined to disputes of a much more important nature than many over which the Board has previously assumed jurisdiction.

A serious question has now arisen relating to the continued use of Regional War Labor Boards, particularly with the limited right of appeal now afforded to parties dissatisfied with decisions of the Regional Boards. The National War Labor Board has already recognized the limitation of Section 7 in this respect by requiring the various commissions that it has previously appointed to report to and make recommendations to the National War Labor Board, instead of permitting the decisions of such commissions to be final.

Under Section 7 the Board is presumably free to take jurisdiction of any labor dispute, whether or not other procedures for settlement existed and whether or not those procedures had been utilized or exhausted. The Executive Order under which the Board formerly functioned provided that such order did not apply to disputes "for which procedures for adjustment or settlement are otherwise provided, until those procedures have been exhausted."

Section 7 probably extended the powers of the Board in dispute cases. Under the Executive Order it had authority to "finally determine disputes," while now under Section 7 it may in a dispute case provide by order "the wages and hours and other terms and conditions (customarily included in collective bargaining agreements) covering the relations between the parties."

Section 7 also provides that the Board's decisions shall conform to all applicable provisions of law, including The Fair Labor Standards Act, The National Labor Relations Act, The Emergency Price Control Act and The Wage and Salary Stabilization Act, and goes on to say that where no other law is applicable the Board's order shall provide terms to govern the relation between the parties "which shall be fair and equitable to employer and employee under all the

circumstances of the case." As a result of the provisions last summarized, considerable ambiguity will arise as to the effect of these specific directions. For instance, will the War Labor Board in exercising jurisdiction over a dispute involving a question covered by The National Labor Relations Act, itself decide such dispute based on its understanding of The National Labor Relations Act, or will it refer the dispute to The War Labor Relations Board on the ground that The War Labor Board must conform to the procedural requirements of The National Labor Relations Act?

There has been much discussion as to whether or not Section 7 prohibits The National War Labor Board from awarding closed-shop or maintenance of membership clauses in dispute cases. Congressional history in this connection is interesting. The prevailing opinion is that the Board will find nothing in Section 7 that will cause it to change its standard practice in this regard.

Nothing in Section 7, nor in any other provisions of the Act, gives legal sanction to decisions of The War Labor Board. It has no authority to enforce its decisions in the courts, nor is anyone who is aggrieved by its decisions entitled to court review.

And the final comment is that Section 7 has definitely conferred upon the Board authority to require the attendance of witnesses and the production of documentary evidence material to its inquiry, and to issue subpoenas requiring such attendance or production, with power to apply to a Federal District Court for an order compelling obedience to its subpoenas.

CANONS OF ETHICS

Milo Feightner, chairman

The Canons of Ethics of the American Bar Association were adopted at French Lick by the State Bar Association of Indiana at its meeting there in 1937 as the Canons of Ethics of the Indiana State Bar Association.

A part of the preamble of the Canons of Ethics of the American Bar Association reads as follows:

> "In America, where the stability of Courts and of all departments of government rests upon the approval of the people, it is peculiarly essential that the system for estab-

lishing and dispensing Justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of the Republic, to a great extent, depends upon our maintenance of Justice pure and unsullied. It cannot be so maintained unless the conduct and the motives of the members of our profession are such as to merit the approval of all just men.

"No code or set of rules can be framed, which will particularize all the duties of the lawyer in the varying phases of litigation or in all the relations of professional life."

Then follows thirty-six sections making up the Canons of Ethics of the Association.

These Canons of Ethics, we believe, have never been published in the *Indiana Law Journal* and the lawyers of Indiana have not had the Canons of Ethics before them, save and except in pamphlet form and then only when asked for by individual members of the Bar. Your Committee believes that these Ethics should be brought before the members of the Bar of the State of Indiana in a more prominent way so that there may be a better understanding of their contents. Your Committee fully realizing the change that has been made in professional conduct in recent years in the administration of Justice, and realizing that there has been a higher sense of honor and integrity motivating the lawyers of this state in professional conduct, feels that professional conduct should be encouraged by better understanding the Ethics of the profession as laid down in the Canons adopted as rules of conduct.

