North Carolina state bar assn
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# REPORT

OF THE

## SECOND ANNUAL MEETING

OF THE

# North Carolina
# BAR ASSOCIATION,

HELD AT

## BATTERY PARK HOTEL, ASHEVILLE, N. C.,

## JUNE 27th, 28th and 29th, 1900.

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EDITED BY

J. CRAWFORD BIGGS, SECRETARY,
OF THE DURHAM BAR.

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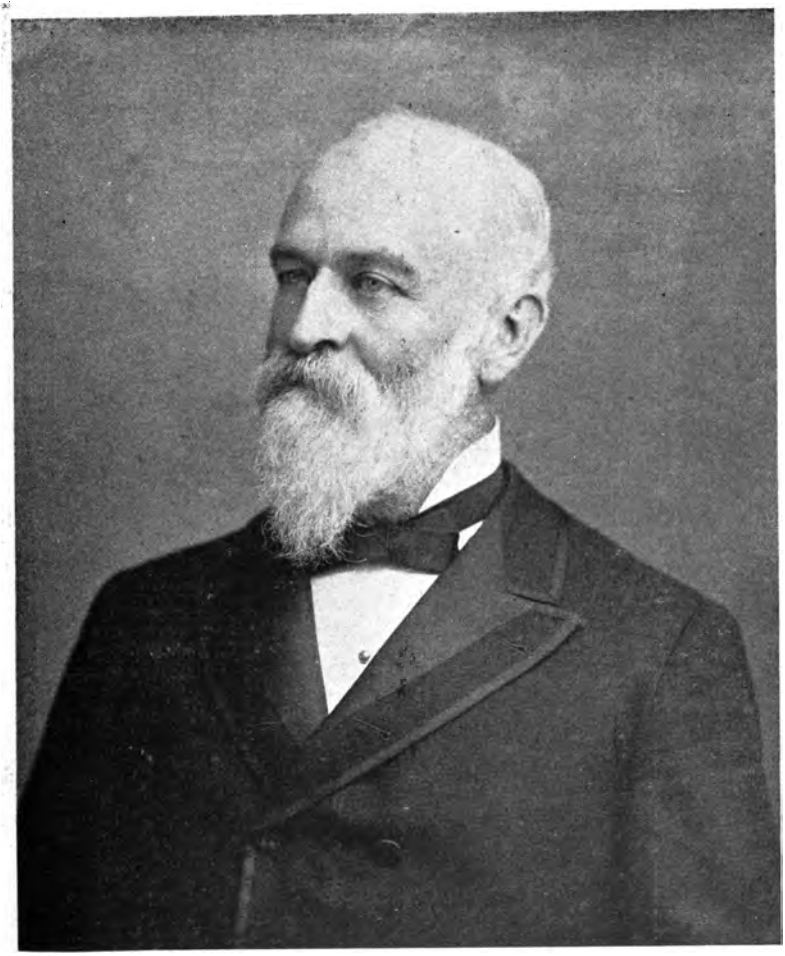

CHARLES M. STEDMAN.

President 1900-1901, page 165.

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# TRANSACTIONS

OF THE

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## BATTERY PARK HOTEL, ASHEVILLE, N. C.,

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WEDNESDAY, June 27, 1900.

The Second Annual Meeting of the North Carolina Bar Association convened at the Battery Park Hotel, Asheville, Wednesday, June 27, 1900.

The Association was called to order at 9 o'clock p. m., by Mr. J. S. Manning, of Durham, Chairman of the Executive Committee, who said:

*Gentlemen of the North Carolina Bar Association:*

It becomes my pleasant duty, as the Chairman of your Executive Committee, to call to order the second meeting of the North Carolina Bar Association. I congratulate you upon the goodly attendance and I trust that this meeting will be fruitful, of benefit to the individual lawyer and of advantage to the profession to which we belong. This Association and our annual meetings should strengthen our profession in the attainment of a wise and healthful influence, in broadening our sympathies one with another, and in elevating the ideals of the individual lawyer. I congratulate you upon the increasing number of your membership, and I trust we will see the time come when no worthy and honorable lawyer in our State will feel he has fully discharged his duty to his profession until

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he has become a member of this Association—conscious of its benefits to himself and others, alive to its responsibilities, and responsive to the calls it may make upon his intellect and activity.

Having now discharged my duty, I resign the further presidency of your deliberations to the Hon. Charles F. Warren, President of the North Carolina Bar Association.

Mr. Chas. F. Warren, of Washington, took the chair and introduced Mr. Thos. A. Jones, of Asheville.

Mr. Thos. A. Jones, of Asheville, in extending a welcome, spoke as follows:

*Mr. President, and Gentlemen of the North Carolina Bar Association:*

It is with great pleasure that I bid you welcome to Asheville. Not only on behalf of our Bar and that of Western North Carolina, but on behalf of her citizens generally. We are all glad to have you with us. We know that it will be a treat to us; we hope that it will prove one to you.

It is usual on occasions of this character to speak about the city which welcomes you. To tell of its industries, its population, its beauties, etc., etc., *ad nauseum*. In other words, to boom and advertise the town. I shall not do so. Asheville needs no advertisement in the United States; she certainly needs none to Tarheels. Not to know her, argues yourself unknown. You know that here is a place where "every prospect pleases," and man is not any viler than he is elsewhere. I must, however, confess one thing which detracts from Asheville. With a population of nineteen thousand, she only has sixty lawyers. Where is there another town in the State with such a record. You all know that this is not a sufficient number for this town, and we are glad that the number is swelled by you, if only for a few days.

Asheville has always been generous towards lawyers, and has always welcomed those who located here. Not only those born here, but she has extended a generous hand to her lawyers who came here as young men from Pennsylvania, South Carolina, Tennessee, Virginia, and elsewhere. She has even

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welcomed foreign lawyers, from Bertie, Pitt, Warren, Wilkes, and other out of the way places. She is not particular where they come from. If they only win their cases, all lawyers look alike to her. So if any of you are thinking of locating elsewhere, just come here, and if you deserve success, you will succeed. This invitation, however, is not extended to all of you, but only to a select few.

This section of our State has done her part towards furnishing able lawyers to the State. The names of Mike Francis, Clingman, Gaither, Woodfin, Allan T. Davidson, Marcus Erwin, David Coleman, Bailey, David L. Swain and Vance are familiar names to the profession throughout the State. This city has given to you two Governors, United States Senators, a President of your State University, and a Chief Justice of your Supreme Court, and their records are honorable ones, and are forever linked with the history of the State,—and we even now have numerous young and ambitious lawyers who think that they are well fitted to be Governors, Judges, Senators, or anything else, but the trouble has been that so far they have been unable to persuade the balance of the State that they have placed a just estimate upon their own powers.

In coming here, gentlemen, let me ask you to throw aside for a while the annoyances, burdens and cares of a most onerous profession, forget the cases you hope to win, and those you fear you will lose. During your session, think only of the science of the law in its general terms, and when you are not in session, think of nothing, except enjoyment. "Get your money's worth," and if you do not have a royal time it will be your fault, and not Asheville's. Throw all your worries and cares to the winds, and while here let the doctrine of abandonment apply to them. You have now entered your appearance here, and before you leave we wish you to make acknowledgment that Asheville has against you no adverse possession, but that what is ours is yours. We promise you immunity from arrest. Think not of attachment, except the attachment for each other, and which we trust you will have for our city. The charges here, while sufficiently high to amuse you, will not cause you to think upon Bankruptcy, and the consideration

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which you will receive will be ample. The question of costs should not disturb you. Add them to the first account you make out for a client.

You will learn here more about curtesy than you will find in all the law books from my Lord Coke to Womack's Digest, inclusive.

Our customs and usages will not be disagreeable to you, but in order to follow them you need not consult Gould on Waters, but you may casually examine Black on Intoxicating Liquors. All your demurrers to our customs will be overruled, and no devices of yours can change them. However, we will not use duress or undue influence to compel you to conform to them, but will leave it to your election, and if you desire so to do you can ask your wives to plead exoneration for you. We will covenant and guarantee to you a good time, if you will only follow our advice—which, different from our usual custom, we will give you free of charge.

Use your judgment as to what you wish. Make your levy upon us for it, and the execution will be returned "satisfied."

The President of the Association, in response to the address of welcome, said:

*Mr. Jones, and Gentlemen of the Asheville Bar:*

For the North Carolina Bar Association I wish to return our sincere thanks for the cordial welcome to this gem of a city, set among the everlasting hills. We have gathered from where the Sun, rising from the waste of waters, kisses with his first beams the sands of Hatteras beach to where

> Night's candles are burnt out, and jocund day
> Stands tiptoe on the misty mountain's tops.

You have presented to us not alone the keys of the city, but the fairy key which opens all homes and unlocks all hearts.

Many of the members of your local bar come from the East, and the warmth of their greeting affords another proof that they change their climate, not their affections, who cross the Blue Ridge.

It may be that the future has in store feminine jurors and that some fair Portia will hold the scales of justice. It may

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be that advocacy and eloquence, addressed to them collectively, will not be so earnest, entreating and persuasive as when the pleader presses his suit to the fair arbiter of his fate alone. It may be that the presence of so much lace and loveliness upon the jury will disturb and distract the speaker as they do now.

While your guests we will conform to your ways and to your atmosphere. I trust those of us from the far East will not have the same difficulty in breathing the rare air of the mountains as did your western judge in inhaling the liquid air of the seacoast district.

The Asheville bar is and has always been strong and able. It has had many illustrious names. It has had its Merrimon, Judge of the Superior Court, Senator of the United States, Justice of the Supreme Court of the State and who died its Chief-Justice—an able judge and an upright man. It has had its Vance, member of Congress, Senator of the United States, and greatest, the War Governor, who was to his people a pillar of cloud by day and of fire by night, true to his State as the needle to the pole, and who, 'though dead, yet lives.'

If our sojourn among you shall not be pleasant it will not be your fault. Your kind and gracious hospitality has not made us strangers within your gates. The Bar Association of a State should be representative of the best thought and highest standards of the profession. This annual meeting should result in good to the profession and to the State.

Again, I thank you for this kind reception.

Upon motion, the roll call of the Association was omitted.

Upon motion, the reading of the minutes of the last meeting of the Association, held at Morehead City, was dispensed with, as the minutes had been printed.

THE PRESIDENT. At this session the President is required to appoint a Committee on the Selection of Officers of the Association, which the Chair appoints as follows: Messrs. John W. Hinsdale, of Raleigh; Jas. A. Lockhart, of Wadesboro; A. L. Brooks, of Greensboro; Armistead Burwell, of Charlotte, and L. H. Clement, of Salisbury.

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The President is also required to appoint at this meeting a Committee on Publications, which Committee is as follows: Messrs. R. O. Burton, of Raleigh; John L. Bridgers, of Tarboro, and Louis M. Bourne, of Asheville.

The reports of Special Committees are now in order. The Secretary will please read the resolution adopted at Morehead City relating to the appointment of a Committee upon Local Bar Associations.

THE SECRETARY. Mr. President, the resolution is as follows: "Resolved, That a Committee of five be appointed by the President to formulate a plan with reference to local organizations, whether by county or district, and to report its action to the next meeting of the Association."

THE PRESIDENT. The Committee so appointed is as follows: Thos. J. Jarvis, Chairman; P. M. Pearsall, S. M. Gattis, C. B. Aycock and Walter Murphy.

There seems to be no report from that Committee. There is no member of that Committee in attendance on this meeting. Has the Secretary received any report from the Committee?

THE SECRETARY. The Secretary has received no report. As this is a very important matter, I move that the President appoint a Committee of five upon Local Bar Associations, who will convene and make a report at this session of the Association.

Seconded and carried.

THE PRESIDENT. At the close of the session I will hand to the Secretary the names of the members of that Committee, and I hope they will take some action at this meeting.

THE PRESIDENT. At the last meeting of the Bar Association a Committee, consisting of Chas. W. Tillett, W. A. Guthrie and H. A. London, was appointed on Law Journal. The Chair will state that a Law Journal has been established and is now published in the town of Tarboro, by Paul Jones, Esq., a member of this Association.

MR. CHAS. W. TILLETT, of Charlotte. I have not written any report. The members of the Association will remember

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the action taken. Under the limitations imposed upon the Committee we could not do otherwise than confer with some member of the bar to get him to undertake the publication of the Journal. Mr. Jones, at the session at Morehead, said he had been contemplating this matter for several years, and desired to engage in it. After talking to him the Committee decided to place the matter in his hands, his journal to be the *quasi* organ of this body, we to give it all the encouragement and support we could, but not to become financially interested in it. I suppose Mr. Jones will be here to make some statement in regard to his plans. That, I believe, is our action in the premises.

THE PRESIDENT. I am quite sure the Association would be glad to hear from Mr. Jones any statement he may have to make in regard to this publication.

MR. PAUL JONES, of Tarboro.

*Mr. President, and Gentlemen of the Bar Association:*

The matter stands just as Mr. Tillett has stated. I did not commence this Journal as quickly after the last meeting at Morehead City as I contemplated, because I could not perfect my plans until March of this year. We have issued four copies, and I wish to say now that whatever inconsistencies have been found in the Journal I hope will be overlooked, because it takes time to do these things. I have met with a great deal of encouragement, and I desire to thank those members of the Bar who have been particularly kind to me in this matter. I think I have on my subscription list now somewhere between four and five hundred members, including all the members of the Bar Association, and about two hundred outside of that. I do not mean to say that all these so far have paid. I was just sending the Journal out as a matter of sample copies. I have some other report that I desire to make at some other time during this meeting. I will say that I am ready to receive subscriptions for the Journal, if any one should desire to subscribe. I think this is an important matter to the Association, and if the members will give me their support, we can make it a first-class Journal in every respect.

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I will state also that I have made arrangements with Mr. Seawell to furnish me head notes of the Supreme Court decisions, and also abstracts from the decisions, and the more important decisions I hope to be able to publish in full.

THE PRESIDENT. If any member of the Association desires to give notice of an amendment to the Constitution or By-laws, such notice is required to be given at the first session. The Secretary will give notice of an amendment in regard to the election of the Chairmen of the different Committees that are appointed by the President of the Association. The first President of the Association not only appointed the Committee, but designated the Chairman of each Committee. I did likewise after the Morehead meeting, at which I was elected, but that was a stretch of authority. It was only done for the reason that the Committees are so scattered that it is difficult to meet and organize, and it seems to me that it is not conferring too much power upon the President of the Association, who has the appointment of Committees, to name the Chairmen.

MR. J. CRAWFORD BIGGS, of Durham. I give notice of amendment to the Constitution, Article 6, so as to give the President power to name the Chairmen and Secretaries of standing Committees appointed by him. Amend Article 6 as follows: After the word "meeting" in line 6, on page 95, and before the word "and" insert "and shall designate one member of each Committee as its Chairman and one member as its Secretary."

It is necessary also to change the By-laws. I therefore give notice of amendment to the By-laws, Article 13, by striking out all after the word "organization," in line four, down to the word "Secretary" in line 6. This notice is signed by three members of the Association, as required by the Constitution.

I desire also to give notice of amendment to the Constitution, Article 8, to change the amount of the annual dues. The Constitution now fixes the annual dues at two dollars. In the opinion of the Treasurer of the Association this amount is

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hardly adequate to meet our necessary expenses, and in his report to-morrow will be a suggestion of a change of the amount of the annual dues to $3.00, or to such sum as the Association shall see fit to fix. This is a notice of amendment to that article of the Constitution.

THE PRESIDENT. By the Constitution and By-laws of the Association the President is required to deliver an address, on some subject chosen by him, immediately after the first session of the meeting, but the Executive Committee, in whose control that matter lies, have thought proper that this should be deferred until the morning session. New business is next in order.

MR. JOHN L. BRIDGERS, of Tarboro. The American Bar Association has a Committee to consider the question of Uniform State Laws, and through the assistance of the State Bar Associations of the various States, which appoint Committees to co-operate with the Committee of the American Bar Association, thirty States and one Territory have, through their Legislatures, appointed Commissioners to consider this question of Uniform State Laws, which Commissioners have met year after year at the annual meeting of the American Bar Association. Until recently North Carolina had no such Bar Association, and for that reason could not help in advancing this necessary reform, but now being in a condition in which we can help, and possibly put North Carolina in the line to promote the uniformity of certain general laws, I move that the President be empowered to appoint a Committee of five as a Committee on Uniform State Laws, who shall have charge of this question, and at the next meeting of the Legislature shall bring the matter up for the purpose of securing the appointment of Commissioners for this purpose. I think it is necessary that our State should take action. For that reason I move that our President be empowered to appoint a Committee of five, to be known as Committee on Uniform State Laws.

THE PRESIDENT. I will be very glad if Mr. Bridgers will state in what direction that uniformity of State Laws is

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desired. I know there has been great difficulty in regard to marriage and divorce. There has been some effort in this direction in this State by the enactment of the Negotiable Instrument Law. Before I put the motion, I would be glad if he would make a statement of that kind. He is a constant attendant upon the American Bar Association, is one of its Vice-Presidents, and has had the benefit of hearing discussions upon that question.

MR. BRIDGERS. So far the things that have been discussed are those relating to commercial papers, weights and measures, acknowledgments of deeds and the form of deeds, and the necessary probate and recognition of foreign leases within the State. There are many others that have been discussed before the Committee. They have acted upon those I have mentioned. These Commissioners hold conferences and discuss the subject, and as we arrive at what we deem practicable and wise, it is submitted to the State Legislatures. So far they have acted upon the subjects I have mentioned, but have not acted upon the laws of divorce.

JUDGE GEO. H. BROWN, of Washington. I would like to make an amendment to that motion. It is very likely that the next Legislature will be called upon to supply the places of the Criminal Courts. It is very likely that the State will be re-districted and a number of additional Judges will be appointed. I think it very proper that the Bar Association should have some way of making its influence felt. I suggest that to that Committee be committed the right to make such recommendations in that respect as in their judgment they see proper, and any member of the Bar who desires to make a suggestion to the Legislature should be able to do it through that Committee. Therefore, inasmuch as two Committees would be unnecessary, I suggest that to that Committee be committed the legislation suggested by me.

MR. J. C. MARTIN, of Asheville. Unless it is thought that the duties of the Committee would be too broad, I would like to suggest to Judge Brown that he add also to them the subject of revising the Statutory Laws of North Carolina. I think

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the Bar Association might make itself felt by the Legislature through a Committee.

MR. F. H. BUSBEE, of Raleigh. It does appear to me that while both these things are necessary, one is not germane to the other. It is possible that by overloading the original resolution you may weaken its force. The question Mr. Bridgers has suggested is uniformity of legislation in all the States. That Committee would co-operate either by having Commissioners appointed or by co-operating with the Committee of the American Bar Association. A Committee whom we might send to the Legislature would not be working upon the same ground. It will be hard enough to get any Committee to do work in any one sphere, and I respectfully suggest that the Committees be separated.

MR. CHAS. W. TILLETT, of Charlotte. Haven't we Committees to take charge of the matters suggested by Judge Brown?

THE PRESIDENT. It was the opinion of the Chair that it was properly within the power of the Committee on Law Reform. I think Mr. Bridgers' motion is very well. I do not think we have any such Committee as his motion contemplates. The President, at the last meeting at Morehead City, appointed a Committee on Legislation and Law Reform, consisting of Messrs. H. G. Connor, J. B. Batchelor, John W. Hinsdale, Lindsay Patterson and T. W. Bickett. It strikes the Chair that perhaps that Committee, if the suggestion were made, could look after any legislation of the kind mentioned by Judge Brown.

JUDGE BROWN. It occurred to me that we ought to have a Committee who would make it their special duty to attend the Legislature and look after the wishes and desires of the Bar. When it comes to re-districting the State there will be the wishes, ambitions and desires of a great many lawyers to be consulted, and it occurred to me that the Bar Association might kill two birds with one stone, though I have never been able to kill more than one bird with two stones, and instead of having two Committees to attend the Legislature, that this one

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Committee might attend to both. Therefore I persist in my amendment that the Committee be appointed, and be charged with these two different duties. My motion was to amend the motion of Mr. Bridgers that the Committee upon Uniformity of State Laws be charged with the additional duty of representing at the Legislature such matters as may come up in re-districting the State, appointing additional judges. The members of the Bar are well aware that very little has been left of the Criminal Courts, and that will be a matter for the next Legislature to take charge of, and it seems to me the Association will be interested in the creating of new courts or in the formation of new laws.

MR. BUSBEE. It seems to me that a Committee on Uniform State Laws such as requested by the American Bar Association, to meet with other Commissioners, is not the proper Committee to suggest legislation purely of State matters, and not the proper Committee to direct, or assist, or suggest legislation generally, especially when we have among the list of standing Committees one which can take that duty.

MR. TILLETT. I presume that the Committee on Legislation and Law Reform is a standing Committee, and therefore the President must appoint that Committee. That Committee is meant for the purpose of carrying out the wishes which Judge Brown suggests, and I presume that some resolution will be adopted during this session instructing that permanent Committee to act. That Committee will be instructed as to what we direct to have done in the next legislature, or we can adopt such resolution as we see proper, and these resolutions will be referred to your Committee, which is a standing, permanent Committee, and to have a special Committee elected for that purpose would be practically doing away with the standing Committee. I trust that Judge Brown will withdraw his amendment.

JUDGE BROWN. My only idea in offering that suggestion was that that Committee, especially charged with one duty might, without great danger of suffering from overwork, be charged with another. I have seen a lawyer try an action of

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assault and battery in the morning and an action of ejectment in the afternoon without his brain being severely impaired, and I thought that the same Committee when in Raleigh might attend to both duties, but in deference to my brother I withdraw the motion.

THE SECRETARY. For the information of the Association, I desire to state that I find that the Judiciary Committee is the one that has these matters in charge. I will read its duties. "It shall be the duty of the Judiciary Committee to carefully observe the practical working of our judicial system, to suggest, invite, entertain and examine projects and suggestions for changes and reforms in the system, and to consider and recommend to the Association such action as they may deem expedient." It seems to me the duties of that Committee cover the matters we have been discussing.

THE PRESIDENT. The question is now that the President appoint a Committee of five on Uniformity of State Laws.

Carried.

I will state that this is a matter which has received considerable discussion in the American Bar Association, and the Secretary and myself have secured a complete set of the reports of that Association. I have the last three reports here, and will submit them to the Committee, so that they will get the benefit of such light as has been shed upon the subject.

MR. BRIDGERS. The Committee will be supplied by the American Bar Association with all this matter. They have that in separate form and will be glad to supply it in full.

THE PRESIDENT. Is there any other business before the Association.

MR. JOHN L. BRIDGERS, of Tarboro. There is a matter I wish to bring up. The Centenary known as John Marshall Day will be celebrated at Washington City in February, 1901. Most of the States have appointed Committees to co-operate with the central Committee, the Chairman of which is Adolph Moses, of Chicago, and it seems well that North Carolina should not be remiss in recognizing the merits of

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Marshall, coming from a neighboring State, and that we should appoint a Committee on John Marshall Day, and see that North Carolina is properly represented by a Committee to attend the celebration of the Centenary, and also have some observation of that day in this State, possibly at Raleigh. Therefore, I move that the President be empowered to appoint a Committee of five for this purpose.

THE SECRETARY. Before that matter is acted upon, the Secretary has received a letter from the Chairman of the Committee on John Marshall Day, also some literature, which he has not with him at present. Therefore I would suggest that the matter go over until to-morrow. That letter requests that certain action be taken.

Action on this matter deferred until to-morrow.

MR. W. B. SHAW, of Henderson. The Committee on Membership desires to submit a partial report. They have had a session this afternoon and have passed upon quite a number o applications, and this report is to give notice to those gentle men that they have been accepted and may participate in the deliberations at this session. I will ask the Secretary to read the report.

Mr. S. Gallert, of Rutherfordton, Secretary of the Committee, read the report.

(*See the Report at the end of the Minutes.*)

Upon motion the report of the Committee was adopted and filed.

MR. THOS. A. JONES, of Asheville. I am authorized to state to the North Carolina Bar Association by the Board of Governors of the Asheville Club and the Swannanoa County Club that the courtesies of the Clubs are extended to all members of the Association. The Secretary would have sent cards to each member, but he did not know the names, and which of the members would be here, therefore the invitation is extended to all of you. Both Clubs would be most happy to see you.

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MR. L. M. BOURNE, of Asheville. On behalf of the members of the Asheville Bar, I desire to announce that the local Bar has made arrangements to assist in the entertainment of the visiting members while here and as a part of that program have arranged to take the visiting members of the Bar, and any ladies who may accompany them, over the city to-morrow on the various lines of the street cars, and to an entertainment at the Swannanoa Country Club house at the end of the Charlotte Street line, to-morrow afternoon at an hour to be fixed to-morrow morning, and in order to facilitate this matter and to enable the committee to make the proper provision for the visiting members and ladies, it would be well for all who accept the invitation to leave their names with the Secretary of the State Bar Association, so that adequate provision may be made. In other words, if we can get the list of names by to-morrow at noon, we will have time to make the necessary provision in the way of street cars and things of that kind.

On motion, the meeting adjourned until ten o'clock a. m., Thursday, June 28th.

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## SECOND DAY—MORNING SESSION.

THURSDAY, June 28, 1900.

The Association was called to order at 10 o'clock a. m., by the President.

THE PRESIDENT. Before delivering the annual address of the President, I would announce the Committee on Local Associations, W. D. Pruden, Chairman; C. W. Tillett, J. C. Martin, J. E. Alexander and Charles F. Stedman. I think it was the intention that the Committee should convene at this session of the Association and make the report that the Committee heretofore appointed ought to have made. I am requested by the Secretary to make the announcement that all papers read before the Association should be handed to him when read, to be submitted to the Committee having charge of the publication of such matters.



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MR. W. D. PRUDEN, of Edenton. It seems to me almost impossible to make a report in the short time allowed. Of course we will do the best we can.

MR. H. A. LONDON, of Pittsboro. I was requested by Mr. P. M. Pearsall, of this Committee to state that it was impossisible for him to attend; that he regretted very much that he was not able to do so, and attend to the matter entrusted to him.

MR. S. GALLERT, of Rutherfordton. I understand that there are some visiting members of the Bar from other States, present and likely to attend the sessions of the Association. I think it would be proper for the courtesies of the floor to be extended to those gentlemen. I understand there are visitors from South Carolina, Tennessee, Georgia and Florida. I would make a motion that all members of the Bar from other States be invited and extended the courtesies of the floor at this meeting of the Association.

Seconded and unanimously carried.

MR. GALLERT. I move that a Committee be appointed to inform these visiting members not present of the action of the Association.

Carried.

THE PRESIDENT. The Chair appoints upon that Committee Mr. S. Gallert and Mr. Charles M. Stedman.

The President, Mr. Charles F. Warren, of Washington, then delivered the annual address.

(*See the Appendix.*)

MR. F. H. BUSBEE, of Raleigh. I move that the address of the President just delivered, be referred to the Committee on Legal Ethics and the Committee on Legal Education and Admission to the Bar.

MR. A. S. BARNARD, of Asheville. As an amendment to that motion, I move that the thanks of the Association be tendered our President for his timely and appropriate address.

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I regard this as the most important feature of the North Carolina Bar Association.

MR. BUSBEE. I think there is a rule against that.

THE PRESIDENT. The motion of Mr. Busbee is before the Association. It is moved and seconded that the President's address be referred to the Committee on Legal Ethics and the Committee on Legal Education and Admission to the Bar.

Carried.

MR. BARNARD. If there is not a rule against it I want to renew my motion that the thanks of the Association be tendered the President for his timely and beneficial address, and if there is such a rule, I move that the rules be suspended and that the thanks of the Association be tendered to the President. Seconded and unanimously carried.

The Report of the Secretary and Treasurer, Mr. J. Crawford Biggs, of Durham, was then read.

(*See the Report at the end of the Minutes.*)

It was moved and seconded that the report of the Secretary and Treasurer be accepted and filed.

Carried.

MR. S. GALLERT, of Rutherfordton. Will it be necessary to give that report to any particular Committee? If so, I move that it be referred to the proper Committee. There were some recommendations in the Report which I thought proper should go to a committee. I suppose it should go to the Executive Committee.

THE PRESIDENT. It is moved and seconded that the report be referred to the Executive Committee of the Association. Carried, and the report is referred to such Committee.

The Chair does not understand that in accepting and filing the report, the Association is committed to the recommendations contained in the report. I would state in regard to the suggestion as to the increase of annual dues, that the notice of amendment given on yesterday related to the increase of

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annual dues, so, I presume, as far as that suggestion is concerned, it will be before the Association when that motion comes up.

MR. JOHN W. HINSDALE, of Raleigh. The report which has just been read contained, among other things, a proposed amendment to the Constitution. I move that the proposed amendment be referred along with the report of the Executive Committee, as well as the Report of the Treasurer. I think it ought to be referred to one Committee, so that they can make one report upon both.

MR. J. CRAWFORD BIGGS, of Durham. It occurred to me that the whole report having been referred to the Executive Committee, and that being one of the matters in the report, the Committee could make such report as they thought proper covering that matter, as well as the question of appropriation, and that it could be acted upon when the question of amendment comes up.

MR. HINSDALE. I thought as a matter of form it was proper that both papers should be before the Committees.

THE PRESIDENT. A part of the report before the Association relates to the amendment to the Constitution and By-laws. It moved and seconded that the Committee make a special report upon that suggestion.

Carried.

THE PRESIDENT. The reports of the standing Committees are now in order. The report of the Executive Committee is first in order.

MR. J. S. MANNING, of Durham. On behalf of the Executive Committee I make the following report:

(*See the Report at the end of the Minutes.*)

Upon motion, the report of the Executive Committee was received and filed.

THE PRESIDENT. The report of the Committee on Admission to Membership is now in order.

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MR. W. B. SHAW, of Henderson. We made a partial report last night, but we have prepared a report which embraces that partial report, which I will ask the Secretary of the Committee to read.

Mr. S. Gallert, of Rutherfordton, Secretary *pro tem*, then read the following report of the Committee on Admission to Membership:

(*See the Report at the end of the Minutes.*)

Upon motion, the report of the Committee was adopted.

THE PRESIDENT. At the last meeting there was some question as to whether the President should appoint members of the Association to solicit others to become members. While there was some difference of opinion among the members of the Association upon that point, as to whether it was a proper and becoming thing to solicit members of the Bar to join, still, bearing in mind that the former Association was a weakling and died from lack of members, I exercised that discretion by appointing, and I have appointed members in about half the Judicial districts in the State. I will indicate to my successor, when elected, the districts for which appointments have not been made.

MR. CHAS. W. TILLETT, of Charlotte. I would like to ask for information whether a plan has been devised for making a record of those who are present. We have omitted the roll call.

THE SECRETARY. The Secretary will do that. He is getting up a record, and will have printed in the proceedings the names of all members who are present. I will find it out from the hotel register and from my general observation. If we should call the roll there would be a good many absent, and we could not get at it in that way. It is suggested by the President that those present register by handing in their names to the Secretary, and in that way we will get all the names.

MR. A. A. HICKS, of Oxford. I wish to amend that motion, that before the close of the meeting we have a roll call prepared by the Secretary, and if any member is present and not on the roll he or his friends will make it known.

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MR. THOS. A. JONES, of Asheville. A modest friend on my right says that we might call the roll at the annual banquet.

MR. JOHN L. BRIDGERS, of Tarboro. I would suggest that the Secretary provide himself with a book for registration, and that every member attending the meeting present himself and register his name. That is the rule adopted by the American Bar Association, and I would respectfully suggest that in future he provide himself with such a book. I therefore make that motion.

Carried.

MR. L. M. BOURNE, of Asheville. In regard to that motion, I would like to ask if it does not include this meeting also.

THE SECRETARY. The Secretary will get a book and have it here to-night.

THE PRESIDENT. The report of the Committee on Legislation and Law Reform is now in order.

MR. JOHN W. HINSDALE, of Raleigh. That Committee will report to-night, as it is not now ready, and asks further time.

On motion, further time was allowed the Committee in which to report.

THE PRESIDENT. The report of the Judiciary Committee is now in order. There is one member of that Committee present, Mr. T. A. Jones.

MR. THOS. A. JONES, of Asheville. I believe that I am the last named on the list, and I thought the Chairman would have a report, and did not know to the contrary until yesterday afternoon. The Committee has never met, and it seems I am the only one here, and I have not made out a report. I ask for further time.

THE PRESIDENT. The Chairman would state in that connection that Mr. Walker, than whom there is no more zealous member of the Association, on account of great personal bereavement is unable to be at this meeting, and for that reason there has been no report.

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MR. L. M. BOURNE, of Asheville. I move that the members of the Committee who are here be allowed until to-night to make some further report.

MR. L. L. SMITH, of Gatesville. I saw Mr. Walker a few days ago, and he spoke about this point, saying that he was anxious to make a report. He was speaking of some things that ought to be included in it. He said he did not expect to attend, but expected to have the report before the Association before it was necessary to be read, so it may arrive on to-night's train.

THE PRESIDENT. I received a letter from Mr. Walker stating that he had some rough notes, but had been unable to prepare and send in a report.

On motion, the Judiciary Committee was allowed further time in which to report.

MR. F. H. BUSBEE, of Raleigh. Upon that motion I wish to make an inquiry. It seems to me that the Committees appointed at the last session necessarily hold office until their reports are handed in or their successors appointed. I would like to ask when the new standing Committees, to which matters have been referred for this term, will be appointed.

THE PRESIDENT. I appointed the Committees at the Morehead meeting, and largely endeavored to do so from gentlemen who had shown their interest by attendance. As to the life of the old Committees, that may be prolonged ten days after the adjournment of this meeting, during which time the President may deliberate as to his Committees. I presume that the object of the extension of time for the Judiciary Committee was simply to make a formal report from the single member of the Committee present.

The report of the Committee on Legal Education and Admission to the Bar is now in order.

MR. J. E. SHEPHERD, of Raleigh. In view of the several suggestions made in the excellent address this morning, I ask that time be extended to that Committee to report. We have not had a meeting, and I would like to have one.

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On motion, this Committee was allowed further time in which to report.

THE PRESIDENT. The report of the Committee on Ethics.

MR. JAS. C. MCRAE, of Chapel Hill. The Committee on Ethics is ready to make its report, although there are only two of us present, Judge Burwell and myself. The Committee on Legal Ethics respectfully reports as follows:

(*See the Report at end of the Minutes.*)

This Code seems to have been prepared with so much care, and to be so wise in its whole tone, that we had not the pride to attempt to prepare a special Code for North Carolina, but took the liberty of presenting this to the Association for their consideration.

MR. H. A. LONDON, of Pittsboro. I move that this Association adopt that report and incorporate it into our Constitution and By-laws.

Seconded.

THE PRESIDENT. It is moved and seconded that the report of the Committee on Legal Ethics be adopted, and that the rules of legal ethics as recommended by it be adopted as a part of our By-laws.

MR. J. S. MANNING, of Durham. In order that the members of the Association may have more time in which to consider so important a matter, I move that the matter be deferred until the morning session. There are a great many members not present who may desire to consider this question.

MR. LONDON. I am quite willing to adopt that as an amendment to my motion. I move that the report as made be adopted, and that this motion of mine be made the special order for to-morrow morning, immediately following the address by Judge Shepherd.

Carried.

THE PRESIDENT. The motion is carried, and the report will be filed with the Secretary, subject to the action of the Association.

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Next is the report of the Committee on Memorials, Mr. Francis D. Winston, Chairman.

THE SECRETARY. There is no member of that Committee present. I have a letter from the Chairman stating that he would have ready for this meeting a memorial upon Judge Dorsey Battle, and also that he would be present at the meeting. I move that in the absence of the Committee, a Committee of three be appointed to prepare a memorial upon Judge Battle, and if not able to get it ready for this meeting that they be given time, and that it be incorporated into the minutes.

Seconded and carried.

THE PRESIDENT. I appoint on that Committee Messrs. John L. Bridgers, H. A. London and Charles Price.

MR. GEO. A. SHUFORD, of Asheville. I see present Col. A. T. Davidson, who is not a member of this Association, and not at this time in active practice, but who was in active practice in Western North Carolina for fifty or more years, and we have learned to regard him as the father of the Bar in Western North Carolina, and I move that the privileges of the floor and of this Association be extended to Colonel Davidson.

Seconded and unanimously carried.

THE PRESIDENT. Next in order is the report of the Committee on Grievances.

MR. A. L. BROOKS, of Greensboro. I had expected the Chairman of that Committee to make a report. We have had no meeting and have no report, and I suppose I will have to ask an extension of time in order that the members here may confer. Nothing has come to my attention, and I do not know that there is any report to be made.

THE PRESIDENT. Then the gentleman has no report to submit, from the fact that nothing has been called to the attention of the Committee on which action is desired, and you do not desire an extension of time.

MR. BROOKS. I think not.

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THE PRESIDENT. That concludes the call of standing Committees, and the Association will now consider any matters of general business.

MR. JOHN L. BRIDGERS, of Tarboro. I believe that the motion laid upon the table last night will come under that head, and I desire that the Association shall take it up.

THE SECRETARY. I have a letter from Mr. Adolph Moses, who seems to be the Chairman of the Committee of the Chicago Bar Association. (Reads letter from Adolph Moses.) I have the National Corporation Reporter, which gives the plans, and the original motion made before the American Bar Association.

MR. BRIDGERS. I renew my motion that a Committee of five be appointed to take charge of this matter, to see that North Carolina has proper representation in the celebration at Washington. I think we certainly should be represented and well represented.

THE PRESIDENT. It is moved and seconded that a Committee of five be appointed by the President, to consider the celebration of "John Marshall Day" and its proper observance, and the representation of the State at the ceremonies in Washington.

Carried.

MR. R. L. LEATHERWOOD, of Bryson City. I wish to introduce a resolution as follows:

*Resolved*, by the Bar Association of North Carolina, That in view of the probable abolition of Criminal Court Circuits, it is necessary and expedient that the next General Assembly increase the number of Superior Court Districts.

The Bar Association therefore respectfully recommends that the number of Superior Court Districts be increased to sixteen, as this number is essentially necessary to afford the proper court facilities, owing to the growth of the State and the constantly increasing population.

The Bar Association further recommends that if the number of Districts be increased to sixteen, that the State be divided

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into two rotating circuits, the eight Judges in each rotating circuit, to rotate with each other with power of exchanging courts as now provided by law.

This Association is of opinion that this would comply with constitutional requirements, and could in no manner be detrimental to the public service.

That the Committee on Law Reform be charged with the duty of presenting this resolution to the next General Assembly.

