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Judicial Candidates

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attended, many of the lawyers being accompanied by their wives. Every one present seemed to have an enjoyable time. Hon. James Johnson, the oldest member of the bar of the district and the pioneer lawyer of Ward County, presided as toastmaster. The laugh of the evening was produced by Jim when he remarked that all good things were put up in small packages, and then exemplified his remark by calling on Hon. F. B. Lambert for a few remarks. Frank is no small package.

The association organized by adopting a constitution and by-laws. One feature of the constitution is the provision for a Vice-President for each county. These Vice-Presidents, with the President, constitute the Executive Committee.

The officers of the association for the ensuing year are: President, John H. Lewis; Vice-Presidents, James Johnson for Ward County, E. J. McIlraith for Divide County, Earl Walter for Burke County, P. M. Clark for Renville County, W. H. Adams for Bottineau County, T. D. Morrow for McHenry County, F. W. Medbery for Mountrail County, Ivan Metzger for Williams County, and Robert Norheim for McKenzie County; V. E. Stenerson of Minot is Treasurer. All lawyers of the district will be members of the association on remitting to the treasurer the annual dues of $1.00. C. E. Brace of Minot is secretary. —O. B. HERIGSTAD.

JUDICIAL CANDIDATES

In the November, 1928, issue of Bar Briefs we broached the subject of bar endorsement of groups of names for presentation to the general electorate as competent material for judicial positions. Among other things we said, "Properly safeguarded as to secrecy of ballot, and properly regulated as to manner and method, a self-governing bar like North Dakota's, including, as it does, every member of the profession, might well consider the advisability of presenting to the people of the state, from time to time, groups of names for the various judicial positions. It is reasonable to suppose that selection might be made, from such groups or lists of names, with credit to the state, the bench, the bar, and the individual citizen casting a ballot at the general election."

It was presented as the individual viewpoint of the editor without Association or executive committee endorsement, with the hope that during the two-year interim between elections it might result in discussion, in proper spirit and with due regard to the merits of the proposal. Following that publication, the editor kept silent on the subject.

The first reaction came recently in some of the district re-organization meetings, where references were made to the subject in constitution or by-laws. This fact encourages us to approach the subject a second time, and to offer the experience of California, as presented in an article by Lawrence L. Larrabee of the Los Angeles bar, to-wit:

In 1920 the officers of our bar association began the work of devising a method by which an authentic appraisal of the qualifications of judiciary candidates could be obtained and results given to the voters. It was in that year that the association's first plebiscite was taken. The vote was convincing in the majorities given, and the endorsements were published. There was no doubt expressed by anybody as to the dependability of that opinion or of the sincerity of the association in its desire to serve the public by offering it for the guidance of the voters.

In connection with every judiciary election since 1920 the associa-

tion has secured the collective opinion of its members upon the qualifications of the candidates, and has spent considerable sums to communicate it to the electorate for its assistance in voting wisely. As the years have passed, the value of this service to the civic welfare of this community has been demonstrated over and over again. In numerous instances the activity of the association has resulted in the election of men of outstanding ability as judges who otherwise would have been defeated by opponents whose only abilities were those of waging a clever political campaign.

The association holds steadfastly to the idealism and vision with which its first efforts in this cause were made, and which have inspired its leaders in successive years to continue the work which they know is so vitally needed. In this connection it might be helpful to recall that in 1926, when there were 36 places on the superior court and municipal court benches in this county to be filled by gubernatorial appointments, there were no less than 215 candidates for these judgeships. It is not unlikely that a similar situation would exist in connection with every judiciary election if the bar association were to discontinue its efforts to bring about the selection of judges solely upon the basis of qualification. It is easy to imagine the result on the personnel of the bench if such a condition should arise.

It is interesting to note that in 1926 the Governor was unwilling to accept the estimates of the candidates themselves, or those of their close friends, which the candidates furnished him as arguments for their appointment. He asked the Los Angeles Bar Association to secure the opinion of its members as to which of them were best qualified, and report the result to him. This was done and the appointments were made in accordance with the results of the plebiscite. The judicial record of every one of these appointees has thoroughly vindicated the soundness of the estimate of his ability which was expressed in the plebiscite.

The bar association believes that an able judiciary is vitally important to successful government; that its personnel should be chosen from the best available material; that the wisest choice is that made from considerations of learning, integrity, fearlessness, breadth of experience in the law, and judicial temperament, rather than political affiliation or campaigning ability. It believes that lawyers are better able to estimate the extent to which the essential qualifications are possessed by those of their fellows who seek judicial office, than are laymen; that the great majority of laymen recognize that fact, and welcome the opinion of lawyers concerning candidates for the bench; that the profession is under a duty to give the public the benefit of its opinion to the end that the best men may be chosen to fill these important offices. It believes that its persistence in carrying on this work will tend to discourage the candidacies of those who do not possess qualifications for judicial office to the degree which their fellow professionals recognize as necessary to make a competent judge.

The association has learned by experience that the mere endorsement of candidates without communication of the endorsement to the public, is ineffectual; that to make its work of real benefit, it is necessary that information concerning its purpose and the candidates it recommends, be thoroughly disseminated. Its so-called "campaign" seeks to do nothing more than to communicate to the voting public such information. The association does not campaign against any candi-

date; it confines itself to an effort to secure the election of those persons whom the members believe to be best fitted.

Persons unacquainted with the motives of the association have said that the association is trying to dictate to the public how it should vote; that it is attempting to take from the public its right to select its judges; that the opinion obtained in the association's plebiscite is not worth anything because not all the members participate in the vote; that the association is attempting to secure control of the courts, more particularly, of the judges; that the association's activity is an attempt to build up a "lawyer's trust" for the purpose of controlling the administration of justice, etc.

To any one familiar with the work of the association and its object, the absurdity and falsity of each of these charges is at once apparent.

The association has no desire to dictate to the public; it is merely trying to help the voters to vote intelligently when they approach the problem of selecting a few out of a large number of candidates for these very important offices. It hopes to leave the selection of judges truly in the hands of the public and not in the hands of a few politicians who have ulterior motives in promoting the election of certain candidates.

The association does not practice before the courts and, therefore, cannot possibly have anything to gain by controlling the courts. It should be observed that it is not the association, as such, which passes upon the qualifications of candidates, but that it is the members of the association, and that the association merely acts as the machinery for communicating this expert opinion to the public. The plebiscite ballot is entirely secret and no opportunity is given to any candidate to ascertain how any member voted as to his qualifications; there is therefore no room for fear or favoritism to enter into the expression of the individual's opinion in the plebiscite. Of what importance is it that not all the members participate in the plebiscite, if a number sufficient to give authenticity to the opinion expressed, have voted? There have rarely been less than 1,100 votes cast in an association plebiscite. Is not the overwhelming majority opinion of a committee of 1,100 lawyers more dependable than that of the partisan supporters of the respective candidates?

BAR EXPENDITURES

Commenting upon the expenditures of the Bar Associations of California ($82,222.00), South Dakota ($995.39), and North Dakota ($3,085.62—and Bar Board disbarment expenses $3,965.48), the Journal of the American Judicature Society makes comment as follows in a recent issue:

"Now it is inconceivable that the needs in respect to discipline are seriously different in the two states, (North Dakota and South Dakota), yet in one state four times as much money was expended directly in the prosecutions calculated to maintain the reputation of the Bar as was used for all purposes in the other.

"Revenue is not the most important factor in Bar functioning, perhaps, but it is certainly not the least. In North Dakota a sum was used for disciplinary proceedings greater than that expended in some of the largest states in the country. It points not to a lower grade of professional conduct in that state, but to a duty well performed."