Your Committee also realizes that in recent years, each year many new members have been added to the Bar in the state with no knowledge of the Canons of Ethics and this Committee believes that it is prudent to keep before the young members of the Bar the rules that should guide them in their professional conduct in the formative period of their professional conduct, and to this end that lawyers may have a better understanding of the Canons of Ethics, we recommend that there be published in the *Indiana Law Journal*, from time to time, at least one of the Canons of Ethics adopted with appropriate comment on the section set out so that in

time the entire code of Ethics may be put before members of the Bar of the State of Indiana. We believe that it is an opportune time in this time of stress that this step be taken and we believe that professional conduct will be encouraged and practiced better after due consideration given to the rules of conduct as embodied in the Canons.

Your Committee also desires to commend the Supreme Court of the State of Indiana for adopting a policy against unprofessional conduct, fortunately applicable to a very few members of the Bar in the State, that will have, we are sure, an influence that will make for a better Bar by removing certain individuals whose professional conduct was void of honor and integrity. Your Committee further believes that the Bar of Indiana can have the support of public opinion only by strict adherence to professional rules of conduct that are consistent with the honor and integrity necessary in the administration of Justice, and it believes that a better Bar will be had that feels the necessity of observing the rules of professional conduct which have stood the test of time in the practice of the law and as embodied in the rules adopted as our guide in the practice of our profession.

MR. FEIGHTNER: I move the adoption of the report.

The adoption of the report was moved, seconded and carried.

COMMITTEE ON ADVISABILITY OF SECTIONS

Clarence R. McNabb, chairman

The Committee on the Advisability of Sections reports that no requests for the creation of sections have been communicated to them by the lawyers interested in any special field of the law. We feel, however, that this is largely due to the conditions prevailing at this time as a result of the war.

It is recommended that the subject of sectionalization of the Association be referred to a successor committee during the ensuing year.

The adoption of report was moved, seconded and carried.

COMMITTEE ON H. R. 146

Wilmer T. Fox, chairman

At the meeting of the American Bar Association held at Philadelphia in September, 1940, its members, by an over-

whelming vote (Vol. 65 of Reports page 80), favored the enactment by Congress of a bill in principle the same as H. R. 146, sponsored by Congressman Hatton W. Sumners. The Indiana State Bar Association was asked to make a similar recommendation and in January, 1942, the matter was referred to this committee for investigation and report. Your committee, unable to meet at that time, attempted to agree on a report by correspondence, but was then, and still is, divided on the constitutionality of the bill.

Section 1 of Article III of the Constitution of the United States provides that "the judges, both of the Supreme and inferior courts, shall hold their offices during good behavior," while Sections 2 and 3 of Article I provide that "The House of Representatives * * * shall have the sole power of impeachment" and "The Senate shall have the sole power to try all impeachments." The only attempt in the Constitution to define impeachment is in Section 4 of Article III, which provides that "The President, Vice-President, and all *civil* officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." Judicial officers are not expressly mentioned in this section.

H. R. 146, in substance, provides that when in the opinion of the House of Representatives "there is reasonable ground for believing that the behavior of a judge of the courts of the United States (excluding Judges of the Supreme Court) has been other than good behavior within the meaning of that term as used in Section 1 of Article III of the Constitution, the Chief Justice shall convene, or cause to be convened, the circuit court of appeals of the circuit in which the judge resides in special term for the trial of the issue of good behavior and the right of such judge to remain in office. The Chief Justice shall designate three judges to serve on such court. (Safeguards as to membership of the court are provided, but need not be stated inasmuch as there appears to be no criticism of the fairness of the provisions of the act in this respect.)

The bill provides for prosecution of the cause as a civil action before the court of three judges by the Attorney General, together with such members of the House of Representatives as may have been designated by the resolution, under rules of procedure prescribed by the Supreme Court,

without a jury and "if the court determines that the behavior of the judge has been other than good behavior within the meaning of that term as used in Section 1 of Article III of the Constitution, the judgment of the court shall be that of removal from office," with the right of the accused judge within thirty days "to appeal to the Supreme Court of the United States on the law and the facts."

