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A Constructive Suggestion

North Dakota Law Review Associate Editors

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by bonds and cash reserves, and the attorneys are retained on the individual case and paid by the corporation out of the reserve funds which are established in every state and locality, on each contract. There is no violation of the ethics of your profession nor of good business.

"Our campaign results in a greatly increased clientele for the attorneys, and we respectfully suggest that you grant our representatives the privilege of explanation in detail when they call in the near future."

The genial Mr. Sneckloth points out, "There is no violation of the ethics of your profession nor of good business"; and the Bar Board advises us, "This should be handled by the Association, through you (Secretary) or some committee."

Hasn't the time arrived when the lawyers of this state should find out just what an incorporated Bar is, what the Board Board is, and what good either or both of them are to the individual practitioner?

Protection against a proposal of this kind should not be dependent upon the Secretary's office, nor an Association committee. The moneys annually paid in as license fees, and resting quietly in the account of the State Bar Board should be available to protect the members of the Bar against this type of racketeering. We, respectfully, submit that the "moral suasion" efforts of the Secretary or any Association committee would be inappropriate and inadequate, and the levy of an assessment to enable either to engage in "protective" measures is also out of order. The State Bar Board, we believe, should take the initiative, and it should carry this matter to a final conclusion—by way of the Declaratory Judgment Act, a prosecution, or any other legal process appropriate and necessary to determine the rights of the Bar.

A CONSTRUCTIVE SUGGESTION

Economic or social planning, as indicated last month, must be a part of the plan for the future, unless America desires to have a repetition of the "thousand days" since 1929.

Should some plan be evolved, however, it can not and will not function effectively in and of itself. It will require a sound, efficient, high-minded personnel, it will require the co-operative effort of others, it will require the respect of our citizens.

Most of what such new machinery promises in the way of progress could now be accomplished, if it were not for the unwieldly thing we employ to do our legislating. Our present legislative machinery is too cumbersome, but cumbersome as that machinery is, and politically-minded as its component "screws, nuts and bolts" are, it could take much better and fuller advantage of the opportunities for sound, sensible legislating.

There is one type of "lobbying" that should never have been permitted, of course. That is the direct attempt to sway votes by "button-holing" legislators or brandishing an "appropriation club." It has been an easy, natural, and efficacious method, however, because of our political alignments.

There is another type that has been useful, but only to the extent that those using it were honestly intentioned and desirous of aiding

members of the legislature. That is the "appearance before committee" method. Were this method employed, as it could be employed, by legislative committees, through the medium of a summons to appear before these committees, instead of through the adopted method of hearing those who come voluntarily, much more in the way of valuable legislation could and would be accomplished.

Now that the 1933 session is over, may we not suggest, that, until some other plan is evolved, the next session of our legislature organize its committees under a rules procedure that will require such committees to call before them those who have special knowledge concerning the matter under consideration; then, instead of asking them their views, invite them to recite the facts within their knowledge that may have a bearing upon the issue before the committees?

This would still leave us with politically-minded legislators passing upon the facts gathered by the "investigating" committee, but it would, at least, get the facts that should be gotten before the committees to the attention of the legislature, instead of getting only the volunteer crusader's viewpoint.

We offer this as a constructive suggestion and an approach to more beneficial, scientific, systematic legislation.

NORTH DAKOTA DECISIONS

McCurdy vs. Hughes and Mann: Defendant H. had his attorneys prepare a verified complaint, charging plaintiff with misconduct as an attorney, and requesting appropriate action by the Bar Board and the Supreme Court. These verified charges were presented to the Supreme Court. Prior to such presentation, H. informed M., publisher and managing editor of a daily newspaper, that such charges were to be presented, and M. advised H. that said paper and the Associated Press might be interested. Later, and before the matter was considered by the Supreme Court, M. sent one of his reporters to the attorneys for H. for a document, with instructions, "they would know what was wanted." Publication followed. This included noticeable headlines, editorial and other comment. After deliberating for some time, the jury came in with a verdict (for plaintiff, apparently). The Court indicated the verdict was not acceptable, asked the jury to retire for further deliberation, and in the detailed instructions relating to such further consideration, stated, "This verdict must be in the language of the instructions, finding in favor of the plaintiff." etc. The first verdict was not made matter of record. HELD: The making, or presentation, of charges against an attorney in Supreme Court is a preliminary step in a legal proceeding. Such preliminary steps must be kept secret, and hence, are privileged. No civil liability attaches through their presentation. But, until the Court orders an investigation, or takes further steps in the matter, publication of the complaint or its allegations is not privileged, and every person who is in any way responsible for publication is liable in a civil action for damages, if the matter is libelous. The evidence is sufficient to justify a conclusion by the jury that both defendants had something to do with the publication. Apparently, the new trial is ordered upon the basis of the erroneous instructions on resubmission to the jury, also the assumption that a presentation of charges means publication.

This case is quite important to lawyers and publishers. It is regrettable, however, that it should supply one more lay complaint to the