I desire to say a word on that resolution. I do not believe there is a county in North Carolina but what would be benefited by an act passed by the General Assembly of North Carolina carrying out the intent of that resolution. It is apparent to every one in North Carolina and to every member of the Bar, and to every observer who attends our courts, that we have not sufficient court facilities, and it becomes the duty of our legislative department to give us such court facilities as will meet the ends of justice in North Carolina. I believe we have fewer Judges, according to the population, than any State in the Union. In fact, we have so few, and our court facilities are such, that we cannot attend to the business. You may take the 12th Judicial District. It is absolutely impossible to transact the business, and I do hope, and in fact it was almost universally decided by our last General Assembly that at the opening of the session our State would be re-districted into sixteen districts, and sixteen Superior Court Judges appointed. That ought to be done, and this is the advisory power, as we think. We are not asking to dictate, but to advise and to appoint a Committee to draft such a bill as will give the needed relief to the people of North Carolina, and I believe if it is passed, giving us sixteen Superior Court Judges and sixteen Superior Court Districts, that every county in North Carolina, from the mountains to the rolling seas, will be benefited. I hope it will be done, and that this Bar Association will take steps to advise and prepare such bills as may be necessary.

MR. A. S. BARNARD, of Asheville. It seems to me that this is the most important matter that has been brought before the

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Bar Association so far. I agree with Mr. Leatherwood. The Western counties of the State are peculiarly interested in some method by which they can relieve their court docket, but I think all members of the Bar should be present when this is discussed, and in order that they may be, I move that this be made the special order after Judge Burwell's address to-night.

Carried.

MR. L. L. SMITH, of Gatesville. I move that that resolution be referred to the Judiciary Committee, and that they be requested to report at the time asked for in that motion. They can sit down quietly and consider it, and it can come up at the proper time. For that reason I make the motion that it be made the special order for to-night.

THE PRESIDENT. Your idea is that the Committee should make its report before it comes up under the special order to-night?

MR. SMITH. The Committee should report upon this resolution at the time it comes up under the special order adopted by this Association, and then it should be called up for regular discussion.

MR. T. A. JONES, of Asheville. As I am the lone official of the Judiciary Committee present, and the gentlemen say that this is the most important matter that has come before the body, if that resolution is going to be referred to a Committee consisting solely of myself, I suggest that the President appoint some other members for this occasion, for I do not feel like making a report on that matter.

MR. A. S. BARNARD, of Asheville. It seems to me that it is totally unnecessary to refer this to the Judiciary Committee. All of the members of the Bar Association, we hope, will be present to-night. Whatever report the Committee makes on this question must be discussed and adopted by this Association, so why not let it go over, and let the resolution be submitted to the Association and passed upon by the Association itself. What advantage can we obtain by referring it to the Judiciary Committee? They cannot handle it in two or three hours'

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time. They can do no more with it than we can on the floor of the meeting, and it is a matter that will be generally discussed by the members of the Association.

MR. SMITH. I withdraw my motion.

MR. H. A. LONDON, of Pittsboro. In order to emphasize and bring about if possible some practical legislation in regard to the admirable remarks in the President's excellent address as to purging the profession of members guilty of unprofessional conduct, I have hurriedly written the following resolution, which I submit:

*Resolved*, That the Committees on Judiciary, on Legal Ethics, and on Legislation and Law Reform be requested to consider and report to-morrow what legislation, if any, is desirable for trying and disbarring members of the Bar in this State for unprofessional conduct."

It seems to me a matter worthy of consideration. It has been suggested that some legislation is desirable, and if so, those Committees would be the proper ones to suggest it and say, if there is any desirable, what is best. I therefore move the adoption of this resolution, and request these Committees to take the matter under consideration.

MR. CLEMENT MANLY, of Winston. I have great admiration for my brother, and I have also identified my interest with this Association, but in order to adopt a plan which will do some good it seems to me some definite action must be taken. We have come here and talked upon various subjects, but definite action ought to be taken that will bring to light the rascal in our profession, and disbar him. That may be plain, but that is the view I have. I have nothing particularly to present this morning, but I would like to give my brethren some idea of what has been done in this matter. The Executive Committee when it first met appointed a Committee especially to represent Local Bar Associations, the idea being that a Local Bar Association would not say anything about one of its members. How are you going to get at it except through a Local Bar Association who would report these things to the

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Bar Association, and let the Bar Association be so formed that some member of it can go and investigate, and then he can be disbarred by some machinery regulated by the Association. Mr. Justice has suggested to me that there ought to be a Committee of this Association who had the right upon information to go to the Local Bar Association and find it out, because it would not be reported, or upon information could go there and investigate and then come and make a report to the Committee of the Bar Association and let them act on it. Some such rule should be adopted by the Association. I think it comes properly within the view of this resolution. I understand that the very question is referred to a special Committee on Local Bar Associations, of which Mr. Pruden is Chairman.

THE PRESIDENT. In view of the fact that no member of that Committee is present, the Chair has named a Committee of which Mr. Pruden is Chairman I did not understand that this Committee had this matter in charge, because this is new matter. As the gentleman made the inquiry I made the announcement that such a Committee was appointed.

MR. MANLY. It seems that we ought to adopt some practical resolution and machinery to get at this. I trust that this Committee will consider it and report during the meeting.

MR. F. H. BUSBEE, of Raleigh. That is a practical evil, and for that practical evil this State Bar Association can afford a practical remedy. I fear, however, that if the enforcement of complaint against delinquent members of the Bar shall be dependent upon the formation of active local Associations, very little would be done. The men who would be called upon to make the charges, and the local Association which would be called upon to pass upon them, would be the men identified by every tie with the men who had been derelict, and their motives would be more apt to be censured than those of the general Association. Unquestionably one of the principal reasons would be not only to raise the character of the profession, but to see that the profession was purged of unworthy members. The expulsion from the Association does not affect a man's local standing. He is still a lawyer and can practice.

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The difficulties in the way of the administration of this matter are even greater than the gentleman intimates, if possible; the question is, who shall bell the cat? How can the Association defray the expenses? I think there would be sufficient surplus funds, for the cases would not be many, certainly not after one or two had been expelled, and I think we ought to allow the expenditure of a reasonable amount. There would be enough funds where a complaint was made by anybody, either by a member of the Association, or a member of the Bar, or by a client, because most of the troubles occur between the lawyer and the client. If we could get a Committee, and it ought to be a small one, and have it generally understood among the entire body of the people that such a Committee was in existence and would act, especially if every member of the Association felt it his duty to report any matter of which he had knowledge, this Committee could send a member or otherwise investigate the facts, and we might have an organization which, without any legislation, would be sufficient. If acting as a State organization we could have a Committee who would present to the court the evidences of delinquencies of any member of the Bar, it is possible that we might get an active, impartial prosecutor who would cause the profession to be purged of its delinquent members.

MR. MANLY. It seems to me that my friend is wrong about local Associations. There is no community in the State that will not check this, I believe.

MR. BUSBEE. Is it wise that the whole matter should await the formation of local Associations, and there should be no Committee of this body charged with that duty.

MR. MANLY. The local Associations will not punish or disbar because if they do there will be a lot of captious ones around who will say, "He is mad with him," but they will report it. They will be glad to have it put into the hands of an impartial Committee, if once it is understood that this Bar Association wants it. As far as expense goes, I would be personally willing to use every dollar we have for it, and never spend one cent for any other purpose in the world, and raise

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the dues to three dollars to raise this money, and then we would have a Bar that would have the respect of every person in the State. I believe we can do it with a very small fund, but that fund ought to be expended.

THE PRESIDENT. The President is of the opinion that we have a standing Committee on that subject, and I think the powers of the Committee are very broad—the Committee on Grievances. There is no more delicate duty one attorney can perform than passing on the professional conduct of another, and I endeavored to select that Committee with great care. The suggestions the gentlemen have been making are directed to the agency that will set this Committee in motion. It seems to me, with all the respect of the Association, that there is a question that lies deeper than that. All these things which have been brought up in the discussion relate to matters which are hardly criminal. With the limited grounds for disbarment under the statute, contained in The Code, relating to attorneys, before these suggestions can be made effective, there is need of some legislation along that line. That would fall within the province of one of the regular Committees. I think there is a general sentiment that the grounds for disbarment are too few in North Carolina. If in its wisdom the Association should see fit to take any action upon that question, then, when these matters come up, I think this Association already has machinery by which it can act. Will the Secretary please read Articles 3 and 4 of the Constitution?

(*Secretary reads Articles 3 and 4*).

MR. H. A. LONDON, of Pittsboro. I had the honor of being Chairman of the Committee on Constitution and By-laws which prepared these sections and, of course, am familiar with its wording and meaning. That merely provides the machinery to carry into effect whatever is deemed necessary, but some of us think that further legislation is necessary in regard to carrying that machinery into effect, declaring what acts should disbar any attorney from the practice of his profession, and while we are here in session the Committees might consider whether any legislation is necessary. So far as I have heard in this discus-

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sion, every member seems to think that some legislation is necessary, and, as they may be hurried in their deliberations, they may be given time when they report to morrow what legislation they would recommend to the next General Assembly. It seems to me in offering this resolution that something should be done. What should be done I am unable to suggest, but I thought the collective wisdom of the gentlemen constituting these three Committees might suggest something, therefore, I thought it proper that it should be called to their special attention, and, if practicable, they might report to-morrow. I will read my resolution again:

"*Resolved*, That the Committees on Judiciary, on Legal Ethics, and on Legislation and Law Reform be requested to consider and report to-morrow what legislation, if any, is desirable for trying and disbarring members of the Bar in this State for unprofessional conduct."

If any legislation is desirable I have no doubt it will occur to them, and also what legislation, and it seems to be the general desire here that something should be done.

MR. L. L. SMITH, of Gatesville. It seems to me the only difficulty in the way is to make our machinery effective. We have the standing Committee on Grievances, as the President has stated, and, if it be in order, I move that the Committee be increased so as to include one from each Judicial District in the State, and I suggest that any grievance that any member of the Bar has with another anywhere in the State should be reported to that Committee.

MR. J. CRAWFORD BIGGS, of Durham. The motion made by Mr. Smith is not in order, because it is an amendment to the Constitution. I rise to second the motion of Mr. London. Those three Committees have the following gentlemen present: John W. Hinsdale, James E Shepherd, W. D. Pruden, James C. McRae and A. Burwell.

THE PRESIDENT. The Chair does not think the motion of Mr. Smith is in order. The number is limited by the By-laws.



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MR. F. H. BUSBEE, of Raleigh. For information I read the fifth section of the Charter. (Reads this section).

THE PRESIDENT. The Chair thinks that the resolution goes to the root of the matter as to whether there should be other grounds for disbarment in the State. The resolution is now before the Association.

Carried.

MR. J. CRAWFORD BIGGS, of Durham. There was a notice of amendment to the Constitution given on last evening, as to the power of the President to name the Chairmen and Secretaries of the standing Committees, and I desire to bring that matter up at this time.

To amend article 6 of the Constitution as follows: After the word "meeting" in line 6 of said article, on page 93, and before the word "and" insert, "and shall designate one member of each Committee as its Chairman, and one member as its Secretary."

THE PRESIDENT. It is moved and seconded that article 6 of the Constitution be amended in the particular indicated by the notice already given, and in the motion based upon that notice.

Carried.

MR. J. CRAWFORD BIGGS, of Durham. Also amendment to the By-laws: Notice to amend the By-laws article 13, by striking out all after the word "organization" in line 4, and including the word "Secretary" in line 6.

Carried.

MR. L. M. BOURNE, of Asheville. I would like to say to the members, that the street cars will be at the foot of Battery Park Hill at 4 o'clock, and it is necessary for the members to be there promptly, because the cars have to keep on their regular schedules. After the ride, refreshments will be served at the Swannanoa Country Club at the end of the car line.

MR. J. G. MERRIMON. To-morrow afternoon the Asheville Bar has invited the Bar Association to drive through the Bilt-

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more Estate, and it will be necessary for us to have a list of those who desire to go, in order to provide carriages, and I therefore suggest that all who desire to go give their names to the Secretary.

On motion, the Association adjourned until 9 o'clock p. m., Thursday, June 28th.

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## SECOND DAY—EVENING SESSION.

THURSDAY, June 28, 1900.

The Association was called to order at 9 o'clock p. m., by the President.

THE PRESIDENT. The Secretary will please read the resolution of Mr. J. L. Bridgers, adopted at the session last evening.

THE SECRETARY. The following resolution was offered by Mr. Bridgers at the session last evening:

"*Resolved*, That the President appoint a Committee of five as a Committee on Uniform State Laws, who shall have charge of this question, and at the next meeting of the Legislature shall bring the matter up for the purpose of securing the appointment of Commissioners to secure uniform State laws."

THE PRESIDENT. I appoint as that Committee, Messrs. John L. Bridgers, Chairman; John W. Hinsdale, R. O. Burton, E. J. Justice and A. Burwell.

Judge Burwell has been invited by the Executive Committee to address the Association, and he will now deliver his address.

Gentlemen of the Association, I have the pleasure of presenting to you Judge Armistead Burwell, of the Charlotte Bar, whom we all know.

MR. A. BURWELL, of Charlotte, then delivered his address:

(*See the Appendix.*)

THE PRESIDENT. I am sure the Association has heard with great pleasure and benefit the very able discussion of Judge

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Burwell of the law in this State relating to married women. The subject matter of the address is open to discussion.

MR. L. L. SMITH, of Gatesville. I move that the thanks of the Association be extended to Judge Burwell for his able address.

Seconded and unanimously carried.

THE PRESIDENT. Certain of the standing Committees of the Association desired an extension of time within which to file their reports, and before calling up the resolution on the increase of the number of Judicial Districts in the State, the Chair will call for the reports of those Committees which have not yet reported, and which are ready to report. Committee on Judiciary.

MR. T. A. JONES, of Asheville. The Committee on Judiciary submits the following as its report:

(*See the Report at end of the Minutes.*)

Upon motion, the report of the Committee was accepted and filed.

THE PRESIDENT. Committee on Legislation and Law Reform.

MR. J. W. HINSDALE, of Raleigh. The Committee on Legislation and Law Reform met in Raleigh last week, four of the five of the Committee, and the Chairman, Judge Connor, prepared the report, with the exception of a few pages. I will now read the report:

(*See the Report at end of the Minutes.*)

Upon motion, the report of the Committee was accepted and filed.

THE PRESIDENT. The Chair will suspend the call for reports of Committees and hopes that those who have not reported will do so to-morrow morning. It is now the hour for the special order, and the Secretary will please read the resolution introduced this morning.

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THE SECRETARY. The resolution is as follows: (Reads resolution introduced by Mr. Leatherwood at morning session. See page 26.)

MR. A. A. HICKS, of Oxford. I move that the Committee on Legislation and Law Reform be requested to lay before the next General Assembly this matter of the increase of Superior Court Districts and Superior Court Judges, in such a way as to bring about the creation of a suitable number of court districts in North Carolina, and I suggest that the State be divided into sixteen districts, according to the language of the resolution.

MR. L. L. SMITH, of Gatesville. I move that the resolution be adopted.

MR. R. O. BURTON, of Raleigh. I hope that the Committee will not commit itself to any plan on the subject of rotation. There must be some doubt about its constitutionality, and besides that, it is a mighty convenient thing to rotate them sometimes. I hope there will be no formal expression of opinion as to that part of the report. There might be some improvement if you would make the judges stay at the court and try the business, instead of increasing the judges.

MR. F. H. BUSBEE, of Raleigh. I do not suppose there is any member of the Bar who knows the inadequate court facilities who would not favor the principle of the resolution. I think of those who have tried in the larger counties, a criminal court, separate from the civil court, there is hardly one who would not prefer a separate criminal tribunal. At the same time I think those who have tried both would prefer a criminal term of the Superior Court. Again, the most effective terms we have for the trial of a congested docket are usually special terms lasting several weeks, but those terms are exceedingly expensive, and it is not fair to a county entitled to receive from the State enough courts to do its business, to tax it heavily for special terms. Instead of having sixteen districts in the State, it might be well that the districts be increased to fourteen, or even remain as they are, and have another system which may be devised, say four judges, who

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may hold civil terms of the court, and extra terms when their services are not required for regular work. The business in a county varies so much. What is necessary one time may not be necessary another. It seems to me that it might be well to express our disapproval of the criminal court judges *per se* and confine ourselves for the present to an increased number of courts, without specifically setting out the number of districts. Of course those views are crude and may be modified very slightly or completely. But one thing is sure, there ought to be terms for criminal courts in all the larger counties separate from the civil courts, and preferably terms of the Superior Court, and there ought to be opportunities to get rid of congested dockets without having to resort to the County Commissioners to do it. For that reason I hope the resolution will not be specific.

MR. A. S. BARNARD, of Asheville. I rather agree with Mr. Burton in regard to the rotation of the judges. As to the remaining part of that resolution, it is perfectly apparent to every one who has practiced law in the county of Buncombe and the Western counties that it is necessary to have some change in the courts. I have been at the Bar for five years. When I came here there were five or six hundred cases on this docket. There are on the docket five or six hundred cases still. This docket has never been cleared. It has gotten so that litigants refuse to go into court, and give up and compromise valuable cases, for the reason that they are unable to get trials within three or four years. It seems to me that this is eminently unfair. I am aware that I speak from a selfish standpoint, because I understand if I am to get my living out of the practice of the law, these courts must be changed in some way, and I hope the Association will recommend to the Legislature some method by which at least this county can get some relief.

MR. J. A. LOCKHART, of Wadesboro. I do not want to occupy much time, but I desire to say a few words. I have practiced law considerably longer than the gentleman who preceded me. A great many of the rural counties in this State

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have much more time allowed them under the law for the transaction of their business than they require, and a little application of sense and practical experience would greatly relieve any difficulties which may now exist in any locality. Some years ago I had some little difficulty in getting cases tried under the system then in vogue. I took it upon myself to go to the Legislature and impress upon our member some legislation which I thought would be adequate to meet our needs. We had then two terms a year of two weeks each. I requested our member, and prepared some measures looking to that end, to have the criminal and civil terms divorced. I succeeded in getting four terms of court of one week each, two of those terms for criminal and two for civil business. Since that we have not had any difficulty about getting all of our business done. We have not for a number of years taken up all the time of the civil term, and it is a fairly representative county. I would not like for the Bar Association to undertake to become a dictator to the Legislature of the State as to what it should do about anything. I am perfectly willing that we should become a body of recommendation and speak our minds courageously upon all subjects that may occur to us. I do not know whether we need more Superior Court Judges or not. I do not believe we do. I believe we have enough to transact all the business of this State if the Legislature will practically go about the work of its distribution among the the judges, and assign to the counties a proper term for the transaction of its business. However, I do not insist that I am possessed of any peculiar knowledge in this respect, or that my judgment is correct, but I would ask that we go slow in the adoption of resolutions of this character, and I would respectfully suggest that if such a resolution as this is to be passed, that we simply suggest to the General Assembly the propriety of its taking into consideration in a practical way the necessity of this matter. It may be that some of the counties need longer terms and more terms, but it rather strikes me, from the great surplus of time on the hands of the judges, that they might transact all the business. A number of years ago, I remember, when they were talking about increasing the

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number of judges from nine to twelve, one of the judges of the State said that if they would increase the pay of the judges that he would be willing to undertake to perform his part of all the duties then devolving upon the Superior Court Judges of the State. I think instead of an inadequacy of judges there is an inadequacy of pay. The only purpose I had in rising was to suggest that we ought to make something in the way of a recommendation to the Legislature to take into consideration these matters, and not undertake to express our opinion as to what the duty of the Legislature should be.

MR. E. J. JUSTICE, of Marion. I think there is some danger of our taking action that will tend to prevent the accomplishment of the end we desire. The Legislature is always more or less sensitive as to bodies and organizations of any kind dictating to it. There is no doubt in my mind that we need additional courts. Those who are acquainted with the status of business in the 10th, 11th and 12th judicial districts cannot and will not for a moment question that. There seems to be no division of sentiment among the members of the Bar on the wisdom of separating criminal and civil dockets. That has been attempted by a method which has proved a failure, from lack of jurisdiction of the criminal courts under the recent decisions of the Supreme Court. The only other solution to the question is the creation of additional Superior Court districts, I take it. In the 4th district we all know they have criminal and civil terms. In Buncombe they have criminal courts and civil courts, which has been so unsatisfactory that it has been necessary to abolish the criminal court. That resolution has met with objection here, and will no doubt meet with serious objection from the members of the next General Assembly. Suppose we commit ourselves to that plan and it is repudiated. Then we have no other plan. I doubt the wisdom, therefore, of committing ourselves to a plan which, as Mr. Burton suggests, is at least doubtful, and I doubt, for policy's sake, the wisdom or propriety of committing ourselves to any specific plan other than the increase of Superior Court districts, and leave it to a Committee to be selected by the President. He can select a Committee which will meet the

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conditions which may arise in future, which cannot now be met by us. Therefore I offer as a substitute for that resolution this:

*Resolved*, That in the opinion of the State Bar Association it is not feasible to retain the criminal districts. That to accomplish the desired end of separating the civil and criminal dockets there should, in our opinion, be an increase of the Superior Court districts.

MR. J. W. HINSDALE, of Raleigh. The objection that Mr. Burton offers to the first resolution, it seems to me, is without ground. He says it is doubtful in his mind, in case the Legislature shall establish sixteen districts in the State, whether it is constitutional for these sixteen to be divided into two divisions, and for the judge to circulate in only one of these divisions. Now the Constitution provides that the judges shall not hold a court in the same county more than once in four years. I do not pretend to give the language of the Constitution, but that is the effect of it, that no judge shall be permitted to hold court in the same county within four years. If there are sixteen judges, and the State is divided into two divisions, each judge would rotate and hold court in the sub-division of the State only once in four years, there being two terms in each year and eight districts in each sub-division of the State; so I cannot conceive that there is any doubt about the constitutionality of the first portion. As to whether it is best that this provision shall be presented to the Legislature, and that the judges shall not be required to rotate and hold courts in the whole State, is an entirely different matter. There is no constitutional question about that. It is simply a question as to whether it is necessary that judges shall be required, without any mandate of the Constitution, to travel all over the State, or simply to confine themselves to half of it. I must say that for my part I think it is enough to require a judge to rotate within half of the State, provided he complies with the Constitution and does not hold court more than once in four years in the same county. We have twelve districts now. We have two criminal districts, which is equivalent to

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fourteen districts in the State if we had no criminal judges and the Superior Court judges were required to hold the criminal terms, and yet we have a large number of counties with congested dockets. I know from experience what is the condition of a number of the Western dockets. Take, for instance, Buncombe county, where a case cannot be reached for two or three years on account of the number of cases on the docket. In Wake county, where we have a goodly number of cases, we are not able to try cases at the trial term, but a large number go over again and again.

MR. BURTON. Don't you know that it is frequently the case at the term that the Bar make no effort to try cases, especially if the Supreme Court is in session?

MR. HINSDALE. Of course that is so and will always be the case, but we must accept the conditions we find before us, and the Legislature ought to legislate with a view to that. Take the fifth district. That district concluded its circuit last week, and on the 3d of July the judge commences the fall term. I say we ought to have a reasonable time between the end of the spring and the beginning of the fall term. In every State in this Union they recognize the fact that there must be a few months in the summer in which no court shall be held, but here on account of the small number of judges we are obliged, as for example in the fifth district, to give an intermission of less than a month. It is wrong. My conclusion then is this; that whereas we have now what is equivalent to fourteen judges, and are not able to do the legal business, and in view of the fact that this is not a measure to be adopted for a day, but for years to come, in view of the increasing population and business of the State and of the present necessities, I do not hesitate to say that these sixteen judges are just as few as we can do the business with, and I hope that the first resolution will be adopted instead of the substitute. There is no dictation to the Legislature of North Carolina in a recommendation that the Bar Association makes to it, and there is no use for the gentleman to talk about our dictating to the Legislature of North Carolina. There is nothing of the sort.

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It is a mere recommendation. We submit it to the Legislature that this number of judges is necessary to do the business, and if the Legislature takes offense at our recommendation and calls it a dictation, it is their own fault and not ours. I hope therefore that the original motion will prevail.

MR. SMITH. I made the motion to adopt the resolution. I did not speak upon it at the time and I wish to be heard for a few minutes. I think it is immaterial which one of these be adopted. It is not final. We have already the recommendation of the Committee on Legislature and Law Reform that this matter be presented to the Legislature. It is very apparent here that the unanimous opinion is that we ought to have more judicial districts, and so there is really no harm in adopting the original resolution offered by Mr. Leatherwood. It will not be final or a dictation to the Legislature. The Legislature will consider the matter and it will be referred to the Judiciary Committee. I see no harm that can possibly result from the adoption of the resolution, so I hope we will adopt it by voting down the substitute, in order that the sentiment of this Association may go to the legislature, to-wit, that we want an increased number of judges and an increased number of districts. We have had enough of criminal courts, and this Association by adopting this resolution will simply say to the Legislature that it is the opinion of the Bar Association of North Carolina that we want more judges and more judicial districts and a uniform system in North Carolina, and I hope the substitute will be voted down and the original resolution adopted.

JUDGE GEO. H. BROWN, of Washington. Although I have the honor to be on the Bench, I trust it may not be improper to give my views about a matter in which I think my opportunities for forming a correct judgment are greater than those of any gentlemen present, with the possible exception of my brother Moore. This matter was discussed by the last General Assembly. The majority of the General Assembly are laymen. The question as to the number of judges was greatly debated. I was present at the request of the Committee which

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had the matter under consideration. Some of them wanted eighteen, and some fourteen and some sixteen, etc., and it seemed that there was no uniformity of opinion as to the number necessary to afford the State the increase of judicial facilities necessary. I was asked my opinion and gave it, and it occurred to me when I heard the resolution read that it was a matter about which the Bar Association ought to express its opinion in definite and distinct terms, and not in mere generalities. If an assemblage of lawyers from every judicial district of North Carolina cannot say how many judges are necessary to afford the proper court facilities for the State, how can you expect a Legislature of farmers and merchants and some lawyers to pass upon it intelligently. Are we afraid to do it? Is there any reason why lawyers could not give their opinion in straight, unequivocal and definite terms. My friend, Mr. Burton, says he is opposed to it because he would be bothered with the same judge all the time. If he would apply a little mathematics he would see he would be bothered with the same judge only once in four years. Mr. Busbee opposes it, upon what grounds exactly I was unable to gather. My brother is opposed to everything that comes up, and if he would give this resolution his clear, sound judgment, I am sure he would see the wisdom of it. Personally it is immaterial to me whether judges rotate within one division of the State or another. It is immaterial to me whether the judges are increased or not, because I can resign if things do not suit me, but I am looking to the interest of the State. Take this district. Everybody who practices here knows there is enough business for two judges. Take the courts that commence the middle of January and wind up the first of July. No man can stand that sort of work, I don't care if he is made of cast iron. Take the 11th district, the next in number. Both circuits extend over a period of nearly five months of steady work. Take the 10th, in which my brother Justice lives. Take the 9th, in which my brother Manly lives. Go back to the 1st, in which the President of this Association lives, and in which I live, and you will find there has not been a civil case tried for two or three years after the issuing of the sum-

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mous. Take every district in the State except the 4th and the 6th, and there is a great demand for increased court facilities. The 6th district, which I rode this spring, is a district which I do not think needs any more court facilities. I do not think the 4th does, but all the other districts of the State, with the possible exception of the 3rd, do need very material increase in the number of courts. When this question comes up before the General Assembly, the most important question will be how many districts should be created. It will be quoted to the members of the General Assembly that the Bar Association was afraid to say; that they wanted to indulge in generalities and recommend simply an increase. When the criminal courts are abolished, as I suppose the Legislature will do, you need at least two judges to take their places. In this county it will take half the time of the judge to dispose of the criminal business. Take Madison, Henderson and Swain. All have enormous dockets and a great deal of business. Take the State over, and, if you know it as well as I do, you will find that the proper number of judges will be about sixteen, and sixteen judges would enable the Legislature to divide the State into two rotating circuits, which is a matter that has been recommended by members of the Bar for some time. If the Legislature should see fit to adopt this respectful recommendation they could divide the State into two rotating circuits, and certainly that ought not to be objected to by any reasonable member here. The judge would not get round only once in four years. It would give the State the benefit of the rotating system, make the duties less arduous, and you would be able to get men to accept those positions more readily than they do now. It would seem to me that the Bar Association ought to take some definite action. We ought to recommend a specific number of judges, and whn it is sent to the General Assembly as a recommendation, not to dictate to them, but simply a suggestion, I have no doubt it will have weight.

MR. Thos. A. JONES, of Asheville. If the recommendation of this body is going to prejudice any matter that we suggest to the General Assembly, and it is going to be taken as dictation,

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then there is no use of our discussing this matter, and the Committee on Legislation and Law Reform might as well be abolished. I do not see how the Legislature should take it as dictation, and in fact while my brother Justice takes that view another eminent member of the recent Legislature does not take it, because he is the mover of the resolution now being discussed. When such eminent constitutional lawyers as Mr. Hinsdale and Mr. Burton differ about its constitutionality, I would not undertake to argue it, but I say we need sixteen judges, and I say we ought to send a memorial to the Legislature with a clear cut, definite number, so that they can know what is the opinion of the Bar Association as to the requisite number, and I believe that the Legislature will take it simply as recommendation and not as dictation. It is almost impossible to get a trial in this 12th judicial district. There are now cases on the calendar which have been pending for five years and never reached in the call of the calendar even. I think one reason we cannot get a case tried is that when these judges are sent here on the circuit for five months, they are fagged out and not fit mentally or physically to try cases. Some of them stay here two or three weeks and do not try more than two or three cases. I do not believe in this idea of my friend Mr. Busbee about special terms, because when we have special terms we do not get much relief.

MR. CLEMENT MANLY, of Winston. Is it fair to the county that they should be taxed for special terms when other counties in the State are holding courts at the expense of the State?

MR. JONES. I do not think so, and therefore I am opposed to special terms, and I am opposed to them for another reason. The judges come here and hold court for about three hours a day and spend the rest of the time up at the Battery Park.

MR. R. L. LEATHERWOOD, of Bryson City. Don't you think that re-districting the State into sixteen districts would practically do away with special terms? It cost us $400.00 to hold a little special term in Swain county a few weeks ago.

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MR. J. W. HINSDALE, of Raleigh. I would like to offer an amendment to the resolution, and that is as far as practicable the trial of criminal cases shall be separated from the trial of civil cases, as an additional recommendation and a part of the original motion. Mr. Justice's resolution certainly does not convey to my mind what is desired and what is necessary.

MR. MANLY. It is now 11:30 o'clock, and I think this is a question of great importance, and I think this resolution of Mr. Leatherwood's ought to be referred to the Committee on Judiciary, to be reported to-morrow morning. We will be much better able to act on it then.

MR. JUSTICE. I want to correct one statement Judge Brown made. He said one difficulty in the last Legislature was that we failed to agree on the number of judges. That was not the trouble. It was whether we should abolish the Criminal Courts and increase the judges. I was the Chairman of that Committee, and I know.

MR. J. W. HINSDALE. I will make the motion that Mr. Manly suggests. Before making the motion to adjourn I make the motion that this matter be referred to the Judiciary Committee to report.

MR. Thos. A. JONES. I am the Judiciary Committee, and I am ready to make my report right now.

MR. J. W. HINSDALE. I make the motion that the matter be referred to a Committee of three to report to-morrow morning, and that it be made the special order for to-morrow, immediately after the address.

MR. J. CRAWFORD BIGGS, of Durham. We have a number of matters to act upon, and if we postpone this, we will not get away from here to-morrow. We have only one more session. If we postpone this we will have more business than we can transact at the one remaining session.

MR. B. F. LONG, of Statesville. I am opposed to the postponement of this thing. We are here now having differences about immaterial matters. The material matters we are not really differing about, as I understand it. I think most of us

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are in sympathy with the resolution introduced by Mr. Leatherwood, except one item. I am candid to say that with regard to this thing of splitting the State in two parts and rotating, I am in doubt, and we say if we adopt that that it is constitutional. I do not want to vote for a thing and say it is constitutional when I do not know it. If Mr. Leatherwood will agree to that portion of the resolution being stricken out, and Mr. Justice will withdraw his resolution, I think we can agree. Mr. Justice authorizes me to withdraw his substitute. My motion now is to strike out the third clause on the question of rotation.

I move a substitute to the resolution striking out only that portion of it that contemplates a rotation within two circuits.

Seconded by Mr. Barnard.

THE PRESIDENT. The gentleman moves the adoption as a substitute of this resolution, omitting the third and fourth paragraphs relating to rotation within two circuits. As many as favor that substitute will signify it by saying aye. As many as oppose no. The ayes have it, and the substitute is adopted.

MR. C. A. WEBB, of Asheville. It seems to be the general opinion here that the Criminal Courts will be abolished. This resolution says "in view of the probable abolition of the Criminal Courts" and I wish to offer an amendment that instead of the first section, the General Assembly be requested to abolish the Criminal Court system, and substitute therefor Superior Court Districts, etc.

MR. T. A. JONES, of Asheville. I move that it be referred to the Committee on Judiciary.

THE PRESIDENT. You have heard the resolution read. The motion is to refer it to the Judiciary Committee. All in favor of such reference will please say aye. All opposed no. The ayes have it. The motion is referred.

On motion, the Association adjourned until 10 o'clock a. m., Friday, June 29th.

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## THIRD DAY.

FRIDAY, June 29, 1900.

The Association was called to order at 10 o'clock a. m., by the President.

THE PRESIDENT. Is there any report from the Committee on Memorials?

MR. J. L. BRIDGERS, of Tarboro. On behalf of the Committee on Memorials I desire to submit the report of the Standing Committee. The Committee the President appointed yesterday to draft a memorial has been relieved of that duty, as the Standing Committee has sent in this report, which I shall read:

(*See the Report at end of the Minutes.*)

Upon motion, the report was received and adopted by a rising vote.

THE PRESIDENT. On yesterday the address of the President of the Association was referred to the Committees on Legal Education and Admission to the Bar and Legal Ethics jointly. Are those Committees ready to report?

MR. J. E. SHEPHERD, of Raleigh. The Committee on Legal Education and Admission to the Bar report as follows:

Your Committee respectfully report that in their opinion the period prescribed for the preparation of applicants for license to practice law should be extended to two years.

Your Committee further suggest that such parts of the code as are required to be studied, be indicated by the court. It is to be feared that the study of the great principles of law and equity may be neglected by reason of the general requirement that the great volume of statutory law contained in the code be indiscriminately studied by the applicant.

Your Committee would further suggest that the reading of some work on Legal Ethics be prescribed by the court.

In regard to the two years' time, this is the only State that has so short a prescribed period of preparation for the Bar.



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Some of the States, I understand, require a period of four years, some three, others two. None prescribe so short a time as in North Carolina. I will state, furthermore, that one of the Court here approved of this report.

MR. J. CRAWFORD BIGGS, of Durham. I move that the report of the Committee be received and adopted, and that a Committee be appointed, to be named by the President of this Association, to present the views contained in this resolution, to the Supreme Court.

Seconded.

MR. D. W. ROBINSON, of Lincolnton. Before this motion is put to the house, as a member of this Association, with all the respect I have for the very able and distinguished gentleman who has presented the report, and for the President in his recommendation in his address yesterday, I must dissent from the view embraced and embodied therein, and enter my protest against this Association going on record in regard to the time limit. I think it proceeds on the wrong basis. I think that the qualifications for the Bar cannot be fixed too high, but that they must and properly should be ascertained by an examination of the applicant. If a young man by industry and energy and qualifications of his mind is able to fit himself in twelve months for the practice of the law, he ought to be allowed to do it. This is a step to the tendency which has grown in other States until it has reached the limits required in some States of four years. I say it is a step in the line of drawing a circle or wall around our profession. It is true that it may produce a great deal of good, but on the other hand it may prevent and will prevent in some instances very deserving young men from entering the profession, and drive them to other professions. It is a fact that there are men on this floor to-day, and who belong to this Association, who have fitted themselves for the practice of the profession, and some of them passed through the rigid examinations of the very best law schools of the country in twelve months, and those men, without considerable means, would have been deprived of the privilege of entering our profession if they had been required to pursue the

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study for two years. I think the examination ought to be made more thorough and extended than it is to-day, but that that ought to be the test and the standard. With all due respect to the gentlemen who have presented it, I desire to enter my protest against the two year limitation.

MR. J. C. MCRAE, of Chapel Hill. I am very much obliged to my friend from Lincolnton, who has just spoken. He has voiced the sentiments which I was hesitating whether to express before this assembly. Acquainted as I have been made within the last year of the desires and wants of the young men of North Carolina, sometimes with their inability even to take the short course which is now prescribed, I was glad to see some one speak for them on this occasion. What difference does it make how long a course is prescribed for a man, so that he is able to go before the Supreme Court and stand the examination? I was prepared to discuss this matter at some length, but knowing the pressure of business before the Association, I shall not do so. As to the general subject of legal education, I was prepared to attempt to show that in North Carolina the requirements of the Supreme Court are such as, if carried out, will enable one, after an examination, passing the Supreme Court and receiving the license, to come to the threshold of the profession ready to enter upon its duties. As has always been understood heretofore, the young man who is studying law is preparing himself to enter upon the duties of a member of the Bar, and not to be a perfect lawyer when he obtains his license and makes his first appearance in court. It is by the exercise in the courts, which he will engage in thereafter, that he shall in time become a perfect man and thoroughly furnished with all the necessities of his profession. The regulations of the Supreme Court prescribe that every student of law shall have read law for one year, and the course is then prescribed which he shall read. Being connected as I am with one of the law schools of North Carolina, I beg to say that the course has been prepared so as to meet the requirements of the Supreme Court and enable one to take the examination after taking the course of one year, but the school with which I am connected goes further and offers additional inducements and a thorough

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course for those who desire to take it. This requires a two years' course and a thorough examination before one can be invested with the degree of Bachelor of Laws. Wherefore the necessity of building the wall closer around this profession as we see it's being drawn around every other profession. When we look back and see members of the Bar who have obtained prominence without any such strict requirements, why is it that we who have taken our seats within the inner walls now wish to close the doors upon the aspiring youth of the country who stand ready to come in and take our places?

MR. R. L. LEATHERWOOD, of Bryson City. If a young man acquires a legal knowledge to fit him to become a member of the Bar, why ought not he be licensed if he stands his examination, whether he studies one year or two years or three years?

MR. THOS. A. JONES, of Asheville. I will undertake to give my views about the matter. As I understand, the argument of Judge McRae and Mr. Robinson and Mr. Leatherwood is that a man ought to be admitted to the practice in this State whenever he can pass an examination, and therefore Mr. Leatherwood asks why one year or two years or three years. They argue that whenever a man can answer to the satisfaction of the Supreme Court enough of the questions he can pass. Then I ask why should there be one year? Do they mean to argue seriously that a man ought to be admitted to practice, provided he can pass the examination, if he has say only six weeks' study? I know of a case of a lawyer in Virginia who went to the judges, and they told him what books it was necessary for him to study in order to prepare himself, and he went back in four days and said he could answer any questions put to him, and I have no doubt with his remarkable memory that he could. These gentlemen must admit there must be some limit. The question is whether one year is sufficiently long. I think a man should not only be able to answer the questions, but he should have gone through a systematic course of study. I remember when I wanted to become a lawyer I went into a lawyer's office in Washington, and I then had the

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same idea, that all that was necessary was for me to pass an examination, and I buckled down until I got so I thought I could pass. I then went to the gentleman in whose office I was serving and told him I thought I could pass an examination. He replied, "Mr. Jones, you cannot be admitted to the Bar in the District of Columbia until you have studied three years in a lawyer's office, if you study in an office." It has been stated by gentlemen who have examined this matter that two years is the lowest limit in other States. Surely this State should demand not less than our sister States. I believe we are as learned a body as the medical profession. It is stated that a good many of the religious denominations require three or four years. It seems to me that this resolution ought to be adopted. I know there were a good many able lawyers admitted to practice under the old twenty dollar system, and no one would argue that because those men have made an eminent success that we should go back to that system. There is no rule that does not work some hardship. It may keep a good many deserving young men from being admitted, but I do believe it will check the admission to the Bar of a good many who are not fit and qualified to be admitted. The argument of Judge McRae is that they have to learn by experience. The trouble is they are learning it at the expense of the clients. I know of my personal knowledge men who have been admitted to the Bar here who were absolutely unfit and unqualified to practice I know of two young men admitted to the Bar here, men of remarkable memory, who ostensibly studied law twelve months in a lawyer's office, and who told me they did not study until three months before the examination, and then crammed and went down and passed creditably. I think we should increase the limit from one to two years.