The bill provides a simple and just procedure, less cumbersome and costly than tying up the entire Senate for days with a hearing of the evidence, and the objections to it have been almost solely to the power of Congress to enact any legislation on this subject.

The majority of the House Committee on the Judiciary favored the bill and took the view that the good behavior provision contained in the judiciary tenure clause and the provisions elsewhere in the Constitution as to the impeachment had nothing to do with each other; that the Constitution provides two methods of ouster; and that a judge might misbehave in his judicial office without having been guilty of "treason, bribery, or *other* high crimes or misdemeanors." In other words, that while a *civil* officer (which may or may not be intended to include the judiciary) can only be impeached for treason, bribery or crimes and misdemeanors of a like nature,—"other high crimes or misdemeanors," that a judge might misbehave, and be unfit to impartially try cases, without having committed any crime or misdemeanor of the nature or class of treason or bribery.

The minority report of the House Committee on the Judiciary contends that there is but one method of impeachment provided and that, while it expressly applies to treason, bribery or other high crimes and misdemeanors, it is broad enough to include offenses contrary to "good behavior."

G. C. Young, of the District of Columbia Bar, writing in The Lawyer, points out that a study of the Federalist, and of the debates in the Constitutional Convention reveals that all methods of removal of the judiciary except by impeachment were rejected. Your committee has not had the time to study, much less read, these documents.

The New York Times, in an editorial, complained of the "new-fashioned way of avoiding constitutional limitations, that is, the courts construe them out." Mr. Bomberger agrees with the writer in the New York Times that we might find

a more facile method of amending the Constitution, but that he differentiates between amending it and kicking it out of the window.

The other two members of your committee agree with both the New York Times editorial and with Mr. Bomberger's comment, but they feel also that the failure of the Constitution to expressly name judges in the impeachment section, the limitation of impeachment to "civil officers" convicted of "treason, bribery, or *other* high crimes and misdemeanors," and the limitation of the tenure of judges "during good behavior," present a genuine question of constitutional construction worthy of all the study and resources of that great court. If the court decides the act is unconstitutional, well and good, and if they decide to kick the Constitution "out of the window" the responsibility will be theirs, and not of the Congress who enacted the legislation.

Accordingly, by a two to one vote your committee recommends that the Indiana State Bar Association recommend the enactment of this bill.

Incidentally H. R. 146 passed the House last year and got tied up in the Senate, but was re-introduced on January 14, 1943 as H. R. 1197.

The report was received and the recommendations of the majority of the committee were moved, seconded and passed.

COMMITTEE ON JURISPRUDENCE AND LAW REFORM

Edmund L. Craig, chairman

For several years now the present personnel of this Committee has given most of their time to the consideration of changes in our rules of practice. In cooperation with the Committee on Improving the Administration of Justice of the American Bar Association and the Judicial Council and with the assistance of the members of our Supreme Court, our committee has taken the lead in this matter of having our rules amended. Shortly before our last mid-winter meeting, we arranged the meeting in the Supreme Court Room at the State House, and with all the members of the Supreme Court present, the above-named cooperative groups spent the entire afternoon discussing the advisability of a change in the rules of practice in this state. We were assured that the matter would have early attention and in the last few months our committee with some forty-five other lawyers of the State

has given what assistance we could to the Supreme Court in commending and criticizing the proposed rules which the Supreme Court had tentatively adopted.

The result is, as you know, a new set of rules which is now printed in pamphlet form and may be obtained in the clerk's office of the Supreme Court. These rules, you probably know, were printed in last week's issue of the Northeastern advance sheet. Last evening I was present at a dinner meeting of the Judicial Council and the American Bar Association Committee where most of the time was taken up in a discussion of the rules which have now been adopted by the Supreme Court.

Members of the Supreme Court and the Appellate Court were present and while a number of technical questions were asked and a number of discussions took place, the final conclusion last evening of all of us who were present was that the Supreme Court has done a fine piece of work in the adoption of these new rules and that they are a great improvement over the previous rules.

YOUNG LAWYERS' SECTION

Luke White, chairman; Mr. Wallace, reporting

The Young Lawyers' Section of the Indiana State Bar Association has been hard hit by the war. A great many of our members have gone into the armed services and into government and war industries. Very few young lawyers have been admitted to the bar to replace those members who have become too old for our section.

