North Dakota Law Review

Volume 6 | Number 6 Article 4

1929

Disagreement

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Every attorney knows that it often occurs that jurors on the term panel attend the whole term, and never serve on a jury. In many cases the jurors thus prevented from serving are persons well known to be unfit for jury service. Most of the attorneys, if not all of them, had they been present when the names were selected for a place on the waiting list, or when the county board drew the jury panel, would have objected seriously to such name, and prevented it from going on the waiting list or term panel. Why not expressly give the attorneys the right to so suggest or object to the selection of such persons? Why not give to each attorney the right to a certain number of peremptory objections? I believe there would be no danger that any attorney would try to get unfit persons selected.

It seems to me that the attorneys might, to some considerable extent, help give some force and effect to that provision in Section 814, which requires the competent juror to be of "sound mind and discretion." Of course, that suggestion should be kindly made.

I would like to see some changes which would not only lead to a more careful selection of names by the different boards for the waiting list, by a careful following, in word and spirit, of the present statutory requirement, but also make the words "of sound mind and discretion" used in Section 814 mean something. Let us make those notices required to be posted by the auditor or clerk of the various boards of some use and benefit, or save the bother of giving the notices. I feel that the statutes should be amended so that notices of the clerk shall be mailed long enough before the drawing of the term panel so that, by the ordinary mail service, each attorney would be apt to receive his notice in time.

Since the first part of this article was printed, an educator who read it, suggested that the names for the waiting list, and possibly for the term panel, should be selected by the attorneys. He contended that such attorneys would be anxious to have on the waiting list the names of persons qualified otherwise, and who were also of sound mind and discretion.

Under that plan the county auditor should, of course, send the request for the required number of names to the clerk of court, the state's attorney, or the district judge, who would call the attorneys together for the purpose of drawing the names needed to fill up the waiting list.

If such a plan was adopted, the trial judge should also be present and preside at the meeting when the panel for the term was drawn, the judge and the attorneys selecting the names for the panel, not by chance, but by selecting the required number of good names.

Under that plan they could, and I believe would, try and select names of persons of "sound mind and discretion," and they would make an honest attempt to obey the requirements of Section 831, and that such a thing would not happen again as I was told happened not long ago, when one name was found six times on the waiting list.

DISAGREEMENT

The American Bar Association and the Association of American Law Schools disagree on the matter of compulsory study of professional ethics by law students. The former went on record (October, 1929) in favor of such compulsory instruction, while the latter, in the opinion of Dean Kinnane, of the University of Wyoming Law School, seems to

be convinced that the "right kind" of law student "already knows what constitutes moral and ethical conduct," and that character training, through a formal course in legal ethics will not affect the others.

Dean Kinnane goes on to say that the weakness of the latter view, which has escaped discussion, lies in a mistaken conception of the term "ethics." In the April issue of the American Bar Association Journal, Dean Kinnane says: "It is submitted that there is much in the canons of professional ethics that can be called 'ethics' only at the expense of confusing ethics and morality on the one hand with approved standards of professional decorum on the other. For, granting that the 'right kind' of law student has a proper perception of the obligations of morality, there are still many problems of professional decorum to be solved, and many that have been solved only after extended disagreement among even the learned and experienced members of the Bar. These problems are not necessarily problems of morality. And how a law student or a young lawyer is to know these solutions, or that some problems are still unsolved is not clear."

The writer discusses the matter in detail, under two heads: 1. Situations involving professional decorum rather than morality; and 2. Situations causing difficulty even now to experienced lawyers. He distinguishes between the professional obligation and the moral obligation, points to the difficulty which experienced practitioners have had in reaching conclusions on such matters as partnership and splitting fees, and concludes:

"There are many who come into the profession who would make their first contacts with formal moral studies as well as professional ethics if a course on Legal Ethics were offered, and such a possibility of usefulness should not be overlooked. Again, in the interest of preserving the integrity of the profession, an opportunity to show the penalties of transgression need not be overlooked. In religion we preach punishment, and in law we preach punishment, also, and there seems to be no adequate reason for ignoring a useful deterrent, by failing to spend some of the student's time in considering the matters of suspension and disbarment.

"That the questions that confront practitioners are not always easy is shown by the continued interest of the American Bar Association and other associations on the matter of proper professional conduct. Again it is shown by the present emphasis on character qualifications for admission to the Bar. Again it is shown by the numerous questions answered from time to time by the committee—to mention only one of the most celebrated—on professional ethics of the New York County Lawyers Association. This continued evidence of the difficulties inherent in the matter of professional ethics would seem to indicate the necessity for some instruction on this matter in the law schools. Whether such a course should be made compulsory cannot be stated without considering many other pertinent matters. The argument for not giving such a course, based on the assumption that the 'right kind' of student could not profit by it, seems, however, to be based on grounds of doubtful validity."

PROHIBITION NOT A "DRY" ISSUE

Without doubt, prohibition is regarded as one of the major issues at the present time. At any rate, it appears to be accepted no longer as something definitely and firmly established as a national policy.