MR. F. H. BUSBEE, of Raleigh. Nothing can show more clearly the utility and object of our Association than discussions like this. If nothing can be said in objection to the resolution of the Committee except what has been said by the able members of the profession, of different ages and from different standpoints, then we might well consider that the strength of the argument has been presented. What is it? That we

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should not have a time limit because you can pass the examination. Every examiner knows that an examination does not afford a perfect test. An examination, while it affords the best practical test, is never a certain test. It is true that some men in one year prepare themselves for the Bar, but those very men can prepare themselves better, not relying upon cramming, not reading in order to just possibly pass the examination, but by a systematic course of study for two years. Again, a great many men are not able to go to law schools. Again, what is the hardship? They say it will debar good and strong men from entering the profession. I undertake to say that no young man who desires to become a lawyer, and has the love of the profession, and the idea of entering it before him, and who has the stuff in him out of which good lawyers are made, will be debarred by a single additional year of reading law, not necessarily in a law school. We cannot make laws for the bright men. Every gentleman present who received his license before 1868 was required under the law, before he was qualified to do anything except to practice in a justice's court, to wait twelve months after obtaining his County Court license before he could practice in the Superior Courts. Are we wiser than every other State in the Union that requires two years, or are we going to throw down the barriers and make it almost as free as it was in the twenty dollar days? Is it such an infinite hardship because a young man might in twelve months prepare himself by cramming, thereby injuring his mental discipline? It does seem that we cannot afford to ignore the practice of the other States, and say to any young man that we will make his pathway so easy that he will not have a sufficient knowledge or appreciation of what he is undertaking. We ought not to obstruct the pathway of any man, but he ought to be taught that he is not entering into a play ground, but that he is entering into a profession where his pathway will be full of steady discipline and self-denial.

MR. HAYWOOD PARKER, of Asheville. It seems to me that we derive a great deal of benefit from this discussion, but I think we are liable to miss the course of it if we do not look out. It seems to be the idea of some that the object of the

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two years' course is to put up the bars, as it were, to make it harder. If I gather the intention of the Committee, that is not so. The course as prescribed by the Supreme Court now is sufficient to keep any man of ordinary ability hard at work for two years, and, from my experience of seven years as a school teacher, I can certainly say that one single examination is seldom if ever an adequate test of any man's thorough knowledge of what he has gone over. That has become so well recognized in most of the best schools of this country that three-fourths, at least, of the grading of the pupil is now determined by their usual class-room work, and, if I gather aright the intention of this Committee, it is not to make the course any harder or more difficult, or to make the examination before the Supreme Court any more difficult, but it is that the pupils in preparing themselves in the course as now prescribed shall not only read and learn, but shall, as my Lord Bacon says, "inwardly digest," and I most respectfully insist that it is a rare man, a man of most exceptional intellect, who can thoroughly digest—he can memorize and can probably repeat—but I say it is a very exceptional man who can digest thoroughly the course as now prescribed. It is a very different thing from the days of Blackstone. I believe his idea was it took twenty years of poring over it and of burning the candle to make a lawyer. It is not that we want to keep out anybody. If you will pardon the personal allusion, I myself never went to a law school but six months, and I had to do that between terms of school teaching, but I was hard at work on the law for six or seven years. I do not believe the two years' period is meant to bar out anybody, but it is, in the opinion of these men, the time it really takes and is needed for the pupil to thoroughly digest and master the course prescribed by the Supreme Court.

MR. J. L. BRIDGERS, of Tarboro. Mr. Busbee's suggestion that we ought to express our views has overcome my modesty, and I want to express mine. It does seem that, if we are to keep in touch with the progress of the times, we should require more training. It is training that we want. Some gentlemen have said that we would bar out bright minds. Haven't the

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duller ones some right to consideration? Take a bright mind that possibly in ninety days can acquire enough information to obtain his license. Take a less bright mind that has pursued the study of the law possibly two years, diligently pursued it, and granted a license to practice law at the same time, which of the two is going to stand best? I take it that it cannot be controverted that the trained ones will stand best. We see in every branch of life that the trained man is the man that is successful. You may take a man of the most tremendous muscle and stand him up before a trained pugilist, and how long will he stand? I undertake to say, that because a man may be brighter than his fellows and in ninety days gets enough information to pass the examination, it does not prove he will stand best in the long run. Will not the brighter mind derive greater benefit from having trained himself for longer time? It is the training we want. So, often when a young man has obtained his license and is turned loose to practice law, it occurs to him when he gets into active practice, How did I get a license, and what am I going to do with it? I undertake to say that when a young man receives his license and goes forth to practice, he then realizes how little he knows, and it does seem that we should keep pace with the times and require better training for the applicants for license to practice law. We look around and do not find anywhere that they have decreased the time of training, but in every instance I have heard they have increased it. They have only made his course of training longer. Don't you know that you can take the trained race horse and he will distance one that has more natural power by far than he possesses, and why? Simply because he is trained and knows how to do it. They say it will bar out some who cannot afford to spare two years for this study. If there are any two qualifications required to make a good lawyer they are patience and determination, and if that young man has not patience and determination let him go elsewhere. The gentleman who just preceded me said that during seven years of school teaching he studied, and during that time he acquired enough knowledge, added to his six months' attendance at a law school, to obtain license. In the

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State of New York we find the first law school gradually increasing the period of training, until now it requires four years. That is the experience everywhere. If any man in this assembly wants something done, he goes to the best trained man. He goes to a man skilled in what he undertakes to do. It is absolutely necessary that we make the limit of preparation just as long as the conditions will permit. Train them, and train them to take in and understand what they are after. In many of the States that are progressive, they have provided instruction in procedure. They have added to the law course the practical working of the trial, from the issuing of the summons to the final judgment, so that when the applicant receives his license he knows not only the law, but he knows practically how to apply it. You may instruct any man theoretically how to handle tools, and give him the tools, but they are worthless in his hands until practice and experience have taught him the practical application of those tools. We all know how helpless we feel when we get our license. There never has been a lawyer that could come full panoplied into the practice and absorb it all, and go right to practicing. So it is well that we should express our views here, and, expressing my view, I hope to see this period of preparation made just as long as the conditions of our people and those desiring to enter the law will permit.

MR. C. W. TILLETT, of Charlotte. Does this resolution contemplate that the young man should devote himself exclusively during two years to the study of the law? Take MR. Parker's case. He studied law for seven years, teaching school in the mean time. Would it be considered that he had studied for two years? Suppose a young man was a clerk, and studied at night. Does it mean he must devote himself to studying exclusively for two years?

MR. THOS. S. KENAN, of Raleigh. According to the present practice there are preliminary questions asked the applicant, one of the questions being how long he has studied. The answer of course must be made by the applicant. While I am up I would like to say that I did fear some little mistake would

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be made here in reference to the standing of North Carolina lawyers, who have been licensed by the Supreme Court formerly and recently. Many people have made inquiry as to the course to be pursued to obtain license in North Carolina, people from other States continually. I may say truly, I think, that North Carolina is not behind in this matter, as seems to have been intimated by some. Whether the limit be one year or two makes very little difference. Whether he is a good student at the time of examination or not makes no difference. About one-third of those licensed never practice. They go away and go into other business. Those North Carolinians who have gone to New York and other States have certainly made enviable reputations, and it seems to me that any allusion that North Carolina is getting behind is not supported by evidence.

MR. BRIDGERS. I certainly want to see North Carolina get all she deserves, and no one has her interest more at heart than I have. I was only stating the fact that North Carolina was behind in that respect. I think, as Mr. Kenan stated, that those lawyers who have gone away from the State are the ones we want to keep. I think we had better make them stay a little longer if we can. Answering Mr. Tillett's question, I do not know what construction the Committee put upon that. As Mr. Kenan says, the applicant must answer that. I think it would have a very wholesome effect upon those studying law if they knew that the Association expected them to devote two years to the study. I think most of the applicants would do it under those circumstances, feeling that the requirement was two years and it would be vastly to their benefit that they should have this training. I certainly hope that the two years' limit will be demanded, and that applicants will be expected to study the law and train themselves in it.

MR. J. CRAWFORD BIGGS, of Durham. This is a very important question, and one, of course, that affects directly the welfare of our profession, and, by reason of my connection for two years with one of the law schools of the State, I feel that I have some right to speak upon this matter. I regret

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exceedingly to have to differ with the Dean of the law school with which I am now connected, but it does seem to me that we should pass the resolution now under discussion. My experience at the University Law School teaches me that we should require more training for the applicant. I speak in behalf of the applicant himself. I believe that the members of the Bar will agree with me that the reason so many young men, after having obtained their license, leave the profession, is because they enter the profession not equipped for work, and I believe it is to the interest of the young man, who in the future intends to enter the legal profession in North Carolina, that he should be trained and equipped for the work. If he is prepared, when he receives a case he can manage it properly and make a success, but if he has not that training, when he receives his first case, or second case, he cannot manage it, makes a failure, becomes discouraged and leaves the profession.

MR. BRIDGERS. How long does it take the student to get the approval of the school by the degree which states that he is a Bachelor of Laws, and fully equipped as a lawyer?

MR. BIGGS. Two years. That is the position of the University Law School, that he is not entitled to a degree until he has studied two years, and some think he should not be turned loose to practice until he is equipped to receive a degree.

MR. S. GALLERT, of Rutherfordton. Isn't it contemplated in the Illinois Law School to make the course three years to obtain a degree?

MR. BIGGS. I have in my hand a pamphlet containing the report of the Committee of the Illinois State Bar Association, on memorial to the Supreme Court concerning admission to the Bar. In it, I find the period of study prescribed by different States as a condition precedent to examination.

Three Years—Delaware, District of Columbia, Illinois, Michigan, Minnesota, New Hampshire, Ohio, Vermont, Rhode Island, if not possessing classical education; New York, if not college graduate.

Two Years—Colorado, Connecticut, Iowa, Louisiana, Maine, Maryland, Montana, Nebraska; New York, if college graduate;

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North Dakota, Ohio, if graduate of law school, in discretion of court; Oregon, if graduate of literary institution, otherwise three; Rhode Island, if applicant has received classical education; Washington, West Virginia, Wisconsin, Wyoming.

One Year—North Carolina.

So, there are ten States requiring three years, seventeen requiring two years, and only one requiring one year, North Carolina.

MR. LEATHERWOOD. Don't you think our Supreme Court is competent, when they examine applicants to practice law in North Carolina, to specify whether that examination is sufficient?

MR. BIGGS. I do not think an examination is a sufficient requirement alone. A bright student may cram in two or three months and pass the examination, but he has not that general training nor acquaintance with the fundamental principles of the law which are essential to the successful practitioner, and I do not think it is sufficient that he may simply pass an examination before he is admitted. I think there should be a requirement of a certain period of study. As to the question of Mr. Tillett, whether it means two years' exclusive study, I may answer by saying we now have a one year's course and a great many applicants for license do not devote themselves exclusively. We have men who read law privately at home for six months at night, and come to a law school in the summer, Wake Forest or the University, and take a summer course, and go to the Supreme Court and certify that they have read law for twelve months. That is a question each must decide for himself.

MR. TILLETT. Would you rather have a young man who had studied one hour at night for two years, or a young man who studied exclusively for one year? Merely prescribing two years and leaving it open does not mean anything.

MR. BIGGS. It seems to me it means that this Association thinks there is need of more extended training than is now required. It does seem that the legal profession of North Carolina, speaking through this Association, should keep in

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touch with the progress of legal education in other States, and that we are doing no injury to the applicant, and I hope this resolution will pass, and that a Committee will be appointed to memorialize the Supreme Court with a view to putting in operation the recommendation of this Association.

MR. A. S. BARNARD, of Asheville. I am in favor of the adoption of this report. I desire as one of the younger members of the Bar to express my opinion. I am in favor of it, not because I believe it will exclude any worthy young man, but because I believe it will elevate the general average of those admitted to the Bar. I had some experience in the question of admission to the Bar in New Jersey. They recognize in New Jersey the very point made by Mr. Bridgers—the training. They require that the young man, before he is even admitted to examination, shall have studied three years. He is then admitted as what they call an attorney-at-law, and only entitled to limited privileges in the court. After three years' active practice he is then admitted as a counselor-at-law, and is then given general privileges to practice law. It seems that North Carolina is behind the other States in reference to this question, and the Bar Association ought to express itself in favor of the requirement of a more thorough education and training.

MR. B. F. LONG, of Statesville. I have been greatly interested by this discussion. We all ought to have an interest in it and see the great importance of the settlement of this question in such a way as not to do our profession harm. I confess that during the progress of the discussion, while I have been much interested I have met with some surprises. On the one hand, the Chairman of the Committee which brings in this report, which contemplates more study and exercise on the part of the applicant before he is permitted to enter our honorable profession, was at one time the Chief Justice of our Supreme Court. On the other hand, we have an Associate Justice of that court, who stood with him at the same time, who differs with him in his opinion in regard to this important question. I confess, when I heard what Judge McRae had to

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say about this matter, that if I had not formed in my own mind an opinion which is at variance with the ideas he suggested, I should have been shaken in my conviction because of the great respect I have for him and his opinion, on account of his large experience and greater wisdom, but looking at the matter as I do it seems to me that the young man who has set his stakes to enter our profession should not be allowed to have any false lights held up to him. He should not, when he resolves to become a member of our profession, have the first impression made upon him that the way is easy. If it had crossed his mind that he might enter the profession of medicine, he saw that the way leading to it was one of study and preparation. If he expected to make himself a first-class base ball player he would see before him training, as my friend, Mr. Bridgers, says, training of perhaps twelve months or more, so I think it is not putting any wall around him to require of him to see that the law is what we understand it to be, a jealous mistress. I am not inadvertent to the fact that some of the most prominent lawyers in North Carolina were those who came into our profession soon after the war, who had been denied the opportunity for years to obtain that preparation which is not denied the young man now. The only objection I have to the resolution is this, that it does not require a longer course of study. I believe that the young man of ambition, who is determined to enter our profession and make a success of it, will be willing to enter upon the duties and study law well and carefully for three years, and I should prefer that the resolution should require a study of three years. I would regret that any young lawyer should get the impression from what I have said here that I was trying to bar him out. I would lay down no standard for him that I would not like to see held up for myself, if I was not in the profession. So that, having the convictions I have about this matter, I believe he ought to be put through this course of training. As to the young fellow who studies his law by the pine knot, that is one of the tests as to whether he is that young man of pluck and energy who is willing to make sacrifices to enter the profession, and in addition to that we have the examination of the Supreme

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Court, so that we have two safeguards. I say it is something that will stimulate him, that is an incentive to him, and at the very threshold of his profession holds out the idea to him that he cannot enter without undertaking some training that will fit him to enter, and when he walks out with his license in his hands, having passed his period of study and then stood his examination, his license, wherever he may carry it, is a badge of honor and something to be prized and to be proud of, and, I imagine, he will always under those circumstances enter his profession feeling that he is able to cope with those of his associates with whom he must make the battle of life.

MR. L. L. SMITH, of Gatesville. I wish to add an amendment to the resolution, to amend that part of the report as to the time for study so as to read that the time may be equal to one year's continuous course at a law school. I submit this amendment as a compromise.

MR. BIGGS. What is the difference between that resolution and the law as it now is?

MR. SMITH. I say that this amendment I offer is an improvement upon the resolution, under the construction of the resolution to mean that if a man were to study one hour a day he would be fulfilling the requirements of that report.

MR. BIGGS. I did not intend to convey that idea. I said that was with the applicant, with the law as it is now. I think under the law the student can study at night, and if he goes up and answers the question he has studied for twelve months, that answer is taken as conclusive.

MR. SMITH. I want to improve upon that resolution. My friends say that a man could conscientiously answer that question that he had studied one year, when he had only studied one hour a day.

MR. CHAS. PRICE, of Salisbury. I rise for the purpose of inquiring to whom that resolution or recommendation is addressed.

THE PRESIDENT. It is addressed to the Association. I think if this Association shall see proper to adopt that report,

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it will be followed by a resolution to present a memorial to the Supreme Court.

MR. BIGGS. I have already moved that we adopt the report and appoint a Committee to memorialize the Supreme Court.

MR. PRICE. It seems to me the first thing we ought to do is to look at the statute of North Carolina. We have a statute upon that subject. It is in the first volume of the Code, page 7, section 17. "Persons who may apply for admission to practice as attorneys in any court shall undergo an examination before two or more of the Justices of the Supreme Court, and on receiving certificates from said justices of their competent law knowledge and upright character, shall be admitted as attorneys in the courts specified in such certificates." That is the statute law of North Carolina, and to say that the Supreme Court shall lay down a rule when they come to examine a man as to his competent knowledge, it seems to me, would be departing from this. When a man applies for license to practice what has the Supreme Court to do? It must find out whether he has this knowledge specified in the statute. It seems to me that before this resolution can be passed there ought to be some memorial presented to the Legislature to change this statute, because the test of admission to the Bar in North Carolina is competent knowledge.

MR. BIGGS. Do you think the present rule of the Supreme Court is illegal, that there must be a one year's course of study?

MR. PRICE. That is the very thing I am discussing. I am talking about the statute. I am satisfied the Supreme Court laid down that rule not in the light of that statute. That is laid down in the statute and has been for some time, and if there is any change there ought to be a memorial presented to the Legislature of North Carolina.

MR. E. J. JUSTICE, of Marion. What is a competent law knowledge? The Supreme Court ascertains whether the applicant has that knowledge. One way of ascertaining it is to know whether he has had the opportunity of acquiring that

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knowledge. In the light of that statute, therefore, they have said that no man can acquire it unless he has had the opportunity of a year's study, and if they can say that they can say two years' study. That being true, I apprehend that there is no statutory provision against this rule. Therefore it comes to the question whether it is the part of wisdom to have a two years' course prescribed, or a one year's course. If all lawyers and all law students were like my friend from Lincoln, I would say that it would be utterly useless to have any course prescribed. He started out to my certain knowledge, working not one hour a day, but all the hours that he was awake and was not eating, and he has been at it up to the present time, and he knows as much law as any man of his age, and still is not satisfied, and he ought not to cut off from those who have not his industry and capacity, a necessary requirement to become good lawyers. My surprise was equaled by the opposition of the distinguished Dean of the Law School. The Supreme Court of New York says to the student who comes from North Carolina, you let the North Carolina clients suffer for three years before you come into New York. The people of North Carolina are entitled to protection against incompetent attorneys by having them study before they practice. I want to ask three questions of Judge McRae. Whether a man who takes all of the questions which have been submitted by the Supreme Court since the written examination has been inaugurated, and learns the answers to them, cannot in all probability pass any examination that the Supreme Court will in future submit to him? The second question I want to ask him is, if this is true, if a young man cannot in sixty days learn the answers to all of them? And if he can, whether he thinks he is qualified to practice law, having learned the answers to those questions? If he then can answer a sufficient per cent. of questions probably to be propounded to him in the future by the Supreme Court, is it not true that the examination is not sufficient? It is not a question of knowing how to answer questions like a parrot, but it is a question of understanding what the answer means.



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MR. LEATHERWOOD. How will they be likely to know what questions will be asked? The Supreme Court propounds the questions and writes them out.

MR. JUSTICE. Every time since the written examination, the questions have been published in the papers.

MR. BIGGS. About one-half of the third examination was taken from the first and second examinations. On equity, I think there were nine or ten questions asked, and about eight of them were the identical questions asked on the first examination, and so it was with other questions. One could probably pass the third examination by getting up the first and second.

MR. JUSTICE. Of course we all know that the Supreme Court by these questions has practically covered the field of quizzing, because in giving new examinations they have to repeat. Therefore, I do submit that it is not a proper solution, whether a man has drawn from the well according to the strength of his understanding, simply because he can answer these categorical questions.

MR. MACRAE. I say this, Mr. President, to answer all these questions generally. I have no hesitation in saying that the standard of admission to the Bar in North Carolina is higher than that of any surrounding State; that a man who goes out of North Carolina to-day into Georgia, or Alabama, or Virginia, or South Carolina may be admitted to practice by the presentation of his license; that the fact that he has undergone the course of study prescribed by the Supreme Court of North Carolina, and has gone before that court and answered the questions which they ask him, after having been engaged in the study of the law for one year, has been sufficient to give him an entrance into any court in our section of the United States. I say, then, that the standard is not deteriorating in North Carolina. I am an old man, but it seems to me that I am standing in touch with the boys to-day. Perhaps it is because I have been associating with them; perhaps it is because I have seen their struggles upwards after excellence; perhaps it is because by my communication with them I know

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what it costs them even to take this course which is now prescribed. There have been men in North Carolina who in the old days have marched alone the course up the heights and stood pre-eminent as lawyers and gentlemen, and it could be done to-day, but the advantages which are afforded by the law schools and by the course of study prescribed by the Supreme Court are such that when men take advantage of them in North Carolina they come out well equipped to begin the race of life in this profession. I had intended to say more, but I will comply with the five minute rule. I see that the sentiment of our friends here, who have already marched into the temple, is to close up the entrance, until it becomes now, or is to become, but a little wicket gate through which the young men of North Carolina pass before they come out into the forum. The sentiment seems to be against me, and I have no objection to that. I simply wish to express these views, having no quarrel with any man who thinks otherwise, but desiring to stand here and say one word in behalf of the deserving young men of the country, who have not the money and have not the time to devote longer than the Supreme Court of North Carolina has now said in its wisdom they shall devote to the study of the law before they avail themselves of the provision of the statute which promises them, upon a certificate of good moral character and showing to the Supreme Court that they have competent knowledge of the law, that they shall obtain a license to practice their profession.

MR. JUSTICE. The question I want to ask is whether you would be in favor of reducing the time prescribed, or reducing the degree in the law school from two years to one?

MR. MACRAE. No, I would not, because the Supreme Court has it under its direction to say how long a man shall study before he can obtain admission. The University of North Carolina and the other law schools profess to give more than simply entrance into the profession. They profess not only to acquaint him with the general principles which he must have, but to let him take a course into the technicalities of the law, to let him learn more. I did not think it was necessary to

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talk about putting in legal ethics. I would as soon put a complete letter writer in the hands of a young lady or young gentleman as to start to teach a regular course of what you call legal ethics. If a man is a gentleman, if he has those principles in him, they will crop out, and it is not necessary to teach him.

MR. SMITH. Will you allow me to withdraw my amendment? I thought I came bearing the olive branch, and I find myself in the position of the man who tried to part two dogs and got bitten by both.

MR. E. B. JONES, of Winston. I have not participated in the discussion, but I shall not vote for the resolution for this reason: It looks to me like we are attempting to make a close corporation, or, in other words, after we have gotten inside the walls, we are building the Chinese wall higher. As I understand it, this is nothing but a recommendation, and the law was read by Mr. Price, and there is no law except what was read by him. It looks to me like we ought to have a Committee on the equalization of mind. If a man can, by reading law for twelve months, get his license, I cannot see any reason at this day and time why we should extend it to two years. If you are doing it for the purpose of holding back the man who is more brainy, active and energetic, you ought to extend it further and let him only practice a certain time until the other man can catch up with him. I know that the most distinguished and most eminent lawyers of North Carolina have not come from that class who had wealth to back them. The deserving old lawyers of North Carolina are those men who have forged their way to the front by their own efforts and industry, and not by any course of reading. It is only the theory of law that we learn. I think too we will drive away many a young man who has only so much money, and who cannot afford to take a two years' course, and who, therefore is driven to do something else.

MR. W. E. MOORE, of Webster. I am opposed to that resolution in behalf of the young men of North Carolina who want to study law and are not able to attend colleges and law

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schools, but have to study law and at the same time earn their daily bread. Some of the most distinguished lawyers in North Carolina have studied law while they have been engaged in their daily labors to earn their daily bread.

MR. BUSBEE. Do you mean that an ordinary man can earn his daily bread and become qualified in one year?

MR. MOORE. They have done it. The statute specifies the qualification, and that is that he shall attain sufficient knowledge to pass the examination. I think if he only studies six months, applies to the Supreme Court and passes the examination he should be admitted. It is the man who puts his practice in the law and studies law. Simply the granting of the license does not make a man a lawyer.

MR. BIGGS. As mover of the motion, I call for the previous question. I withdraw the motion in favor of Judge Avery.

MR. A. C. AVERY, of Morganton. I think that the test among the members of the legal profession has been, and ought to be, and will be governed by the rule of the survival of the fittest. Like my friend Judge McRae, I have been a teacher of boys at times for many years, and I think that, like him, I have come in touch with them, and into hearty sympathy with those poor young fellows, out in the country, who have struggled and worked and lived hard and come to a law school three or four months to finish their studies. Those are the men that this resolution will hurt, and those are the men I stand up here to talk for. Mr. Chairman, you cannot make a lawyer by rules. All the rules in the world will not make a lawyer. He must make himself, and nothing has illustrated that more forcibly than the amendment of Mr. Smith, and the answers that his questions elicited. If this resolution does not mean that a man must go to a law school and study for one or two years, then it means nothing, or it means something to the over-conscientious man and nothing to the one less scrupulous. Go and tell the Supreme Court that you have read law for an hour a day, or six hours a day, or twelve hours a day. If it is left open in that way it means nothing at all except to the conscientious man who goes up and says, "That means, in

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my view, making a business of studying law," and he may be precluded where the great mass of students would say yes. That does not make a lawyer. Allusion has been made to the rule in vogue before the war. The old County Court student was not required to have read any fixed length of time before he got his County Court license, if he was prepared, and yet that was the most intricate part of the course. It had works in it that would make an old lawyer squirm to think about, and that was what a man had to do before he got his County Court license, and no time prescribed. One year was required to intervene after getting the County Court license before getting a Superior Court license, but that was for the purpose of getting some knowledge of the law. I am here to-day to say that when the law student of to-day goes before the Supreme Court—and I have examined them as a teacher and when they appeared befort the court—that when the law student of to-day goes to the Supreme Court of North Carolina and gets his license, he is better equipped for the contest and the practice than the lawyer was before 1868. The matter cannot be arranged by rule. It either means that a student must go to a law school and study for twelve months or two years, or it means nothing at all.

MR. BIGGS. I now renew my motion for the previous question.

MR. KENAN. I move that the report of the Committee be laid on the table in respect to this particular clause.

MR. BIGGS. I make the point of order that the previous question was called, and that the motion is not in order

MR. KENAN. The previous question had been withdrawn in favor of Judge Avery.

MR. AVERY. I understood that when the previous question was called I had the floor and Mr. Biggs could not take the floor.

MR. KENAN. I rise to a point of order. The question to table is not debatable. I move to table the report.

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THE PRESIDENT. I understood that the mover of the motion called the previous question. Several gentlemen had risen, among them Judge Avery. He withdrew the motion in favor of Judge Avery. He then called the previous question.

The previous question is now called. All in favor of the motion will please say aye. All opposed no. The ayes have it.

The vote is now upon the motion of Mr. Biggs that the report be received and adopted and that a Committee be appointed to memorialize the Supreme Court. All in favor of that motion will say aye. All opposed no.

Carried.

The mover of the motion suggested a Committee of five, and without objection that number will be named. The Chair will appoint that Committee before the close of the session.

MR. E. J. JUSTICE, of Marion. I am informed that it is proper some time during the session to make a motion to appoint three delegates and three alternates to the American Bar Association, and I submit that motion.

Seconded and carried.

THE PRESIDENT. The Chair will appoint as delegates to the meeting of that Association Judge Walter Clark, Mr. Charles Price and Mr. A. L. Brooks, and if there are members present who desire to attend, or who know members absent likely to attend, I would be glad to have the names, so that I may appoint them as alternates.

MR. F. H. BUSBEE, of Raleigh. I move that the President be authorized generally to appoint delegates to any State Bar Association that may be in session.

Seconded and carried.

THE PRESIDENT. The discussion of the question this morning has occupied longer time than was expected. Ex-Chief Justice Shepherd, who has been invited to address the Association, is now with us, and we would be very glad to hear from him.

Judge Shepherd was requested to address you upon a subject selected by the Executive Committee. Unavoidable circum-

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stances have prevented this, and he has selected one himself, upon which he will address the Association. I have the pleasure of presenting to you our distinguished friend, Judge Shepherd.

MR. J. E. SHEPHERD, of Raleigh, then delivered his address. (*See the Appendix.*)

MR. W. B. SHAW, of Henderson. I desire to make a supplementary report of the Committee on Admissions to Membership.

(*See the Report at the end of the Minutes.*)

Upon motion, the report was received and filed.

THE PRESIDENT. The report of the Committee on Legal Ethics was presented, but was not acted on. It remains open for action.

MR. J. C. MCRAE, of Chapel Hill. I move that the report be adopted as a part of the By-laws of this Association.

Seconded and carried.

MR. W. D. PRUDEN, of Edenton. I want to make an amendment to the report, and that is, that a copy of the rules of ethics proposed by the Committee be put in the hands of every lawyer in North Carolina. If any good is to be accomplished it is by reaching members of the Bar of North Carolina, not only members of this Association, but outsiders as well. We want to reach the entire profession in North Carolina, and I know of no better way than to put in their hands an expression of the opinion of this Association upon those important questions. I move that the report be printed, and that a copy of the rules on ethics as prescribed by that Committee be placed in the hands of every lawyer.

Seconded and carried.

MR. J. G. MERRIMON, of Asheville. Does that mean in printed pamphlet form or in the regular transactions?

MR. PRUDEN. I mean in pamphlet form.

THE SECRETARY. The Secretary will send a copy of the transactions containing this report to each member of the Association, and a printed pamphlet to all outsiders.

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THE PRESIDENT. The report of the Executive Committee is in order.

MR. J. S. MANNING, of Durham. The Executive Committee desires to make a supplementary report on a matter referred to it.

(*See the Report at the end of the Minutes.*)

Upon motion, the report of the Executive Committee was received and adopted.

MR. CHAS. PRICE, of Salisbury. I move that the thanks of this Association be expressed to Judge Shepherd for his able address. Seconded and unanimously carried.

THE SECRETARY. The Chairman of the Auditing Committee has handed to me his report, which is as follows:

*Mr. President and Gentlemen of the North Carolina Bar Association:*

Your Auditing Committee, appointed by the Executive Committee, begs leave to report that it has examined the accounts of the Treasurer and found the same correct and has approved his report as presented at this meeting.

S. M. GATTIS,
R. L. LEATHERWOOD,
A. A. HICKS.
*Auditing Committee.*

June 28th, 1900.

On motion, the report was adopted and filed.

THE PRESIDENT. A special Committee was appointed upon Local Associations in lieu of the Committee appointed at the former meeting. Is that Committee ready to report?

MR. W. D. PRUDEN, of Edenton. After considering this matter we have decided that it was impossible to take up at this session a report that would be of any value to the Association. As you must know, the subject involves a vast amount of work, it is of great importance to the Association, and requires such an amount of consideration as to detail as makes it almost impossible to mature a plan now for the organ-

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ization of local societies. The Committee will take it up and try to mature some plan if it is seen fit to continue the Committee. Speaking for myself personally, for that was not discussed in our meeting, I do not believe it is feasible to establish county organizations. While there are a few counties in which organizations can be maintained, there are very few, and in a large number of counties members of the bar are so few that it would be impracticable to form an Association, so that my individual view is that the only solution is district Associations.

THE PRESIDENT. It is now moved and seconded that the Committee on Local Associations, appointed at this meeting of the Association, be continued, and that they be requested to report at the next annual session.

Carried.

THE PRESIDENT. A resolution was offered by Mr. London as to whether it was desirable to amend the laws relating to the disbarment, or causes of disbarment, of attorneys, and that resolution has not yet been acted upon. I think a Committee was appointed to take under consideration that resolution. Is that Committee ready to report?

MR. J. W. HINSDALE, of Raleigh. The Committee had a meeting and decided that in the short time we had it would be impossible to come to any conclusion that would be of value.

THE SECRETARY. I suggest that the report of the Committee be received, and that the resolution be referred to the Committee on Legislation and Law Reform.

Seconded and carried.

THE PRESIDENT. There are a number of published reports of the meeting of 1899 for distribution. It is desirable that the members get them.

MR. THOS. S. KENAN, of Raleigh. I move that the thanks of the Association be cordially extended to the Bar of Asheville, to the citizens of Asheville, the Swannanoa Country Club, the Asheville Club, to Mr. McKissick and the Biltmore

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Estate, for the kindnesses and hospitality which have been shown us.

Seconded and carried.

THE PRESIDENT. The Chair announces as the Committee to prepare and submit to the Supreme Court the memorial upon the subject of Legal Education and Period of Instruction, W. D. Pruden, Chairman; James E. Shepherd, F. H. Busbee, B. F. Long and John L. Bridgers.

The roll call was omitted when the Association was called to order. Members who have not yet registered will please do so.

MR A. L. BROOKS, of Greensboro. In view of the report of the Committee on Legislation and Law Reform, requesting that this Association take some action in reference to asking the General Assembly to codify our laws, I desire to offer the following resolution :

*Resolved*, That it is the sense of the North Carolina Bar Association that the next General Assembly should appoint a Code Commission, with power and authority to re-codify the Statute law of this State, and to that end, the President of this Association is hereby directed and empowered to appoint a Committee of three whose duty it shall be to present this resolution to the next General Assembly, respectfully requesting such action.

I suppose the necessity for this work is so important that it is unnecessary for me to make any remarks upon the motion.

MR. J. CRAWFORD BIGGS, of Durham. I am in favor of the resolution, but I would suggest that it be amended so as to provide that the resolution shall go to the Committee on Legislation and Law Reform, whose expenses will be defrayed in attending to these matters.

Motion adopted as amended.

THE SECRETARY. The Secretary has received letters from Judge Simonton and Judge Douglas expressing regret at their inability to be present, and their approval of the aims of the

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Association. The Secretary has also received from certain members letters of regret.

It is moved and seconded that the letters be received and filed in the minutes of the Association.

Carried.

THE SECRETARY. The Secretary has several announcements to make. One is that I am requested by Mr. Merrimon of the Asheville Bar to state that carriages will be in readiness to leave here at 4:30 o'clock this afternoon, to take the Association to the Vanderbilt Estate, and I am also directed by the Executive Committee to announce that the annual banquet by the Association will take place at this hotel to-night at nine o'clock, and that ladies will be expected, and visiting non-resident lawyers.

MR. CHAS. PRICE, of Salisbury. I wish to introduce the following resolution:

*Resolved*, That the thanks of this Association be extended to its President, Hon. Charles F. Warren, for the very able, efficient, and satisfactory administration of the Presidency of this Association, for the year of his incumbency.

Seconded and unanimously carried by rising vote.

THE PRESIDENT. It is needless to say that this is very gratifying to me. I have very much at heart the interest of this Association.

Is there any other business before the Association?

MR. S. GALLERT, of Rutherfordton. I move that the thanks of the Association be extended to the Secretary and Treasurer, Mr. J. C. Biggs, for the efficient manner in which he has filled that office.

Seconded and unanimously carried by rising vote.

MR. JOHN W. HINSDALE, of Raleigh. The Committee to recommend officers of the Association reports as follows:

*To the North Carolina Bar Association:*

Your Committee to whom it was referred to make recommendations of officers for the ensuing year, respectfully report

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the names of the following members of this Association to fill said offices, subject to your approval :

*President.*—C. M. Stedman, Greensboro.

*Vice-Presidents.*—First District, W. D. Pruden, Edenton; Second District, Paul Jones, Tarboro; Third District, W. B. Shaw, Henderson; Fourth District, R. O. Burton, Raleigh; Fifth District, S. M. Gattis, Hillsboro; Sixth District, Junius Davis, Wilmington; Seventh District, M. L. John, Laurinburg; Eighth District, B. F. Long, Statesville; Ninth District, E. B. Jones, Winston; Tenth District, E. J. Justice, Marion; Eleventh District, D. W. Robinson, Lincoln; Twelfth District, Thos. A. Jones, Asheville.

*Secretary and Treasurer.*—J. Crawford Biggs, Durham.

*Members of Executive Committee.*—J. C. Pritchard, Marshall; L. S. Overman, Salisbury.

Upon motion, the report of the Committee to recommend officers was adopted.

MR. H. A. LONDON, of Pittsboro. I think the Constitution requires that the election shall be by ballot. Therefore I move that the report be adopted and the Secretary of the Association be instructed to cast the vote of the Association for the respective officers named therein.

Seconded and carried.

MR. CHAS. M. STEDMAN, of Greensboro :

*Mr. President, Gentlemen and Fellow-members of the North Carolina Bar Association :*

It would be idle for me to attempt to express my appreciation of the high honor you have conferred upon me. As it was with the two distinguished gentlemen who have preceded me in this position, and as I trust it will ever be with those who may follow me, it came without any solicitation whatever. In every civilized State in which a contest has been waged for the liberty, freedom or honor of its people, the members of the legal profession have always been found in the forefront of the fight. When the seal of approbation has been

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placed upon any man's professional life by such a body of lawyers as constitute this organization then might it well gratify his ambition. I understand also fully the responsibility which attaches to the trust you have so generously confided to me. To the fullest extent of my ability I shall endeavor by every honorable and legitimate method to advance the interests of the Association. By so doing I shall win the approval of my own conscience, and deserve not only your approbation but that of all the people of North Carolina whose prosperity and good name it is our wish and desire to augment. I know that I shall have your cordial co-operation.

On motion, the Association then adjourned to meet, subject to the call of the Executive Committeee.

J. CRAWFORD BIGGS,
*Secretary.*

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## SECRETARY'S REPORT.

ASHEVILLE, N. C., June 27, 1900.

*Mr. President and Gentlemen :*

Since the adjournment of our first annual meeting, I have had printed and bound the proceedings of that meeting, entitled "Reports North Carolina Bar Association, Vol. I, 1899." It was deemed wise to include in this edition, the proceedings of our meeting of organization on February 10th, 1899, that there might be a permanent record of the inception of this Association. Five hundred copies of this edition of 150 pages were printed and have been distributed to the active and honorary members of this Association, to the Bar Associations of the different States, to a large number of the State and public libraries and to the leading law periodicals of the United States. The Association has now on hand about 125 copies. Complimentary mention of our Association and its publication has been made by many of the law journals.

