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Remedies for the Law's Delays

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Even from far off Bagdad comes the word that the bar of Iraq has virtually complete control over the legal profession. No person can practice law in any court unless he is a member of the bar association and holds a license to practice granted by it.

The bar associations of Texas, Arkansas and Louisiana have just held a combined meeting at Texarkana. Among the speakers were Hon. Albert J. Beveridge, Senator Thos. J. Walsh and Hon. Chester I. Long, president of the American Bar Association.

In the thirty-nine state legislatures in session in 1925, 40,986 bills were introduced and 13,018 were enacted into law. 3,186 bills were introduced in New York, while in Minnesota there were 2,797 bills. North Carolina enacted 1,183 new statutes out of 1,773 bills.

Professor Thos. E. Atkinson, formerly a member of the faculty of the Law School of the University of North Dakota, is now a teaching fellow and graduate student in the Yale school of law and during the coming year will be a member of the faculty of the University of Kansas School of Law.

The Supreme Court of North Carolina, in a decision handed down in February of this year, (*In re Farmer*, 191 N. C. 211—121 S. E. 661) held that the applicants did not possess the necessary upright character to entitle them to receive law licenses, although they had successfully passed the written examination.

Under the leadership of Lord Birkenhead a new conveyancing act has been enacted by the English Parliament. While Lord Chancellor, Lord Birkenhead discovered that while the law regarding landed property which has been growing up since the Domesday Book was compiled in the eleventh century, it had become cumbrous and out of date. The new act codifies and greatly simplifies the law.

There has been considerable discussion about the approaching socialization of the medical profession, but what shall one say as to what the future holds for the legal profession in the light of the statement by Chief Justice Taft: "I think that we shall have to come, and ought to come, to the creation in every criminal court of the office of public defender, and that he should be paid out of the treasury of the county or state. I think, too, that there should be a department in every large city, and probably in the state, which shall be sufficiently equipped to offer legal advice and legal services in suits and defenses in all civil cases, but especially in small claims courts, in courts of domestic relations, and in other forums of the plain people."

REMEDIES FOR THE LAW'S DELAYS

Following we present a brief outline of the recent address of Attorney General Shafer before the Cass County Bar Association:

The Constitution of North Dakota assures to every person accused of crime the right to a speedy and public trial," and to every person who suffers a civil injury, a remedy by due process of law, "without sale, denial, or delay." Under our system of administering justice in this State, defendants in criminal cases, are always given a public trial, but

seldom a speedy trial; while in civil controversies remedies by due process of law are provided, and justice is generally administered without sale or denial. It is, however, often administered after much delay, and justice too long delayed, amounts to a denial of justice. Thus, delay in both criminal and civil cases, is the most conspicuous defect in our system of jurisprudence in North Dakota. It is, at once, the bane of the lawyers, the despair of parties involved in litigation, and the cause of widespread dissatisfaction with the law, lawyers and the Courts.

No doubt, much of the delay in getting lawsuits tried and the rights of persons involved in litigation determined, is due to the perversity of human nature; and is, therefore, incurable by any means known to the genius of man; but I believe that much of it is due to a defective and cumbersome system of procedure, and that a good deal of needless delay could be eliminated, if our procedural methods were revised and improved with the view of speeding up the wheels of justice. We are still employing the ox-cart pace of discharging legal business in a day of high speeds in all other fields of human endeavor.

How can we readjust our judicial machinery to meet the needs of the times and the guaranties of the Constitution, and still not impair its efficacy as an instrumentality of criminal and civil justice?

Let us inquire where, along the course of a lawsuit, criminal or civil, do the principal delays occur, and why:

There are three important periods of delay that may occur in the history of any lawsuit.

First. Delays occurring between the commencement of a lawsuit and the actual trial in District Court, because of

- (a) Infrequent terms of court.
- (b) Conjested court calendars.
- (c) Failure of courts to require causes to be brought to trial, or otherwise disposed of.

Second. Delays occurring after trial and before the completion of steps to review the judgment on motion for new trial, and on appeal, resulting from

- (a) Delay in securing transcripts of testimony where that record is required;
- (b) Time allowed by statute in which to take and complete appeals; and,
- (c) Lack of proper statute compelling Appellant to assume burden of completing appeal within the statutory time.

Third. Delay occurring after cause is submitted on appeal and before final decision in the Supreme Court.

To remedy these defects, I would suggest:

First: To speed up trial of cases:

1st: All county courts should be given jurisdiction to try all civil cases involving \$1000.00 or less; and criminal cases of less degree than felonies. County judges to have same qualifications as a District Judge—a term of four years, and an adequate salary.

2nd: Jury trials in civil cases in both District and County Courts should be limited to cases in which same are requested in writing by one of the parties and upon payment of a jury fee; and jury trials should be entirely abolished in all civil cases involving small amounts. Size of juries in county court at least might also be reduced to six jurors in civil cases.

3rd: Eliminate appeals from justice court to district court in petty cases.

4th: Vest in District Court the power to transfer court cases pending in outlying counties to county of Judges chambers for trial under proper conditions.

Second: To speed up completing appeals:

1st: Limit time for taking appeals in civil and criminal cases to sixty days and require all appeals to be completed in six months, except in unusual cases where time may be extended by the Supreme Court, upon application of Appellant showing sufficient cause, and upon notice to the Respondent.

2nd: Where appeals are based on a transcript of testimony, require Court reporter to provide the record as soon as possible.

Third: To speed up disposition of appeals by Supreme Court:

1st: Eliminate appeals to the Supreme Court in all civil cases involving small amounts, except in cases where the trial court certifies that an important question of law is involved, which the public interests require should be settled.

2nd: Amend the Constitutional provision requiring the Supreme Court to file a written opinion covering "every point raised in the record," and allow per curiam opinions in cases where the legal issues involved have been previously settled by the decisions of the Supreme Court.

AND CAESAR HAD HIS BRUTUS

"The unfolding buds of Romance touches the heart of youth, and thrills the pulse with Love's Old Sweet Song, as hand in hand they trip gaily along the corridors of Life, while the tuneful Lyre of Youth is touched into living chords, singing a symphony in the souls of Love and Beauty."—From the first (May) number of The Bumble Bee.

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