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A Practical Move to Improve the Jury System

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If the trouble is not remedied in this manner then the Internal Affairs Committee of the Association will take it up immediately and vigorously, and if need be drastic measures will be resorted to.

One of the reasons for the formation of our incorporated Bar was that we might thereby raise the standards of each member nearer to those high ideals that should govern every lawyer in his practice. It is our collective aim to make our practice square with our professed Ethics. The Association stands uncompromisingly behind the clear pronouncement of these precepts as defined in our Code of Ethics.

A. M. KVELLO, *President.*

A PRACTICAL MOVE TO IMPROVE THE JURY SYSTEM

Every lawyer is aware that the jury is not representative of the best citizenry of the county, and he knows that the reasons are two-fold: first, that the local boards of the cities, villages and townships in selecting and certifying the names of persons to be placed in the jury box as required by Section 820, C. L. 1913, do not follow the plain directions of the statutes but yield to the requests of persons who are desirous of serving and obtaining a job, and second, that many persons best qualified to serve offer excuses when selected and obtain their release for one reason or another, although really able to serve.

To date no better method of deciding disputed questions of fact has been devised, and it is a safe assumption that we shall always have the jury method with us. Therefore, why not improve it? As a first step in that direction, why not make it our business to see that as constituted the jury panel is truly representative of the citizenry of the county from which it is drawn? Why permit the test of one's competency for jury service to be his desire to get on the jury? Why tolerate longer the "repeater" and "professional" juror who is so prevalent in most counties, if not all of them. As an illustration, I cite an example from my own county, Cass, where one person served on the jury for nine consecutive terms, and another where a man and wife, either one or the other, served for 15 years, and both were on one panel. Similar examples could be furnished by you from your own county.

I do not mean to imply that the local boards, or even those who importune them to see that they are given a job as jurors, are actuated by sinister motives or by any desire to corrupt the administration of our Courts. They do not think of results or effects, but think only of the immediate desire to favor a friend or make one for political reasons. They act without consideration of the civic duty involved and out of a lack of knowledge of how the law intends that the jury panel be constituted.

It is quite clear, I think, that if the local boards would observe the directions of the statute and if the trial judges would be less lenient in granting excuses we would have gone a long way toward obtaining more representative juries. It is, I believe, largely a matter of educating the local boards, the Clerks of our courts of record and other county officials entrusted with the selection of the jury panel, as to their duties, followed by the exercise of the disciplinary power which is inherent in the trial court to see that there is no departure from the mandate of the statute prescribing those duties. Present statutes are entirely adequate to assure the selection of a fair and representative jury if they are followed. I cite section 831, C. L. 1913, which reads:

"It shall be the duty of the respective boards in selecting and

furnishing to the clerk the number of persons qualified to serve as grand and petit jurors so to select and arrange the names that *no one person shall come on the jury a second time before all qualified persons shall have served respectively in rotation,* according to the best information that can be obtained."

Observance of this plain requirement would abolish the "repeater" or "professional" juror.

A campaign of education will best bring about the desired results. The judges of the sixth judicial district have prepared and are circulating among the clerks and county officials an outline of the procedure to be followed in constituting the jury panel with quotations from the statutes and this in turn will be placed in the hands of all local boards each time names of additional jurors are to be furnished to the clerk. At the last term of the district court of Cass County the court instructed the clerk to remove from the jury list names of all persons who had served during the year. The trial judges in other districts have probably taken similar action or are formulating plans to get the information into the hands of the local boards.

The various service clubs and other civic organizations throughout the State can help by acquainting their members witht these statutes and pledging them to serve without complaint if and when they are called.

Our duy is plain. Shall we, the Bench and Bar, see that the statute is observed, or shall we by our silence and inaction merit the public criticism of Courts and court procedure. A. W. CUPLER.

REVIEW OF NORTH DAKOTA DECISIONS

State vs. Turner: Prosecution for assault and battery with deadly weapon with intent to kill. Complaining witness, an employee of U. S. government, went to defendants' ranch and took some of their cattle on charge of trespassing on Indian lands. When defendants came home a little later, they called on complainant for "purpose of having the cattle released," but taking along three rifles, a piece of gas pipe and a pick ax handle. When complainant appeared, he was ordered to "stick 'em up," whereupon he was struck with the club. Defense was "self-defense," and the verdict was "guilty of assault with deadly weapon with intent to do bodily harm but not with intent to kill." Main reliance on appeal is on failure to charge properly concerning "self defense" and misconduct of the Court in warning defendants' counsel for improper remarks. HELD: If the Court's remarks to the jury weakened the influence of defendants' counsel, it was the fault of counsel and not of the Court. Self defense in case of protection of property cannot be predicated upon a taking of property prior to the alleged act in defense, nor can a person provoke another to attack him and thus create the opportunity for an assault and a claim of self-defense." The Court must fairly present the issues, but when this is done it is sufficient, in the absence of a request for more definite instructions."

Lang vs. City of Cavalier: Plaintiff, a citizen and taxpayer of defendant city, brought action to restrain the city from carrying out a contract for the installation of an electric light plant and payment of the cost thereof. Plaintiff formerly owned the community's light plant. He sold to a corporation. Following this an election was held to determine whether city should purchase or erect and operate an electric plant and distributing system. The vote was favorable. Another election favorably determined for an increase in city's debt limit. An agreement