At our meeting of organization, 155 active members were enrolled, and at the time of my first annual report this number had been increased to 235. After my report at our last meeting, 12 members were elected to membership, as appears on page 32 of Volume I of the Reports, and immediately following that meeting four members were elected, as appears on page 141 of said Reports, making a total active membership of 251, on July 7th, 1899, as appears in the published Reports.

The Committee on Admissions to Membership has elected, as shown by its report submitted last evening, during vacation 15 members, and at its meeting on yesterday 21 members and at its meeting this morning 13 members, making at the beginning of this our second annual meeting a total active membership of 300 and there are several applications for membership not yet acted upon by the Committee on Admissions to Membership.

This large increase from 151 to 300, of 100 per cent. is most gratifying. The permanence and success of our Association are assured. Its organization has supplied a long felt

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want, and a career of much usefulness and profit is before us if we will only use the opportunities at hand.

Death has not invaded the roll of active members.

Our honorary roll numbers 24, one of whom, Judge Dossey Battle, has died since our last meeting, and his place has been filled by the appointment of Judge Augustus M. Moore.

This office has received in exchange the published reports of the Bar Associations of most of the States and of the American Bar Association.

The By-laws prescribe that the Secretary, in his annual report to the Association, shall give an outline of the business which is to come before the Association at its annual meeting, so far as it relates to propositions or resolutions referred to any special or standing Committee at the previous meeting.

At our last meeting a resolution was passed as follows:

*Resolved*, That a Committee of five be appointed by the President to formulate a plan with reference to local organizations, whether by county or district, and to report its action to the next meeting of the Association.

The President appointed on this Committee, Mr. Thos. J. Jarvis, as Chairman, and Messrs. P. M. Pearsall, S. M. Gattis, C. B. Aycock and Walter Murphy. This is one of the most import nt matters to engage the attention of the Association at this meeting. By no other means can the influence of the State Association be so strengthened and increased, and I trust that the Committee in its report will present to the meeting, valuable suggestions as to the best plan to put into operation these local organizations. There was likewise introduced by Judge W. R. Allen, and passed, a resolution with reference to the increased cost upon appeal to the Supreme Court. This resolution was referred to the Committee on Legislation and Law Reform to report at this meeting.

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## TREASURER'S REPORT.

I herewith submit, as directed by Article II of the By-laws, my second annual report as Treasurer, covering the transactions of this office from the date of my last report July 6th, 1899. At that time, the net balance on hand was $721.97. The receipts for the current year just ending were estimated by me at $420.00, which sum is $18.33 less than the actual recepts, which have been $401.67, being the admission fees paid by 79 members and interest on deposit in Bank. Annexed will be found a list of the members who have paid their admission fees 231; of this number 152 had paid at the time of my last report. These receipts, with the balance on hand of $721.97, make $1,123.64.

Out of this fund have been paid the expenses of the current year, including the expenses of the Banquet at Morehead, the publication of the proceedings, etc., being a total of $614.96, which amount is $85.04 less than the estimated expenditures. I have on hand at this date $508.68. I herewith submit a detailed report of receipts and disbursements:

### RECEIPTS.

As appears from the accounts filed, which have been audited and approved by the Auditing Committee, the total receipts since my last annual report have been as follows:

| | |
|---|---|
| Net balance on hand, July 6th, 1899 | $ 721.97 |
| Admission fees from 79 members | 395.00 |
| Interest on deposit in Savings Bank | 6.67 |
| Total receipts | $1,123.64 |

### DISBURSEMENTS.

The disbursements have been as follows:

| | | | |
|---|---|---|---|
| 1899. | | | |
| July | 8. | Banquet (Atlantic Hotel) | $233.95 |
| July | 11. | American Vintage Co., (wines) | 20.20 |
| July | 24. | Mrs. F. L. Croom, Stenographic work, July '99 meeting | 10.00 |



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| | | | |
|---|---|---|---|
| July 25. | University Press Co., (printing).. | 2.00 | |
| Sep. 20. | University Press Co., (printing).. | 7.25 | |
| Sep. 30. | E. K. Wright, rent of Hall, July Meetings ..... | 20.00 | |
| Oct. 20. | Alfred Williams & Co..... | 1.20 | |
| 1900. | | | |
| Jan. 3. | Seeman Printery, Proceedings, etc. | 175.00 | |
| | Salary of Secretary and Treasurer to June 30, 1900..... | 100.00 | |
| June 8. | Stationery..... | 2.00 | |
| June 21. | Programs and Stationery..... | 5.00 | |
| | Postage and Incidentals from July, 1899 to June 27, 1900 ..... | 38.36 | |
| | | | $ 614.96 |

There are no outstanding debts due by the Association. The balance on hand is $508.68.

The By-laws prescribe that the Treasurer shall at each annual meeting, submit an estimate of the resources and expenditures for the coming current year. The estimate of the receipts of the Association for the current year is as follows:

| | |
|---|---|
| Balance now on hand.....$ | 508.68 |
| Annual dues from 240 members, at $2.00 each | 480.00 |
| Admission fees from 50 members, at $5.00 each | 250.00 |
| | $1,238.68 |

Estimate of the expenses for the coming year is as follows:

| | |
|---|---|
| Annual Banquet at this meeting, including incidentals $ | 275.00 |
| Stenographer at this meeting..... | 20.00 |
| Salary of Secretary and Treasurer ..... | 100.00 |
| Printing and distributing reports of the meeting.... | 200.00 |
| Incidental expenses, during the year..... | 50.00 |
| | $ 645.00 |

This estimate, if correct, will leave in the Treasury at the end of the current year, beginning July 1st, 1900. $593.68.

The Association will bear in mind that since our organization on February 10th, 1899, the only dues and fees paid by the members have been the admission fees of $5.00, and from this

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source has been paid all the expenses of the Association, including the publication and distribution of the proceedings of the meeting of organization and of the first annual meeting, the salary of the Secretary and Treasurer, and the incidental expenses, and I have in hand from the admission fees sufficient funds to meet the expenses of this meeting, including the Banquet and the publication of the proceedings.

The Constitution, Article 8, fixes the annual dues at $2.00. Owing to the large number of accessions to membership at this meeting, we will have sufficient funds to meet the expenses of the Association for the coming year, but, in my opinion the business of the Association cannot be successfully carried on and its work broadened with the proceeds from this amount, $2.00 annual dues, and our surplus, instead of increasing will annually decrease and in a few years there will be a deficiency and I respectfully suggest that the annual dues be increased at this or the next meeting.

In view of the fact that the Legislature of North Carolina convenes in regular session before the next meeting of the Association and important legislation affecting directly the legal profession will come before that body, I suggest that some amount be appropriated by this meeting to defray the expenses of the Committee on Legislation and Law Reform or of the Committee on Judiciary or both. In this way, the work and influence of this body will take practical form.

I desire to bring to the attention of the Committee on Memorials, the requirement in the Constitution that the Committee shall prepare or secure annually, at least, one biographical sketch of some member of the Bench or Bar of North Carolina, now deceased, having special reference to his professional career.

I take this opportunity of notifying the members that the annual dues for the current year, beginning July 1st, 1900, are payable on or before the first day of September, and the Treasurer is now ready to receive the same.

Respectfully submitted,

J. CRAWFORD BIGGS,

*Secretary and Treasurer.*

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## REPORT OF THE EXECUTIVE COMMITTEE.

*To the President of the North Carolina Bar Association:*

Your Executive Committee begs leave to report that on the 4th day of January, of the present year, it held a meeting in the city of Raleigh, and organized by selecting J. S. Manning, Chairman; and H. A. London, Secretary. At that meeting the time and place for holding the second meeting of the State Bar Association was fixed, and the subjects of the addresses to be delivered suggested. At this meeting the Committee took steps to obtain a non-resident speaker of note, in our profession, to deliver an address before this meeting of the Association. The invitation of your Committee was not acted upon by the gentleman selected until some three months after it was extended, and then it was declined on account of ill health. After that your Committee made efforts to secure an address by other non-resident lawyers of national reputation, but failed to secure an acceptance from one. Your Committee acknowledges that the mistake it made was in its endeavor to secure a speaker from the Bench of our country of national reputation, and the mistake was not recognized until too late to correct it. The Committee endeavored to secure from the railroad companies a reduction of rates below the summer schedule, but failed to do so.

The programme of the meeting of this Association was published and printed as early as practicable, and sent to each member of the Association by the Secretary.

J. S. MANNING, *Chairman.*

H. A. LONDON, *Secretary.*

## REPORT OF COMMITTEE ON ADMISSIONS TO MEMBERSHIP.

*To the Honorable North Carolina Bar Association:*

Your Committee on Admissions to Membership submits the following report:

Since the last meeting of the Association, the Committee has passed upon and admitted to membership, during vacation, the following members, to-wit: Geo. F. Bason, of Charlotte; Ire-

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dell Meares, of Wilmington; B. B. Winbourne, of Murfreesboro; Alf. S. Barnard, of Asheville; L. P. McLoud, of Asheville; Duff Merrick, of Asheville; R. H. McNeill, of Jefferson; James W. McNeill, of Wilkesboro; W. W. Barber, of Wilkesboro; T. B. Finley, of North Wilkesboro; Spencer Blackburn, of Winston; Frank A. Linney, of Taylorsville; J. L. Gwaltney, of Wilkesboro; H. L. Green, of Wilkesboro; Chas. McNamee, of Asheville.

The Committee has passed upon and admitted to membership, at its present annual sitting, the following members, to-wit: A. S. Heilig, of Salisbury; Walter H. Woodson, of Salisbury; H. C. Chedester, of Asheville, B. F. Long, of Statesville, John S. Henderson, of Salisbury; Thos. S. Kenan, of Raleigh; Cameron F. MacRae, of Raleigh; R. B. Redwine, of Monroe; Jas. L. Webb, of Shelby; J. A. Anthony, of Shelby; W. A. Smith, of Hendersonville; T. H. Cobb, of Asheville; Zeb. F. Curtis, of Asheville; Saml. H. Reed, of Asheville; John H. Martin, of Black Mountain; V. S. Lusk, of Asheville; Walter B. Gwyn, of Asheville; D. M. Luther, of Asheville; Jones Fuller, of Durham; Arthur Cobb, of Durham; Jas. C. McRae, Jr., of Chapel Hill.

The above names are included in the preliminary report already filed.

The following have been passed upon and admitted to membership by the Committee, since filing the preliminary report, to-wit: H. C. Jones, of Charlotte; P. M. Thompson, of Charlotte; H. N. Pharr, of Charlotte; J. W. Keerans, of Charlotte; Lotte W. Humphrey, of Charlotte; W. R. Whitson, of Asheville; Geo. A. Shuford, of Asheville; Jas. M. Moody, of Waynesville; J. D. Murphy, of Asheville; Thos. S. Rollins, of Marshall, Coleman C. Cowan, of Webster; Theodore F. Davidson, of Asheville; Max French Van Gilder, of Asheville.

Your Committee would direct the attention of the Association to the fact that most of the accessions to membership since the last annual meeting, came from two judicial districts, which indicates a want of interest in the members of the Association located in the other districts, and we would recommend that the President appoint, as far as practicable, one

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member of the Association in every county in which the Association has membership, whose duty it shall be to solicit reputable attorneys residing in his county, or adjoining counties where there is no resident member of the Association, for membership.

Respectfully submitted,

W. B. SHAW, *Chairman.*

S. GALLERT, *Secretary pro tem.*

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## RERORT OF COMMITTEE ON LEGAL ETHICS.

*To the North Carolina Bar Association :*

The Committee on Legal Ethics respectfully report that they find their labors much lightened by the Codes upon this subject which have been adopted by the Bar Associations of sister States.

They present a Code of Legal Ethics for the consideration of this Association, which is substantially the same as that which has been adopted by the Bar Associations of Alabama, Georgia, Virginia and perhaps other States.

Respectfully submitted,

JAS. C. MACRAE, Ch'm'n.
ARMISTED BURWELL,
*Committee.*

## REPORT OF COMMITTEE ON LEGAL ETHICS.

### CODE OF ETHICS.

**Adopted by the Bar Association, June 28th, 1900.**

The purity and efficiency of judicial administration, which under our system is largely government itself, depends as much upon the character, conduct, and demeanor of attorneys in their great trust as upon the fidelity and learning of courts or the honesty and intelligence of juries.

"There is, perhaps, no profession, after that of the sacred ministry, in which high-toned morality is more imperatively necessary than that of the law. There is certainly, without any exception, no profession in which so many temptations beset the path to swerve from the lines of strict integrity; in which so many delicate and difficult questions of duty are constantly arising. There are pitfalls and mantraps at every step, and the mere youth, at the very outset of his career, needs often the prudence of self-denial, as well as the moral courage, which belong commonly to riper years. High moral principle is his only safe guide; the only torch to light his way amidst darkness and obstruction."—*Sharswood.*

No rule will determine an attorney's duty in the varying phases of every case. What is right and proper must, in the

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absense of statutory rules and an authoritative code, be ascertained in view of the peculiar facts, in the light of conscience, and the conduct of honorable and distinguished attorneys in similar cases, and by analogy to the duties enjoined by statute, and the rules of good neighborhood.

The following general rules are adopted by the North Carolina Bar Association for the guidance of its members:

*Duties of Attorneys to Courts and Judicial Officers.*

1. The respect enjoined by law for courts and judicial officers is exacted for the sake of the office, and not for the individual who administers it. Bad opinion of the incumbent, however well founded, cannot excuse the withholding of the respect due to the office while administering its functions.

2. The proprieties of the judicial station, in a great measure, disable the judge from defending himself against strictures upon his official conduct. For this reason, and because such criticisms tend to impair public confidence in the administration of justice, attorneys should, as a rule, refrain from published criticism of judicial conduct, especially in reference to causes in which they have been of counsel, otherwise than in courts of review, or when the conduct of the judge is necessarily involved in determining his removal from or continuance in office.

3. Marked attention and unusual hospitality to a judge, when the relations of the parties are such that they would not otherwise be extended, subject both judge and attorney to misconstruction, and should be sedulously avoided. A self-respecting independence in the discharge of the attorney's duties, which, at the same time, does not withhold the courtesy and respect due the judge's station, is the only just foundation for cordial, personal, and official relations between Bench and Bar. All attempts by means beyond these to gain special personal consideration and favor of a judge are disreputable.

4. Courts and judicial officers, in the rightful exercise of their functions, should always receive the support and countenance of attorneys against unjust criticism and popular clamor; and it is an attorney's duty to give them his moral support in all proper ways, and particularly by setting a good example in his own person of obedience to law.

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5. The utmost candor and fairness should characterize the dealings of attorneys with the courts and with each other. Knowingly citing as authority an overruled case, or reading a repealed statute as in existence; knowingly misquoting the language of a decision or text-book; knowingly misstating the contents of a paper, the testimony of a witness, or the language or arguments of the opposite counsel; offering evidence which it is known the court must reject as illegal, to get it before a jury under guise of arguing its admissibility, and all kindred practices, are deceits and evasions unworthy of attorneys.

Purposely concealing or withholding in the opening argument positions intended finally to be relied on, in order that opposite counsel may not discuss them, is unprofessional.

In the argument of demurrers, admission of evidence, and other questions of law, counsel should carefully refrain from "side-bar" remarks and sparring discourse to influence the jury or by-standers. Personal colloquies between counsel tend to delay, and promote unseemly wrangling, and ought to be discouraged.

6. Attorneys owe it to the courts, and the public whose business the courts transact, as well as to their own clients, to be punctual in attendance on their causes; and whenever an attorney is late, he should apologize, or explain his absence.

7. One side must always lose the cause; and it is not wise or respectful to the court for attorneys to display temper because of an adverse ruling.

*Duty of Attorneys to Each Other, to Clients, and the Public.*

8. An attorney should strive, at all times, to uphold the honor, maintain the dignity, and promote the usefulness of the profession; for it is interwoven with the administration of justice, that whatever redounds to the good of one, advances the other; and the attorney thus discharges, not merely an obligation to his brothers, but a high duty to the State and his fellow-man.

9. An attorney should not speak slightingly or disparagingly of his profession, or pander in any way to the unjust popular prejudices against it; and he should scrupulously refrain at all times, and in all relations of life, from availing himself of any

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prejudice or popular misconception against lawyers, in order to carry a point against a brother attorney.

10. Nothing has been more potential in creating and pandering to popular prejudice against lawyers as a class, and in withholding from the profession the full measure of public esteem and confidence which belong to the proper discharge of its duties, than the false claim, often set up by the unscrupulous in defence of questionable tranactions, that it is an attorney's duty to do everything to succeed in his client's cause.

An attorney "owes entire devotion to the interests of his client, warm zeal in the maintenance and defence of his cause, and the exertion of the utmost skill and ability," to the end that nothing may be taken or withheld from him save by the rules of law, legally applied. No sacrifice or peril, even to loss of life itself, can absolve from the fearless discharge of his duty. Nevertheless, it is steadfastly to be borne in mind that the great trust is to be performed within, and not without, the bounds of the law which creates it. The attorney's office does not destroy man's accountability to his Creator, or loosen the duty of obedience to law, and the obligation to his neighbor; and it does not permit, much less demand, violation of law, or any manner of fraud or chicanery, for the client's sake.

11. Attorneys should fearlessly expose before the proper tribunals corrupt or dishonest conduct in the profession; and there should never be any hesitancy in accepting employment against an attorney who has wronged his client.

12. An attorney appearing or continuing as private counsel in the prosecution for a crime of which he believes the accused innocent, forswears himself. The State's attorney is criminal, it he presses for a conviction, when upon the evidence he believes the prisoner innocent. If the evidence is not plain enough to justify a *nolle prosequi* a public prosecutor should submit the case, with such comments as are pertinent, accompanied by a candid statement of his own doubts.

13. An attorney cannot reject the defence of a person accused of a criminal offence because he knows or believes him guilty. It is his duty, by all fair and lawful means, to present such defences as the law of the land permits, to the end that no one may be deprived of life or liberty but by due process of law.

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14. An attorney must decline in a civil cause to conduct a prosecution, when satisfied that the purpose is merely to harass or injure the opposite party, or to work oppression and wrong.

15. It is a bad practice for an attorney to communicate or argue privately with the judge as to the merits of his cause.

16. Newspaper advertisements, circulars, and business cards, tendering professional services to the general public, are proper; but special solicitation of particular individuals to become clients ought to be avoided. Indirect advertisements for business, by furnishing or inspiring editorials or press notices regarding causes in which the attorney takes part, the manner in which they were conducted, the importance of his positions, the magnitude of the interests involved, and all other like self-laudation, is of evil tendency and wholly unprofessional.

17. Newspaper publications by an attorney as to the merits of pending or anticipated litigation, calling for discussion and reply from the opposite party, tend to prevent a fair trial in the courts, and otherwise prejudice the due administration of justice. It requires a strong case to justify such publications; and, when proper, it is unprofessional to make them anonymously.

18. When an attorney is witness for his client, except as to formal matters, such as the attestation or custody of an instrument and the like, he should leave the trial of the cause to other counsel. Except when essential to the ends of justice, an attorney should scrupulously avoid testifying in court in behalf of his client as to any matter.

19. Assertions, sometimes made by counsel in argument, of a personal belief of the client's innocence, or the justice of his cause, are to be discouraged.

20. It is indecent to hunt up defects in titles, and the like, and inform thereof, in order to be employed to bring suit; or to seek out a person supposed to have a cause of action, and endeavor to get a fee to litigate about it. Except where ties of blood, relationship, or trust make it an attorney's duty, it is unprofessional to volunteer advice to bring a law suit. Stirring up strife and litigation is forbidden by law, and disreputable in morals.

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21. Communications and confidence between client and attorney are the property and secrets of the client, and cannot be divulged except at his instance; even the death of the client does not absolve the attorney from obligation of secrecy.

22. The duty not to divulge the secrets of clients extends further than mere silence by the attorney, and forbids accepting retainers or employment afterwards from others, involving the client's interest in the matters about which the confidence was reposed. When the secrets or confidence of a former client may be availed of or be material in a subsequent suit, as the basis of any judgment which may injuriously affect his rights, the attorney cannot appear in such cause without the consent of his former client.

23. An attorney can never attack an instrument or paper drawn by him for any infirmity apparent on its face; nor for any other cause where confidence has been reposed as to the facts concerning it. Where the attorney acted as a mere scrivener, and was not consulted as to the facts, and, unknown to him, the transaction amounted to a violation of the laws, he may assail it on that ground in suits between third persons, or between parties to the instrument and strangers.

24. An attorney openly, and in his true character, may render purely professional services before committees regarding proposed legislation, and in advocacy of claims before departments of the government, upon the same principles of ethics which justify his appearance before the courts; but it is immoral and illegal for an attorney so engaged to conceal his attorneyship, or to employ secret personal solicitations, or to use means other than those addressed to the reason or understanding, to influence action.

25. An attorney can never represent conflicting interests in the same suit or transaction, except by express consent of all so concerned, with full knowledge of the facts. Even then such a position is embarrassing and ought to be avoided. An attorney represents conflicting interests, within the meaning of this rule, when it is his duty, in behalf of one of his clients, to contend for that which duty to other clients in the transaction requires him to oppose.

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26. "It is not a desirable professional reputation to live and die with—that of a rough tongue, which makes a man to be sought out and retained to gratify the malevolent feeling of a suitor, in hearing the other side well lashed and vilified."

27. An attorney is under no obligation to minister to the malevolence or prejudice of a client in the trial or conduct of a cause. The client cannot be made the keeper of an attorney's conscience in professional matters. He cannot demand as of right that his attorney shall abuse the opposite party, or indulge in offensive personalities. The attorney, under the solemnity of his oath, must determine for himself whether such a course is essential to the ends of justice, and therefore justifiable.

28. Clients, and not their attorneys, are the litigants; and, whatever may be the ill-feeling existing between clients, it is unprofessional for attorneys to partake of it in their conduct and demeanor to each other, or to suitors in the case.

29. In the conduct of litigation, and the trial of causes, the attorneys shall try the merits of the cause, and not try each other. It is not proper to allude to, or comment upon the personal history, or mental or physical peculiarities, or idiosyncrasies, of opposite counsel. Personalities should always be avoided, and the utmost courtesy always extended to an honorable opponent.

30. As to incidental matters pending the trial, not affecting the merits of the cause, or working substantial prejudice to the rights of the client, such as forcing the opposite attorney to trial when he is under affliction or bereavement; forcing the trial on a particular day, to the serious injury of the opposite attorney, when no harm will result from a trial at a different time; the time allowed for signing a bill of exceptions, crossing interrogatories, and the like, the attorney must be allowed to judge. No client has a right to demand that his attorney shall be illiberal in such matters, or that he should do anything therein repugnant to his own sense of honor and propriety; and if such a course is insisted on, the attorney should retire from the cause.

31. The miscarriage to which justice is subject, and the uncertainty of predicting results, admonish attorneys to beware

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of bold and confident assurances to clients, especially where the employment depends upon the assurance, and the case is not plain.

32. Prompt preparation for trial, punctuality in answering letters and keeping engagements, are due from an attorney to his client, and do much to strengthen their confidence and friendship.

33. An attorney is in honor bound to disclose to the client, at the time of retainer, all the circumstances of his relation to the parties, or interest or connection with the controversy, which might justly influence the client in the selection of his attorney. He must decline to appear in any cause where his obligations or relations to the opposite parties will hinder or seriously embarrass the full and fearless discharge of all his duties.

34. An attorney should endeavor to obtain full knowledge of his client's cause before advising him, and is bound to give him a candid opinion of the merits and probable result of his cause. When the controversy will admit of it, he ought to seek to adjust it without litigation, if practicable.

35. Money, or other trust property, coming into the possession of the attorney should be promptly reported, and never commingled with his private property or used by him, except with the client's knowledge and consent.

36. Attorneys should, as far as possible, avoid becoming either borrowers or creditors of their clients; and they ought scrupulously to refrain from bargaining about the subject-matter of the litigation, so long as the relation of attorney and client continues.

37. Natural solicitude of clients often prompts them to offer assistance of additional counsel. This should not be met, as it sometimes is, as evidence of want of confidence; but, after advising frankly with the client, it should be left to his determination.

38. Important agreements affecting the rights of clients should, as far as possible, be reduced to writing; but it is dishonorable to avoid performance of an agreement fairly made, because not reduced to writing, as required by rules of court.

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39. Attorneys should not ignore known customs of practice of the Bar of a particular court, even when the law permits, without giving opposing counsel timely notice.

40. An attorney should not attempt to compromise with the opposite party without notifying his attorney, if practicable.

41. When attorneys jointly associated in a cause cannot agree as to any matter vital to the interest of their client, the course to be pursued should be left to his determination. The client's decision should be cheerfully acquiesced in, unless the nature of the difference makes it impracticable for the attorney to co-operate heartily and effectively, in which event it is his duty to ask to be discharged.

42. An attorney ought not to engage in discussion or argument about the merits of the case with the opposite party without notice to his attorney.

43. Satisfactory relations between attorney and client are best preserved by a frank and explicit understanding at the outset, as to the amount of the attorney's compensation; and, where it is possible, this should always be agreed on in advance.

44. In general, it is better to yield something to a client's dissatisfaction at the amount of the fee, though the sum be reasonable, than to engage in a law suit to justify it, which ought always to be avoided, except as a last resort to prevent imposition and fraud.

45. In fixing fees, the following elements should be considered: 1st. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite properly to conduct the cause. 2d. Whether the particular case will debar the attorney's appearance for others in cases likely to arise out of the transaction and in which there is a reasonable expectation that the attorney would otherwise be employed; and herein of the loss of other business while employed in the particular case, and the antagonism with other clients growing out of the employment. 3d. The customary charges of the Bar for similar services. 4th. The real amount involved, and the benefit resulting from the service. 5th. Whether the compensation was contingent or assured. 6th. Is the client a regular one, retaining the attorney in all his business? No

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one of these considerations is in itself controlling. They are mere guides in ascertaining what the service was really worth; and, in fixing the amount, it should never be forgotten that the profession is a branch of the administration of justice, and not a mere money-getting trade.

46. Contingent fees may be contracted for; but they lead to many abuses, and certain compensation is to be preferred.

47. Casual and slight services should be rendered without charge by one attorney to another in his personal cause; but when the service goes beyond this, an attorney may be charged as other clients. Ordinary advice and services to the family of a deceased attorney should be rendered without charge in most instances, and where the circumstances make it proper to charge, the fees should generally be less than in case of other clients.

48. Witnesses and suitors should be treated with fairness and kindness. When essential to the ends of justice to arraign their conduct or testimony, it should be done without vilification or unnecessary harshness. Fierceness of manner and uncivil behavior can add nothing to the truthful dissection of a false witness' testimony, and often rob deserved strictures of proper weight.

49. It is the duty of the court and its officers to provide for the comfort of jurors. Displaying special concern for their comfort, and volunteering to ask favors for them while they are present—such as frequent motions to adjourn trials, or take a recess, solely on the ground of the jury's fatigue or hunger, the uncomfortableness of their seats or the court-room, and the like—should be avoided. Such intervention of attorneys, when proper, ought to be had privately with the court, whereby there will be no appearance of fawning upon the jury, nor ground for ill-feeling of the jury toward court or opposite counsel, if such requests are denied. For like reasons, one attorney should never ask another, in the presence of the jury, to consent to its discharge or dispersion; and when such a request is made by the court, the attorneys without indicating their preference, should ask to be heard after the jury withdraws. And all propositions from counsel to dispense with

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argument should be made and discussed out of the hearing of the jury.

50. An attorney ought never to converse privately with jurors about the case; and must avoid all unnecessary communication, even as to matters foreign to the cause, both before and during the trial. Any other course, no matter how blameless the attorney's motives, gives color for imputing evil designs, and often leads to scandal in the administration of justice.

51. An attorney assigned as counsel for an indigent prisoner ought not to ask to be excused for any light cause, and should always be a friend to the defenceless and oppressed.

## REPORT OF COMMITTEE ON LEGISLATION AND LAW REFORM.

*To the President and Members of the North Carolina Bar Association:*

The Committee on Legislation and Law Reform beg leave to submit the following report:

In accordance with the duty imposed upon them by Section 5 of the By-laws of the Association, they have taken into consideration such amendments to the laws and of the judicial procedure as in their opinion will facilitate the administration of justice.

They suggest to the Association that the next General Assembly of this State be urged to legislate upon the following subjects.

### CODIFICATION.

Before entering into a consideration of the present needs of codification it may not be without interest to make a hasty review of the history of codification of the laws of the State during the present century. Your Committee therefore beg your indulgence for a few moments to permit them to go back into the past and thereby the better to understand the present.

We find that at "A General Biennial Assembly held at the House of Capt. Richard Sanderson at Little River, begun on the 17th day of November, 1715, and continued by several



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adjournments until the 19th day of January, 1716," it was among other things provided,

"That the Chief Justice and the Clerks of each and every Precinct Court shall take care that the transcript or book of laws deposited in his or their custody shall be constantly laid open upon the Court Table during the sitting of the Court for the perusal of such members of the Court or other persons litigating causes therein as shall have occasion so to do."

The provision illustrates the care which the law-makers of that day took to give to all persons an opportunity to read for themselves the laws of the land and for those who were unable to read it was further provided, "That the Clerks of each Court shall at the next term after the receipt thereof, publicly and in open court read over the same and so yearly at the first Court next following the first day of May."

The labor involved in examining the numerous chapters of the several volumes of the laws, with in many cases, obscure indices, to ascertain the present condition of the statutes, consumes more time in this busy age that the citizen should be required to spare. We find that at the General Assembly of 1833 it is provided "That three Commissioners should be appointed by the Governor, to collate, digest and revise all public statutes of the State." The work thus provided for was done by Frederick Nash, James Iredell and Wm. H. Battle, Esqs., and printed and published under the supervision of Jas. Iredell and Wm. H. Battle, Esqs., in two volumes in 1837.

The 1st volume contained the general statutes in force. The 2d contained chapters on Railroads, Banks and other corporations and the boundaries of the several counties. To the 1st volume is a "Preface" in which is given an interesting sketch of the Legislation of the State from its earliest period. These volumes are known as the "Revised Statutes."

At the session of 1850 provision was made for another revisal of the statutes and pursuant thereto B. F. Moore, Asa Biggs and R. M. Saunders, Esqs., were appointed Commissioners. Judge Saunders resigned and the work was completed by Messrs. Moore and Biggs and reported to the session of 1854.

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The Statutory law as thus compiled was printed and published under the supervision of Bartholomew F. Moore and W. B. Rodman in 1855, and is known as the "Revised Code."

In 1873 the General Assembly directed Judge Wm. H. Battle to revise the statutes of the State, and gave us in 1873 "Battle's Revisal" in one volume. The value of this work was seriously impaired by reason of the failure of the General Assembly to enact the Revisal in one Statute and repeal all acts not therein contained. See State vs. Cunningham, 72-469.

At the session of 1881, by Chapter 145, W. T. Dortch, John S. Henderson and John Manning, Esqs., were appointed Commissioners and directed to collect and reduce into one act the different acts and parts of acts which, from similarity of subject, ought, in their opinion, to be so arranged and consolidated; distributing them under such titles and sections as they shall think proper, with marginal notes of such statutes as may be collected and digested into one section, title or division, with full references under each section to the decisions of the Supreme Court pertaining thereto. Pursuant to the duty imposed upon them, the Commissioners proceeded to form and at the session of 1883 reported as a result of their labors the present Code. The report was accepted and enacted as one act, and the statute law of the State thus became collected, arranged and digested in the chapters and sections of the present Code. The work of these eminent lawyers was in all respects acceptable to the people and the profession.

Since the enactment of the present Code there has been held in the State nine sessions of the General Assembly and eighteen sittings of the Supreme Court, and we have a corresponding number of volumes of laws and reports. An examination of two volumes of the Public Laws shows that an average of fifty changes have been made at each session, thereby aggregating about 450 changes by which sections of the present Code have been "repealed, altered or amended." It would involve more time and labor than your Committee have been able to spare to ascertain the number of cases in which the various sections of the Code have been construed by the Court.

Thus we see that the present statute law of the State is contained in the two volumes of the Code and nine volumes of

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the Public Laws of the State, enacted since the Code. By this hasty review of the subject we may conclude that experience has shown that at periods of about twenty years apart there arises a necessity for "collecting, compiling and revising the statute law of the State." There will doubtless be a variety of opinion when the question comes for settlement as to the best manner in which to do this work and the extent of the power to be conferred upon the Commissioners.

An examination of the statutes whereby the Commissioners heretofore appointed were to be guided will show that they have been confined to the duty of "collecting, arranging and revising the statutes in force."

Messrs. Biggs and Moore, in their report to the General Assembly in 1854, stated "that they had departed in very essential respects from the course pursued by former Commissioners. That they had not only compiled and brought together the different acts and parts of acts on the same subject, but they had consolidated them by fusing them together and giving character as of a single enactment and as to a great many, indeed most of the acts, they had expunged the verbiage when it was cumbersome and imparted no aid to the meaning of the law."

It has always been conceded that the "Revised Code" was the most satisfactory work of the character which has ever been done in the State.

Of necessity many statutes are hastily drawn and but few of our legislators are skilled in the art of using the language of the law, hence it frequently happens that acts of the General Assembly when subjected to the criticism of the Court in their application to cases fail to effectuate the intention of the law-makers. Say the Commissioners hereinbefore quoted, "In not a few cases the known purpose of the laws have been defeated by judicial decision (a calamity which sometimes befalls the best considered statutes)."

The codification of the laws in the sense of embodying in one statute the entire body of the law as in the Codes of those States where the Civil law forms the basis of the jurisprudence, is hardly practicable at this time. It is by no means uncertain

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that this will not be undertaken at some time with success. It would seem that the extent to which we may codify at this time is to be measured by successful efforts in this direction in the past.

The Committee is of the opinion that the Association should recommend that the next General Assembly provide for the appointment of three Commissioners, eminent lawyers, who having the taste and talent for the work, shall undertake the task. The Assembly should mark out the lines upon which they shall work. They should carefully examine the present status of the statute law of the State and in connection therewith carefully study the decisions of the Court appertaining thereto. They should collect and revise the statutes under appropriate chapters and sections, which should be arranged in logical order. Where the language of the statute is obscure or where by judicial construction the reading of the same will not convey to the mind the true meaning thereof, the Commission should be empowered to so revise that the true ends and purposes of the statute will be obtained.

In those cases where, by construction of the Court, the sections or statutes work a hardship the Commission should have the power to modify and revise so as to meet the true intent of the Legislature.

The Commissioners should also, so far as possible, adhere to the arrangement of the Code of 1883. All sections which bear one upon the other should be referred to in the marginal notes and all cases of the Supreme Court should be annotated in the Code at the correct section. Of course the Commission will be required to report to the next session of the General Assembly.

In passing we would recommend that the statute appointing the Commission be carefully drawn and ample power in the premises be given them.

In the practical life of the North Carolina Lawyer he has to meet with many obscure statutes, we may say imperfect one. To remedy this, to point out the way to true reform, and not to reform simply for the sake of tearing up the old and bringing in the new, the Commissioners should devote their attention.

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We desire further to call the attention of the Association to several branches of the law which require legislation. These are, the Corporation laws, the Divorce laws, the Statutes of Limitation and the respective status of the personal representative of a deceased partner and the surviving partner, as set forth in the recent case of Hodgin vs. Bank, from Forsyth.

In Hodgin vs. Bank it is laid down, and it is no new doctrine, that the surviving partner is a trustee to collect partnership assets and to pay off partnership debts, to wind up the affairs of the partnership and pay over the balance, if any, to the personal representative of his deceased partner, as he may be entitled.

But there is no provision in our law for a settlement of partnership affairs or method of control over the surviving partner, not yet any provisions by which his liability may be ascertained and to call him to account, save by a suit instituted in the Superior Court at term time for that purpose.

This method, while effectual, requires more time than it should. There is no good reason why the Clerk of the Court in his capacity of Probate Court should not have jurisdiction in these matters. The surviving partner should, immediately upon the death of his co-partner, file an inventory of the assets and liabilities of the firm, should render stated accounts of the conduct of his trust. In other words, the surviving partner, having many duties analagous to that of a personal representative, should be compelled to discharge his duties in a similar manner. Certainly something should be done to remedy the uncertainty and indefiniteness which at present exists along this line.

A matter of growing, we may say vital importance, to the industrial development of the State, is the present state of our Corporation Laws.

Notwithstanding the provisions of Article VIII, Section 1, of the Constitution, that "Corporations may be formed under general laws, but shall not be created by special acts except for municipal purposes and in those cases where, in the judgment of the Legislature, the objects of the corporations cannot be obtained under general laws," the General Assembly at

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every session is burdened with the passage of numerous charters for industrial, charitable and other corporate purposes. The General Assembly of 1899 passed 102 charters for industrial corporations.

Says a recent author on "Business Corporations:" "Formerly such charters were granted by special acts of the State Legislatures in particular States. Now in many States, in order to avoid favoritism and grave abuses resulting from this method of incorporation, special charters are prohibited by the Constitution. Even in those States where the Legislature still retains this power it is rarely exercised. Indeed general laws have been enacted whereby all applicants complying with the forms and requirements may become incorporated for any of the usual business purposes. Most of the States rightly impose greater restrictions and make requirements more severe when the charters are taken out by railway, banking or insurance companies."

Objection is made by those seeking to have the General Assembly by special acts to grant them charters, when directed to incorporate under the general laws that charters thereby obtained do not fully set forth the powers of the company and do not recommend themselves to the investors and capitalists. It must be conceded that the General Law as contained in Chapter 16, Volume I, of the Code, and the Acts of the General Assembly amendatory thereto, are crude and unsatisfactory. Banking, Railway and Insurance Companies are excluded. It is true that railroads are provided for by a special act. Among other reasons why the Constitutional prohibition should be observed is because of another Constitutional prohibition, and that is the limited time within which the General Assembly can stay in session, which should be given to general legislation. The labor involved in the examination of the charters presented for enactment is more than the Committee to whom they are referred can possibly give. They have other duties. The consequence is that often dangerous provisions are inserted in these charters which, if sufficiently examined and understood, would not be granted. These charters are usually drawn by attorneys for the corporation and the interest of the State is often not as thoroughly considered as the interest of the client.

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The Committee would suggest that the Association appoint a special Committee who shall in some appropriate manner propose an act to the General Assembly for the formation of all private corporations otherwise than by special acts.

Without entering into a consideration of the details of such an act, the Committee would suggest that before the granting of any charter an application should be filed with the Secretary of State, setting forth all the powers desired by the corporation. If the corporation is to be an ordinary business one, the application should be certified to the Attorney-General, who shall examine into the same and report to the Secretary of State his opinion of the same. If the corporation is to be a banking or railroad company, then the application should be certified to the Corporation Commission, if an educational one then to the Superintendent of Public Instruction, and if for an insurance company then to the Commissioner of Insurance. All these offices and officers should be empowered to consult the Attorney-General as to whether there was anything contained in the application contrary to the public laws of the State and of public policy. This method, it seems to the Committee, would insure greater safety than we have at present.

