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Montana Bar Association Activities

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LAW SCHOOL

The Law School will, beginning this June, go on a four quarter system. Students entering in June, 1945, will, if they attend all quarters of the year and do satisfactory work, be able to secure their law degrees at the end of the summer quarter 1947. Courses will be so arranged that such students will be able to take all courses now regularly taken by students enrolled only in Autumn, Winter, and Spring quarters..

In line with relaxations permitted by the Association of American Law Schools, admission requirements have been modified for returning veterans. They may satisfy pre-legal college or university residence requirements by one academic year of work in residence, either as civilians or in the uniform of their country, on an approved college or university campus in class under the direction of regular members of the faculty if such institution will give credit for such work towards its own degree. To the extent of one year's work (46½ credits) provided grade requirements are satisfied, veterans will be given pre-law credits as allowed by an approved college or university for:

- (1) Military training as such (not to exceed 12 quarter credits);
- (2) Credit for study or intellectual growth while the applicant was in the armed forces if the achievements resulting from such study or intellectual growth have been evaluated by a testing program within the armed forces or by examination given by an approved college;
- (3) Work done on a college campus in class under the direction of regular members of the college faculty if such college will give credit for such work towards its own degree.

In addition, such veterans will be allowed credit under (2), or (3), supra, to be applied on the second year's pre-legal requirement, if the available data or tests show above average performance or ability on their part.

MONTANA BAR ASSOCIATION ACTIVITIES*

The fifty-seventh annual meeting of the Montana Bar Association was held in Billings, Montana, July 14 and 15, 1944. Ninety-two members, representing twenty-eight cities

*This statement has been furnished by Marshall Murray, Secretary-Treasurer of the State Bar Association.

and towns in Montana, attended. Guests of the meeting included Hon. Joseph W. Henderson, President of the American Bar Association, of Philadelphia, Pa.; Hon. Basil O'Connor, President of the National Foundation for Infantile Paralysis, Inc., and President of the American Red Cross, of the bar of New York City; Hon. Joseph R. Jackson, Judge of the United States Court of Customs and Patent Appeals, of Washington, D. C. and former president of the Montana Bar Association; Captain R. O. Hillis, U. S. Army of Fort Douglas, Utah; Lt. Thomas Todd, U. S. Navy, of Seattle, Wash.; M. Baxter Larsen, of Butte, Montana, member in the U. S. Army; R. J. Hogan, Indiana, Penn.; and Thomas M. McKinney, C. A. Zoring, L. S. Strahan, Homer L. Mann, H. Glenn Kinsley, and George Brenner, all of the bar of Wyoming.

The meeting was opened by Robert C. Stong, President of the Yellowstone County Bar Association. After Addresses of Welcome by Mr. Stong and by Hon. Ernest T. Eaton, Lieutenant Governor, on behalf of the City of Billings, and the response by H. A. Simmons of Red Lodge, the Hon. W. E. Keeley, President of the Montana Bar Association took charge and delivered the Annual Address of the President. Mr. Keeley explained that the 1943 meeting had been passed at the request of Mr. Eastman of the O. D. T. and after a vote submitted to every lawyer in the State. He quoted figures to show that over 32% of the active bar of Montana is in the Military Service of the Nation and stated the purpose of the officers in the period since the last meeting had been to keep the maximum amount of contact with the absent lawyers, by personal letters from the President, various communications from the Secretary, complimentary membership cards, and the furnishing of names of lawyers in the Military Service to law publishing houses to have the boys placed on their mailing lists for advance sheets. He complimented the Committee on National Defense, under the Chairmanship of J. B. C. Knight, of Anaconda, in the preparation and distribution of a compendium of the Montana laws that might concern men in uniform, and also the Legal Aid services generously furnished by this committee. Next Keeley reported on the activities of the 1943 Legislative Committee and the favorable response the work of this committee received from the lawyers generally. The highlight of President Keeley's address related to the modern tendencies of governmental agencies on administrative law, whereof he said:

"I do heartily agree with the concerted effort to keep laymen from further invading the lawyer's field. I have

