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Editorial Comments

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BONDING LAWYERS

The American Bar Association at their meeting in Seattle last summer considered a resolution which advocated the bonding of all members of the law profession to protect the public from pettyfoggery by dishonest members of the bar. This resolution was adroitly shelved and a consideration was promised to the advocates of the innovation at the next meeting of the Association.

This retarded bonding resolution is a serious self-indictment of the law profession at large and those learned practitioners and jurists that gathered in the state of Washington to further the aims of legal ethics quickly came to the realization that to let the resolution die a natural death by pocketing it was the most expedient method to curb it. Still more serious is the realization that such experienced men even entertained such a resolution at the convention.

The backers of this bonding movement probably believed they were sanctioning a progressive movement that would best effect a curative for the ills of the American Bar, or perhaps they were lobbying for the bonding company interests. Whether the motive was selfish or altruistic is immaterial, the problem has arisen and must be dealt with.

Granting that the movement is sincere the question presented before the American Bar is, will the bonding of lawyers procure protection for the public and raise the standard of the law profession? The sincere motivating force behind the resolution is the public criticism that is being hurled at the profession, and when criticism is piled upon any body in these United States that body immediately appoints a committee to find ways and means to stop the reaction. The result is that the committee returns with a report that invariably begins, "We after an investigation find that the following resolutions will best serve the ends of progress". It is unnecessary to read these resolutions because they will all be restrictions in some form or another. Apparently the lawyers

are not immune from the restriction complex that has seized the whole country, and are willing to restrict themselves and walk hand in hand with *fake* progress.

What substantial protection the public would receive by bonding attorneys would be very remote. The general criticism cast at the lawyers is due to the lack of knowledge of the intricacies and technicalities of the law. The disgruntled clients would swamp the courts suing on their lawyers' bonds everytime a case did not go to trial when they desired it to. Every lawyer would be compelled to retain several lawyers to defend himself from the troublesome clients.

Why not meet the issue of pettyfoggery face to face? Why not eliminate fraud and corruption by getting at the proximate cause of the condition? Why not wake up our dormant local bar associations and disbar he dishonest practitioner? Those same men who gathered at the American Bar Association Convention last summer know of countless shysters in their localities who are duping and defraudings countless clients. Why don't they bring actions to disbar them? The answer is that they are too busy making money themselves to be concerned with their neighbors.

It is to be hoped that the resolution placed before the convention of last summer will never be looked upon with serious thoughts of adopting it. Let us hope that there will be a movement of liberalism and true progressiveness that will cause a renaissance in America and doom the twins of misconceived progress, *restriction and reformation,* into oblivion.

T. V. H.

THE CARAWAY BILL

Senator Caraway of Arkansas, introduces a bill that passed the Senate and is now before the Judiciary Committee of the House. This bill advocates the abolition of the pernicious practice exercised by our Federal Courts in commenting upon the credibility of witnesses in the judges instructions to the jury.

It cannot be disputed that the power of the judge of any court to pass upon the credibility of the witness affects the rights

of the parties to the cause to an inestimable extent. This power with few exceptions has been condemned without reservation by most of the state courts.

The right of Federal Courts to comment on the credibility of witnesses was probably exercised without any serious abuses until the passing of the Eighteenth Amendment. The Volstead Act has placed a body of modern inquisitors upon the American people called Federal Prohibition Officers. It is an undeniable fact that these officers have used methods to get evidence with utter disregard for personal rights. These same officers and the bootleggers that they arrested have their day in court and a jury may determine the rights of the alleged criminal. Whom are they to believe? Which is the more credible witness, the bootlegger or the over-zealous Federal officer? Circumstances often make the credibility of both equally dubious and the court if it comments favorably on the credibility of either will undoubtedly so influence the jury so as to make them bring back a verdict in conformity with his views of the credibility of the respective witnesses.

The greater part of the Federal dockets are prohibition case and many times an over-anxious judge will in effect direct a verdict by his comment of the untruthfullness of the criminal. The Caraway Bill will probably be passed by the House and if it is successful, Senator Caraway deserves commendation for the blanket of security that he has woven around personal liberty.

T. V. H.