Without recommending them to the favorable consideration of any one, we would call attention to the fact that the States of New York, New Jersey, Deleware and West Virginia have devoted much thought to their Corporation Laws and the present acts are worthy of the consideration of the other States.

We might enact a banking statute similar to the National Banking Act of Congress and confer upon the Corporation Commission powers similar to that of the Comptroller.

No one having the highest interest of the State at heart can view the growing causes for divorce which are making their way into the law of the State, without serious apprehension.

In many cases it is obvious that the new "cause" is one enacted for the relief of some individual who has appealed to the sympathy of some member. The Committee is of the opinion that it would be well to return to the old paths and have only one cause for absolute divorce.

Among the records of the General Biennial Assembly held at the home of Captain Sanderson in 1715, at Little River, we

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are told that "many well drawn and important acts were drawn," among which may be mentioned "An act concerning old titles to lands and limitation of actions and for avoiding suits at law." Since that day we have been passing statutes with similar titles and for the same purpose. It is a singular fact that with experience of all these years and the numerous decisions of the Supreme Court on the subject there is no question which presents greater perplexity to the practicing lawyer and about which there is so much doubt as to the application of the Statutes of Limitation. Statutes of repose do not always afford repose.

We respectfully recommend the increase of the Superior Court Judges. We think that this is imperatively demanded by the recent decision of the Supreme Court of North Carolina, which in effect abolishes the criminal courts of North Carolina, and the congested condition of the civil issue dockets of many of the counties in the State.

We respectfully recommend the appointment of court stenographers, in the interest of economy and of justice.

We recommend that appropriate Committees be directed to draft bills for the foregoing objects, and that they be presented to the next session of the General Assembly of North Carolina.

JOHN W. HINSDALE,
*For Committee.*

## REPORT OF THE JUDICIARY COMMITTEE.

The Judiciary Committee submits the following as its report:

The Chairman of the Committee, the Hon. Platt Walker, has been unable to attend this session owing to a bereavement in his family; and, for the same reason, he has not been able to send in a report.

If any meeting of the Committee has ever been held I am not aware of it. Being the only member of the Committee present, I do not feel that I should submit a report to the Association, as it might not reflect the views of even a majority of the Committee. Respectfully submitted,

THOS. A. JONES,
*Member of Judiciary Committee.*

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## REPORT OF COMMITTEE ON MEMORIALS.

MR. PRESIDENT:—Your Committee on Memorials beg leave to report that but one member of the Association has died during the past year. The Hon. Dossey Battle died at his home in Rocky Mount, on the 28th day of March, 1900.

He was in his fifty-ninth year. A mere lad, at the age of eighteen, he left the University of North Carolina to become a soldier in the ranks of the Confederacy. He bore himself bravely on the field of battle, and afterwards in defense of his country's rights. The illness which terminated his life was short, and his death was somewhat unexpected.

Immediately after the war he was licensed to practice law, and he soon had a large clientage in his native county. His tastes were for newspaper work, and in 1875 he assumed editorial charge of the Tarborough Southerner and soon made that paper known from one end of the State to the other. Several times his brethren of the press showed their estimation of him by electing him President of the North Carolina Press Association, and orator at their gatherings. As an editor, he originated needed reforms, and it was owing to his persistent agitation of the subject that our present law against cruelty to animals was passed. Under the homely phrase of "Hog and Hominy," he contributed articles which tended in a large measure to produce the diversification of crops in his section. For some years he was associated in the editorial conduct of the Wilmington Messenger.

Some years ago he returned to the practice of the law and located at Rocky Mount. Here his thorough knowledge of the law, his prompt attention to business, his genial and pleasant greeting, and his sunny nature soon built up a large practice.

In 1898 he was elected Judge of the Eastern Criminal District, overcoming an adverse majority of nearly ten thousand votes. He acquired reputation on the bench as a careful, painstaking, merciful and just officer. He was a Chesterfield in politeness. It was inate.

Dossey Battle was endowed with many lovable traits, which endeared him to all, and there is scarcely a person who knew

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him who did not feel that he had suffered a personal bereavement in his death. The estimate in which he was held by our brethren of the profession where he lived is best given in the Bar meeting at Tarboro. The following are the proceedings of the Tarboro Bar on the afternoon of his death:

"Having received the sad intelligence of the death of Hon. Dossey Battle, Judge of the Eastern Circuit Criminal Court, a meeting of the members of the Tarboro Bar was held at the office of the Clerk of the Superior Court at 3 p. m.

"Mr. H. L. Staton was called to preside as Chairman and Mr. James R. Gaskill to act as Secretary of the meeting.

"On motion, the Chairman named Messrs. John L. Bridgers, G. M. T. Fountain, and Donnell Gilliam to prepare appropriate resolutions.

"The Committee reported the following resolutions, which were adopted:

"WHEREAS, The deceased, Hon. Dossey Battle, was for many years a resident member of the Tarboro Bar, and during the entire period of his professional life intimately associated with its members, and closely bound to them by warm ties of regard and affection, as a testimonial of our sympathy and regard, be it resolved:

"1. We bow in humility to the ordering of Divine Providence and deplore the death of the deceased as a loss to the State, the judiciary and the profession, and a sad bereavement to his family and friends. In him is lost a faithful and honest judge, who did his duties faithfully and wore his honors well; a zealous and loyal citizen, who loved his State and implicitly believed in her; a good lawyer and fearless advocate; a warm-hearted and loyal friend; a courteous gentleman.

"2. That the members of this Bar attend the burial ceremonies of the deceased, and the Secretary be instructed to procure an appropriate floral design.

"3. That copies of these resolutions be sent to the family of the deceased as a token of our sympathy for their sad bereavement, and to the Tarborough Southerner and Rocky Mount Argonaut for publication."

We desire, as a further testimonial, to submit an article taken from the Wilmington Messenger:

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"We were profoundly shocked when we learned yesterday of the death of Judge Dossey Battle, although we had been partly prepared for such a melancholy announcement. His death will be widely regretted, for he was one of the most popular men and one of the most popular judges who ever traveled a circuit in North Carolina. In the prime of superb physical manhood the strong man has fallen before the great reaper of death. In the very midst of his most efficient usefulness he is cut down and laid away in the remorseless grave. We had known him for thirty years. He was our personal friend, and we greatly admired the fine qualities that adorned his character. Genial as sunshine, gentle as a sweet and gracious woman, full of bonhommie and humor, bright of intellect, well informed and in some particulars well read, he was a man to be attached to. He had magnetism of manners that drew men to him. He could grasp them to his soul "with hooks of steel." His friends were many, his admirers numerous, his well-wishers a host. His was indeed a lovely character and he was a true-hearted friend and a genuine North Carolinian. We are indeed most sorrowful at his departure. We can only hope that he was ready for the death angel when it came. May God's mercy be with him, and Heaven's benisons rest upon his afflicted and bereaved family. North Carolina, too, is bereaved and shares in the sorrow. Judge Battle was for many years a journalist full of sparkle and pleasantry and interest. But he returned to his law, and after a few years was placed on the bench of the Criminal Court. We hold him to have been an unusually successful judge in the court."

He married in early life a lady of great personal worth and talent. He leaves a charming, cultured daughter, and an earnest, energetic and deserving son.

A delegation of the members of the Bar from Tarboro attended the burial at Rocky Mount. We record this testimonial of our respect for the man, the citizen, and the golden-hearted gentleman. Respectfully submitted,

FRANCIS D. WINSTON,
*Chairman.*

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## SUPPLEMENTAL REPORT OF EXECUTIVE COMMITTEE.

*To the President of the Bar Association:*

The Executive Committee to whom was referred the report of the Secretary and Treasurer, Mr. J. C. Biggs, begs leave to report as follows:

1. That it does not recommend an increase in the annual dues of this Association at this session. The Association has sufficient funds in hand to defray the expenses of this meeting and the estimated receipts for the current year will be sufficient to meet the expenses to be incurred. There exists, therefore, no immediate necessity for an increase of funds. When the occasion shall demand enlarged expenditures, the earnestness felt in the successful accomplishment of the high mission of the Association may be relied upon with confidence to respond to the demand.

2. The Committee recommends with earnestness to the Association, that wisdom and sound judgment demand that the Committee on Legislation and Law Reform should carefully and critically examine all bills that may be introduced in the session of the General Assembly in 1901 amending, repealing or otherwise changing the general laws of the State, and endeavor to perfect our laws and their administration. It is the sense of your Committee that the Committee on Legislation and Law Reform shall be authorized in the name of the Association to suggest changes, amendments and repeals and prepare the bills therefor. And your Committee further recommends that the necessary expenses of said Committee be paid by the Treasurer out of funds of the Association on orders or bills approved by the Chairman and Secretary of the Executive Committee.

This action on the part of this Association seems to your Committee to be necessary to strengthen the influence and to accomplish the useful and practical purposes of the Association.

J. S. MANNING,
*Chairman Executive Committee.*

June 28, 1900.

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## SUPPLEMENTAL REPORT OF COMMITTEE ON ADMISSIONS TO MEMBERSHIP.

*To the Honorable Bar Association of North Carolina:*

Your Committee on Admissions to Membership begs leave to submit the following supplemental report:

We have duly considered the applications of, and admitted to membership, the following members of the Bar, viz: Harrison J. Barrett, Tryon; John W. Graham, Hillsboro; W. D. Pollock, Kinston; Marcus Erwin, Asheville; Wm. F. Rucker, Rutherfordton; Mark W. Brown, Asheville; Donald Gillis, Asheville; A. C. Avery, Morganton.

Respectfully submitted,

W. B. SHAW, *Chairman.*

SOL. GALLERT, *Secretary.*

## REPORT OF COMMITTEE ON VISITING ATTORNEYS FROM OTHER STATES.

*To the Honorable North Carolina Bar Association:*

Your Committee, appointed to ascertain and report the names of visiting attorneys from other States, begs leave to report that the following attorneys have been visiting the sessions of the Association and are entitled to the curtesies of the floor under the motion adopted at the morning session of to-day: J. H. Frautz, of Knoxville, Tenn.; W. W. Ball, of Laurens, S. C.; W. Boyd Evans, of Marion, S. C.

Respectfully submitted,

S. GALLERT,

CHAS. M. STEDMAN,

*Committee.*

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# APPENDIX.

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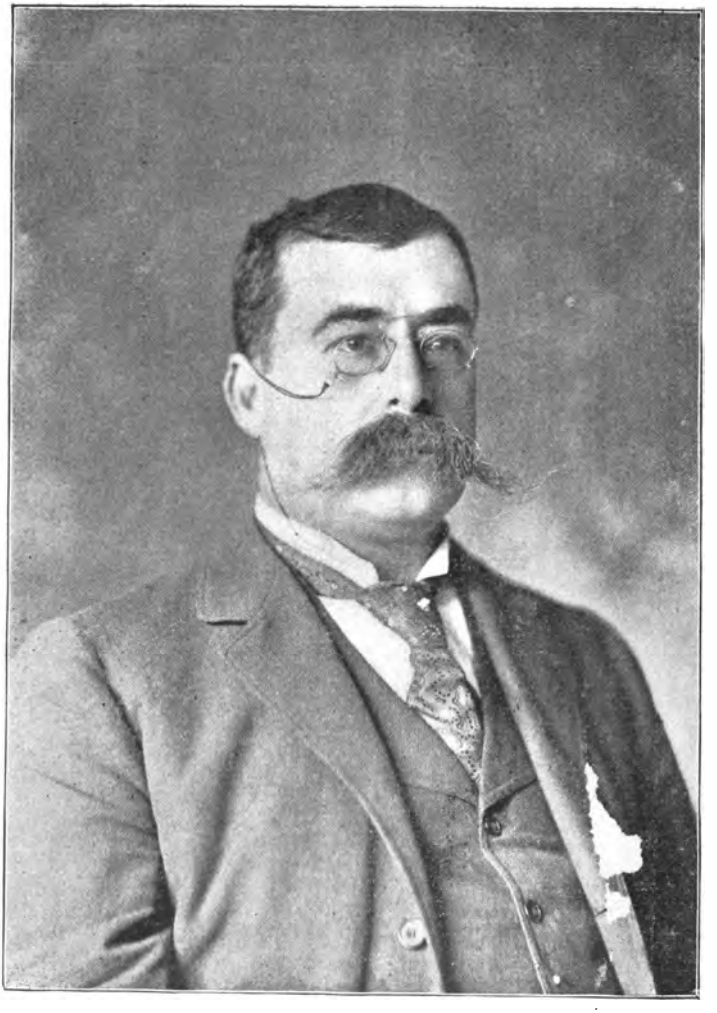

CHARLES F. WARREN.

President 1899–1900, page 170.

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## THE PRESIDENT'S ADDRESS.

By CHAS. F. WARREN, of Washington.

*Gentlemen of the North Carolina Bar Association:*

In obedience to the duty imposed by the Constitution of this body, requiring the President to deliver at the annual meeting an address upon some subject, chosen by him, in which he shall make such suggestions as to the work of the Association as he may deem proper, I have selected as my theme

THE STANDARD OF ADMISSION AND LEGAL ETHICS.

Each of these subjects might well be treated and considered separately, but in many respects they are closely connected and interwoven. Nothing more nearly affects the Bar of a State than the educational standard of admission or the tone of its professional honor. They should be matters of deep solicitude and concern not only to every lawyer who loves and venerates his profession, but to society itself of which the lawyer is so indispensable a part. The fitness and character of the members of the Bar are a fair index to the community in which they practice. The Bar should consist of men of education, culture and refinement. We speak of the law as one of the learned professions, and, surely, not one of them requires better equipment and preparation, or a higher order of talent and ability; not one requires a finer and keener sense of honor. It is no asylum or place of refuge for the fool or knave. No profession exerts a tithe of its influence in enacting the laws which regulate and govern society, and to it alone is committed the administration of justice in its many courts. As a legislator the lawyer is industrious and capable; clear and terse in the use of language. Lord Chatham deprecated the presence of the mere lawyer in Parliament, and he said you might shake the Constitution and the lawyer would remain silent, but if you touched a cobweb in Westminster Hall the exasperated spider would sally out in its defense. It may be, in some instances, that the lawyer becomes narrow and technical, inclined to discover blemishes and to pick flaws, or to refine and fail to grasp the subject or measure as a whole,



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That type of lawyer is rarely found in the halls of legislation, especially in the United States. Knowing the value of that which time has proved to be sound and the evils which result from the instability of the law, he is conservative, but is also safely progressive. In the administration of the law the severest critic of the profession must admit that the judges, with rare exceptions, have not respected persons and have meted out justice wisely and fearlessly. As legislator and judge the lawyer has done the State some service, often at personal and pecuniary inconvenience and sacrifice. How well or ill these great public duties are performed, in large measure, will depend upon the learning and integrity of the Bar.

The declared objects of the Association are: To cultivate the science of jurisprudence; to promote reform in the law; to facilitate the administration of justice; to elevate the standard of integrity, honor and courtesy in the legal profession; to encourage a thorough and liberal legal education; and to cherish a spirit of brotherhood among the members thereof. These are high and noble aims. Individual effort or opinion is slow to make itself felt or heard, but there is no more potent agency "to elevate the standard of integrity, honor and courtesy in the legal profession and to encourage a thorough and liberal legal education" than the intelligent, concerted and earnest action of this Association. One of the most hopeful signs of the times, and of greatest promise to the profession, is the formation of local and State Bar Associations in most, if not all, of the States, and the greater usefulness of the National Association. In the broad field of discussion no subject has received more careful attention and consideration from these bodies than that of legal education and the standard of admission to the Bar. Their influence in this direction has been wisely and widely exerted. The profession has received marked benefit from the discussion, and interest has been aroused and stimulated. The current is one way—a demand for the elevation of the standard of legal education for admission to the Bar.

If ignorant and untrained men be admitted, with few exceptions, they will disappear from the profession. By the slow

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process of evolution only the fittest will survive. "The swimmers are few in the vast whirlpool." It is safer and wiser to exclude at the threshold than to rely upon the inevitable process of elimination. The mischief and harm, both to the profession and to the public, have been done when they are permitted to enter. We do not wish to exclude any worthy young man whose character and ability entitle him to enter, nor do we wish to limit the number of the Bar of the State. There is no profession where wealth and social position count for less, nor where poverty and parts are more certain to win their way to the top. Within its ranks it affords equal opportunities to all and special privileges to none. No royal road leads to distinction and eminence at the Bar, and they can only come from work, constant work, and unremitting application from the time the student begins the study of law until the old lawyer has argued his last case. Once a student, always a student. The lesson is never learned. In no profession is it truer that genius is work. It is not given to any one to know all the law, and the more he learns, the less, in his humility, he appears to know. New vistas open at every turn. The door stands wide open for every young man of good moral character and legal learning to enter, and a generous profession extends to him a welcoming hand. No man should be permitted to break in with a crowbar or to beat down the barriers with a battering-ram.

The bars have been let down too low and kept down too long. I speak my strong personal convictions alone, but I trust this Association will not adjourn without giving expression to its views upon the subject of legal education and without giving the full weight of its influence to elevate in this State the standard of admission. The eminent and learned Justices of the Supreme Court, to whom it has been committed to prescribe the period and course of study, will give proper weight and due consideration to the action and recommendations of this body. They are honorary members of this Association and are entitled to participate in its discussions, and they have at heart, quite as much as we, the interest, welfare and honor of the Bar. With an elective judiciary the

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judges and justices often return to the practice of law, and again become members of the Bar.

It is within the power of the Legislature to prescribe the qualifications requisite for admission to the Bar. Our statute requires that applicants must receive from the Justices of the Supreme Court certificates of their competent legal knowledge and upright character, and this would seem to give to that court, in the absence of other legislation, the power to fix the period and to direct the course of study. In my judgment, for the present at least, it has been wisely left to them to control legal education. The attorney becomes an officer of the courts and his conduct is under their close and constant supervision. The justices of that court are always lawyers of ability and integrity, and they are fully abreast with everything which concerns the advancement and promotion of the science of law. The time and attention devoted by the court to examinations for admission work no delay in the business of the court. It is one of the few Courts of Appeal which keeps up with its docket. The medical student is required to stand an examination before a board of medical examiners appointed by the State Medical Society, but neither the student nor the practicing physician stands in any such relation to the court and to society as do the law student and the lawyer. It is not to be presumed that a board of examiners, appointed by this Association, would discharge that onerous duty with more fidelity and ability than the Justices of the Supreme Court. The first consideration of the members of this body should be to promote the best interests of our profession, among others, legal education, and not to reach out for influence and power. A cordial co-operation between this Association and that court will greatly encourage and advance the cause of legal education in the State.

It is also within the power of the Legislature to provide that graduates in law of certain institutions of learning shall be admitted without examination, subject, however, to the right of the court to reject any applicant unfit, in other respects, for admission. No one, I presume, will insist that the diploma of a law school should be made in this State conclusive evidence

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of the competent legal knowledge of the applicant for admission to the Bar. To give it that force and effect would deprive the Bar, or the justices who have been elevated from the Bar, of all control over the subject of legal education, and would destroy a valuable safeguad and barrier against the entrance of men, in many instances, not properly qualified. There have been cases where the diploma has not availed and where its possessor did not measure up to the standard prescribed by the court. In the case of the law school graduate the examination by the court affords the double check and test. The diploma of a good law school is evidence of legal learning, but it is not, and should not be made, conclusive.

The oral examination for admission, prior to February term, 1898, was not a fair or thorough test of the legal knowledge of the applicant. Perhaps those of us who crossed that bridge should not condemn it or have asked that it be burned behind us. The time devoted to the oral examination of a class was too brief to winnow out the chaff, and, especially in large classes, it often worked injustice to the individual. It did not afford the certain and crucial test necessary to separate the dross from the true metal. It is not putting it too strongly to say, that the oral examination sometimes excluded men who ought to have been admitted, and often admitted men who ought to have been excluded.

At February term, 1898, of the court the rule was adopted requiring a written examination for license to practice law, and the examination itself was made more rigid. The adoption of this rule has imposed much additional labor upon the court, but the two have largely diminished the number of licentiates and have elevated the standard of admission. They mark a decided advance in legal education, and no action of the court has received warmer commendation from the Bar of the State. At that and the three preceding terms 218 young men stood for examination, and of this number 195 passed the examination and 23 failed. At the four succeeding terms 212 stood for examination, and of this number 122 obtained license to practice law and 90 were rejected. At February term, 1899, one year after the adoption of the rule, 32 of a class of 52 were

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rejected, and at February term, 1900, two years after, 15 of a class of 48 were denied license. At September term, 1897, all of a class of 55 were licensed. Law should be read, learned and digested, not crammed. These figures are full of meaning and they show not only that the method of oral examination was too lax, but they demonstrate as clearly that legal training and preparation are still inadequate. They furnish food for thought and reflection and the lesson they teach should not be ignored. They emphasize the demand of the court for a thorough and liberal legal education. There is one thing, I respectfully submit, which would go far toward attaining that end. Let us recommend at this meeting of our Association that the court shall increase the term of study for admission from one year, the minimum fixed by the rule, and require a course of study of not less than two years, with the beginning denoted by registration. Unfortunately, before the organization of this Association the voice of the profession could not be heard, but now its views and wishes can be learned and its judgment upon any matter, I believe, will be respected and heeded. Let us do our part to elevate the standard of admission. Let the bars go up!

Before 1869 about two years were requisite to pursue the course of study prescribed for admission to the Bar in this State. The examination prior to that time was divided, and one was required for license to practice in the County Court, preceded by a course of study usually requiring one year, and, after an interval of a year and a further course of study, a second examination was required for license to practice in the Superior Court. The act of 1869 swept away all these safeguards, dispensed with all knowledge of the law, and permitted any citizen of the State to practice law upon proof of good moral character and the payment of a license fee of twenty dollars. This continued to be the deplorable condition until the repeal of the act in 1871, restoring the qualification of competent legal knowledge for admission to the bar, but still not prescribing any minimum period of study. The rule of court fixing the minimum period at one year was not adopted until September term, 1889.

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In the medical profession the usual period of instruction is now four years, not including preliminary reading before attending lectures. Many physicians pursue a post-graduate course of general study, or upon special subjects. We ought not to be content to require less preparation for admission to the Bar. We would not be willing to admit that the duties and obligations the lawyer owes to his client and to society are less important than those of the physician, or that they require a lower degree of intelligence and capacity. One of the Christian denominations requires that the candidate for orders shall be a college graduate and shall have pursued the full theological course of three years. Another requires that he shall be either a college graduate, or possess equivalent knowledge, and that he shall have completed the three years' theological course.

The tendency in all professions, even in the handicrafts, is to increase the period of training and to produce disciplined and expert men. In this State we have been satisfied to require a lower standard of knowledge for admission to the Bar than is required by either the medical profession, the ministry, or many of the relatively less important professions, or even by many of the trades. It is not to our credit that this should be, or that it should longer continue. One year is not sufficient time to be apprenticed to a trade. Yet for the law, a learned profession, the most exacting of them all, and the one where the grapple is closest and hardest, one year is considered in this State, sufficient time for preparation. Within the past four years 430 young men have applied for admission to the Bar in this State, and 317 have been admitted. There can be but one possible result of a low standard of legal knowledge for admission to the Bar. The legal profession will catch the material which the others reject, or men will seek our profession who have not the courage or capacity to pursue the more rigid course of study adopted by the others. That means deterioration and decay. It may be that the large influx into the legal profession has been caused by the fact that entrance is made easy. "The standard of legal education," it has been well said, "is so low, that it is very easy to enter the profession. A less outlay of time and money is

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required in some parts of the country to become a lawyer than a physician, clergyman, dentist, apothecary or veterinary surgeon." Entrance to the Bar should be made more difficult. The written examination was a step, and a long one, but only a step toward the desired end.

What is the remedy? Certainly one of the remedies is to require more legal knowledge for admission. It may not be practicable, at this time, to require in this State a three years' course of study, as recommended by the American Bar Association. I am aware how far short of the timely recommendations of that Association these views and suggestions fall, but improvement here must be a growth, and, I fear, to advocate radical measures would result in no gain at all.

As a rule young men now study for the Bar in the law school and not in the law office. Only those who cannot afford to attend the law school read in the office. There is no record kept in this State by which the number of each can be ascertained. From my own observation and from inquiry, it seems that each year the number of those who receive instruction in the law office is growing less. The opinion of the Bar upon the value of instruction in the office has undergone a radical change. The thorough and systematic instruction of the school cannot be imparted in the office. No matter how able and learned the preceptor, or how eminent at the Bar, the demands and interruptions of a full law practice cause the neglect of the student. "Wherever the law of England prevails," says Professor Dicey, of Oxford, "the best instructed and ablest lawyers have been grounded in its principles at the law schools." With improved instruction should advance, *pari passu*, the requirements for admission to the Bar.

In the interest of the young lawyer and the public, we should ask and insist that he shall be taught something more than a knowledge of the principles of law, and that he shall be taught how to use and apply that knowledge. After receiving his license, he should not be compelled to enter, as a clerk, the office of an old lawyer to learn the practice which he ought to have been taught as a part of a complete law course. "I feel convinced," says an eminent instructor, "that the law schools

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in these days are bound to provide a sufficient amount of practice work, so that the students may go forth without being absolutely at sea as to what they are to do and how they are to do it." Lacking this practical training, the young lawyer feels his helplessness and must suffer from his mistakes, or he must resort to older lawyers for advice. He feels that an essential part of his armor has been left off. This practical instruction would enable him to perceive and grasp quickly the questions of law and fact involved, make him clear and precise in his pleadings, and give him ease and confidence in the trial of his case. His maiden speech to the jury would not be such a trying ordeal. He should come to the Bar like Minerva from the brain of Jove, full-armed.

What general education and preparation should be required to begin the study of law, is a subject which should command also your serious attention and consideration. To make a lawyer there should be some foundation to build upon. The course of study prescribed by the court is purely legal, and there is no minimum standard of general education required before beginning the study of law. To a certain extent, the court may have thought that one was included in the other, and that the applicant could not pass the legal examination who had not received a fair general education. The American Bar Association has not yet thought proper, as in the case of some of the medical schools and religious denominations, to recommend that only college graduates shall begin the study of law. "The time has not yet come in this country," says the Committee on Legal Education and Admission to the Bar, "when it is possible to require a college education of all persons who propose to practice law; but the time has come, in the opinion of the Committee, when proper professional respect makes it necessary to demand that all such persons should possess the equivalent of a high school education." In the Continental countries of Europe, where admission to the Bar is through the universities alone, a college education is essential. The Inns of Court require that every person, not otherwise disqualified, shall have passed a public examination at any university within the British dominions, or for a commis-

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sion in the army or navy, or for the Indian civil service, or for the consular service, or for cadetship in the three Eastern Colonies, or shall have passed an examination upon the English language, the Latin language and English history before a board appointed by the four Inns of Court. It is not my purpose to suggest or advise that a collegiate course should precede the study of law, but only to urge that some standard of general education should be prescribed in this State, and that the duty and labor should not be imposed entirely upon the Justices of the Supreme Court, or a board of examiners, to keep ignorant and untrained men out of the profession. They should not be permitted, if possible, to reach and stand the law examination.

Both by statute and by rule of court and, perhaps, independently of either, the applicant is required to present to the court evidence of good moral character. No matter how careful and rigid the test which may be applied to ascertain his legal knowledge, it cannot disclose the possession or absence of the moral qualities which render him fit or unfit to become a member of the Bar. It may well be questioned whether the certificates of two members of the Supreme Court Bar afford sufficient evidence of his moral character. It is a weak and frail barrier at best. These members need not, and may not reside in his judicial district, or even in the part of the State from which he comes. I have never known any one to fail to be admitted on account of lack of good moral character. It is true that moral character is not usually formed and established at the early age young men enter the profession in this State, and, besides, men of notoriously bad character do not often pursue the course of study necessary to admission, and do not seek to become members of the Bar. In many of the States the courts, or boards of examiners, take great precautions and, in some instances, require the action and indorsement of the Bar of the county in which the applicant resides.

Legal ethics form no part of the course of study prescribed by the court for admission to the Bar, and, necessarily, there is no examination upon that subject. An examination would probably furnish no additional evidence of moral character to

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that now required. It has been often said that the first five years of the professional career of the lawyer will usually determine his standing at the Bar, but danger is always imminent. Bacon, loaded with riches and honors and occupying exalted position, fell when sixty. "Upon advised consideration of the charges," said he, "descending into my own conscience and calling my memory to account so far as I am able, I do plainly and ingenuously confess that I am guilty of corruption and do renounce all defense." "My lords," said he, referring to his confession, "it is my act, my hand, my heart, I beseech your lordships to be merciful to a broken reed."

To enable him to decide perplexing questions of duty, to aid and strengthen him in all good resolutions, nothing can be of more lasting benefit to the law student than the practical application of legal ethics in the lectures of the law course. If this practical instruction were given and the student taught what, under given conditions, is the proper and honorable course of action, it would instill a high sense of professional honor and discourage sharp practice in the profession. It may be that the seed will sometimes fall upon unfruitful soil and that the labor and pains will be wasted. You cannot appeal to honor if the sense of honor does not exist. The tenderness, care and admonition of the mother must have inculcated right principles in childhood and youth. It may not be, and it ought not to be, necessary to instruct the law student in matters which are the plainest dictates of duty and common honesty. He should not need to be told that the same attorney should not appear on both sides of an adversary proceeding, even colorably; that an attorney of record should not, at his will and pleasure, sever his relations to the case and to his client, and abandon his cause; that, while he can bind his client by every act which he does in the regular course of his employment, he should not practice fraud upon him or collude with his adversary; that he should not acquire and assert an interest in the subject-matter of his advice and counsel adverse to his client; that he should not plan and execute fraud for his client; that he should not keep and appropriate to his own

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use money collected for his client; and, that in defending men charged with crime, he should not himself commit crime by packing or corrupting juries. In the language of the Declaration of Independence, "We hold these truths to be self-evident."

Legal education in this State has been largely directed and controlled by men who knew the law not merely as a science, but who had applied it in active practice at the Bar and administered it upon the bench. No one could be better qualified than they to warn the young lawyer against the temptations which assail and the perils which environ him. To them it had been given to see the lawyer at his best and at his worst. An observant and discriminating judge who rides a circuit will form a just estimate of the character of the attorneys who appear before him. He is quick to detect evasion, trick and artifice, and he can test the strength of the mental and moral fiber of the lawyer.

What falls under the observation of an attorney in his practice is not fairly representative of the great world outside. He sees the worst side and phases of human nature; broken promises, fraud in all its slimy forms, and vice and crime in their many shapes. He sees the play of the baser passions and "man's inhumanity to man." But the young lawyer should not become a pessimist, and he should remember that the general average is largely in favor of human nature, and, that for every instance of violated contract, there are a thousand which do not come to his knowledge, where faith has been kept inviolate, and that for every offender against the criminal law, there are a thousand good citizens who do not offend.

A fair general education preceding the study of law; a two years' law course, including in its scope both theory and practice as well as legal ethics; greater proficiency and higher legal attainments for admission to the Bar; additional, or other, evidence of good moral character, are imperatively demanded in this State. We should not be content to stand still or retrograde while the standard is being steadily advanced in other States and in other professions. I earnestly recommend that a memorial from this Association shall be presented to the

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Supreme Court, at its next session, upon these subjects which so nearly concern us and our profession.

Apart from these matters which relate to admission to the Bar, is another which should command our attention and which concerns our conduct as attorneys. How shall we practice law? "This table," said mine host at Hyde court, "is reserved for the lawyers and that for the gentlemen." The unconscious distinction cannot be fairly drawn. The lawyer should be both. His oath requires that he will truly and honestly demean himself in the practice of an attorney, according to the best of his knowledge and ability. It imports that he will be candid and honest with the court, faithful and just to his client, and considerate and fair to his opponents.

As regards the relations between the Bench and the Bar something needs to be said. A lawyer should be respectful, never obsequious, to the court. By obsequiousness he gains nothing, forfeits the regard of the court, and, what is more, loses his self-respect. The court is entitled, as of right, to courtesy from the Bar, but the lawyer must preserve his own dignity. The obligation of respect must be reciprocal. There is no place where bad manners are more conspicuous than at the Bar, unless it be upon the Bench. I am not a stickler for form and ceremony, and I draw the line at the drawn sword and cocked hat of the sheriffs of the other Carolina, who escorted the judge to and from the court house. Neither do I indorse the statement of an able judge of the Superior Court, now dead, that no respectable lawyer ever went to the court house to hear the charge of the judge to the grand jury. The middle course is safer and more appropriate. In his person the judge represents the power and majesty of the law. "In any code of legal ethics," says a distinguished author and lawyer, "there ought to be a provision that when the judge enters the court room to open the court, gowned or ungowned, the Bar and the audience shall rise and face the judge and shall not take their seats until the judge, by bowing or by some other sign, indicates that they are to do so." I submit that in our Superior and Criminal Courts, the members of the Bar, or many of them, do not observe the outward forms of respect

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and deference due the court. There is a lack of dignity and decorum. This not only reflects upon the Bar, but tends to impair public respect for the court.

It is not my purpose to formulate rules or to draft a code of legal ethics. It is difficult to fix them by printed rules or to codify them, and that duty can well be performed by the proper committee of this body. Excellent treatises can be found upon the subject, and many of the State Bar Associations have prescribed rules of professional conduct. Opinions differ as to the value and utility of rules or codes of ethics. Of themselves, it is true, they amount to little except to please the ear and to gratify sentiment. If behind them there exists in the Association a strong and determined purpose to promote and enforce fair and honorable dealing between attorneys, to suppress sharp practice and trickery, and to purge the Association and the Bar of unworthy members, then rules of ethics are more than empty words. It is also true that the disbarment of one attorney would possess more value, and be a greater object-lesson to the profession and to the public, than many codes of ethics.

It is not to be inferred that the legal profession, more than others, needs regulation and restraint, but no lawyer will assert that there is not room for improvement. Few lawyers will disagree upon an abstract question of ethics, but the difficulty arises when they come to apply it. Pecuniary interest and the desire for success or reputation are disturbing conditions, and they tend to blunt the sensibilities and to dull the perception of moral questions.

"If self the wavering ba'ance shake,
It's rarely right adjusted"

Unless this Association shall closely scan and scrutinize the professional conduct of the members of the Bar, and endeavor "to elevate the standard of integrity, honor and courtesy in the legal profession," it will fail to secure one of its greatest benefits and to accomplish one of its highest aims. By every means in its power it should promote clean practice and suppress the shyster. Nothing can be more unpleasant to an attorney than to be continually on the alert, and to be compelled to

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practice with members of the Bar whom you must always suspect and watch. "A horde of pettifogging, barratrous, custom-seeking, money-making lawyers," says Judge Sharswood, "is one of the greatest curses with which any State or community can be visited."

It is not to be desired that the Bar Association should become the forum where the jealousies and petty grievances of every local Bar shall be disclosed and discussed. It should deal with flagrant instances of professional misconduct. If a lawyer's sense of right does not teach him the proper course of conduct toward the public, the bench, his client and his professional brethren, discipline will. Censure or suspension by the Association would be severe punishment to the offender, as well as admonition to the Bar, and expulsion would make the lawyer a professional outcast. It is useless to point out the road to others if we do not travel it ourselves. As in equity our own hands should be clean.

> "This above all,—To thine own self be true,
> And it must follow, as the night the day,
> Thou canst not then be false to any man."

The annual meetings of the Association are not alone for social recreation and the discussion of abstract questions, but the higher purpose is to achieve results which shall strengthen the Bar and make it more efficient and useful to society. It can become a power for great good in the State, if it shall exert every effort and influence to elevate the Bar and to simplify and purify the administration of justice. May the Bar Association live and prosper, and may it realize our fondest hopes and fulfill our highest aspirations!

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## THE LAW OF NORTH CAROLINA AS TO MARRIED WOMEN.

By ARMISTEAD BURWELL, of Charlotte.

*Gentlemen of the Bar Association of North Carolina:*

In the language of another craft, we come now from refreshment to labor. When I heard the very eloquent welcome given to us by the member of the Asheville Bar, I noticed that he recommended, if I may use the word, that we forget in these pleasant surroundings, so to speak, that we were practicing lawyers, and I feel myself inclined to put away from me this evening, with the memory of our surroundings and all the pleasures we here enjoy, the thought that there is an office, and that there are difficulties in the practice of the law. Ladies grace this occasion, and do us honor by their presence. I say to you and to them that if to-night we engage in professional labor, as it were, it is the work of the Committee and not of myself that imposes this labor upon you and upon me.

The selection of the subject assigned to me seems to indicate that, to the members of the Committee, at least, it appears that the law of this State relating to married women is uncertain, or that, though plainly expressed, and well understood by our profession, it ought to be changed.

One of the objects of this Association—its best object, I may say—is to aid in the wholesome development of the system of municipal law which governs our commonwealth. That development can be best promoted by candid, and yet kindly discussion where differences of opinion exist, and by just criticism of the work of those whose duty it is to make or interpret the law.

To the legislators of the State we may, with the utmost propriety, appeal for changes in those statutes that seem to us, whose business it is to study the law, to be not in accord with the circumstances of this period in which we live.

And we may, with as much propriety, examine critically the decisions of that court, which, under our system of jurisprudence, is empowered to decide what the words and phrases of

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the Constitution and the statute mean, to the end, that its interpretation, if sound, may be approved by the Bar; if unsound and illogical, may be sooner or later, by some means, corrected.

I will assume that when the Committee assigned this subject for discussion at this meeting, it had in mind the differences that exist as to the effect that should be given to Section 6, Article 10, of the Constitution, and to Section 1826 of the Code, and I will, therefore, discuss the rights, powers and liabilities of married women only so far as they are affected by those laws, and by the decisions of the Supreme Court when interpreting that portion of the Constitution and that statute.

It may be noted here, in the beginning of our consideration of this subject, that the distinguished jurist who presided over the Supreme Court when this section of the Constitution and this statute came first to be considered by that tribunal, was he who filed a dissenting opinion in the case of Harris vs. Harris, reported in 42 N. C. Reports, and decided in the year 1851.

Pearson, when Chief Justice, not only presided over that court, but, in a very large measure, moulded and controlled its decisions, as, by reason of his great learning and ability, he was fitted to do, and the student of the law will find, I think, in all of the decided cases relating to this subject, the impress of his great mind, which first expressed itself upon this subject in that dissenting opinion.

The court was then composed of Ruffin, Nash and Pearson.

The Chief Justice, speaking for himself and Judge Nash, and thus for the court, said:

"We hold that a feme covert, entitled to a separate estate in personal property, unless there be some clause of restraint of her dominion, may convey it, and do all other acts in respect to it in the same manner as if she were a feme sole."

Judge Pearson insisted upon the adoption of the following doctrine:

"In respect to her separate estate, the wife is considered as a feme covert subject to all the common law disabilities, except so far as she can derive a power under the settlement by its



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express provisions, and except so far as the right to receive and apply the profits for her maintenance."