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practiced law in Montana for almost 35 years, and, during that time, I have seen the sources of legal business gradually lessened and curtailed. It has been most noticeable within the last decade. Lay agencies are now, in many instances, receiving the cream of the legal fees. Many government bureaus, agencies and commissions, wholly disregarding the rules of evidence, discourage the appearance of lawyers in matters before them. Their decisions, for the most part, are final, without adequate recourse or appeal to the lawfully constituted courts of the land. They intermingle both the power to make and administer the law. They file complaints, prosecute and hear them, and then render their own judgments thereon. In order to get around the necessity of having qualified members of the bar appear in cases before them, they have organized a bar of their own, and have adopted rules of procedure and conduct of the members of their private bars, in which they term and designate their appearing laymen not as lawyers or attorneys at law, but by the euphonious title of "Practitioners." In fact, in most instances, a lawyer cannot be admitted to practice as one of their "Practitioners" without first passing their "bar examination," even though such lawyer may already be admitted to practice in all of the highest Courts in the nation. As a result, competent lawyers are crowded out, and the laymen "Practitioners" carry on before these bureaus, agencies and commissions under new and strange laws and procedures that are often entirely in conflict with the practice of law as we know it."

The Hon. Guy C. Derry, of Billings, Chairman of the Committee on Judicial Selection and Better Methods of Selecting the Judiciary, reported for his committee, and its recommendations, substantially those of the 1942 meeting, were adopted.

Judge Jackson, former President of the Montana Bar Association, was then introduced and he expressed his pleasure in being able to renew old acquaintances. He spoke briefly on his work as a member of the United States Court of Customs and Patent Appeals and related incidents of his practice in the City of New York, prior to his appointment to the Court.

Next Julius J. Wuerthner, of Great Falls, as Chairman of the Committee on Improving the Administration of Justice, recounted the various meetings of his committee, its association with similar committee of the American Bar Association and separately moved the adoption of resolutions: (1) That the Supreme Court be requested to promulgate uniform District Court rules for use in all districts in the State; (2) That

the Association, as the representative of a majority of the Bar of Montana, again petition the Supreme Court for Bar Integration by Court rule; and (3) That the Supreme Court of Montana be requested to so indicate, by proper order when it deems that it lacks or it declines original jurisdiction in applications for original writs. Each was adopted.

The Secretary reported on the favorable response to questionnaires sent to the 166 Montana lawyers in the Military Services and the problems of location incident to their return. The recommendation that a central clearing office be arranged, perhaps in the University Law School or the Attorney General's office, to receive and tabulate information as to openings for returning lawyers with legal firms and private businesses in the State of Montana was adopted.

The annual Phi Delta Phi luncheon was held Friday noon, to which all members of the Association were invited. Robert C. Stong, of Billings, presided at the luncheon and the speaker was Hon. Basil O'Connor, of New York City.

Resuming the meeting, James T. Finlen, Jr., Montana Bar Association, delegate to the House of Delegates of the American Bar Association, addressed the Association on the subject "Cooperation with the American Bar Association."

S. P. Wilson, of Deer Lodge, as Chairman, reported for the Resolutions Committee. Customary resolutions of appreciation were adopted and likewise resolution acknowledging the realization of the members of the Association that the responsibility of keeping alive free government rests upon the people of the United States in large measure and pledging our lives, our fortunes and our sacred honor to the destruction of those forces that would blot out forever liberty, justice and happiness in the world. It was further resolved to compile a permanent record for the Association of the names of members of the Montana Bar serving in the armed forces of the United States in any war, including the present one.

H. C. Crippen, of Billings, spoke on the American Bar Association plan for the selection of judges, as reported in detail at the 1942 meeting.

Hon. Sam C. Ford, Governor of Montana, thereupon addressed the Association and expressed the belief that the efforts of the Association on administration of justice alone would justify the existence of the Association and help build the confidence of people in the attorneys of the State of Montana.

President Keeley next called upon Hon. Howard A. Johnson, Chief Justice of the Supreme Court of Montana, to ad-

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dress the Association on the subject "Lawyers and Courts." The Chief Justice's masterful and learned discussion cannot be reported in the short space available, but, for a better understanding of the close relationship between the courts and lawyers, a copy should be obtained and read and reread by every member of the bar.

Senator Paul W. Smith, Chairman, next submitted the report of the Committee on Legislation, and explained the method adopted by his committee in 1943 of giving all members a report of all legislation passed that was deemed of interest. He reported the favorable response his committee had from many members.

President Keeley thereupon appointed Governor Ford, Chief Justice Johnson, Julius Wuerthner, Henry J. Coleman and Judge Ben E. Harwood to escort our own Bill Jameson and Hon. Joseph W. Henderson, President of the American Bar Association, to the rostrum. Mr. Keeley then introduced W. J. Jameson, better known as "Bill" Jameson, member of the Board of Governors of the American Bar Association, being a ten member board and on which "Bill" is the representative of California, Washington, Oregon, Montana, Idaho, Nevada and Arizona, and called upon Jameson, in turn, to introduce the President of the American Bar Association.