When the Third French Republic was established, the first president was a man who was old enough to remember the other two republics. One day he was asked what he had done during the first French Revolution. He thought for a moment of the Reign of Terror, and then replied, "I lived."

This might well serve as a brief report of the chief activity of the Young Lawyers' Section. We kept our section alive as an organizational entity. One of these days the young lawyers who have temporarily left the practice will be returning; at that time the Young Lawyers' Section will be able to expand immediately and resume its activities on their behalf.

Actually, our section has not been completely somnolent during the past year. Those of you who attended the Mid-Winter Meeting will remember the part we had in the program at that meeting. In addition to this, two other projects have been undertaken since the last annual meeting.

At that time both the Army and Navy were recruiting trained men for officer personnel. We got in touch with the personnel branches of both services and offered the assistance of our organization in the recruitment of young lawyers. However, we were advised that there was no great demand for lawyers, as such, in the services. While a great many of our members have been commissioned, in general their legal training has been only of incidental value.

Our second project may have infringed somewhat upon the province of the Committee on War Work. If so, I offer our apologies. I hope that any such infringement will not lead to any jurisdictional strikes. I talked to the Commander of the Naval Armory and to one of the officers at Fort Benjamin Harrison about offering legal aid to the men at these two stations. Both expressed their appreciation for the offer and stated that there was a need for such legal aid. I was unable to organize a group which I thought would be large enough to take care of the needs of Fort Benjamin Harrison, and that part of the program was dropped. We did continue our project with the Naval Armory, and during the year talked to several sailors who were referred to us by the officers at the Armory.

MESSAGE FROM INDIANA JUDGES' ASSOCIATION

Judge William Fitzgerald

I am not ignorant of the fact that judges in the Indiana State Bar Association should be seen and not heard. But the Committee has seen fit that I say a few words to this body this morning. I want to say to you that I feel that whatever is good for the lawyers of Indiana is good for the judiciary in Indiana. In other words, we come from the ranks of the lawyers, that notwithstanding the fact that there are no qualifications in Indiana for the man that seeks the bench. I have had contact with practically every judge in the 92 counties in Indiana, and I have arrived at the conclusion that in no place in this country are there finer men than in the State of Indiana.

The judges in Indiana have felt that the legislatures in the past placed on their shoulders too many ministerial duties. We know that judges can be harsh, and they can be tender, and in their tender moments the legislatures placed many administrative duties on the judiciary. Especially in the larger communities it took too much of the time of the courts —time that should have been given to the judicial matters before the court.

We proposed to the legislature that this situation be changed. Our program was minety-mine per cent successful. We have shifted these ministerial duties to boards and agencies where they properly belong. The judges in Indiana are anxious that these ministerial duties stay there and we want to call upon the bar of the state to assist us and help us in seeing that the legislature in the future does not place ministerial duties upon the judiciary.

COMMITTEE ON AMENDMENTS TO THE BANKRUPTCY ACTS

Isidore Feibleman, chairman

Your Committee on Amendments to the Bankruptcy Act respectfully reports that it has ascertained upon investigation that four Bills, affecting the Bankruptcy Law, are pending in the Congress, and these have had consideration of the Committee.

The first Bill is H. R. 66, introduced by Representative Keogh on January 6, 1943, and referred to the Committee on Judiciary. It seeks to amend Section 3 (a) (5) of the Bankruptcy Act so that a general assignment for the benefit of creditors would be an act of Bankruptcy only if accompanied by some other activity constituting an act of Bankruptcy under other provisions of the Section. This amendment, if adopted, would open the door to permitting a concern that was either insolvent, or unable to pay its debts as they matured, but that had committed no fraud or preference, to choose its own friendly assignee. This would permit debtor, instead of creditor control, so that instead of having friendly receivership suits, which now often constitute an act of bankruptcy, there would be a revival of State Court assignments, or assignments outside of Court, that could not in the absence of fraud or preference, be set aside by a creditors' petition in bankruptcy.

The adoption of legislation of this character would be a serious interference with the Bankruptcy Law remaining of national force and effect. There should not be a return to liquidation under the various State Court statutes, or by private assignments, and our Committee is unanimous in its opposition to the enactment of this Bill.