And he declared that the rule he favored was more consistent with the "reason of the thing, made a less departure from the ordinary principles of law, and was more suitable to the habits and customs of the people of our State." And, with special emphasis, he said that, according to the "principles" of law he had "imbibed," he was unable to comprehend the idea of a married woman's being, to all intents and purposes, a feme sole in regard to her separate property, "apart from an express power of appointment."

In 1859 this great lawyer who had "imbibed" such "principles" had become the Chief Justice of the court. Battle and Manly were his associates, and the court, thus constituted, virtually overruled the decision in Harris vs. Harris, and the doctrine advocated by Judge Pearson became the doctrine of our Supreme Court (Knox vs. Jordan, 58 N. C. 175), and was the "settled law" when the Convention of 1868 met to frame a new Constitution for the State.

That Convention, not willing to entrust to the Legislature the enactment of laws pertaining to the property of females who might thereafter enter into contracts of marriage, incorporated in the organic law, the following *self-executing* provision:

"The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may after marriage become in any way entitled, shall be and remain the sole and separate estate of such female, and shall not be liable for any debts, obligations or engagements of her husband, and may be devised and bequeathed, and, with the written consent of her husband, conveyed by her as if she were unmarried."

There is a statute, adopted in 1871, and re-enacted in 1883, as Section 1826 of the Code, which goes along with this section of the Constitution through all the decisions of the court.

I purposely put aside, for the present, all consideration of that statute, in order that we may the more clearly realize the effect of the interpretation by the Supreme Court of this self-executing section of the organic law.

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The recent case of Walton vs. Bristol completes, it seems, that interpretation, and we are now authoritatively informed as to what is the legal effect of the words of that section of the Constitution.

That completed interpretation is the work of many minds, but all the cases that pertain to this subject have followed the leading case of Pippen vs. Wesson, 74 N. C., decided in 1876.

If we now give to the words and phrases of that section of the Constitution the effect put upon them by the tribunal that is charged with the duty of saying what they mean—whose decision upon this subject is final, and must be respected and obeyed—we find:

Where a contract of marriage is made in this State, by persons subject to its laws, the property, real and personal, of the feme, as well what she then has as what she may thereafter acquire, is, by this self-executing provision of the organic law, made a "sole and separate estate" for her.

It is predicated of that sole and separate estate that it shall not be liable for the debts and obligations of the man.

It is expressly provided that the feme shall retain her right to devise and bequeath that sole and separate estate, real and personal, and her right to devise her land is superior to the man's right to an estate therein as tenant by the curtesy.

Upon entering into the contract of marriage, the feme surrenders her absolute right to dispose of the property, real and personal, that is thereby converted into her "sole and separate estate," except by will. She surrenders her right to convey this real estate, and to assign, sell and transfer this personal property, including her choses in action, and accepts, in lieu of her absolute *jus disponendi*, the right to make such conveyance, sale, assignment or transfer, when, and only when, the man will assent thereto, and signify his assent by writing.

The man, when the contract of marriage is consummated, has acquired, by the terms of the Constitution, a right to control the conveyance, sale, transfer or assignment of this sole and separate estate of the feme by giving or withholding, as he may choose, his written assent thereto.

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And, since the feme cannot thereafter convey, sell or assign the sole and separate estate without the written consent of the man, the court has declared, as I understand the decisions, that she has no power to effect a charge against that estate, real or personal, without such consent, or to make that estate liable to sale without such assent, because, "upon principle," she cannot be allowed by the law to accomplish by indirect means that result which she is forbidden to effect directly. By entering into the contract of marriage, the feme yields to the man, and the man acquires, the right to protect the sole and separate estate, real and personal, from any liability that is not created with his assent in writing, it being thus "doubly guarded" by the Constitution.

To this statement of the reciprocal rights of husband and wife, fixed by the terms of the Constitution, it may be added, that these rights become, by the contract of marriage, *vested* rights, and cannot, therefore, be disturbed, at least by legislative action.

If we review the now apparently completed interpretation of this section of the Constitution, we find that in only one particular is it a matter of legal inference. In all other respects it is the mere affixing to language a definite and certain meaning.

The court has declared that the Constitution says that no married woman can sell or convey or assign what I may call her constitutional sole and separate estate without the written assent of her husband.

And, from that expressed inhibition, it has declared that this further inhibition is implied, to-wit, that she cannot, except under the same condition, do any act, or make any promise or engagement, that can charge or encumber it, or that may ultimately subject it to sale by judicial process. It is doubly guarded, the court decides, by the Constitution, from encumbrance, charge or lien, direct or remote, as well as from sale or conveyance.

This inferring of this implied inhibition rests "upon principle," as Justice Ruffin has said, and is an inference so necessary that it has been approved and applied by the court, and it has been generally, I think, assented to by our profession.

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The "legal mind" cannot find grounds upon which to found a dissent from the correctness of this inference.

An examination of all the decided cases, from Pippen's to Walton's, will show, I think, that all this interpretation is built up on the declaration in the opinion of Justice Rodman in the former case, that the words "sole and separate estate" were there used "in the sense which has been affixed to them by the prior decisions of this court."

When that declaration was authoritatively made, it became "settled law" in North Carolina, that, upon entering into the contract of marriage, a woman surrendered her absolute right to such property, real and personal, as came within the purview of this section of the Constitution, and the man acquired certain reciprocal vested rights therein.

It may be noted here that, in Pippen's case, the spokesman for the court was that learned Justice, Rodman, who concurred with Justice Dick in his dissenting opinion in the case of Sutton vs. Askew, decided in 1872, in which it was insisted that "marriage, in the contemplation of the legislative power, is not a contract, but a status."

Justice Rodman was so impressed with the idea, that the doctrine of Sutton's case was erroneous, that, when Holliday vs. McMillan came on for decision he filed a concurring opinion in which he fully set out his view, and insisted that Sutton's case established judicial error.

When, in our study of the cases that have followed Pippen's case, we find that case cited to sustain legislative enactments affecting the property rights of the husband or wife, we should bear in mind that he thought with Justice Dick, that marriage, in contemplation of legislative power, was not a contract, but a status, and some of the language used by him in that case, should, perhaps, be read and considered by the student in the light of that fact.

Let us turn to the consideration of the statute, Section 1826 of the Code.

This enactment was made before any part of Section 6, Article 10, of the Constitution had been interpreted by the Supreme Court.

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The provisions of this statute may be expressed as follows:

1. No married woman shall be capable of making any contract to affect her sole and separate estate, real or personal, except with the written assent of her husband.

2. A married woman may, however, without the assent of her husband, written or otherwise, make a contract to affect her sole and separate estate, real or personal, for her necessary personal expenses, or for the support of her family, or to secure the payment of her ante-nuptial debts.

And the court has declared that the word "contract," as used in this statute, means "charge in equity."

Now, if we accept as final the interpretation of the Constitution by the court in the decided cases from Pippen's to Walton's, a correct statement of which I have endeavored to make, it seems evident that so much of this statute as declares that no married woman shall be capable of making any contract or charge in equity to affect her sole and separate estate, real or personal, without the written assent of her husband, is but the legislative enactment of a self-executing provision of the Constitution, and is, therefore, unnecessary, and of no effect.

Justice Reade clearly foreshadowed this in Kirkman vs. Bank, 77 N. C. 394, where he said: "It is evident that the Constitution and statute are in harmony, and mean the same thing—to make the wife's property her own, as if she were unmarried—without the power of sale or charge, to operate during her life, without the husband's written consent."

Further, if we accept as correct (and we must) the decisions of the court, to the effect that a married man acquires, by the contract of marriage, a right to forbid and prevent the conveyance, sale or assignment of his wife's constitutional sole and separate estate by merely withholding his written assent to such sale, assignment or conveyance, and this right, by force of the contract of marriage, is vested in him, and is secured to him by the higher law, the Constitution, then it seems that it must follow, that so much of this statute as declares that a married woman may, without her husband's written consent, and, impliedly, contrary to his wishes, make, for certain considerations, a charge in equity to affect her sole and separate

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estate is unconstitutional and void, violating, as it does, the vested rights of the husband which, by virtue of the self-executing provisions of the Constitution, he acquired by his contract of marriage. This, it seems, must be a true *a fortiori*, if the doctrine of the Sutton case is to stand as "settled law."

If, now, the statute of 1871 (Section 1826 of the Code) is, as I have suggested, in one part unnecessary and of no legal effect, and in the other part unconstitutional and void, the conclusion seems justified that the legislators of 1871, some of whom were members of the convention of 1868, did not know what the words of Section 6, Article 10, really meant.

It is very evident that the legislators of 1871, and also the legislators of 1883, if they were advertent to what they were doing, were of the opinion that a feme covert had, but for that statute, the power to make a contract to affect her real and personal estate—"sole and separate estate and property"—secured to her by the Constitution, for they put a limitation or restriction on this general power, and their action, of course, presupposed the existence of such power.

As far as my investigations have gone, I have not found that in any State of this Union the property rights of married women are such as are fixed for them by the Constitution, the statute, and the decisions of the Supreme Court of this State.

The law concerning their rights and power has been recently criticised by some whose criticism is entitled to respect and consideration, and the lawyers of this State may reasonably conclude that they should express their opinion upon this subject, to the end that, if, by this law, married women are classed with idiots and lunatics, it may be changed, and antiquated error be no longer perpetuated.

When we come to consider what alteration, if any, should be made, the subject naturally divides itself into two branches: (1) Should the law pertaining to the real estate of married women be changed? (2) Should the law pertaining to the personal property of married women be changed?

Of course in speaking of their property, I am concerned now only with that, real and personal, which constitutes what I have called the constitutional sole and separate estate of the married women of North Carolina.

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The requirement of the statute, that no deed or other instrument conveying or charging the real estate of a feme covert shall be valid against her, unless she be privily examined, as provided by the statue, has been called "antiquated," and its abolition has been urged.

It is true that the aggregate of the fees paid by the people of the State for this very often very useless ceremony amounts, during every year, to a considerable sum.

It is also true, I think, that it happens very seldom that this provision of law is really needed to protect the rights of any married woman in the State.

In my practice, extending now over more years than is pleasant to mention, I have known but two instances where femes covert declined to ratify their execution of deeds when privily examined by the officers charged with that duty, and I believe that those two married women would have refused, in the first instance, to sign those deeds, had they not known that another time would come when they could more conveniently express their dissent. They doubtless hoped there would be no occasion for the final rupture between themselves and their husbands about the acknowledgment of their execution of those conveyances.

But, while I admit that this ceremony is very often very useless, and its performance very often attended with great inconvenience to the parties, I do not believe that the time has come when this protection may be generally withdrawn from the married women of the State with safety to them. It is, in my opinion, even now a useful provision of the law that requires this ceremony to make a deed valid against a married woman, and I express the belief that the lawyers of the State, by a large majority, favor the retention of this law upon the statute book, and fully approve those decisions of the court that declare that no liens or encumbrances can be affected upon the real estate of a married woman, except by means of a written instrument executed by her and her husband, with that formality.

If I have correctly stated the law pertaining to the personal property of married women of the State, that is to say, to the

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personal property which makes up a part of what I have called their constitutional sole and separate estates, it seems evident that some change is desirable.

Surely it should not be the law in this progressive State that the *written* assent of the husband shall be required in every case where the personal property of the feme covert is offered for sale. It might be entirely reasonable to require the written assent of the husband whenever, in the transaction of business, a writing is required by law from the wife. And it may be noted that, when Chief Justice Ruffin, in Harris vs. Harris, used the word "convey," he was speaking of the transfer of personal property, it is true, but he was speaking of personal property (slaves), the sale of which could only be effected by means of a written instrument.

I venture to express the opinion that the Bar of the State, though some of them may think that the wife should not have the power to sell or charge her separate personal estate without the assent of her husband, expressed or implied, do not think it wise that the law should require the *written* assent of the husband to enable the wife to make a valid sale of, or charge upon such personal estate.

However, we may well pause in our consideration of the question, What changes should be made? to consider the other question, How can any changes in the law pertaining to this subject be effected?

The long line of decisions from Pippen's case to, but not including, Walton's case, seems, to my mind, to constitute a reasonable and logical development of the interpretation of Section 6, Article 10, of the Constitution, and neither the case of Farthing vs. Shields, nor that of Flaum vs. Wallace, nor any other of the numerous cases pertaining to this subject, can be modified or overruled without the modification or overruling of Pippen's case, upon which all the reasoning of the cases seems to me to rest.

It is, of course, not to be expected that a change in the law will be wrought by any such process as the overruling of this long line of well considered cases, or any one of them.

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It is to be hoped that the day is far distant when so revolutionary a proceeding may find favor in the eyes of those lawyers who may be called to seats on the bench of the Supreme Court.

If, therefore, the effect of the decision in Walton's case is to stand, and it is authoritatively and finally determined that the Constitution makes no distinction whatever between real and personal property so far as the control of the husband over its sale or charge is concerned, and if it be also true, that, "upon principle," the law cannot allow that to be effected indirectly which is forbidden to be done directly, and if it be also true, that the rights acquired by the husband in the property, real and personal, of his wife, by virtue of the provisions of the section of the Constitution now under consideration, are *vested* rights, and cannot be abridged or destroyed by legislative enactment, then nothing short of an amendment of the Constitution can effect any changes in the law which we are discussing.

And since it would be most unreasonable for us to expect that, in this most conservative State, an amendment to the Constitution can be now effected so as to change the law upon this subject, the people must rest content with that law as it is found to be.

If, however, the word "conveyed," used in this section of the Constitution, is given the meaning suggested for it by Justice MacRae in the case of Kelly vs. Fleming, 113 N. C., and also by Justice Clark in his dissenting opinion in Walton's case, and the effect of the decision of the court in the latter case is so far modified that the written assent of the husband for the sale or encumbrance of the wife's separate personal estate shall not be required except in those cases where the law requires a written instrument from the wife as the owner of the property, then the law pertaining to the constitutional sole and separate estate of a married woman will have been brought to the best condition which it can assume, the constitution remaining unamended.

If the modification of the effect of the decision in Walton's case was made, it would be within the power of the Legislature

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to modify the statute (Section 1826 of the Code) so as to give to a married woman the right to make a contract to effect her sole and personal separate estate without the written assent of her husband, that is to say, with his oral or implied assent, and, perhaps, even contrary to his wishes. But I do not favor any change in the law which would enable a married woman to sell or charge, or contract so as ultimately, perhaps, to encumber, or charge, or cause the sale of, her separate personal property, except with the consent of her husband, expressed or implied.

The statute, in aid, if need be, of the provision of the Constitution, should, in my opinion, provide somewhat as follows: A married woman may not charge or encumber, or make any contract that may ultimately charge or encumber, her separate real estate, except with the written consent of her husband, and unless, also, the instrument making such charge or encumbrance, or such contract, shall be executed by her with the formality of a privy examination, as provided in the case of her execution of a conveyance of such real estate

But a married woman, with the assent of her husband, expressed or implied, may sell, assign or transfer her separate personal property, or may charge or encumber, or make contracts that will be enforceable against such personal estate with her husband's like assent, provided that whenever such sale, encumbrance, lien or contract is evidenced by the writing of the wife, the assent of the husband must also appear by writing, and provided further that if such sale, charge, encumbrance or contract is made by the wife for her personal expenses, or for the support of her family, or to pay her ante-nuptial debts, the assent of the husband shall be conclusively presumed.

And, in my opinion, the law relating to the married women of North Carolina should not be so changed as to remove what are called their disabilities, and to give them the capacity to contract as feme soles.

It has been said that the imposition upon them of these disabilities is equivalent to classifying them among idiots and lunatics who labor under like incapacities.

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Those who carefully consider the reason of the thing will conclude that the statement may be "catching," but is far from the truth.

The Common Law did not impose disabilities upon women who entered into the marriage state because it supposed that the entering into that contract was, at least, some proof of imbecility on the part of the feme, or for any like reason, but because the Divine Law had made man the ruler of the household, and it was thought well that human law should be in accord with that divine precept.

The restrictions imposed upon married women in their ownership of property, and their power to bind themselves and their property by contract, is now unnecessary and unheeded in thousands of the happy homes of the State. The women are free, in a sense, to do what they please with their property and their earnings, because, in their happy households, there is accord between husband and wife. There are other homes that need the protection of this law. It may be stated, indeed without fear of contradiction, that they are, unfortunately, many where its power and influence work safety and great good.

It may be, in rare instances, that some married women may have been enabled to practice frauds under the cover of this law. Generally, much can be said on each side of all such cases. The rascality of married women, if there be any, is always matched by the folly of him who seeks to avoid, in the courts, the effect of his foolishness in dealing with one who could not make a contract.

It would be a bad day for the married women of the State, if all their disabilities and incapacities to make contracts were removed, and they were liable to vexatious suits. We would soon find, by sad experience, that the rascals of the male sex, who would then seek to extort money by means of all sorts of demands against women (who, in many instances, would much prefer to submit to such extortions rather than appear as defendants in Courts of Justice), would greatly exceed in number those few rascally females who now cheat foolish men out of the money they may justly owe them.

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We need not go back to the time when woman was man's chattel, but we may always with profit turn to the dissenting opinion of Justice Pearson in Harris vs. Harris, and read the great lawyer's words concerning the relation between husband and wife.

Two generations have passed away in the history of this State since those words were written, but to-day, as then, the the policy of our law is to make of man and woman, joined together in the holy state of matrimony, one person "for better or for worse," and, in our consideration of this matter, we should not fail to read and re-read what that great jurist, and, therefore, wise man, said upon this subject.

I may say in conclusion that the Act of the Legislature of 1899, by which protection was withdrawn from married women against the effect of the statute of limitations, has, I think, the hearty approval of the Bar and the people.

If there ever was a time when such protection was needed by the women of this State, that day is now past and gone forever. They assert their rights on all occasions and in all forums with promptitude and energy. The courts—and men, too—are inclined to give them, upon all occasions, all they ask, and, sometimes, more than they deserve, and man, with his accustomed gallantry, yields his ready consent to the assertion of their rights.

I have said that, so far as my investigations have gone, I have found no State in the Union in which the law relating to the rights of married women is as it has been fixed here by the Constitution and statutes and the decisions of our court.

In that law, as thus established, defects may be pointed out, and improvements may be suggested, especially by those inclined to hurriedly deduce from a particular case of seeming wrong the inference that some general rule is required in order to prevent the recurrence of such injustice.

In legislation, it is often the part of wisdom to let experience teach the avoidance of harm, rather than to attempt, by enactment, to prevent its perpetration.

The status of the married women of the State, as to the property owned by them at the time of their marriage, and

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that which they may thereafter acquire, is now well understood. There is no necessity whatever for any sweeping or radical change.

Very often, it is true, that a well known law, though defective, is better than a more perfect one that is not fully understood by the people.

And who demands a change?

Not the women of the State. They seem content. Let us, at least, await an exhibition of their discontent before the Bar Association expresses its advocacy of any legislation tending to the removal of those "incapacities" which Justice Rodman said the Legislature had the power to abolish.

Married women are protected, by the very existence of their disabilities and incapacities, from many dangers to themselves and their estates. Let them continue to be thus protected.

They are wisely, classed by the law, as, in a sense, incapables, not in derogation of their intelligence, but for their own good, and, though declared incapable of making so simple a thing as a contract, they rule often with an almost divine intelligence, in the happy homes of the State.

Let their wise domination in the household be not disturbed by the conferring upon them of powers and resulting liabilities that would bring to them, in many instances, not safety, but danger—not peace, but strife.

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# SOME LEAVES FROM COLONIAL HISTORY.

By JAS. E. SHEPHERD, of Raleigh.

*Mr. President, and Gentlemen of the North Carolina Bar Association:*

It must be a source of gratification to you, as it certainly is to me, to feel that the interest and zeal of the membership in our most laudable undertaking is steadily increasing, and that the Association bids fair to become a most important factor in the elevation of our profession, the advancement of legal learning, the improvement of our laws and their administration, and their consequent benefit to the general public.

It is a matter of sincere regret to me, however, that my engagements have been of such an absorbing character as to prevent me from making that full preparation in addressing you which is due this very interesting occasion. But even had it been otherwise, it would have been impossible within the limits of the time which is generally prescribed for addresses of this kind, to do more than merely outline a few thoughts directed to one or two phases of that broad field of inquiry and discussion suggested by the subject assigned me.

Many volumes have been written by eminent men upon the Science and Development of the Law, and so numerous are the contributions to the magazines that I am told that one of the leading law periodicals in this country has recently announced that no more articles of that character will be received. This, I must believe, is because of the apprehension that the ground has been so completely covered by able and philosophic writers that the reading public has become satisfied that there should be a limit to such literature, and that there is danger of tiresome repetition, an addition of fine spun theories, and the further multiplication of hair splitting differences of definition and classification not entirely unmixed, at times, with what Blackstone would term a kind of "metaphysical jargon," that leads the reader, and perhaps the writer also, into bewildering mazes of speculation and obscurity. Very mindful of these considerations it has seemed to me that I might be pardoned

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by the Committee if I were to avoid, to a great extent, such a thoroughly traveled domain, and occupy my time in saying something of the appearance and development of the law in the Colonial days of our State, and other contemporaneous and kindred historical matter. Indeed, in view of the engagements I have referred to, I have really been compelled to abandon the particular subject indicated by the title, and with the consent of the Committee, to substitute the less pretentious one, "Some Leaves from Colonial History."

In attempting a sketch of this character, it is hardly possible to produce anything very original, but the grouping of some of the leading events connected with the early home of our law here may be of interest in illustrating the character and growth of our people, as well as furnishing a striking vindication of the wisdom and adaptability of that larger and greater part of our judicial system known as the unwritten, or as it is sometimes called, the Common Law. I include in this those equitable principles which have been developed side by side with the Common Law, and which, although formerly administered entirely by a separate tribunal, have become a part of this great body of unwritten law, which to-day obtains among all the English speaking peoples as a system of jurisprudence distinct from that which is based upon the Roman or Civil law.

Judge Dillon, in his most valuable and interesting lectures, says that by the phrase "our law" he means the English and American system of law as distinguished from all other legal systems, and particularly from the Roman or Civil law. It is a remarkable fact, he observes, "that if one casts his eye over the map of the enlightened world he would find, generally speaking, but two systems of law or jurisprudence—the one of England, the other of Rome. The legal systems of the nations of the continent of Europe and of the South American States are based upon the Roman law; but the Roman law never obtained controlling authority in or among any people who speak the tongue of England." Will you permit me to prolong this digression a little further by quoting a few words from one or two more eminent writers upon our peculiar

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system. Sir Frederick Pollock, after speaking of the revival of the Roman law after the storm floods that made wreck of the Roman Empire, and how it seemed for a time supreme in the civilized world, proceeds: "In only one corner of Europe it finally failed of obedience. Rude and obscure in its beginning, unobserved or despised by the doctors and glossators, there rose in this island of England a home grown type of legal institutions. They grew up in rugged exclusiveness, disdaining fellowship with the more polished learning of the civilians, and it was well that they did so; for had English law been in its infancy drawn, as at one time it seemed likely to be drawn, within the masterful attraction of Rome, the range of legal discussion and of the analysis of legal ideas would have been dangerously limited * * *

It is hardly too much to say that the possibility of comparative jurisprudence would have been in extreme danger; for, broadly speaking, whatever is not of England in the forms of modern jurisprudence is of Rome or of Roman mould. In law as well as in politics, the severance of Brittain by a world's breadth from the world of Rome has fostered a new birth, which mankind could ill have spared. And the growth of English politics is more closely connected with the independent growth and strength of English law than has been commonly perceived, or can be gathered from the common accounts of English history."

Judge Thompson, after speaking of the then five thousand volumes of legal judgments possessed by the English speaking race, says: "These volumes extend from an early period of English jurisprudence to the present time. They cover every human interest; they decide every variety of controversy that can arise in human affairs. They are not the expressions of benches of judges in one narrow island, but they embrace the highest results of the forensic reasoning of the greatest race of men that has ever lived in the tide of time. In the British Isles; in the wide expanse of the American republic; in the wide expanse of the Dominion of Canada; in India, East and West; in Australia; in New Zealand; in South Africa—wherever the English speaking race has established its supremacy, its law-



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yers and judges have been engaged, by diligent study, by solemn argument, and by patient thought, inspired with the love of justice, in formulating legal judgments upon controverted facts, and in supporting those judgments by the most massive reasoning." It is this unwritten, or as it is sometimes called, customary law, the heritage of every Englishman, with all existing statutes applicable, that our early settlers brought with them to this country; and the history of this State during the entire Colonial period, nay, down even to the present time, will show that (as in other States), with the exception of the declaration of some great, fundamental political and civil rights, most of our statutes relate, as a distinguished writer says, "to positive regulations of expediency, and not to the great and permanent doctrines of general or universal justice or jurisprudence." These are to be found chiefly in the unwritten law, evidenced mainly by judicial decisions, which have been "the stupendous work of judges and lawyers extending in almost unbroken reach through several hundred years." It is because of the use of the word "prescribed," that Blackstone's definition of law has been so much criticised. Undoubtedly, if he meant what is the natural import of the word, the unwritten or customary law would be excluded. And Austin is equally unfortunate in the use of a similar word. The definitions are both open to criticism, and should never be given to students without qualification and explanation. But after all there is no writer who more fully and enthusiastically recognizes the existence and validity of these unwritten laws than Blackstone as he most carefully traces the sources of general customary law, giving full force to precedents as an evidence thereof. Indeed he goes further than some writers and distinctly recognizes its ethical character by stating that it is upon the two foundations, the law of nature, and the law of revelation, that all human laws rest. It is also interesting to note that since the time of Blackstone, the Dome Book of Alfred has been brought to light, and at the head of it stand the Ten Commandments, followed by many of the Mosaic precepts, with the express and solemn sanction given them by our Saviour in the Gospels, "Think not that I am

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come to destroy the law or the prophets. I am come not to destroy, but to fulfil." He then refers to the divine commandment, "As ye would that men should do to you, do ye also unto them;" adding, "from this one doom a man may remember that he judge every one righteously, he need no other doom book." A noble and affecting incident this, says Warren, in his history of our laws—which, though since swollen into an enormous bulk and complexity and fed from many sources, still bear the same relation to religion which we observe in the rude and simple elements of these laws in the days of the illustrious Alfred."

There has been much discussion concerning ethical or moral law, and the law of the land or civil law. Undoubtedly all legislation should be based upon the former, and so, too, when novel questions arise unprovided for by the written law and where there are no precedents, the judges necessarily resort to the field of morality. It is of course very clear that until these principles have been impressed with the sanction of the State, through its judiciary, so as to form precedents, they have no force as civil law. And so, on the other hand, a law may apparently be opposed to our ideas of natural justice and morality—such as the law of primogeniture, still when it becomes firmly fixed as a precedent, it is the law, and when it has been acquiesced in so long as to become a rule of property its violation under particular circumstances may become opposed to ethical or moral law. In other words a court may create a moral power above itself. Still, notwithstanding all that has been written upon this subject, it is clear that the development of law by the judges is, with a due regard to the respect that should be paid to precedent, inspired by those natural principles of justice and morality which have their imperial and divine seat in every enlightened conscience. I will conclude this somewhat lengthy digression by giving a definition of law by Holland, which, it has been said, is not open to criticism: "A general rule of civil conduct or of external human action enforced, or at all events purporting to be enforced, by a sovereign political authority." This agrees with Watt, who says that, "law derives its authority from the

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fact that it is the expression of certain rights recognized by the general social organization, which so far, it represents. By this organization it is in most instances enforced if need be." These definitions are framed with a special view of embracing this great body of unwritten law evolved by the progress of society, and generally meeting all the demands of the ethical or moral law. So it has been well said by an eminent writer, "That any man who in good faith obeys the dictates of a pure and honest heart, whose civil conduct toward his fellow men is guarded by the sense of justice and right which is graven on the heart by the Supreme law giver, will find such a course of conduct, except in the rarest instances, to be in perfect conformity with the requirements of all laws of this country. This is to me conclusive proof of the essential ethical nature and foundation of our laws, and also conclusive proof that laws are something more than a body of *commands*, in any real and proper sense of the word."

This view of the basis and development of our unwritten law explains its wonderful capacity of adjusting itself to progressive social organization. This I think will be strictly exemplified by the short sketch I purpose making of a part of our colonial history bearing upon the subject. It will be seen that most, if not all of the statutes relating to the law, are criminal statutes and statutes providing for and regulating courts and their procedure. There are few, if indeed any statutory laws, which attempt to define and declare those great principles of substantine justice and equity which must necessarily enter into and control every civilized society and regulate the conduct of every constituent member in his relation to others. It must be borne in mind that many years before we hear of any settlement in what is now known as North Carolina a considerable part of Virginia had been populated, and that a government had existed there from the time of the settlement of Jamestown in 1606—57 years before the first grant of Carolina to the Lords proprietors in 1663—and the institution of any regular government that we know of in that part of this State called Albemarle. I shall not speak of the settlement on the Cape Fear under Yeamans, as it was soon

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abandoned, Yeamans going to what now is Charleston, S. C., and his colonists making their way northward to Albemarle and its adjoining County of Nansemond in Virginia. Its history therefore has but little bearing upon the early permanent settlement of the State.

Among the most Southern range of the Virginia counties was Nansemond, which adjoins the present county of Gates, and as early as 1609, Virginia planted a colony there. It is from this county, some years afterwards, that the first permanent settlers in this State came. As the Aborigines receded, these settlers finally made their way through the trackless wilderness to the beautiful waters of the Albemarle. A few wild rovers at first, the number gradually increased, until, according to Col. Wm. L. Saunders, (to whom the State owes so great a debt for valuable historical researches) they had risen to the dignity of a permanent settlement in 1650, having purchased land from the Indians and taken grants from Virginia. These were subsequently confirmed by a saving clause in the Charter. Colonel Saunders refutes the statement that these early settlers came here seeking religious freedom. True there were a few Quakers among them, who subsequently increased to a considerable number and became, in after years, important political factors; but the chief inducement was rich bottom land, while many, it is said, came to escape the debt and other laws of Virginia, who had not, it seems, extended her jurisdiction over this then remote and obscure community. So it was for a while considered as "no man's land" and the people were left to themselves. We find no traces of any regular government among them before the grant to the proprietors. Dr. Hawk's, in speaking of them, says: "The picture presented is that of a people, who having been planted in the first instance by no agency but their own, and sustained by no external patronage, had framed for themselves such a system as their exigencies required; few in number they seem to have been governed chiefly by the customs they had brought with them from their ancient establishment. Presently this little community acquired sufficient importance to tempt the avarice of a set of proprietors, who followed them into the wilderness, that they might reap where

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certainly they had not sown." These customs, we may well believe, were those known to every one of English origin, and thus we have what we may call the dawn of our unwritten law in this State. They seemed secure in their personal liberty and possessions, and these were confirmed in a measure by the proprietors when they asserted their rights by sending them a Governor (Drummond) and instituting a regular government about a year after the Charter of 1663. The proprietors were thus liberal because they wished to induce others to come in order to increase their rents. They did not always pursue this wise policy and this resulted ultimately in the discovery of a stubborn spirit among the people, who were ever bold and persevering in their rights. This is illustrated by the fact that they deposed several of the Governors who were sent to rule over them, and by their persistent resistence to any limitations or encroachment upon what they considered those political and civil rights due all English people. Indeed these great principles, together with religious toleration, were guaranteed by the Charter of 1665. The first Charter gave the Lords proprietors full power "to make any laws whatever for the good and happy government of the province with the advice, assent and approbation of the freemen of the said province or the greater part of them *or of their delegates*, whom *for enacting of the said laws* when as often as need shall require, we will (that the proprietors) shall assemble in such manner and form as to them shall seem best." The second Charter (1665) contained the same provision, and the sole qualification of the power of legislation here granted was "that the said laws be consonant to reason, and, as near as may be conveniently agreeable to the laws and customs" of England. These may be considered the chartered rights of the colonists, recognizing the voice of the people in their government, and substantially enjoining the customary or common law of England. It is well to note the words "consonant to reason" as a recognition of the ethical or moral basis of this unwritten law of England. Again in 1665 (and not in 1667 as some historians state,) the Lords proprietors, in answer to certain proposals, set forth certain concessions, and the paper containing them has been

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called the first Constitution of North Carolina. This was in accord with the principles declared in the Charters. It is not the purpose of this paper to give an account of the political history of the Colony, nor of its gradual increase until it extended to the Cape Fear region and westward and became what is now known as North Carolina. It is sufficient for my purpose to say that the colonists brought with them the English unwritten law, and were endowed, to a certain extent, with legislative power, which they were constantly seeking to enlarge until just before the revolution they were claiming, as of right, substantially all the great principles of free government which we now enjoy. Governor Drummond was appointed by Sir Wm. Berkeley under the Lords proprietors, being himself one of them, and then Governor of Virginia. The instructions given him in the appointment of a Governor for the Albemarle, fully recognized the rights of the freemen to participate in the making of the laws, subject to the approval of the proprietors as provided in the Charter. And it was under his administration, in the latter part of 1665, that the first General Assembly was held. It was composed of the Governor, his Council and the Representatives of the people, and its first official action, that we have any knowledge of, was the petitioning of the proprietors against a certain part of the instructions sent out for the government of the colony relating to the grant of lands. It was responded to in 1668 by what is called the Great Deed of Grant which provided that the inhabitants of Albemarle shall hold their lands upon the same terms and conditions that the inhabitants of Virginia hold theirs.

Governor Drummond was succeeded in 1667 by Governor Stephens. Governor Drummond seems to have been, says Colonel Saunders, "a good man and a patriot more worthy of respect and remembrance, perhaps, than any colonial Governor ever in Carolina." It may be interesting to say, that upon his return to private life in Virginia, he conducted himself well as a citizen; but taking part in Bacon's great rebellion he was captured and hung. Being carried before Governor Berkeley, the Governor made him a low bow and said "Mr.

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Drummond, you are very welcome, I am more glad to see you than any man in Virginia; Mr. Drummond you shall be hanged in half an hour." Either at the beginning or shortly after the institution of the government under Drummond, Governor Berkeley visited Albemarle. After this the proprietors were made aware that this colony of Albemarle was not within the grant of 1663, and that the strip of territory, averaging about thirty-one miles in which along the Virginia line would probably be lost to them. The complacent monarch then made a second grant (1665) to the proprietors, advancing the line northward from the 36th parallel of North latitude to a line running from "the north end of Currituck River or inlet upon a straight westerly line to Wayanoak Creek, which lies within or about the degrees 36 and 30 minutes northern latitude and so west in a due line etc. "The line of 30° runs just south of Edenton, Hillsboro, Greensboro and so on west, so the effect of the second Charter was to add the settlement on the Chowan to the territory of Carolina. It was this additional territory that for a number of years was spoken of as *North Carolina*, the territory embraced in the first grant being known as Carolina. I have often heard sailors in our Eastern waters speak of "the North Counties," meaning the counties of Chowan, Perquimans, Pasquotank and Currituck, which were then precincts of the County of Albemarle. In the course of time North Carolina came to embrace all the present territory of the State, the other being known as South Carolina, so the name "Carolina" was no longer appropriate. It was only in 1680, says Colonel Saunders, that the Governor ceased to be called Governor of Albemarle, and was called Governor or deputy Governor of North Carolina. As astronomical observation had not fixed the precise locality of the line, the people on the frontier entered land by guess, says Dr. Hawks, either from the King or the Lords proprietors. It was because of this confusion that the earliest land title we know of in North Carolina, made by the King of the Yeopin Indians, in 1662, to Durants Neck, in Perquimans County, was confirmed by Governor Berkeley of Virginia, under his own signature. It was this doubtful territory that the Virginians were wont to

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call "Rogues' Harbor," though it should not be forgotten that those who fled from the law came chiefly from their State. The line was not definitely settled until 1728 when it was run by Commissioners from the respective States, an interesting and at times humorous account of which is given by one of them, Colonel Byrd of Westover, in his "Dividing Line," which has been reprinted by the Virginia Historical Society. The line was run jointly 150 miles, 50 miles west of any white inhabitants, when the North Carolina Commissioners declined going further, and the Virginians continued until they had gone 241 miles and a fraction, about 72 miles beyond where the North Carolina Commissioners left them. At this time the population of Albemarle, Bertie and Tyrrell precincts was only about 7,000, and Bath County consisting of the precincts of Beaufort, Hyde, Craven and Carterett about 2,500. Carterett precinct extended to the Cape Fear. Afterwards New Hanover precinct, of 500 population, was created, so that the whole population of the province did not exceed 10,000. I mention this in passing to show how slow was the early growth of the State during this period. I will add in this connection, that there were only five towns, all small, Bath (the first chartered town in North Carolina), Newbern, Edenton (the then metropolis), Beaufort and Brunswick, of which latter nothing now remains but the old church walls and the grave stones of the dead, the town having been superseded by Wilmington, sixteen miles higher up the stream. In 1669 the proprietors, not content with the simple form of government instituted by them in January 1665, signed Locke's Fundamental Constitutions, but for want of Landgraves, cassiques and a sufficient number of people, they were never put into practical operation in North Carolina. Their chief impress, says, Colonel Saunders, is to be found in the enacting clauses in the acts of Assembly, between 1669 and 1720. In their stead the Lords proprietors, from time to time, sent out instructions to the Governor and Council of Albemarle, which were as "nigh" the Fundamental Constitution as they could come under the circumstances." My time will not admit of a review of this work of the celebrated philosopher. It may be

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found in the Colonial Records, and is chiefly interesting as an illustration of how utterly incapable is a mere theorist to fashion a government for any people, especially for colonists who were battling with the rude experience of novel surroundings, which Locke could hardly appreciate. It is a stupendous piece of folly, and the only excuse I can find for it is contained in a note by my friend, Bishop Cheshire in his volume of Hawks, which I have been using. He says, "But the Fundamental Constitutions were framed when Locke was only just from the scholastic life of Oxford, and twenty years before he began that career of authorship which made him famous in philosophy, religion and politics. His share in the work has, I believe, been greatly overestimated." It is not to be wondered that the ways of our ancestors were hard indeed when they were in the hands of proprietors who either through ignorance or wantoness, persisted for years, as far as they could, in fastening upon them a body of laws so wholly unsuited for their struggling condition. There is one provision in it which I will mention, which was hardly calculated to conciliate the lawyers, as it was declared to "be a base and vile thing to plead for money or reward." Time admonishes me that I must confine myself to my original purpose of mentioning some of the laws enacted by the General Assembly. The history of the courts has been elaborately and most ably treated by Dr. Kemp Battle and I commend his address before the Supreme Court to every member of the profession, as well as to the general reader. It will be found in the appendix to the 103 North Carolina Reports. The early records of the Courts show much familiarity with the English Chancery and common law forms and practice and the decisions, (apart from those relating to mere statutory and criminal offenses,) are based upon the unwritten law. No very intricate cases are disclosed by the early records, the most important ones being a suit in chancery in reference to the settlement of the title of the heirs of George Durant, to the land I have before mentioned, and the Duckenfield case. The records show that the Chief Justice and his associates were often engaged in the trial of cases now cognizable by our present Inferior Courts. Such for

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instance, as the case of the missionary John Urmstone, who was convicted and fined for profanity and drunkenness. It is not surprising that the reverend gentleman was dissatisfied with people who showed so little respect for his spiritual gifts, and he very vigorously expressed his aversion to them in a letter to London, in which he expresses his desire to return; for, he gravely remarks, "I would rather be Vicar to the Beer Garden than Bishop of North Carolina." It is proper to say, that the ministers who succeeded him were not all of the same character, but the Rev. Mr. Urmstone was for a long time the only regular minister in the colony. We find the courts at a very early period administering wholesome discipline to the lawyers, as in the case of one Manwaring, who was debarred for serving on the jury without making known his relation as attorney to one of the parties. A similar fate was that of Colonel Wm. Wilkinson and Captain Henderson Walker who had offered sundry affronts to the members of the court. About this time an indictment was preferred against Susannah Evans, in which it was charged that she had diabolically, etc., bewitched one, Deborah Bourthier unto death. It is thought that this prosecution was due to the intercourse of the colonists with the New Englanders, who came regularly to "gather up and take away the produce of Albemarle." It is creditable to the colony, ungodly as it was charged with being, that its people "had religion enough to shrink from the *pious* enormities to which the extreme of the *more* enlightened Northern christian, thus invited them." The grand jury refused to find the bill, and thus ended the only attempted prosecution for witchcraft in the State. The records of the court, to be found in the Colonial Records, abound in a variety of litigation, trespass, assumpsit, ejectment, processioning, administrating, bills in equity to set aside judgments and stay executions at law, and other equitable causes; which afford quite an illustration of the character and habits of the people, and the social growth of the colony. I will now proceed to mention some few of the early statutes, the first, that we have any knowledge of, being an act passed in 1666 to prohibit "the sowing, selling, planting, or in any way tending tobacco," from the first of Febru-

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ary 1667 to the first of February 1668. This of course, was for the purpose of enhancing the value of that product. Whether such a policy would have the decided effect in these days, is a matter perhaps worthy of the consideration of those engaged in its cultivation. Similar laws were passed under agreement by Maryland and Virginia.

