Contribution to This Issue

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Gabriel Wartels, LL. B., New Jersey Law School 1929; now engaged in the practice of law in New York City.

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Lester Bernhardt Orfield, A. B., University of Minnesota, 1924; LL. B., University of Minnesota, 1927; M. A., Duke University, 1928; S. J. D., University of Michigan, 1929; Assistant Professor of Law, University of Nebraska College of Law.

The College of Law

The Law Journal is happy to announce the appointment of George Ragland, Jr., on the staff of the law school. He is taking
a part of the work heretofore given by Professor Roberts. Mr. Ragland graduated at the University of Kentucky with the degree of A. B. in 1925. In 1928 he took his LL. B. degree with high distinction. In the spring of 1928 he was appointed Fellow at the University of Michigan, where he completed his work for the Doctor's Degree in the Science of Jurisprudence. He made unusual records at both schools and has been appointed faculty editor of the Kentucky Law Journal.

Professor W. Lewis Roberts has been granted a sabbatical year's leave of absence from the Law School, and has accepted a research fellowship at the Harvard Law School for the year 1929-1930. He will specialize in the field of Property.

The law library has received some valuable additions during the past year. The side bar reports of New York, Ohio and Pennsylvania were added. A large number of treatises have been received. All of the reports of the various United States courts, commissions and boards have been added. The last set to be included was the reports of the United States Court of Claims. The library also received during the year an official set of reports of the Supreme Court of the United States belonging to the Judge Barker estate. A complete set of the English Statutes from Magna Carta to date has been received. New shelving has been added to accommodate these and future additions.

Readers of the Law Journal will be interested to know that a cumulative index for the first seventeen volumes of the Law Journal is being prepared. This index will be detailed, and will give references to all articles, notes and comments and will also contain a list of all Kentucky cases commented on in the Law Journal. Also the following note has been received from the Baldwin Law Book Company:

"Hereafter we expect to carry in our Kentucky Service annotations calling attention to articles in the Kentucky Law Journal construing sections of the Constitution, statutes and codes of practice."

INCENTIVE TO PROCEDURAL REFORM

Although the idealist may be somewhat reluctant to admit it, the fact remains that self-interest on the part of the courts has been one of the chief incentives to the reform of court procedure in the few instances when it has been radically improved.
Until the courts have seen litigation drifting away from their doors they have been rather reluctant to right matters. Indeed, this seems to have been equally characteristic of our Anglo-Saxon forebears, for Professor Holdsworth tells us that the twelfth century reforms in procedure were effected “partly by the legislature, but chiefly by the judges, whose intelligence had been quickened by the need to compete with rival courts.” In the great reform movement which swept England during the middle part of the nineteenth century and which culminated in the Judicature Acts of 1873-75 the judges were unwilling to make any real reforms, despite unprecedented public pressure, until they saw that litigation was forsaking the regular courts for the business man’s court of that day, the county court. This latter had already been set in order by the reforms embodied in the County Court Acts and was a model of efficiency. Consequently business men were willing to adopt almost any expedient, we are told, in order to meet the jurisdictional requirements of the county court. They preferred to collect a smaller amount speedily and certainly than to take the risk involved in collecting the larger sum through the channel of the higher courts of the King. So, when the judges saw their own courts almost deserted and the county courts gaining their business at an alarming rate, it was then that they really entered heart and soul into the reform of procedure.

Again in England, a decade and a half later, we are told by Rosenbaum, that, “despite the improvements of 1883 litigation was slowly drifting away from the courts into the hands of boards of arbitration; in fact, practically every business contract contained a clause binding the parties to submit any dispute arising therefrom to arbitrators... To win back to the courts the suitors who were turning their backs upon the judges, the Rule Committee’ invented certain reforms which are now an established feature of English practice.

Are the present tendencies in our own country entirely meaningless in this regard? Is it insignificant that overnight great administrative tribunals have arisen which are relieving the courts of the functions which they have long enjoyed? A handbook for Illinois lawyers is being prepared at the present time which describes the procedure before forty different tribunals of this nature before which Illinois lawyers have to practice.
What does it mean that great business houses, and in a few instances whole industries, are adopting arbitration agreements to the exclusion of litigation?

These various trends mean very decidedly and unmistakably that business has no need for unbusinesslike tribunals, even though they bear the label of courts of justice. If the courts offer nothing but delay, congested court dockets, and "open invitations to every rascal to defy his creditors," we may not be surprised that business sets up its own tribunals. When the situation eventually becomes such that the courts really suffer from this loss of litigation, it is then that we may expect to see them enter whole-heartedly into the movement for procedural reform. Already in great centers like New York and Detroit, this reaction may be noted. Why, then, should not the judges and lawyers in the less populous sections be farsighted enough to sense the significance of the present tendencies and to forestall their results by effective measures of procedural reform?

This problem faces the Kentucky judiciary at the present time in a very concrete fashion. The Kentucky Law Journal believes that the newly created Kentucky Judicial Council will take the suggestion offered by such progressive states as Massachusetts, New York and Michigan, and will initiate some really meaningful procedural reforms. Surely this ultimately will prove more expedient than merely adopting a few inane measures, as several judicial councils in the less progressive states have done.