2—Another Bill introduced by the same Representative, on the same date, and similarly referred, is H. R. 70. It does not affect the Bankruptcy Act alone, but includes insolvents under State Laws as well, and insolvent estates of deceased debtors, and attachments under certain circumstances, and provides that any debt due the United States is entitled to priority of payment, second only to the provision of the Bankruptcy Law which is made applicable to State insolvency proceedings as well, as to payments of wages due employees within the three months period, not exceeding $600.00 to each claimant. The priority provision of Section 64 (4) of the Bankruptcy Act is limited to taxes, including those due the United States. Section 64 (5), however, provides for priority for debts owing to any person, including the United States, who by the law of the United States is entitled to priority.

We find, on further investigation, that a law very similar to the proposed Bill is already in force and effect, the same being found in United States Code Annotated, Title 31, Chapter 6, Section 191. This statute gives priority to the United States in the event of the insolvency of any person, or whose estate is insolvent, or where there are grounds for attachment. It is the opinion of the Committee that not only should the new Bill not be passed, but that there should be some reasonable limitation by way of amendment to the statute mentioned. There are pending cases in receivership where large sums are due the Government on renegotiated contracts. If this debt were to be paid in full, as entitled to priority, it would, in many instances, deprive the creditors, who had furnished the material for these contracts, of much of their pay therefor.

There has been much discussion of "the mounting menace of taxation," as affecting bankruptcy and receivership cases. It is our view that not only should we go on record as opposing this Bill, and proposing the suggested limitation, but that we should also favor limiting the priority of taxes—

Local, State and Federal—to taxes for a period of one year. There have been some cases in bankruptcy in which local taxes were filed for a period of nine years, and in certain pending cases there are tax claims for the years 1935 and 1936, with accumulated interest. There is a limitation now on claims for priority for rent, and creditors should not have to suffer because taxing officials have not been diligent. The remainder of the tax claims, over and above, one year period, can be allowed as general, unsecured claims, subject to the right given Referees to determine as to taxes.

Representative Lemke, on February 14, 1943, introduced H. R. 1878, which was also referred to the Committee on Judiciary. This is a Bill to amend Section 75 (a), (b), (c) and (s) of the Bankruptcy Law which deals with the bankruptcy of farmers. The suggested changes are to the following effect:

The District Court shall appoint not less than six, nor more than twenty Referees in any State, to be known as Conciliation Commissioners, instead of one for each County having an agricultural population of 500 or more, including adjoining Counties where it is necessary to obtain that number. They need not be lawyers, but must be otherwise qualified as Referees, and the term, instead of one year, as at present, is to be four years. The filing fee is increased from $10.00 to $15.00, and the fee of supervising Conciliation Commissioner to not be in excess of $10.00 per day, instead of $5.00, as at present. The fee of the Conciliation Commissioner, or Referee, is to be increased from $35 to $50, and all additional fees and costs are to be charged to the farmer-debtor's estate, instead of there being no additional fees, as at present provided.

The present Section 75 (c) as amended, provides for the filing of petitions of farmers "at any time prior to March 4, 1944." This provision is eliminated so that such petitions may be filed at any time and this section is virtually an extension of the Act in this respect.

The other changes refer to reappraisals; using the words "farmer debtor" instead of simply "debtor"; provide for installment payments of the value of property upon which possession is retained.

Our Committee is making no recommendation as to the enactment of this Bill into law. The feeling has been

expressed that the special legislation for the farmers is not necessary, and that the general Bankruptcy Law should apply to them also. It is our belief that the present provisions have not been of particular benefit to the farmers, as a class.

No action has been taken whatever by the Committee on Judiciary on the three foregoing Bills, and no consideration of any of them is scheduled at this time.

The remaining Bill introduced in the House is H. R. 1107, presented by Representative Hobbs, and referred to Committee on Judiciary. It is the so-called Referee's Bill, which died with the end of the 1942 session, and has now been reintroduced.

