

Washington Law Review

Volume 12 | Issue 1

1-1-1937

Editorial

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Recommended Citation

anon, Bar Association Section, *Editorial*, 12 Wash. L. Rev. & St. B.J. 50 (1937).

Available at: <https://digitalcommons.law.uw.edu/wlr/vol12/iss1/7>

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BAR ASSOCIATION SECTION

EDITORIAL

The current session of the State Legislature, as usual, will bring forth a number of measures of interest to the bar of the state. Not only are lawyers directly interested in measures sponsored by the Bar Association and the Judicial Council which reflect the sentiment of the bar as a whole, but also, as advocates and counselors, are vitally concerned with all amendments or additions to existing statutes governing procedural or substantive law. It is not within the province of this publication to suggest or advocate any particular measure. It is, however, appropriate to suggest to the bar the need of cooperation in seeing that such legislation as is passed is proper in form.

Any law which is unconstitutional, ambiguous, vague, inaccurate, or in conflict with other existing laws, is not only an annoyance to all who have to deal with it, but is productive of substantial economic loss to the State, the citizen purported to be affected by it, and the counsel who represents him. Unfortunately, in the past too many statutes enacted by our Legislature have been subject to criticism on such grounds. It is hardly necessary to cite instances of such defective laws. Every practitioner and law student is familiar with many. The deficiencies range from patent unconstitutionality down to minor defects in incompleteness. Aggravating problems arising in consequence could, in a very large number of cases, have been avoided by more care in the preparation and consideration of the legislative bills before passage.

There is small excuse for outright ambiguity or obscurity in the language contained in a statute. The least that can be asked is that an act of the Legislature shall be clear in meaning. It is the duty of the Legislature to say what it means, and not to pass that problem on to the judiciary.

In a great number of instances the difficulty arises not so much from limitations in the ability of persons preparing bills as from the fact that the preparation, sponsoring and passage of the bill arises largely, if not altogether, from motives of self-concern. Some group or individual conceives that a certain new law should be passed or existing law amended. Instead of making a compre-

hensive examination of the subject and preparing a bill which will adequately take care of the entire subject matter involved or fit in with existing law, the measure is prepared and adopted, covering only the particular problem or phase thereof which concerns the person or group initiating the legislation. The inevitable result, as the years pass, is that the statute law upon a particular subject becomes a sort of crazy quilt, to which each person has contributed his own pet piece of patchwork. An example of this situation exists in the present statute law relating to municipal corporations, which has largely been developed piecemeal over a long period of time. Any attorney who has had occasion to deal with problems of municipal law is familiar with the maze into which he is led upon an examination of the statutes. Not only are these statutes unduly complicated, but, despite repeated amplification and amendment, they are still so vague and incomplete that city officials are, to a very considerable extent, still guided by a sort of rule of thumb policy in the exercise of important duties.

A purely materialistic view of the matter suggests that legislative inefficiency produces business for the lawyers. However, for every lawyer who earns a fee in litigation seeking construction of a legislative act, there are probably a hundred who, without adequate compensation, spend valuable time in an effort to advise clients with respect to the same law.

It must be recognized that law is by no means an exact science, and that politics is even less so. Of course, no one can seriously expect perfection in the field of legislative action, but the members of the bar can at least lend valuable assistance, to the end that statute law may take a form representative of the educational and legal standards to which the bar subscribes.

It is to be presumed that measures sponsored by the Bar Association and the Judicial Council will be prepared with due regard to clear, concise and complete expression, and in harmony with the fundamental law expressed in the State and Federal Constitutions. As to the other and by far the greater number of bills, it is obviously the duty of every lawyer within the Legislature to work for a better statement of statute law. It is likewise the duty of all lawyers not in the Legislature, and especially of those engaged in any way in the preparation of bills to be submitted for legislative consideration, to work toward the same end. In contributing to an improvement in the form of legislative acts, a lawyer can be of real help to his fellows in the legal profession as well as to the lay public.