Mr. Jameson spoke briefly on the work of the Board of Governors, particularly on the allocation of funds received from member's dues and the supervision of expenditures. He further said that he had been impressed with the time devoted by busy lawyers throughout the country to the work of the Association. In particular, he praised the activities of President Joseph W. Henderson, calling attention to the fact that, during his term of office, he had already addressed twenty-six state meetings and various regional meetings, besides carrying on the administrative duties of his office and that, in addition, he had maintained an active and busy law practice, including the arguing of one case in the United States Supreme Court, five cases before the Supreme Court of Pennsylvania and five cases before the Circuit Court of Appeals, as well as participating in the trials of many other cases. He mentioned President Henderson's familiarity with the problems of the general practitioner, his devotion to the ideals and interest of the profession and the respect and affection with which he is regarded by his associates in the work of the American Bar Association.

Hon. Joseph W. Henderson then addressed the Association, prefacing his formal address with the following:

"I am very happy to be here. I am very fond of the man who just introduced me. I do not want to get into a competing mutual admiration society, but I want you to know that I believe for the first time in the history of the American Bar Association a man is placed on the Budget Committee from what we will call the far west, as it was always thought those men should come from the east. I consider and I know that the most important personal appointment from any President of the Bar has to make is the appointment of one member of the Budget Committee and I want you to know that because of the regard and esteem we have for your Bill Jameson,—for his ability, I placed him on that Budget Committee."

Mr. Henderson spoke on administrative law. He traced its development from the first session of the First Congress to the present day, when with the multiplication of those agencies in the federal government, the increasing subjection of every form of activity to administrative regulation, and hostility of administrative agencies to all attempts to impose effective legal checks upon them, we have come to a condition of administrative absolutism in theory. This is nothing short of revolutionary in our American polity, and some academic teachers of the science of politics do not hesitate to pronounce it a revolution and to praise it as such. He further stated that second only to its war work, the No. 1 job of the American Bar Association was to prepare a suitable bill for improving and standardizing the procedure of federal administrative agencies and that, through the efforts of the committee appointed and the House of Delegates of the American Bar, a proposed bill had been prepared and had been introduced in both houses of Congress.

Through motion of Mr. Robert C. Stong, of Billings, President Henderson was elected an honorary member of the Montana Bar Association, to which Mr. Henderson responded that he was deeply grateful and would cherish this honor all of his life.

Clyde Hayden, of Hamilton, on behalf of Lester H. Loble, of Helena, Chairman of the Citizenship Committee presented the report of that committee.

The annual banquet of the Association was held at the Northern Hotel at 7:00 o'clock P. M. Fred L. Gibson of Livingston was toastmaster. The speakers were Hon. R. E. McHugh, of Anaconda, L. S. Strahan, of Lovell, Wyoming, E. C. Mulroney of Missoula and Hon. Joseph W. Henderson, President of the American Bar Association.

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The July 15, 1944 Morning Session, opened by President Keeley calling on Charles E. Avery, of Anaconda, Chairman of the Committee on Necrology, for the report of such committee. The report comprized memorial resolutions for each of the following brothers-in-the-law that had passed to the Great Beyond since the 1942 meeting:

O. F. Goddard, Henry L. Meyers, and Robert C. Flint of Billings;

D. G. Stivers, John Lindsay, William Paxton Cary and John J. McHatton of Butte;

George T. Baggs of Stevensville;

Joseph C. Smith and Henry G. Rogers of Dillon;

M. D. (Paddy) Rowland, of Libby;

Walter E. Castleton of Deer Lodge;

Eugene E. Angevine of Missoula;

David H. Morgan, Anaconda; W. T. Pigott, Virginia City;

Wilbur H. Wood, of Helena; Harry P. Bennett, Frederick S. Jacobsen, and Basil Phelan of Great Falls;

W. C. Husband, Harlowtown; George H. Grubb, Kalispell;

George W. Ruffcorn, Glasgow; J. Henry Nibbe and Charles C. Guinn.

Hon. George W. Farr of Miles City, next gave a very interesting and able address on "Methods of Reaching and Preparing Appellate Court Decisions."

Walter Aitken, of Bozeman, Chairman of the Committee on Bar Integration, addressed the Association on the subject "Progress Toward Bar Integration in Montana."

