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Overcrowded Profession

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out of ten indigent prisoners plead guilty, and that in twelve years there have been but four acquittals); 5. The advent of the Public Defender means a new political job; whether this is good or bad is debatable, but the general opinion seems to be that the new job means new patronage, favors and corruption; 6. Creation of the office of Public Defender would result in a majority of cases being prosecuted and defended by the same set of men because of the fact that the Prosecutor and the Public Defender would in many cases act together.

PRESIDENT INVITES DISCUSSION

President Traynor is quite insistent that the rank and file of the Association comment upon the proposals advanced by him in Bar Briefs. By way of encouraging those who may be reluctant to express their views publicly, we take the following from an address by Frank E. Atwood, Judge of the Supreme Court of Missouri, concerning the President's views on opinion-writing. Judge Atwood said: "One of the most active fields of investigation today is that of judicial thinking. Not whether judges do think, for I believe it is now conceded that they do after a fashion, but how they think. It was a canny observer who said to a newly elected judge: 'Give your decision—it will probably be right; but don't give your reasons—they will almost certainly be wrong.' That advice is all right for trial judges, but it merely accentuates our difficulties. We not only have to give our reasons in writing but are expected to state enough facts for the *alleged* reasons to be understood. Even if the Legislature did not require this I believe you lawyers would. Most of our decisions are probably right, but, if this bit of judicial advice and motions for rehearings mean anything, many of our opinions are almost certainly wrong. . .

"Many of those who come up on law points really want us to adjust the law to fit their cases and to that extent unsettle it and in a sense render it less certain. . . and what do we do about it? . . . Our answer will have to be much like that of Judge Roy Bean, the self-constituted Justice of the Peace who forty years ago dispensed justice along the Rio Grande and was known as 'the law west of the Pecos'. Among other social adjustments undertaken by him . . was that of granting divorces in rather promiscuous fashion. . . An inspector finally mustered enough courage to tell him that he had no such jurisdiction, and was immensely relieved when, instead of shooting him, Judge Bean calmly replied: 'Well, maybe I don't—but I do!' "

OVERCROWDED PROFESSION

Statistics recently gathered in 47 states and the District of Columbia, to which must be added the Indiana estimates, show that 17,288 candidates took the bar examinations in the year 1927-28. 9,114, 52.7% of these, passed. This total was brought to 9,731 by the addition of 617 who were admitted on law school diplomas in thirteen states. The next year, 1928-29, 9,290 were admitted on examination and about 600 on diploma, constituting 50.7% of the candidates. For the year 1929-30 the number of candidates increased to 19,830. 46.4% passed, to which were added 567 admitted on diploma, making the total of additions 9,860.

Reliable studies show a decrease of about 2,000 in the number of law students during the two years between 1928 and 1930. More strict requirements of prelegal education account for part of this decrease. With the latest count (1930) showing between 150,000 and 160,000 lawyers in the country, only 4,500 new recruits are needed annually to replace those who drop out. How to accomplish a curtailing of the number of new licenses issued annually, without being ruthless, is a problem for bar organizations to work out. Certainly it is the duty of the bar organizations to make every effort to keep those not properly qualified through general education, adequate legal training, and high-type moral standards from "preying" upon the public.

We note from the Carnegie Foundation's annual review (1930) that "where a large measure of control has been retained by, or vested in the courts" the elementary essentials of a sound bar admission system are most likely to be found; where the legislature has prescribed most of the details, admission systems "are in the more primitive group."

MOVIES AND SHERMAN ANTI-TRUST ACT

Paramount vs. U. S., 51 *Sup. Ct. Rep.* 42, brings out some interesting facts as well as a plain statement of the meaning of the Sherman Act. Paramount-Lasky, controlling about 60 per cent of the films exhibited in the U. S., and some others, which add about 38 per cent more to the percentage total, had developed a contract with distributors and exhibitors after several years of experimentation. Among other things it required arbitration of disputes. The claim was that the contract, being the result of discussion and experimentation, was a reasonable and normal regulation; that arbitration was well adapted to the needs of the industry; and that the absence of complaints established the reasonable character of the contract. The Supreme Court of the United States, however, said this, among other things: "In order to establish violation of the Sherman Act it is not necessary to show that the challenged arrangement suppresses all competition between the parties or that the parties themselves are discontented with the arrangement. The interest of the public in the preservation of competition is the primary consideration. The prohibitions of the statute cannot be 'evaded by good motives'. The law is its own measure of right and wrong, of what it permits, or forbids, and the judgment of the courts cannot be set up against it in a supposed accommodation of its policy with the good intentions of parties, and it may be, of some good results."

WE ARE MAKING PROGRESS

The occasions are becoming more numerous when criticism of our criminal procedure is levelled at some other object than the courts or the lawyers. The latest coming to our attention is the editorial in the April 6th issue of the Minneapolis Tribune, from which we quote the first three paragraphs:

"The verdict in the Brothers case is a conspicuous example of the irrational results so frequently attained by American juries. It should be observed that this incomprehensible verdict is in no wise blamable on the court but rests entirely on the jury.