A prior Committee, ably headed by Mr. Frank C. Olive, of the Indianapolis Bar, reported at considerable length upon the provisions of the Referee's Bill at the annual meeting in 1941, and we shall not endeavor to summarize the same in detail. It provides for salaries for full time Referees of from $3000 to $10,000 per annum, and a salary of not more than $2500 per annum for part time Referees. A full time Referee is not permitted to practice law, and a part time Referee is not permitted to practice in Bankruptcy. With bankruptcy practice at present at the lowest ebb it has been in our experience, no full time Referee would be justified now in Indiana, and the partial salary of $2500 would not be adequate compensation for the Referees in the more important Divisions.

The Bill provides that Referees be appointed for six years, instead of two, as at present. Referees are placed under the Director of the Administrative Office of the United States Courts and there is centralized control from Washington of the Courts and the Referees' offices, which is not regarded with favor by a number of members of the Committee. The State of Indiana has been and is fortunate in its Referees. They have been and are able, courteous and courageous. The Committee is agreed that a better system should be devised for compensation of the Referees on a basis other than the present one of fees and commissions. However, it is not our belief that this Bill provides the necessary remedy.

This Bill was taken up by the Judiciary Committee on January 28, 1943, and tabled, and further consideration has

not been scheduled. It may, however, receive consideration and action later on.

The Committee is not submitting any recommendation respecting this Bill or its adoption, although not inclined to favor it in its present form.

We submit for the consideration of this Meeting the following Resolutions:

1. RESOLVED: That the Indiana State Bar Association go on record as opposing the adoption of Bill known as H. R. 66, providing for the proposed change as to general assignments constituting Acts of Bankruptcy.
2. RESOLVED: That the Indiana State Bar Association go on record in opposition to the adoption of a bill known as H. R. 70, which provides for priority of payment of all debts, due the United States, and,
3. RESOLVED FURTHER: That we favor the adoption of an amendment to the Bankruptcy Act, which shall limit priority for payment of taxes to a period of one year.
4. RESOLVED FURTHER: That the action taken by this Association be communicated to the Indiana Members of the United States Senate and House of Representatives.

The adoption of the report including the resolutions, was moved, seconded and carried.

President Newkirk then presented his presidential address.[1]

PRESIDENT NEWKIRK: Now, the banquet is at two o'clock —and that means two—it doesn't mean two-five. I think I shall ask Mr. Fauvre and Mr. Wilson if I might defer their reports, if they are printed in the Law Journal. Any objection, Judge Wilson? All right. Mr. Fauvre—I am sure it is all right with him. I talked to him. He said he had no report.

NOMINATING COMMITTEE

Mr. Claycombe, chairman.

The report has been printed and circulated. I think I am safe in assuming that everybody here is familiar with it.

I might say that the Committee held one meeting. We couldn't come to any final conclusion, and after that we proceeded by personal contacts and by telephone and by correspondence. The report that is printed on this yellow

1. For the text of the address see, supra, p. 1.

sheet is the result of that. We find we got it together just in time for the printing and mailing.

Please bear with us. We were scattered all over the State of Indiana, and we really had a time to get this together.

PRESIDENT NEWKIRK: You move the adoption of your report, Mr. Claycombe?

MR. CLAYCOMBE: I so do.

The motion was seconded and carried.

It was moved by Mr. Claycombe, seconded by Mr. Fox, that the nominations be closed and that the Secretary be instructed to cast the unanimous ballot for each of the nominees. The motion was put to vote, and was carried.

PRESIDENT NEWKIRK: One of the most sincere men and the hardest worker in the Association is no other than your new President, Carl Gray, and I want Carl to say a few words.

PRESIDENT-ELECT GRAY: I want to take this opportunity to thank you for the honor you have conferred upon me. I realize the responsibility that goes with the honor. All I can promise you is my best efforts, and that I will work. I know how to do that. It will require your cooperation if my administration is to be a success. I feel that I am assured of your whole-hearted cooperation during the coming year. It shall be my purpose to undertake to strengthen the Bar by increasing the membership. There is a place at this time for a strong vital organization. We are going to be called upon as the Bar to assist in solving the many complex and complicated problems confronting this nation. In solving those problems, it is going to require our best efforts. The Bar has always met the challenge. It will meet the challenge now.

The annual meeting adjourned at 2 p.m.