President Keeley then called upon J. B. C. Knight of Anaconda, Chairman of the Committee on National Defense, who in turn presented Lieutenant Thomas Todd, United States Navy, and Captain Robert O. Hillis, Army of the United States. The two officers presented Certificates of Appreciation to the Montana Bar Association respectively from the Navy and War Departments. Each expressed the appreciation of the Secretary of their department of the valued and unstinted legal assistance furnished servicemen and their dependents by the lawyers of Montana.

In lieu of the Special Law School Alumni Luncheons, a joint luncheon was held, at which E. A. Blenkner, of Columbus, presided and spoke briefly.

Resuming the session, a committee composed of Hon. Howard A. Johnson, Judge Ben Harwood and Earle Genzberger, veterans of World War I, responded to presentation of the cer-

tificates from the Navy and War Departments and expressed the pleasure of the Bar of Montana at being able to serve in the war effort and the promise to continue serving in every possible way.

William A. Brown, of Helena, being next on the program and being unable to attend, Mr. Brown's manuscript, entitled "Where Do We Go From Here" was read by T. H. Burke, of Billings.

Leon L. Bulen, of Missoula, Chairman of the Grievance Committee, reported that six matters had been referred to the committee in two years and that investigation of each showed that no charges of defalcation could be sustained but rather the common fault of attorneys is that they have spent too much of their time in community work and have neglected and sacrificed their own interests for the greater interest of their country.

Marshall Murray next submitted his report as Secretary-Treasurer. This report and likewise the favorable report of the Auditing Committee was adopted.

H. L. Maury, of Butte, Kendrick Smith of Butte, and Raymond Sheldon, of Ekalaka, each extemporaneously addressed the meeting on matters of general concern to the State of Montana.

President Keeley called Walter R. Flachsenhar, of Terry, to take the chair, and then taking the floor moved that the Legislature be requested to furnish funds to provide each of the Justices of the Supreme Court with a clerk or secretary. After favorable discussion by Walter Aitken, H. L. Maury, Earle N. Genzberger and others, the motion was adopted.

The Secretary was directed to have the Certificates from the War and Navy Departments framed and hung in the State Law Library at Helena.

The meeting concluded with the election of the following officers:

Marshall Murray, Kalispell, Secretary-Treasurer

H. C. Crippen, Billings, President

James T. Finlen, Butte, Delegate to House of

Delegates of American Bar Association.

District Vice Presidents as follows:

1st Paul W. Smith, Helena

2nd Tom Davis, Butte

3rd Charles E. Avery, Anaconda

4th E. C. Mulroney, Missoula

5th Tom Gilbert, Dillon

6th Walter Aitken, Bozeman

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- 7th Carl L. Brattin, Sidney
- 8th John H. Corcoran, Great Falls
- 9th Wilford Doyle, Conrad
- 10th H. Leonard DeKalb, Lewistown
- 11th Hans Walchli, Kalispell
- 12th Max Kuhr, Havre
- 13th James H. Kilbourne, Billings
- 14th L. D. Glenn, Harlowton
- 15th Arlie M. Foor, Wolf Point
- 16th Raymond Sheldon, Ekalaka
- 17th C. H. Roberts, Glasgow

THE REVISED CODES OF 1947

Enactment of the bill¹ for recodification of the laws of Montana by the 1945 legislature awakens the bar to its responsibility in the undertaking. Changes have been authorized which presage for Montana a modern code found now so frequently in our sister states.

The bill continues the code commissioner system for the 1947 Revised Codes of Montana and in addition creates a paid three-member Advisory Board to work with the commissioner. Personnel of the Advisory Board, like the commissioner, are to be appointed by the Supreme Court and may be selected if possible one from among the district judges of the state, one from the law faculty of the university, and the third from the bar at large. Commissioner and Advisory Board both will work under supervision of justices of the Supreme Court. Traditional features of older codes are to be reproduced in the new and include a copy of the Magna Charta, the Declaration of Independence, the Organic Act of the Territory of Montana, the Enabling Act, the Federal and State Constitution, and the laws of Congress on authentication of records. Most significant change authorized is the power,² inferentially granted, to group bodies of the law into titles and sections.

Denominated topical grouping, this method has sanction in most of the modern western state codes. In order to collect the laws into an integrated, accessible whole, and to permit the expansion of the code by future legislation without dis-

¹Chapter 184, Laws of 1945. (House Bill No. 320.)

²Section 6. "In compiling said codification and revision of the Laws of Montana hereby authorized, the said Commissioner, Advisory Board and Justices shall have authority to determine the form and arrangement of the Codes, to rearrange the parts, chapters and sections thereof, and to make appropriate and descriptive designations, numbers and titles for such parts, chapters and sections."