The next acts of which we have any knowledge, nine in number, were passed in 1669, copies of which we have taken from the British Record office in London. Until these copies were made, we had no copy of any law earlier than 1715. One of these acts protected new comers from their foreign creditors for five years; and from this, Albemarle came to be denounced as the resort of thieves, rogues, vagabonds, etc. It should be noted that Virginia and South Carolina passed similar laws, which leads Colonel Saunders to say, "How circumstances do alter cases. When a man in England got in debt, ran away between two suns, and settled in Virginia or South Carolina, he was graciously and fraternally welcomed and thoroughly protected from his 'engagements,' as his debts were mildly termed. If, however, a debtor flying his engagements, should find welcome and protection in *North Carolina*, he straightway became a rogue and a vagabond."

Another act provided for the celebration of the rite of marriage before the Governor, or any one of his council, in the presence of "three or four of their neighbors." This was necessary because there was "no minister as yet in this country by whom the said parties may be joined in wedlock." Strange to say that this act was animadverted upon as tending to gross immorality and vice. The result we know to have been far otherwise. Another act is against "Ingrocers," the offense being punished by the forfeiture of ten thousand pounds of tobacco, the chief currency of the country. The act may be of some interest to those interested in anti-trust laws, though it is similar in principle to previous acts in England.

As I have said, with the exception of the nine acts above referred to, no record is to be found of any acts passed prior to the session of the General Assembly held at Capt. Richard Sanderson's house at Little River, begun on the 17th day of

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November, 1715, and continued by several adjournments until the 19th of January, 1716. It seems that a revisal of all of the acts up to that time had been made under the direction of an act of the preceding session. A manuscript copy was on file in the office of the Secretary of State in 1837, and another copy was placed in the hands of Dr. Hawks by Judge Rodman. This was a revisal of the whole body of the statute law, and repeals all former laws, not particularly excepted. It contained also the excepted laws, as well as those marked in the earliest printed revisal, the "Yellow Jacket" (1752), as obsolete. Copies in manuscript were furnished to the several precincts, and the clerks were enjoined to read them publicly once a year, during the sitting of the court; and also at every term to place the volume open upon the court table, for the free inspection of the court, bar and suitors. Dr. Hawks, upon the relation of Governor Swain, remarks that as an evidence of "the unchangeable character of official habits, we may add that even in our own day, it is the custom of some of the clerks of the counties of Albemarle Sound still formally to place the printed volume of statute law on the Judge's table."

It was not until 1752 that any laws were printed, when the revisal of Samuel Swann, known as the "Yellow Jacket," was printed by James Davis at Newbern. This was the first book ever printed in North Carolina. Time will permit me to do but little more than turn over the leaves of this volume and refer to such of these old enactments as may probably excite your interest. In 1715 a law was passed against private burials, and it was provided that the owner of every separate plantation shall set apart a burial place and fence the same for the interring of all Christian persons, whether bond or free, that shall die on the plantation, and before interring there shall be called at least three or four of the neighbors to view the corpse, in order that, if the death was by violence, it might be discovered. This is said to be the origin of private grave yards existing on so many plantations. It has also been said to be the origin of the custom which obtains among the people of some localities of inviting visitors to look upon the dead.

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A law was passed at this session providing a charter for the town of Bath, in what is now Beaufort county, this being not the oldest, but the first chartered town in the State, having been chartered in 1705. The act is very elaborate and it must have been expected that the town would become the seat of government. It provided for the first public library in the State; it having been sent over at the instance of Rev. Thomas Bray, "for the use of the inhabitants of the parish of St. Thomas, in Pamlico." A librarian was to be appointed, and rules were provided for the safe keeping and the use of the books. Not a vestige of this remains; but the old church, built with brick from England, is still kept in good repair, and is a source of pride to the citizens.

Up to 1722 the precinct courts were held at private houses. In that year an act was passed providing for the building of court houses in each precinct. These precincts were afterward made counties, generally retaining the same names.

At the session of 1715, after reciting that the charter had provided that the laws of the province should "be consonant with reason, and as near as may be, agreeable to the laws and customs of our kingdom of England, from whence it is manifest that the laws of England are the laws of this government," the General Assembly formally enated "that the Common Law is and shall be enforced in this government, except in the practice in issuing writs, etc., which is to be regulated from time to time by rule of the courts." This act would seem to have been unnecessary, as it is apparent upon its face that the Common Law of England had been substantially made the law of the colony by the charter, and before that, by the conduct of the people themselves. There had been so much sedition and revolution that it seems to have been thought beneficial to formally adopt the Common Law by the Legislature. This act is the parent of the more modern acts upon the subject.

In 1738 an act was passed substituting sheriffs for marshals, and limiting their terms of office. Very stringent laws were passed for the observance of the Lord's Day, and for the suppression of vice and immorality. It was also provided that if any person should profanely swear or curse in the hearing of

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any Justice of the Peace, he should pay the sum of ten shillings and six pence, "for every oath or curse." If the old fashion way of swearing was as fluent as that of the present day, it would require a reference to some expert to analyze complex sentences and report the exact number of oaths or curses they contain. Happily such a difficult problem is not to be solved under our present laws, but I doubt not, if it were required, we might find some referees duly qualified to discharge the duty. This swearing in the hearing of a justice reminds me of a story I heard from Governor Vance.

On one occasion, during a recess of a county court, one of the justices threatened to punish a person for the use of profane language as a contempt of court. The party took the position that the court was not in session. Whereupon the justice with great dignity asserted that he would have him to understand that his court was always an object of contempt.

I find a very indefinite law in 1741 which provides that no ordinary keeper shall permit any one to tipple in his house on Sunday, "or drink more than is necessary." Here again is the necessity of expert testimony, which probably could also be supplied at this time.

It is also provided that thirty lashes "well laid on," is the penalty for retailing without license, if the convicted party shall fail to pay the penalty of five pounds.

It is also provided that if any minister shall be "*notoriously* guilty of any scandalous immorality," it shall be lawful for the vestry to withdraw his stipend; otherwise, it seems, if he privately commit such an offense.

The justices of each county were empowered to purchase "the later editions of Nelson's Justice, Carey's Abridgment of the Statutes, Swinburn on Wills, or Godolphin's Orphan's Legacy, and Jacob's Law Dictionary and Wood's Institutes." Whatever may be said of this equipment for the county court, it far surpasses that of later years, where there was none at all in the way of books besides the statutes.

I find a most elaborate protection law in 1751 for the benefit of the home distillers of Anson county. The preamble says, that "Whereas the inhabitants of Anson county do make

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quantities of strong liquor, sufficient for their own use, and the frequent importation of rum, wine and other spirituous liquors in Anson county from South Carolina, only drains the inhabitants of their substance, and is greatly detrimental to their families." The act then puts heavy duties upon liquors imported from South Carolina. It seems that it was only South Carolina spirits they were seeking to exclude. Whether this high tariff is an estoppel upon the good people of Anson against now voting for free trade does not seem to have recently engaged their attention.

A very well drawn act concerning "old titles of lands and for limitations of actions and for avoiding suits in law," the provisions of which, with slight alterations, have continued to this day, was passed in 1715. Also an act in 1749 for docketing of entails.

It is curious to note that after the revolution the Superior Courts had no equitable jurisdiction. This was given by the act of 1782. It is also noticeable that the act of 1784 provided that land should descend to all the sons, thus excluding daughters. This was amended in 1795.

As to the licensing of attorneys I would say that prior to the revolution there seems to have been no statute regulating admissions to the Bar in North Carolina, but it is known that members of the outer Bar of England were entitled to practice in the courts of this colony. Those who were not members of the outer Bar of England and who desired to enter the profession could only do so by a license from the Governor whose duty it was to license only on the recommendation of the Chief Justice. As you are aware there was much friction, if not indeed actual hostility at times between the persons holding these offices. And we find that complaint was made that the Governor had in some instances licensed persons without any recommendation from the Chief Justice. By whatever means they were licensed, and whatever may have been the qualifications required (and of this last we have no knowledge), there were at the beginning of and during the revolution some very prominent and able men at the bar, some of whom took a leading and patriotic part in the stormy days that led to our

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independence. The first statutory provision that I can find upon these subjects is in the act of 1777, which is entitled "An Act for establishing Courts of Law and for regulating the proceedings therein." It is there provided "that all persons who have heretofore obtained licenses to practice as attorneys in the courts under the late government, and have been admitted as such shall hereafter be permitted to practice in such courts in which they were heretofore admitted to practice without any further examination; and every person who shall hereafter apply for admission to practice as an attorney, shall undergo an examination before two or more Judges of the Superior Courts (changed in 1818 to two or more Judges of the Supreme Court); and if such persons shall be found to possess a competent share of law knowledge and be a person of upright character, such judges shall give him a certificate under their hands and seals to practice in any court of this State for which they may judge him qualified." It is to be noted that this law contemplated that licenses should be issued to practice not in all the courts, but only in such for which the judges deemed the applicant qualified. It is also to be noted that in all the succeeding statutes including the present Code, substantially the same language is used. So it has always been and is now within the power of the Supreme Court to grant licenses to practice law in the courts specified in these certificates. Whether we should return to the old method and require two examinations, embracing a two years' course of study instead of one, is well worthy of consideration.

It will be observed that in this hasty reference to some of our old statutes, I have mentioned none which attempt to define and declare those great principles of substantive justice and equity, which, during all the colonial period, were applied by the courts in the determination of those private rights of persons and property which are incident to every social organism. I have not mentioned them because I can find none. The unwritten law with a few statutory modifications was during all these hundred years sufficient to meet the demands of this growing State, and thus furnishing, as I have before remarked, a most wonderful illustration of its wisdom and



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adaptability. It is this particular view that I have chiefly sought to impress in this imperfect paper. Not only here, but in all English speaking countries does this unwritten law constitute the great body of jurisprudence. I do not pretend to say that the system is perfect and that wholesome legislation is not needed in some directions, nor that even a codification of a part would not be attended with good results. When a branch of this customary law by reason of its constant use and application to a multitude and infinite variety of transactions has, like the law relating to negotiable instruments, approached somewhat near the line of complete development, I think it well to attempt a codification at least for the purpose of securing some degree of uniformity among the commercial people of different States. Of course this uniformity cannot be fully preserved in view of the probable diverse decisions by courts of different States. Still much may be done to correct these conflicts through associations, like the Bankers' Association, for instance, which are sufficiently interested and active and can from time to time by joint State action, influence the necessary legislation. Generally speaking, however, I feel quite sure that the time has not come when we should attempt an entire codification of the unwritten or Common Law of our State. Some special subjects may be treated in this way, but the idea of blending all of our written and unwritten law into a statute under the name of a Code would, I think, strike the mind of even of the least conservative lawyer with amazement and alarm. I have not the time to discuss such a proposition. Suffice it to say, that the one or two attempts in this direction that have been made in this country have not, in the estimation of some of the best writers, been very satisfactory. Such a revolution in our judicial system would necessarily obstruct that spontaneous development of the law with the progress of society, which is the distinctive characteristic of the English and American system of jurisprudence, and it is stoutly opposed by a very large majority of the profession under the leadership of James C. Carter and other distinguished lawyers. One of the arguments advanced in support of such a general codification is the immense volume of case-law, evidenced by about

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eight thousand law reports, and the difficulty of finding the law in the midst of so many conflicting decisions.

It must be remembered that this large number of reports include those of Great Britain and the various States of this Union, and that under our autonomous system of government it would be impossible to reduce them into one general or national Code. Even if this could be done, the uniformity would soon be disturbed by the conflicting decisions of the courts of the different States in the construction of such a Code, and in supplying its insufficiencies to meet the infinite number of new questions constantly arising and which cannot be anticipated. This consideration ought to be sufficient to meet any argument based upon the large number of reports. All the decisions outside of our State are but persuasive authority, and can be found in the digests. Those inside the State are comparatively small in number and as a general rule may easily be mastered with the aid of a good digest. What is most needed in a greater number of the States, in order to prevent obscurity in the unwritten law is a better opportunity for careful deliberation on the part of the courts,—less dicta and a higher appreciation of the true principle and office of the doctrine of *stare decisis*.

Retrospective laws, made by the reversal of decisions which have become rules of property, or have been so long followed as to have been contemplated by contracting parties, are as harmful and unjust as a retrospective act of the Legislature. "The doctrine of *stare decisis* is indeed one of the most important of the law; for in its simplicity it expresses man's reverence for civil authority, and the demand of his nature that it shall be obeyed; and this feeling is the surest foundation of social order. It is the expression of the people's expectation that all government shall be administered with great care and with a reasonable degree of consistency, and of their confidence that it is so; and it involves the injunction that functionaries shall not, for light reasons, abandon the expressed judgments of themselves, or of their predecessors, especially if any serious embarrassment of public order may be the consequence. It regards all governmental, and especially judicial decisions as

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the official representations of the public will in relation to civil rights and duties, and as being entitled to respect and reverence for this simple reason. To these feelings and principles we owe official reverence, and we desire to cherish it as a necessary element of social order and of judicial character." Callander vs. Ins. Co. 23 Pa. State, 474.

Wisely administered this unwritten law largely represents the experience, the intellect and the conscience of the greatest people on earth. It follows all who speak the English tongue, wherever they may be, even to the uttermost parts of the earth. Wherever it is planted, there you will find the rights of persons and of property guaranteed, and the principles of highest civilization advanced. As we have seen in this hurried sketch it is all sufficient to meet the demands of a State in its infancy, and we know that it is capable of expanding and adapting itself to the demands of society in its most complete development and organization.

From time to time it may be altered and supplemented in many respects by judicious legislation, but let not this great heritage, the growth of centuries, and so rich in blessings to the people, be marred by the iconoclast, who generally comes in the guise of the reformer.

This I feel sure will not be done in North Carolina as long as we cherish the memories of Taylor, Henderson, Nash, Ruffin, Pearson and other eminent jurists, whose labors have added a new and brighter lustre to our unwritten or Common Law.

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## CHARLES M. STEDMAN.

### THE NEW PRESIDENT.

The Hon. Charles M. Stedman, sometime Lieutenant Governor of North Carolina, who was unanimously elected President of the Association for the ensuing year, is a resident of Greensboro. He has had a distinguished career.

Charles Manly Stedman is the second son of Nathan A. and Euphania W. Stedman, and was born in Pittsboro on the 29th of January, 1841. When he was twelve years old, his parents moved to Fayetteville. At sixteen he entered the University, having been prepared therefor by Rev. Daniel McGilvary (afterwards the well-known missionary to Siam), the Rev. George McNeill, and the Rev. Daniel Johnson, principal of the Donaldson Academy at Fayetteville. At the University he took a high stand. He was one of the orators of the Phi. Society for the Sophomore class when the President of the United States (Mr. Buchanan) visited the University in 1859. He was graduated in 1861 with the highest honors of his class.

Immediately upon leaving the University, he enlisted as a private in the Fayetteville Independent Light Infantry, and served with that company in the First North Carolina Volunteers at the battle of Bethel (June 10, 1861). Upon the organization of the Forty-fourth North Carolina Regiment, he was elected first lieutenant of the Chatham company (E). Soon after its organization, his regiment was sent to Virginia, where he served under Lee and in most of his campaigns. He was promoted to be captain of his company and then to be major of his regiment, in which latter capacity he several times commanded it in battle and with marked gallantry and skill. In the army, as at school and at college, he exhibited those traits which have characterized his honorable career as a lawyer and as a public man; he never shirked a duty, and, except when wounded, participated in all the battles in which his regiment was engaged. He has the distinction of being one of the twelve Confederate soldiers who were engaged in the first battle, at Bethel, and who surrendered with Lee at Appomattox.

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With the end of the war, Major Stedman was compelled to begin life anew. He decided to enter the profession of law, and began its study under the late Hon. John Manning at Pittsboro, meanwhile teaching school. Upon the completion of his law course, in 1867, he settled in Wilmington, and entered upon the practice of his profession. Here he built up a large and lucrative business, and held numerous and important positions of trust. In 1884 he received the nomination of the Democratic party for Lieutenant Governor, and was elected to that office on the ticket with the late Governor Scales. As soon as he was nominated, he resigned the attorneyships which he held for several railway systems, believing that to be his duty upon entering public life. He made a brilliant record in office, receiving the encomium of being one of the best presiding officers which the Senate of North Carolina had had in all its great history.

Major Stedman has received many high honors at the hands of the Democratic party. In 1880 he was a delegate to the National Convention which nominated General Hancock for President. In 1888 he was a candidate for Governor of North Carolina, and was defeated, but only after a prolonged and memorable contest, by Hon. Daniel G. Fowle.

In 1891 circumstances carried him to Asheville and then to Atlanta. But his heart was in his native State, and he quickly returned, to settle in the rapidly growing city of Greensboro. Here his success at the Bar has been remarkable, and he at once occupied his former position, in the forefront of the State's leading lawyers. He enjoys a large practice in Guilford and the other counties of the fifth judicial district, and is also frequently employed in the larger class of cases outside of his district, both in State and Federal courts.

Governor Stedman is tall, handsome and distinguished looking. His manners are polished and engaging, and his bearing that of a gentleman of the old school. His code of morals is a lofty one, and his walk in life blameless. His mind is quick and logical. He is a writer of elegant English; he possesses the gift of oratory, which he has developed to a high degree. He has a warm, impulsive heart, and probably his leading

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trait is his disposition to help those who suffer misfortune, or who are in distress. There are many persons living whom he lifted to their feet in the dark days that followed the reverses of 1873–'76. Such a disposition has naturally attracted warm friends in all parts of the State, whom his sincerity and uprightness have joined to him as by hooks of steel. He is wedded to his profession, but, with the change in our public life likely to follow the purification of the ballot about to be effected, high political honors no doubt await him, if he will accept them. He loves his friends and his native State, and altogether is a noble specimen of a Carolinian.

In 1866 he was married to Kate DeRosset, daughter of the late Mr. Joshua G. Wright, one of the distinguished Wright family of Wilmington.

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## PLATT D. WALKER.

### THE FIRST PRESIDENT.

Mr. P. D. Walker, the first President of the North Carolina Bar Association, was born in the city of Wilmington. He received his education at Chapel Hill and at the University of Virginia. He studied law under Professor Minor at the University of Virginia. Soon after he received his license to practice law, he located at Rockingham. In November, 1876, he moved to Charlotte, and formed a copartnership with Major Dowd. This copartnership continued until 1878. For two or more years Mr. Walker practiced alone. In the fall of 1881, he formed a copartnership with Mr. A. Burwell, which copartnership lasted till Mr. Burwell was elected a Justice of the Supreme Court, in November, 1892. During this year Mr. Walker became associated with Mr. E. T. Cansler. This association continued till Judge Burwell returned to the active practice in January, 1895, when the present firm of Burwell, Walker and Cansler was formed. In 1874 Mr. Walker was a member of the Legislature.

Mr. Walker's long and extended practice at the Bar, his great learning, studious habits and high sense of honor have won for him a State reputation in the legal profession. When the Association at its first meeting in Raleigh elected him as its President, it was an honor well bestowed. This selection was without solicitation on the part of Mr. Walker, and, in his own language, it was unexpected. His speech of acceptance on this occasion well depicts the character of the man. Mr. Walker is a lawyer whose heart is in his work. He loves his profession. He is a lawyer who fully realizes the importance and responsibility of his position in life. In his professional work he cultivates those graces of dignity, honor and courtesy that should ever bind brother to brother.

We could not close this sketch without referring to Mr. Walker's address before the Bar Association at Morehead City. As the first President, Mr. Walker goes on record as holding up to the profession high ideals, great principles of honesty,

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PLATT D. WALKER.

First President, 1899.

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justice and liberality, ideals and principles that should "commend themselves to every lawyer who loves his profession and is proud of its prestige and past history." To say that this address is a safe chart and an unerring guide to every lawyer but feebly expresses our appreciation.

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## CHARLES F. WARREN.

### THE SECOND PRESIDENT.

Charles F. Warren was born in Washington, N. C., September 6, 1852. He was the only son of Judge E. J. Warren, one of the ablest lawyers the State has produced and has inherited his father's talents. He entered Washington and Lee University, Va., when it was under the Presidency of General Robert E. Lee, and graduated in 1873. His parents, like so many others of that time, were prevented from carrying out their cherished desire of sending him to the University of his own State by the evil times which temporarily closed its doors. He was admitted to the Bar by the Supreme Court, June term, 1874, beginning the practice in his native town, where he has ever since resided. In December, 1879, he married Miss Elizabeth M. Blount, of that place.

He was Mayor of Washington 1881–1886, and in 1887 a member of the State Senate, and in 1896 a delegate to the National Democratic Convention at Chicago. In 1900 he was endorsed by his entire district for Attorney-General, but after the nomination of the officers preceding, in the usual order of nomination that of Attorney-General it became evident that geographical considerations required the nomination of a Western lawyer for that post and Mr. Warren declined to allow his name to go before the Convention.

In 1899 he was honored by the North Carolina Bar Association by election as its President. His administration was able and progressive. It was due to his initiative that the Bar Association, at its session in Asheville in July, 1900, requested the Supreme Court to restore to *two years* the length of time required for study before a candidate could apply for license to practice law—which had been the requirement prior to 1868—and to add Sharswood's "Legal Ethics" to the course of study. The request of the Bar Association was granted in both respects by the Supreme Court at its first session thereafter. His action in this matter is characteristic of the man, showing his earnest desire to elevate the standard of his profession.

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A lawyer of great learning and industry, of unquestioned ability and of the highest standing personally and professionally, Mr. Warren is too well known to need any comment. Whoever else is entitled to take his stand in the front rank of the profession in North Carolina, no one will question that Charles F. Warren is entitled to a place there. A good lawyer, a fine advocate, a courteous gentleman, he has so lived that his personal character is without reproach. In his career both as a man and as a lawyer he measures up to the eulogy of the Latin poet:

Justum ac tenacem propositi virum.

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# CONSTITUTION.

## ARTICLE I.

### NAME.

This Association shall be called The North Carolina Bar Association.

## ARTICLE II.

### OBJECT.

This Association is formed to cultivate the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to elevate the standard of integrity, honor and courtesy in the legal profession, to encourage a thorough and liberal legal education, and to cherish a spirit of brotherhood among the members thereof.

## ARTICLE III.

### MEMBERS.

*Active Members.*—Those members of the Bar who attend the meeting at which the Association is formed, and who shall subscribe to this Constitution and pay the admission fee, are hereby declared to be members of this Association. Any white person shall be eligible to membership in this Association who shall be a member of the Bar of this State in good standing, and who shall be nominated as hereinafter provided.

*Honorary Members.*—The Judges of the Supreme, Superior and Criminal Courts of this State, and the Judges of the Federal Courts in this State shall, so long as they remain in office, be honorary members of this Association, with all the rights and privileges of regular members, except eligibility to office, and without liability for the payment of admission fees or dues.

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## ARTICLE IV.

### OFFICERS.

The officers of this Association shall be a President, twelve Vice-Presidents, and a Secretary and Treasurer, whose duties shall be such as may be prescribed in the By-laws.

They shall be elected at the annual meetings hereinafter provided for, except those first elected under this Constitution. They shall hold office from the adjournment of the meeting at which they are elected, until the adjournment of the next succeeding annual meeting, except those first elected under this Constitution, whose terms shall commence upon their election and expire at the adjournment of the first annual meeting. The President and Vice-Presidents shall be ineligible for re-election until one year after the expiration of their terms of office.

The offices of Secretary and Treasurer shall be filled by one person, who shall receive as compensation for his services the sum of one hundred dollars per annum, payable quarterly.

All elections shall be by ballot.

## ARTICLE V.

### STANDING COMMITTEES.

There shall be the following standing Committees of this Association, to be chosen as hereinafter provided, whose duties shall be such as may be prescribed in the By-laws:

1. *Executive Committee.*—To consist of six members.

2. *Committee on Admissions to Membership.*—To consist of one member from each of the Judicial Districts of the State.

3. *Committee on Legislation and Law Reform.*—To consist of five members.

4. *Judiciary Committee.*—To consist of five members.

5. *Committee on Legal Education and Admission to the Bar.*—To consist of five members.

6. *Committee on Memorials.*—To consist of five members.

7. *Committee on Grievances.*—To consist of five members.

8. *Committee on Legal Ethics.*—To consist of five members.

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The members of the Executive Committee shall hold office as may be prescribed in the By-laws.

The members of all other standing Committees shall hold office from the time of their appointment until the adjournment of the next succeeding annual meeting and until their successors shall be appointed.

## ARTICLE VI.

### APPOINTMENT OF COMMITTEES.

The members of the Executive Committee, except those first elected under this Constitution, shall be elected at the annual meetings.

The President shall appoint all other standing Committees within ten days after the adjournment of this and each annual meeting (and shall designate one member of each Committee as its Chairman and one member as its Secretary),* and shall announce the appointees to the Secretary, who shall immediately notify the persons so appointed.

## ARTICLE VII.

### MEETINGS.

This Association shall meet annually in the month of June, July or August, at such time and place as the Executive Committee may select, and those present at such meeting shall constitute a quorum. Such notice of the meeting shall be given as may be prescribed in the By-laws.

Special meetings may be called at any time by the Executive Committee upon such notice as may be prescribed in the By-laws; and shall be called by said Committee at any time upon the written request of twenty-five members, upon like notice. At a special meeting no business shall be transacted except such as is specified in the call therefor, without the concurrence of at least four-fifths of those present; and at such a meeting forty members shall constitute a quorum.

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*The paragraph in ( ) was an amendment passed at annual meeting of 1900.

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## ARTICLE VIII.

### FEES AND DUES.

The admission fee shall be five dollars, and the annual dues shall be two dollars, to be paid as may be prescribed in the By-laws: *Provided*, That the admission fee shall be in lieu of the annual dues for the current year in which it is paid. No member shall be qualified to exercise any privilege of membership while his fees or dues remain unpaid, when due.

## ARTICLE IX.

### SUSPENSIONS AND EXPULSIONS.

Any member may be suspended or expelled for misconduct in his relations to this Association, or in his profession, upon conviction thereof, in such manner as may be provided in the By-laws; and all interest in the property of the Association of persons in any way ceasing to be members shall *ipso facto* vest in the Association.

## ARTICLE X.

### VACANCIES.

In case of a vacancy in any office it shall be filled by appointment of the President until the next annual or special meeting: *Provided*, That a vacancy in the office of President shall be filled by appointment by the Executive Committee of one of the Vice-Presidents. In case of a vacancy in any Committee it shall be filled by appointment of the President until the next annual or special meeting. A person appointed to fill a vacancy shall hold the office until his successor is elected or appointed and qualified.

## ARTICLE XI.

### ANNUAL ADDRESSES AND PAPERS.

At each annual meeting the President shall deliver an address upon some subject to be selected by himself, in which he shall make such suggestions as to the work of the Association as he may deem proper. An address shall also be made

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by some lawyer of prominence, not a resident of the State, to be invited by the Executive Committee. And papers shall be read by not more than five members of the Association, to be selected by the Executive Committee, as prescribed in the By-laws.

## ARTICLE XII.

### AMENDMENTS.

This Constitution may be amended by a three-fourths vote of the members present at any meeting: *Provided*, That if it be an annual meeting, notice of the proposed amendment, subscribed by at least three members, shall be given on the first day of such meeting; and, if it be a special meeting, a similar notice, similarly subscribed, shall be given in the call therefor: *Provided, however*, That no change shall be made at any meeting at which less than forty members are present.

## ARTICLE XIII.

### INCORPORATION.

This Constitution shall go into immediate effect. This Association shall be incorporated under the laws of the State of North Carolina at the present session of the General Assembly, and until such incorporation all money and property of said Association shall be vested in the President and Secretary and Treasurer, as trustees thereof, who shall pay over and deliver the same to said corporation as its property, as soon as the corporation is created by law.

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# BY-LAWS.

## I.

### PRESIDENT AND VICE-PRESIDENTS.

The President shall preside at all meetings of the Association; he shall open each meeting with an annual address, and perform all other duties required of him by the Constitution and By-laws. In his absence one of the Vice-Presidents shall preside, and, in the absence of all such officers, such person as may be called to the chair by the meeting.

## II.

### SECRETARY AND TREASURER.

The person holding the office of Secretary and Treasurer shall be charged with the following duties:

1. He shall keep full and accurate minutes of the proceedings of all meetings of the Association, and of all other matters of which a record shall be ordered by the Association; and he shall carefully preserve its archives and transmit them to his successor in office.

2. He shall with the aid and concurrence of the President, when by the latter deemed expedient, conduct the correspondence of the Association.

3. He shall keep at all times a complete and accurate roll of the members, officers and committees of the Association, with their addresses; he shall notify new members of their election, and officers and members of committees of their election or appointment.

4. He shall, under the direction of the Executive Committee, issue notices of all meetings of the Association, and in case of a special meeting, shall add a brief note of the object thereof,



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5. He shall, as Secretary, report to the Association at each annual meeting, giving a summary of his transactions during the preceding year, and an outline of the business which is to come before the Association at such annual meeting, so far as it relates to propositions or resolutions referred to any special or standing Committee at the previous meeting. And he shall be the keeper of the seal of the Association.

6. He shall collect, and, under the direction of the Executive Committee, disburse, deposit or invest the funds of the Association.

7. He shall keep regular and accurate accounts in books belonging to the Association which shall be open at all times to the inspection of any member of the Executive Committee.

8. He shall report to the Executive Committee, whenever so required, the amount of money on hand or under his control, and any appropriations or charges affecting the same.

9. He shall, as Treasurer, make a full and detailed report at each annual meeting, showing: (*a*) The receipts and disbursements of the preceding year, suitably classified; (*b*) all outstanding obligations of the Association; and (*c*) an estimate of the resources and probable expenses for the coming year; and any suggestions he may think proper to make.

10. He shall submit his said report and all his books, vouchers, and papers relating thereto, to a committee to be appointed by the Executive Committee at its annual meeting, who shall audit and certify said report before its presentation to the Association.

## III.

### EXECUTIVE COMMITTEE.

1. At each annual meeting, there shall be elected, by ballot, two members of the Executive Committee, to hold office for three years, and such additional members as may be necessary to fill vacancies, if any, to hold office for the unexpired terms of their predecessors.

2. They shall have the general management of the affairs of the Association, and shall make such regulations and take such

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action, not inconsistent with the Constitution and By-laws, as may be necessary for the protection of its property.

3. They shall audit all accounts against the Association, and no money shall be paid out of the treasury except upon a warrant signed by their Secretary and countersigned by their Chairman.

4. They shall, as soon as conveniently may be, after their first election under this Constitution, and thereafter as soon as conveniently may be, after each annual meeting, invite some lawyer of prominence, not a resident of this State, to make an address before the Association at its next annual meeting, upon some subject to be selected by the person so invited. And they shall at the same time select not more than five members of the Association to prepare and read papers at the next annual meeting upon subjects to be chosen by the persons so selected, or such as may be suggested by the Committee.

5. They shall, at least sixty days before each annual meeting of the Association, select a place and a time within the month of June, July or August, for holding such annual meeting, and prepare a printed programme of the proceedings to be held thereat. A copy of such programme and a notice of such meeting shall be mailed to each member of the Association by its Secretary.

6. They shall, at their annual meeting in each year, appoint a special Committee of three members of the Association to audit and certify the accounts of the Treasurer before they are presented to the Association.

7. They may secure the services of a stenographer to report the proceedings of each annual meeting.

## IV.

### COMMITTEE ON ADMISSIONS TO MEMBERSHIP.

1. All applications for membership in the Association shall be in writing, signed by the applicant and addressed to the Committee on Admissions to Membership. The application shall be endorsed by at least two members of the Association

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not members of the Committee (residing in the Judicial District of the applicant),* and by the member of the Committee from the Judicial District in which the applicant resides: *Provided*, That if the member of the said Committee from any district have not registered at any annual meeting, or, having registered, shall have left the place where any annual meeting is held, it shall be the duty of the President of the Association, on the request of the Chairman of the Committee on Admissions to Membership, or in his absence, of any member thereof, to designate a substitute for the said absentee, with power to act during his absence, naming one from the appropriate district, if convenient, or, if not, any other member of the Association.

2. If the application be presented at a meeting of the Committee the vote thereon shall be by ballot, and every member present shall be required to vote; one negative vote in every five votes cast shall be sufficient to reject the applicant.

3. If the application be presented during the vacation of the Committee the method of proceeding shall be as follows: Upon its receipt by any member of the Committee he shall forthwith refer it to the member of the Committee from the Judicial District in which the applicant resides, whose duty it shall be to diligently inquire as to the character and standing of the applicant and his eligibility to membership in the Association. If, upon such inquiry, he finds the applicant free from objection, he shall endorse the application favorably; otherwise he shall withhold his endorsement and communicate his reasons therefor in writing to the Chairman of the Committee, and forward the application to him. If the application be favorably endorsed it shall be referred to the Chairman of the Committee, and if favorably endorsed by him and four other members of the Committee, including the member from the district in which the applicant resides, the applicant shall be declared elected, and the Secretary of the Committee shall notify the Secretary of the Association of his election. If the application be returned unendorsed by the member of the

*The paragraph in ( ) was an amendment passed at annual meeting of 1899.

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Committee from the Judicial District in which the applicant resides, or if any member of the Committee to whom it is referred refuse to endorse it, it shall be filed by the Secretary of the Committee until the next meeting of the Committee. At such meeting such application shall be disposed of as provided by Section 2 of this Article. No candidate rejected shall be again proposed within a year.

4. No member of the Committee shall disclose to any person the discussions, statements, or votes of any member thereof upon any application for membership; nor shall the Committee's decision upon any such application be made known to any person other than the applicant.

5. It shall be the duty of any member of the Committee who has knowledge of any fact which, in his opinion, disqualifies the applicant for membership in the Association, if it be in a meeting of the Committee, to state such fact to the Committee, and if it be in the vacation of the Committee, to withhold his endorsement of the application and communicate such fact to the Chairman of the Committee in writing.

6. The Secretary of the Committee shall keep in a book provided for that purpose, a record of all applications for membership in the Association, and shall preserve the originals of all applications among the archives of the Committee.

## V.

### COMMITTEE ON LEGISLATION AND LAW REFORM.

1. It shall be the duty of the Committee on Legislation and Law Reform to scrutinize carefully all proposed changes in the law; to encourage and promote such as appear to be beneficial, and to check, as far as possible, all such as appear to be hasty or ill-advised; and to consider and recommend to the Association such amendments of the law and of judicial procedure as will facilitate the administration of justice.

2. It will be their duty, if at any time they deem it advisable, to cause a special meeting of the Association to be called for the purpose of considering pending or proposed legislation.

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## VI.

### JUDICIARY COMMITTEE.

It shall be the duty of the Judiciary Committee to carefully observe the practical working of our judicial system, to suggest, invite, entertain and examine projects and suggestions for changes and reforms in the system, and to consider and recommend to the Association such action as they may deem expedient.

## VII.

### COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR.

It shall be the duty of the Committee on Legal Education and Admission to the Bar to take into consideration the subject of legal education and other requisites for admission to the bar, and to recommend to the Association from time to time, such action as they may deem necessary to guard the approaches of the profession from persons unfit for membership by reason of character or preparation.

## VIII.

### COMMITTEE ON MEMORIALS.

The Committee on Memorials shall prepare and furnish to the Secretary brief, appropriate notices of members who have died during the year preceding each annual meeting; such notices not to exceed two pages of printed matter, and to be published in the annual report. They shall also prepare or secure annually at least one biographical sketch of some member of the Bench or Bar of North Carolina, now deceased, having special reference to his professional career, and have the same presented at the annual meetings; and, whenever practicable, they shall secure a steel engraving or other suitable picture of the subject of the sketch to be inserted in the published proceedings.

## IX.

### COMMITTEE ON LEGAL ETHICS.

The Committee on Legal Ethics, shall be charged with the duty of reducing to the form of rules or canons the principles

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of ethics regulating the relations of lawyers to the courts, the public, their clients and each other; with the further duty of taking such action as they may deem best, in case any departures from these principles by members of the Bar of the State come to their notice or are brought to their attention.

## X.

### COMMITTEE ON GRIEVANCES.

1. It shall be the duty of the Committee on Grievances to hear all complaints against members of the Aseociation, and also complaints which may be made in matters affecting the interests of the legal profession, the practice of the law and the administration of justice, and to report thereon to the Association, with such recommendations as they may deem advisable; and in behalf of the Association institute and carry on such proceedings against offenders and to such extent as the Association may order.

2. Whenever any complaint shall be preferred against a member of the Association for misconduct in his relations to the Association, or in his profession, the person or persons preferring such complaint shall present it in writing to the Committee on Grievances, subscribed by the complaining party, plainly stating the matter complained of. If the Committee are of the opinion that the matters therein alleged are of sufficient importance, they shall cause a copy of the complaint, together with a notice of not less than five days of the time and place when the Committee will meet for the consideration thereof, to be served upon the member complained of, either personally or by leaving the same at his place of business during office hours, properly addressed to him; and they shall cause a similar notice to be served on the complainant. At the time and place appointed, or at such other time as may be named by the Committee, the member complained of may file a written answer or defence, and the Committee shall proceed to the consideration of the case upon such complaint and answer, or upon the complaint alone if no answer is interposed.

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The complainant and the member complained of shall each be allowed to appear personally and by counsel. The witnesses shall vouch for the truth of the statements on their word of honor. The Committee may summon witnesses, and, if such witnesses are members of the Association, a neglect or refusal to appear may be reported to the Association for its action.

The Committee, of whom at least three must be present at the trial, except that a less number may adjourn from time to time, shall hear and decide the case thus submitted to them, and shall determine all questions of evidence.

If they find the complaint, or any material part of it, to be true, they shall so report to the Association, with their recommendation as to the action thereon, and, if requested by either party, may, in their discretion, also report the evidence taken or any designated part thereof.

The Association shall thereupon proceed to take such action on said report as they may see fit, provided only that no member shall be expelled unless by the vote of two-thirds of the members present and voting.

3. Whenever specific charges of unprofessional conduct shall be made in writing to the Association against a member of the Bar not a member of the Association, or against a person pretending to be an attorney or counsellor-at-law practicing in the State, said charges shall be investigated by the Committee on Grievances; and if, in any such case, said Committee shall report in writing to the Executive Committee that, in its opinion, the case is such as requires further investigation or prosecution in the courts, the Executive Committee may appoint one or more members of the Association to act as prosecutor, whose duty it shall be to conduct the further investigation of such offender, under the instructions and control of the Committee on Grievances.

The reasonable disbursements of the Committee on Grievances for expenses incurred in any such investigation or prosecution may be paid out of the funds of the Association under the direction of the Executive Committee.

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All the foregoing proceedings shall be secret, except as their publication is hereinbefore provided for, unless otherwise ordered by the Association by a two-thirds vote

4. It shall be the duty of any member or members of this Association, upon the request of the Chairman of the Executive Committee or the Chairman of the Committee on Grievances, to prosecute any case of unprofessional conduct occurring in his or their district without compensation, though his or their expenses shall be paid by the Treasurer of the Association.

## XI.

### COMMITTEE ON PUBLICATIONS.

It shall be the duty of the President on the first day of each annual meeting, to appoint a special Committee of three members, to be known as the Committee on Publications, whose duty it shall be to determine which of the papers read at such annual meeting should be published with the reports of the Association, as hereinafter provided.

## XII.

### COMMITTEE TO RECOMMEND OFFICERS.

It shall be the duty of the President, on the first day of each annual meeting, to appoint a special Committee of five members, whose duty it shall be to consider and recommend to the Association suitable persons for officers and members of the Executive Committee to be elected at each meeting; but the Association shall not be confined to the election of the persons so recommended.

## XIII.

### GENERAL POWERS AND DUTIES OF STANDING COMMITTEES.

Except as otherwise expressly provided, each standing Committee shall have the following powers and be charged with the following duties:

1. *Organization.*—They may adopt regulations for their own government and proceedings, not inconsistent with the Constitution and By-laws, and subject to revision by the Association.

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2. *Meetings.*—They shall meet annually on the day preceding the annual meeting of the Association; special meetings may be called by the Chairman of any Committee, whenever in his opinion it may be necessary or advisable, and shall be called by him upon the written request of the Committee. At any meeting of any standing Committee, other than the Committee on Admissions to Membership, three members shall constitute a quorum; and at any meeting of the Committee on Admissions five members shall constitute a quorum.

3. *Records and Archives.*—It shall be the duty of the secretary of each committee to keep full and accurate minutes of each meeting of the committee, and, under direction of the chairman to conduct its correspondence, and to carefully preserve its archives and trans nit them to his successor in office.

4. *Voting by Correspondence.*—They may, by correspondence, consider and vote upon any matter which might properly come before them in meeting; such correspondence shall be carefully preserved by their secretary and a minute thereof entered upon his records.

5. *Annual Reports.*—They shall report to the Association at each annual meeting, giving a summary of their proceedings since the last annual meeting, except such as they are prohibited from making public, and making such suggestions relative to their several departments as they deem proper.

6. *Printing Reports in Advance.*—When any such report contains any recommendations for action on the part of the Association it may, in the discretion of the committee, be printed in the manner in which the annual reports are required to be printed, and a copy thereof mailed by the Secretary of the Association to each member thereof at least fifteen days before the annual meeting at which such report is proposed to be submitted.

## XIV.

### ADDRESS AND PAPERS.

The annual address of the President shall be made on the first day of the annual meeting immediately after the Associa-

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tion is called to order by the Chairman of the Executive Committee. The address of the person to be invited by the Executive Committee shall be made at the morning session of the second day, and the reading of papers or essays shall be on the same day, or at such other time as the Executive Committee may determine.

## XV.

### PUBLICATION OF ANNUAL REPORTS, ADDRESSES AND PAPERS.

All papers read before the Association shall be lodged with the Secretary. The annual address of the President, the reports of committees, and all proceedings at the annual meetings shall be published in the annual reports of the Association; but no other address made or paper read or presented shall be published except by order of the Committee on Publications or of the Association.

Extra copies of reports, addresses and papers read before the Association, not exceeding two hundred copies of each, may be printed by order of the Committee on Publications for the use of authors thereof.

The annual reports shall be published by the Secretary, under the direction of the Executive Committee, and a copy thereof delivered to each member of the Association.

## XVI.

### CURRENT YEAR.

The current year of this Association shall commence with the first of July of each year, and end with the 30th day of June of the following year.

## XVII.

### COLLECTION AND NON-PAYMENT OF FEES AND DUES.

The admission fee (except from those persons declared to be members by Article III, of the Constitution) shall be payable to the Treasurer within thirty days after notification of election; and any member who shall fail within that time to notify the Treasurer of his acceptance of membership and

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pay the admission fee shall be deemed to have declined membership, and cannot thereafter become a member except by being again regularly elected.

The annual dues shall be payable to the Treasurer on or before the first day of September of each year, beginning with the first of September, 1899. If any member shall fail to pay said dues when payable, the Treasurer shall immediately forward to such delinquent member an extract from this by-law, with notice that if his default shall continue for thirty days his name shall be reported to the Executive Committee; which may, if said dues be not paid on or before the first day of January following, order the name of such member to be stricken from the rolls, and he shall thereupon cease to be a member of the Association. But upon the written application, satisfactorily explaining such default, and the payment of all dues to the date thereof, the Executive Committee may reinstate any such member who has been dropped from the rolls by virtue of this By-law.

## XVIII.

### RESIGNATIONS.

Any member may resign at any time upon the payment of all dues and charges to the Association, including his annual dues for the current year in which his resignation is tendered; *Provided*, there be no charges for misconduct pending against said member.

From the date of the receipt by the Secretary of a notice of resignation, with an endorsement thereon by the Treasurer that all dues have been paid, as above provided, the person giving such notice shall cease to be a member of the Association.

## XIX.

### LIMITATION OF DEBATE.

No member shall be permitted to speak more than twice on any subject, and in debate no speech shall exceed five minutes in length, unless a majority of these present consent thereto.

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## XX.

### ORDER OF BUSINESS.

At each annual meeting the order of business shall be as follows:

1. Call to order by the Chairman of the Executive Committee.
2. Opening address of the President.
3. Appointment of Committee on Publications.
4. Appointment of Committee to Recommend Officers.
5. Reports of the Secretary and Treasurer.
6. Reports of standing Committees:
   - (*a*) Executive Committee.
   - (*b*) Committee on Admissions to Membership.
   - (*c*) Committee on Legislation and Law Reform.
   - (*d*) Judiciary Committee.
   - (*e*) Committee on Legal Education and Admission to the Bar.
   - (*f*) Committee on Ethics.
   - (*g*) Committee on Memorials.
   - (*h*) Committee on Grievances.
7. Miscellaneous business.
8. Report of Committee to Recommend Officers.
9. Election of Officers.
10. Election of members of Executive Committee.

## XXI.

### AMENDMENTS.

These By-laws may be amended at any annual meeting of the Association by a vote of two-thirds of those present: *Provided*, that written notice of the proposed amendment shall be given on the first day of such meeting.

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# OFFICERS AND STANDING COMMITTEES.

1900—1901.

## OFFICERS.

### PRESIDENT.

CHAS. M. STEDMAN, Greensboro.

### VICE-PRESIDENTS.

| | | |
|---|---|---|
| First District | W. D. PRUDEN | Edenton. |
| Second District | PAUL JONES | Tarboro. |
| Third District | W. B. SHAW | Henderson. |
| Fourth District | R. O. BURTON | Raleigh. |
| Fifth District | S. M. GATTIS | Hillsboro. |
| Sixth District | JUNIUS DAVIS | Wilmington. |
| Seventh District | M. L. JOHN | Laurinburg. |
| Eighth District | B. F. LONG | Statesville. |
| Ninth District | E. B. JONES | Winston. |
| Tenth District | E. J. JUSTICE | Marion. |
| Eleventh District | D. W. ROBINSON | Lincolnton. |
| Twelfth District | THOS. A. JONES | Asheville. |

### SECRETARY AND TREASURER.

J. CRAWFORD BIGGS, Durham.

### EXECUTIVE COMMITTEE.

| | |
|---|---|
| J. S. MANNING (*Chairman*) | Durham. |
| F. H. BUSBEE | Raleigh. |
| H. A. LONDON (*Secretary*) | Pittsboro. |
| CLEMENT MANLY | Winston. |
| LEE S. OVERMAN | Salisbury. |
| JETER C. PRITCHARD | Marshall. |

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# STANDING COMMITTEES.

## ADMISSIONS TO MEMBERSHIP.

| | | |
|---|---|---|
| First District | E. F. AYDLETT | Elizabeth City |
| Second District | A. D. WARD | Newbern. |
| Third District | JACOB BATTLE | Rocky Mount. |
| Fourth District | ED. CHAMBERS SMITH (*Sec*) | Raleigh. |
| Fifth District | A. A. HICKS | Oxford. |
| Sixth District | IREDELL MEARES | Wilmington. |
| Seventh District | H. McD. ROBINSON | Fayetteville. |
| Eighth District | L. H. CLEMENT (*Chm'n*) | Salisbury. |
| Ninth District | W. C. FIELDS | Sparta. |
| Tenth District | W. C. NEWLAND | Lenoir. |
| Eleventh District | E. Y. WEBB | Shelby. |
| Twelfth District | HAYWOOD PARKER | Asheville. |

## JUDICIARY.

| | |
|---|---|
| A. BURWELL (*Chairman*) | Charlotte. |
| R. R. KING | Greensboro. |
| A. C. AVERY (*Secretary*) | Morganton. |
| JOHN D. BELLAMY | Wilmington. |
| F. L. FULLER | Durham. |

## LEGISLATION AND LAW REFORM.

| | |
|---|---|
| JOHN W. HINSDALE (*Chairman*) | Raleigh. |
| ERNEST HAYWOOD (*Secretary*) | Raleigh. |
| CHARLES PRICE | Salisbury. |
| V. S. BRYANT | Durham. |
| A. L. BROOKS | Greensboro. |

## LEGAL EDUCATION AND ADMISSION TO THE BAR.

| | |
|---|---|
| JAMES C. MACRAE (*Chairman*) | Chapel Hill. |
| CHARLES F. WARREN | Washington. |
| GEORGE ROUNTREE | Wilmington. |
| CHARLES W. TILLETT | Charlotte. |
| W. R. ALLEN (*Secretary*) | Goldsboro. |

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## LEGAL ETHICS.

J. E. SHEPHERD (*Chairman*) ..... Raleigh.
PLATT D. WALKER ..... Charlotte.
J. A. LOCKHART (*Secretary*) ..... Wadesboro.
W. A. GUTHRIE ..... Durham.
A. M. WADDELL ..... Wilmington.

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## GRIEVANCES.

CHARLES A. MOORE (*Chairman*) ..... Asheville.
J. C. BUXTON ..... Winston.
SOLOMON GALLERT ..... Rutherfordton
F. A. DANIELS ..... Goldsboro.
J. G. MERRIMON (*Secretary*) ..... Asheville.

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## MEMORIALS.

H. G. CONNOR (*Chairman*) ..... Wilson.
E. J. JUSTICE ..... Marion.
T. B. WOMACK ..... Raleigh.
J. L. BRIDGERS ..... Tarboro.
A. W. GRAHAM (*Secretary*) ..... Oxford.

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# SPECIAL COMMITTEES.

## TO RECOMMEND OFFICERS.

JOHN W. HINSDALE (*Chairman*) ..... Raleigh.
JAS. A. LOCKHART ..... Wadesboro.
A. L. BROOKS ..... Greensboro.
ARMISTEAD BURWELL ..... Charlotte.
L. H. CLEMENT ..... Salisbury.

## ON PUBLICATIONS.

R. O. BURTON (*Chairman*) ..... Raleigh.
JOHN L. BRIDGERS ..... Tarboro.
LOUIS M. BOURNE ..... Asheville.

## ON LOCAL ASSOCIATIONS.

W. D. PRUDEN (*Chairman*) ..... Edenton.
C. W. TILLETT ..... Charlotte.
JULIUS C. MARTIN ..... Asheville.
J. E. ALEXANDER ..... Winston.
CHAS. M. STEDMAN ..... Greensboro.

## ON UNIFORM STATE LAWS.

JOHN L. BRIDGERS (*Chairman*) ..... Tarboro.
JOHN W. HINSDALE ..... Raleigh.
R. O. BURTON ..... Raleigh.
E. J. JUSTICE ..... Marion.
ARMISTEAD BURWELL ..... Charlotte.

## AUDITING COMMITTEE.

S. M. GATTIS (*Chairman*) ..... Hillsboro.
R. L. LEATHERWOOD ..... Bryson City.
A. A. HICKS ..... Oxford.



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## ON MEMORIAL ON LEGAL EDUCATION AND ADMISSION TO BAR.

W. D. PRUDEN (*Chairman*) ..... Edenton.
JAMES E. SHEPHERD ..... Raleigh.
F. H. BUSBEE ..... Raleigh.
B. F. LONG ..... Statesville.
J. L. BRIDGERS ..... Tarboro.

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## ON JOHN MARSHALL DAY.

J. L. BRIDGERS (*Chairman*) ..... Tarboro.
JETER C. PRITCHARD ..... Marshall.
CLEMENT MANLY ..... Winston.
W. W. KITCHIN ..... Roxboro.
JOHN H. SMALL ..... Washington.

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# ROLL OF MEMBERS.

1900.

## ACTIVE.

| NAME. | RESIDENCE. | COUNTY. |
|---|---|---|
| Chas. L. Abernethy, | Beaufort, | Carteret. |
| W. J. Adams, | Carthage, | Moore. |
| H. F. Adickes, | Asheville, | Buncombe. |
| J. E. Alexander, | Winston, | Forsyth. |
| J. A. Albritton, | Snow Hill, | Greene. |
| W. R. Allen, | Goldsboro, | Wayne. |
| M. N. Amis, | Raleigh, | Wake. |
| A. B. Andrews, Jr., | Raleigh, | Wake. |
| J. A. Anthony, | Shelby, | Cleveland. |
| Frank Armfield, | Monroe, | Union. |
| T. M. Argo, | Raleigh, | Wake. |
| A. C. Avery, | Morganton, | Burke. |
| C. B. Aycock, | Goldsboro, | Wayne. |
| E. F. Aydlettt, | Elizabeth City, | Pasquotank. |
| Geo. F. Bason, | Charlotte, | Mecklenburg. |
| W. W. Barber, | Wilkesboro, | Wilkes. |
| Alf. S Barnard, | Asheville, | Buncombe. |
| Harrison J. Barrett, | Tryon, | Polk. |
| Jos. B. Batchelor, | Raleigh, | Wake. |
| Jacob Battle, | Rocky Mount, | Nash. |
| R. H. Battle, | Raleigh, | Wake. |
| L. A. Beasley, | Kenansville, | Duplin. |
| B. C. Beckwith, | Raleigh, | Wake. |
| James A. Bell, | Charlotte, | Mecklenburg. |
| M. W. Bell, | Murphy, | Cherokee. |
| John D. Bellamy, | Wilmington, | New Hanover. |
| T. W. Bickett, | Louisburg, | Franklin. |
| C. W. Bidgood, | Fayetteville, | Cumberland. |
| J. Crawford Biggs, | Durham, | Durham. |

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| NAME. | RESIDENCE. | COUNTY. |
|---|---|---|
| J. L. C. Bird, | Marion, | McDowell. |
| J. Reese Blair, | Troy, | Montgomery. |
| Spencer Blackburn, | Winston, | Forsyth. |
| R. B. Boone, | Durham, | Durham. |
| V. H. Boyden, | Raleigh, | Wake. |
| L. M. Bourne, | Asheville, | Buncombe. |
| Stephen C. Bragaw, | Washington, | Beaufort. |
| Chase Brenizer, | Charlotte, | Mecklenburg. |
| J. H. Bridgers, | Henderson, | Vance. |
| J. L. Bridgers, | Tarboro, | Edgecombe. |
| A. L. Brooks, | Greensboro, | Guilford. |
| Mark W. Brown, | Asheville, | Buncombe. |
| Victor S. Bryant, | Durham, | Durham. |
| R. O. Burton, | Raleigh, | Wake. |
| Armistead Burwell, | Charlotte, | Mecklenburg. |
| C. M. Busbee, | Raleigh, | Wake. |
| F. H. Busbee, | Raleigh, | Wake. |
| Perrin Busbee, | Raleigh, | Wake. |
| J. C. Buxton, | Winston, | Forsyth. |
| John Gray Bynum, | Greensboro, | Guilford. |
| Wm. P. Bynum, Jr., | Greensboro, | Guilford. |
| E. T. Cansler, | Charlotte, | Mecklenburg. |
| W. H. Carroll, | Burlington, | Alamance. |
| Frank Carter, | Asheville, | Buncombe. |
| H. B. Carter, | Asheville, | Buncombe. |
| H. C. Chedester, | Asheville, | Buncombe. |
| C. E. Childs, | Lincolnton, | Lincoln. |
| Heriot Clarkson, | Charlotte, | Mecklenburg. |
| L. H. Clement, | Salisbury, | Rowan. |
| Arthur Cobb, | Durham, | Durham. |
| T. H. Cobb, | Asheville, | Buncombe. |
| H. G. Connor, | Wilson, | Wilson. |
| Cyrus A. Cook, | Charlotte, | Mecklenburg. |
| C. M. Cook, | Louisburg, | Franklin. |
| P. H. Cook, | Gastonia, | Gaston. |
| R. L. Cooper, | Murphy, | Cherokee. |
| W. B. Council, Jr., | Boone, | Watauga. |

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| NAME. | RESIDENCE. | COUNTY. |
|---|---|---|
| Coleman C. Cowan, | Webster, | Jackson. |
| Pulaski Cowper, | Raleigh, | Wake. |
| W. G. Cox, | Hertford, | Perquimans. |
| Locke Craig, | Asheville, | Buncombe. |
| Zeb V. Curtis, | Asheville, | Buncombe. |
| F. A. Daniels, | Goldsboro, | Wayne. |
| W. E. Daniels, | Weldon, | Halifax. |
| Theo. F. Davidson, | Asheville, | Buncombe. |
| A. C. Davis, | Goldsboro, | Wayne. |
| Junius Davis, | Wilmington, | New Hanover. |
| W. H. Day, | Raleigh, | Wake. |
| T. P. Devereux, | Raleigh, | Wake. |
| Claudius Dockery, | Rockingham, | Richmond. |
| W. T. Dortch, | Goldsboro, | Wayne. |
| W. C. Douglass, | Raleigh, | Wake. |
| C. H. Duls, | Charlotte, | Mecklenburg. |
| W. A. Dunn, | Scotland Neck, | Halifax. |
| Kope Elias, | Franklin, | Macon. |
| R. S. Eakes, | Rutherfordton, | Rutherford. |
| Marcus Erwin, | Asheville, | Buncombe. |
| A. J. Feild, | Raleigh, | Wake. |
| Garland S. Ferguson, | Waynesville, | Haywood. |
| J. W. Ferguson, | Waynesvile, | Haywood. |
| W. C. Fields, | Sparta, | Alleghany. |
| T. B. Finley, | North Wilkesboro, | Wilkes. |
| H. A. Foushee, | Durham, | Durham. |
| F. L. Fuller, | Durham, | Durham. |
| Jones Fuller, | Durham, | Durham. |
| Solomon Gallert, | Rutherfordton, | Rutherford. |
| James R. Gaskell, | Tarboro, | Edgecombe. |
| B. M. Gatling, | Raleigh, | Wake. |
| S. M. Gattis, | Hillsboro, | Orange. |
| H. L. Gibbs, | Bayboro, | Pamlico. |
| Donnell Gilliam, | Tarboro, | Edgecombe. |
| Henry A. Gilliam, | Tarboro, | Edgecombe. |
| Donald Gillis, | Asheville, | Buncombe. |
| R. D. Gilmer, | Waynesville, | Haywood. |

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| NAME. | RESIDENCE. | COUNTY. |
|---|---|---|
| R. B. Glenn, | Winston, | Forsyth. |
| H. B. Godwin, | Dunn, | Harnett. |
| A. W. Graham, | Oxford, | Granville. |
| P. C. Graham, | Durham, | Durham. |
| John W. Graham, | Hillsboro, | Orange. |
| Eugene E. Gray, | Winston, | Forsyth. |
| R. L. Gray, | Raleigh, | Wake. |
| R. T. Gray, | Raleigh, | Wake. |
| H. L. Green, | Wilkesboro, | Wilkes. |
| Wm. D. Grimes, | Washington, | Beaufort. |
| J. S. Grogan, | Winston, | Forsyth. |
| O. H. Guion, | New Bern, | Craven. |
| T. C. Guthrie, | Charlotte, | Mecklenburg. |
| W. A. Guthrie, | Durham, | Durham. |
| W. B. Guthrie, | Durham, | Durham. |
| J. L. Gwaltney, | Wilkesboro, | Wilkes. |
| Walter B. Gwyn, | Asheville, | Buncombe. |
| F. D. Hackett, | Wilkesboro, | Wilkes. |
| R. N. Hackett, | Wilkesboro, | Wilkes. |
| W. C. Hammer, | Asheboro, | Randolph. |
| A. J. Harris, | Henderson, | Vance. |
| Hugh W. Harris, | Charlotte, | Mecklenburg. |
| J. C. L. Harris, | Raleigh, | Wake. |
| L. T. Hartsell, | Concord, | Cabarrus. |
| R. H. Hayes, | Pittsboro, | Chatham. |
| Ernest Haywood, | Raleigh, | Wake. |
| Sherwood Haywood, | Raleigh, | Wake. |
| A. S. Heilig, | Salisbury, | Rowan. |
| John S. Henderson, | Salisbury, | Rowan. |
| A. A. Hicks, | Oxford, | Granville. |
| T. T. Hicks, | Henderson, | Vance. |
| Thomas N. Hill, | Halifax, | Halifax. |
| John W. Hinsdale, | Raleigh, | Wake. |
| F. P. Hobgood, Jr., | Oxford, | Granville. |
| S. T. Honeycutt, | Smithfield, | Johnston. |
| Lotte W. Humphrey, | Charlotte, | Mecklenburg. |
| Thos. J. Jarvis, | Greenville, | Pitt. |

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| NAME. | RESIDENCE. | COUNTY. |
|---|---|---|
| M. L. John, | Laurinburg, | Scotland. |
| Armistead Jones, | Raleigh, | Wake. |
| E. B. Jones, | Winston, | Forsyth. |
| F. P. Jones, | Dunn, | Harnett. |
| H. C. Jones, | Charlotte, | Mecklenburg. |
| Paul Jones, | Tarboro, | Edgecombe. |
| Thos. A. Jones, | Asheville, | Buncombe. |
| W. W. Jones, | Asheville, | Buncombe. |
| E. J. Justice, | Marion, | McDowell. |
| M. H. Justice, | Rutherfordton, | Rutherford. |
| J. W. Keerans, | Charlotte, | Mecklenburg. |
| Thos. S. Kenan, | Raleigh, | Wake. |
| Edw. W. Keith, | Asheville, | Buncombe. |
| J. N. Kenney, | Charlotte, | Mecklenburg. |
| R. R. King, | Greensboro, | Guilford. |
| Ashbel B. Kimball, | Greensboro, | Guilford. |
| W. W. Kitchin, | Roxboro, | Person. |
| Theo. F. Kluttz, | Salisbury, | Rowan. |
| E. F. Lamb, | Elizabeth City, | Pasquotank. |
| R. L. Leatherwood, | Bryson City, | Swain. |
| Frank A. Linney, | Taylorsville, | Alexander. |
| Geo. M. Lindsay, | Snow Hill, | Greene. |
| J. A. Lockhart, | Wadesboro, | Anson. |
| H. A. London, | Pittsboro, | Chatham. |
| B. F. Long, | Statesville, | Iredell. |
| J. A. Long, | Graham, | Alamance. |
| V. S. Lusk, | Asheville, | Buncombe. |
| D. M. Luther, | Asheville, | Buncombe. |
| Cameron F. MacRae, | Raleigh, | Wake. |
| J. C. MacRae, | Chapel Hill, | Orange. |
| J. C. MacRae, Jr., | Chapel Hill, | Orange. |
| S. H. MacRae, | Fayetteville, | Cumberland. |
| Clement Manly, | Winston, | Forsyth. |
| J. S. Manning, | Durham, | Durham. |
| A. G. Mangum, | Gastonia, | Gaston. |
| E. S. Martin, | Wilmington, | New Hanover. |
| John H. Martin, | Black Mountain, | Buncombe. |

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| NAME. | RESIDENCE. | COUNTY. |
|---|---|---|
| Julius C. Martin, | Asheville, | Buncombe. |
| O. F. Mason, | Dallas, | Gaston. |
| W. C. Maxwell, | Charlotte, | Mecklenburg. |
| J. D. McCall, | Charlotte, | Mecklenburg. |
| R. S. McCoin, | Henderson, | Vance. |
| Stephen McIntyre, | Lumberton, | Robeson. |
| A. W. McLean, | Lumberton, | Robeson. |
| A. D. McLean, | Washington, | Beaufort. |
| D. H. McLean, | Dunn, | Harnett. |
| L. P. McLoud, | Asheville, | Buncombe. |
| Charles F. McNamee, | Biltmore, | Buncombe. |
| J. W. McNeill, | Wilkesboro, | Wilkes. |
| R. H. McNeill, | Jefferson, | Ashe. |
| Franklin McNeill, | Wilmington, | New Hanover. |
| Iredell Meares, | Wilmington, | New Hanover. |
| W. G. Means, | Concord, | Cabarrus. |
| Duff Merrick, | Asheville, | Buncombe. |
| J. G. Merrimon, | Asheville, | Buncombe. |
| S. W. Minor, | Oxford, | Granville. |
| Jas. M. Moody, | Waynesville, | Haywood. |
| Chas. A. Moore, | Asheville, | Buncombe. |
| Walter E. Moore, | Webster, | Jackson. |
| S. F. Mordecai, | Raleigh, | Wake. |
| J. T. Morehead, | Greensboro, | Guilford. |
| L. V. Morrill, | Snow Hill, | Greene. |
| Cameron Morrison, | Rockingham, | Richmond. |
| W. C. Munroe, | Goldsboro, | Wayne. |
| I. A. Murchison, | Fayetteville, | Cumberland. |
| J. D. Murphy, | Asheville, | Buncombe. |
| Walter Murphy, | Salisbury, | Rowan. |
| J. A. Narron, | Smithfield, | Johnston. |
| Faank Nash, | Hillsboro, | Orange. |
| Walter H. Neal, | Laurinburg, | Scotland. |
| W. C. Newland | Lenoir, | Caldwell. |
| O. S. Newlin, | Greensboro, | Guilford. |
| B. B. Nicholson, | Washington, | Beaufort. |
| Brevard Nixon, | Charlotte, | Mecklenburg. |

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| NAME. | RESIDENCE. | COUNTY. |
|---|---|---|
| Edmund B. Norvell, | Murphy, | Cherokee. |
| Romulus A. Nunn, | New Bern, | Craven. |
| Lee S. Overman, | Salisbury, | Rowan. |
| E. S. Parker, | Graham, | Alamance. |
| Haywood Parker, | Asheville, | Buncombe. |
| Lindsay Patterson, | Winston, | Forsyth. |
| P. M. Pearsall, | New Bern, | Craven. |
| W. J. Peele, | Raleigh, | Wake. |
| C. G. Peebles, | Jackson, | Northampton. |
| R. B. Peebles, | Jackson, | Northampton. |
| H. N. Pharr, | Charlotte, | Mecklenburg. |
| W. D. Pollock, | Kinston, | Lenoir. |
| W. H. Pope, | Fayetteville, | Cumberland. |
| Edward W. Pou, | Smithfield, | Johnston. |
| James H. Pou, | Raleigh, | Wake. |
| A. H. Price, | Salisbury, | Rowan. |
| Charles Price, | Salisbury, | Rowan. |
| J. C. Pritchard, | Marshall, | Madison. |
| E. K. Proctor, Jr., | Lumberton, | Robeson. |
| J. N. Pruden, | Edenton, | Chowan. |
| W. D. Pruden, | Edenton, | Chowan. |
| R. B. Redwine, | Monroe, | Union. |
| Samuel H. Reed, | Asheville, | Buncombe. |
| R. D. Reid, | Reidsville, | Rockingham. |
| D. W. Robinson, | Lincolnton, | Lincoln. |
| H. McD. Robinson, | Fayetteville, | Cumberland. |
| W. B. Rodman, | Washington, | Beaufort. |
| Thomas S. Rollins, | Marshall, | Madison. |
| George Rountree, | Wilmington, | New Hanover. |
| N. J. Rouse, | Kinston, | Lenoir. |
| B. S. Royster, | Oxford, | Granville. |
| Wm. F. Rucker, | Rutherfordton, | Rutherford. |
| Wiley Rush, | Asheboro, | Randolph. |
| Robt. L. Ryburn, | Shelby, | Cleveland. |
| H. R. Scott, | Reidsville, | Rockingham. |
| St. Leon Scull, | Windsor, | Bertie. |
| Thomas Settle, | Asheville, | Buncombe. |

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| NAME. | RESIDENCE. | COUNTY. |
|---|---|---|
| F. M. Shannonhouse, | Charlotte, | Mecklenburg. |
| H. E. Shaw, | Kinston, | Lenoir. |
| H. M. Shaw, | Oxford, | Granville. |
| W. B. Shaw, | Henderson, | Vance. |
| John D. Shaw, | Rockingham, | Richmond. |
| J. E. Shepherd, | Raleigh, | Wake. |
| S. B. Shepherd, | Raleigh, | Wake. |
| Geo. A. Shuford, | Asheville, | Buncombe. |
| F. M. Simmons, | Raleigh, | Wake. |
| R. N. Simms, | Raleigh, | Wake. |
| N. A. Sinclair, | Fayetteville, | Cumberland. |
| Thos. G. Skinner, | Hertford, | Perquimans. |
| John H. Small, | Washington, | Beaufort. |
| Ed. Chambers Smith, | Raleigh, | Wake. |
| L. L. Smith, | Gatesville, | Gates. |
| W. A. Smith, | Hendersonville, | Henderson. |
| W. B. Snow, | Raleigh, | Wake. |
| F. S. Spruill, | Louisburg, | Franklin. |
| C. M. Stedman, | Greensboro, | Guilford. |
| H. L. Stevens, | Warsaw, | Duplin. |
| W. A. Stewart, | Dunn, | Harnett. |
| R. C. Strong, | Raleigh, | Wake. |
| H. W. Stubbs, | Williamston, | Martin. |
| J. W. Summers, | Asheville, | Buncombe. |
| L. M. Swink, | Winston, | Forsyth. |
| Chas. R. Thomas, | Newbern, | Craven. |
| P. M. Thompson, | Charlotte, | Mecklenburg. |
| Chas. W. Tillett, | Charlotte, | Mecklenburg. |
| Chas. F. Toms, | Hendersonville, | Henderson. |
| C. D. Turner, | Hillsboro, | Orange. |
| Max French Van Gilder, | Asheville, | Buncombe. |
| A. M. Waddell, | Wilmington, | New Hanover. |
| Platt D. Walker, | Charlotte, | Mecklenburg. |
| Zeb. V. Walser, | Lexington, | Davidson. |
| Z. I. Walser, | Lexington, | Davidson. |
| A. D. Ward, | New Bern, | Craven. |
| D. L. Ward, | New Bern, | Craven. |

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| NAME. | RESIDENCE. | COUNTY. |
|---|---|---|
| G. W. Ward, | Elizabeth City, | Pasquotank. |
| H. S. Ward, | Plymouth, | Washington. |
| Chas. F. Warren, | Washington, | Beaufort. |
| C. B. Watson, | Winston, | Forsyth. |
| Zebulon Weaver, | Asheville, | Buncombe. |
| Chas. A. Webb, | Asheville, | Buncombe. |
| E. Y. Webb, | Shelby, | Cleveland. |
| James L. Webb, | Shelby, | Cleveland. |
| Charles Whedbee, | Hertford, | Perquimans. |
| Paul C. Whitlock, | Rockingham, | Richmond. |
| J. McDowell Whitson, | Asheville, | Buncombe. |
| W. R. Whitson, | Asheville, | Buncombe. |
| P. H. Williams, | Elizabeth City, | Pasquotank. |
| Geo. E. Wilson, | Charlotte, | Mecklenburg. |
| B. B. Winbourne, | Murfreesboro, | Hertford. |
| Francis D. Winston, | Windsor, | Bertie. |
| Robt. W. Winston, | Durham, | Durham. |
| L. L. Witherspoon, | Newton, | Catawba. |
| T. B. Womack, | Raleigh, | Wake. |
| F. A. Woodard, | Wilson, | Wilson. |
| Walter H. Woodson, | Salisbury, | Rowan. |
| W. W. Zackery, | Marshall, | Madison. |
| A. C. Zollicoffer, | Henderson, | Vance. |

Total active members, 311.

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# HONORARY.

## SUPREME COURT OF NORTH CAROLINA.

| | | |
|---|---|---|
| W. T. Faircloth, | Chief Justice, | Goldsboro. |
| Walter Clark, | Associate Justice, | Raleigh. |
| D. M. Furches, | Associate Justice, | Statesville. |
| W. A. Montgomery, | Associate Justice, | Raleigh. |
| R. M. Douglas, | Associate Justice, | Greensboro. |

## SUPERIOR COURT OF NORTH CAROLINA.

| | | |
|---|---|---|
| Geo. H. Brown, Jr., | First District, | Washington. |
| Henry R. Bryan, | Second District, | New Bern. |
| E. W. Timberlake, | Third District, | Louisburg. |
| W. S O'B. Robinson, | Fourth District, | Goldsboro. |
| Thos. J. Shaw, | Fifth District, | Greensboro. |
| Oliver H. Allen, | Sixth District, | Kinston. |
| Thomas A. McNeill, | Seventh District, | Lumberton. |
| A. L. Coble, | Eighth District, | Statesville. |
| H. R. Starbuck, | Ninth District, | Winston. |
| J. W. Bowman, | Tenth District, | Bakersville. |
| W. A. Hoke, | Eleventh District, | Lincolnton. |
| Frederick Moore, | Twelfth District, | Asheville. |

## CRIMINAL COURTS OF NORTH CAROLINA.

| | | |
|---|---|---|
| Augustus M. Moore, | Eastern District, | Greenville. |
| H. B. Stevens, | Western District, | Asheville. |

## U. S. CIRCUIT COURT OF APPEALS—FOURTH DISTRICT.

| | | |
|---|---|---|
| Chief Justice M. W. Fuller, | Circuit Justice, | Washington, D. C. |
| Nathan Goff, | Circuit Judge, | Clarksburg, W. Va. |
| Charles H. Simonton, | Circuit Judge, | Charleston, S. C. |
| Thomas R. Purnell, | District Judge, | Raleigh, N. C. |
| James E. Boyd, | District Judge, | Greensboro, N. C. |
| John J. Jackson, | District Judge, | Parkersville, W. Va. |
| Edmund Waddill, Jr., | District Judge, | Richmond, Va. |
| Thomas J. Morris, | District Judge, | Baltimore, Md. |
| John Paul, | District Judge, | Harrisonburg, Va. |
| William H. Brawley, | District Judge, | Charleston, S. C. |

Total - - - 29.

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# PROGRAMME

OF THE

## Second Annual Meeting of the North Carolina Bar Association, Battery Park Hotel, Asheville, June 27-29, 1900.

### WEDNESDAY, JUNE 27.

9:00 P. M.—Call to order by Chairman of Executive Committee, Mr. J. S. Manning, of Durham.
Appointment of Committees.
Reports of Special Committees.
Notice of Amendments to Constitution or By-laws.
Introduction of Resolutions.
New Business.

### THURSDAY, JUNE 28.

10:00 A. M.—Annual Address of the President of the Association, Mr. Chas. F. Warren, of Washington.
Reports of Secretary and Treasurer.
Reports of Standing Committees.
General Business.

Afternoon.—Trolley ride over the City and Reception under the auspices of the Swannanoa Country and Asheville Clubs.

9:00 P. M.—"The Law of North Carolina as to Married Women." By Mr. Armistead Burwell, of Charlotte.
Discussion.
General Business.

### FRIDAY, JUNE 29.

10:00 A. M.—"The Development of the Science of the Law." By Mr. Jas. E. Shepherd, of Raleigh.
Discussion.
General Business.
Report of Committee to recommend officers.
Election of Officers and Members of Executive Committee.

Afternoon.—Drive over the Vanderbilt Estate under the auspices of the Bar of Asheville.

10:00 P. M.—Banquet by the Association.

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# SECOND ANNUAL BANQUET.

*Battery Park Hotel, Asheville, N. C., June 29, 1900.*

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## *MENU.*

Cocktails. Caviar Canape. Consomme Printaniere. Sherry.
Olives. Salted Nuts. Striped Bass, Hollandaise.
Cucumbers Saratoga Chips.
Saddle of Spring Lamb, Mint Sauce. Claret, Calvet & Co
Green Peas. New Potatoes.
Roman Punch.
Broiled Spring Chicken on Toast. Lettuce and Tomato Salad.
Neapolitan Ice Cream. Fancy Cakes. Fruits.
Cheese. Coffee. Cigars.

---

Toastmaster, CLEMENT MANLY, Winston.

## TOASTS.

1. THE BAR ASSOCIATION—Its Benefits to the State and the Legal Profession . . . . . B. F. LONG, of Statesville.
2. ASHEVILLE—The Queen of the West . LOUIS M. BOURNE, of Asheville.
3. THE LAWYER—His Part in the Development of Constitutional Government . . . . . W. D. PRUDEN, of Edenton.
4. THE JUSTICE OF THE PEACE—His Sphere of Influence, F. H. BUSBEE, of Raleigh.
5. THE BENCH AND THE BAR—Their True Relations, J. E. ALEXANDER, of Winston.
6. THE STATE OF NORTH CAROLINA—Its Motto: "Esse Quam Videri" . . . . . E. J. JUSTICE, of Marion.

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