

# The First Year of the Virginia State Bar

by James S. Wamsley

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“There are more good lawyers today than ever before,” said Robert B. Tunstall in 1925, “and there is a grievous swarm of poor ones.”

Tunstall, president of The Virginia Bar Association, demanded rhetorically of the group’s annual gathering in Hot Springs: “Have we, in a proper sense, a Virginia bar at all? Or is ‘the bar’ merely a convenience, or perhaps a term of convenience, or perhaps an inheritance whose traditional connotations we have dissipated, retaining merely the name?” It was imperative, he said, that we have a bar organization “more inclusive, more cohesive, and therefore more effective, than we have today.”

Several remedies were available, but Tunstall seemed to tilt toward a movement — just gaining strength — called “‘integration of the bar,’ by which is meant the welding of the entire bar of a given state into an organized and self-governing body, which is at the same time an agency of the state.”

Thirteen years went by, spawning studies, proposals, and unsuccessful bids for legislation. Finally, in 1938, the Virginia General Assembly passed an act providing for the creation, government, and conduct of the integrated Virginia State Bar.

It was 2 p.m., Tuesday, August 2, 1939, when President Samuel H. Williams of Lynchburg called to order the first meeting of the Virginia State Bar. Gathered in the Roof Garden of Richmond’s ten-year-old John Marshall Hotel were 225 lawyers, plus Dr. Solon B. Cousins, a University of Richmond Bible professor who intoned the invocation. Williams credited the new organization’s birth to the “many years of persistent efforts” by certain public-spirited members of the profession. It was they — but-

tressed by the General Assembly’s Enabling Act of 1938 — who put the Virginia State Bar together. Many lawyers, he conceded, believed the same result could have been accomplished under the inherent power of the judiciary to regulate its practitioners, but that argument had been bypassed and rendered academic by the legislators.

The act — as the pioneering bar president summed it up — invested the Supreme Court of Appeals with the power to adopt the rules

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defining the practice of law, prescribing codes of ethics for bench and bar, organizing the bar, and prescribing procedures for the disciplining and disbarment of attorneys.

It was notable, Williams continued, “that the association thus authorized has for its purpose ‘to act as an administrative agency of the





Samuel H. Williams



Russell E. Booker

Supreme Court of Appeals of Virginia for the purpose of investigating and reporting the violation of such rules and regulations as are adopted by the Supreme Court of Appeals under this act.’”

The court had sought the active assistance of lawyers from across Virginia. Each of the thirty-four circuit judges called on the attorneys in his district to elect a representative to serve on an organizational committee. The local members were augmented by six members at large appointed by the court, and the resulting “Committee of Forty” was born.

In 1938, at a marathon session at Sweet Briar College, the committee hammered out a suggested definition of the practice of law, codes of ethics for the bench and bar, a plan of organization for the Virginia State Bar, and bylaws for its governing body, or Council. The Supreme Court looked at the plan, but “did not disturb the general scheme.”

The Committee of Forty did not fade away: indeed, it carefully provided for its own continuance as the organization’s Council, and proceeded in December 1939 to elect the bar’s first slate of officers. In addition to Williams, they included John S. Battle of Charlottesville (a future governor), vice president; Russell E. Booker of Richmond, secretary-treasurer (the first staff person); an Executive Committee of

the Council; and nine district committees from the bar at large. The choice of Booker, Williams said with a certain unintentional irony, was one “whose wisdom has been vindicated by subsequent history.”

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As of the end of 1938, Russell Booker had set up an office in the Law Building at Eighth and Main Streets, assisted by Anna McFarland, stenographer. Booker’s most pressing assignment was tracking down all eligible members, willing or un-. He was clearly indefatigable, and Williams admiringly described him as consulting “every available source for the names of all lawyers practicing in Virginia whose membership in the bar was made compulsory by the rules.” Once identified and pinioned, each lawyer was instantly solicited for “immediate registration and payment of dues.”

The energetic Booker worked so fast and successfully that all office start-up expenses



were quickly paid, with enough left over to cover the meeting expenses of out-of-town councilors although, in a burst of generosity, most of them “forebore to file their expense accounts.” In any case, Williams reported to the John Marshall gathering that where solvency was concerned, “we feel no apprehension.”

Williams underscored the importance of the Council’s three standing committees. Among their functions was the right and ability to pass upon “and questions of professional conduct that may confront an attorney and his relations to the court, to his fellow practitioners, and to his clients, and include as well the right and duty to inquire into any phase of judicial conduct that to it may seem to exceed the bounds of propriety.”

Procedure called for initial investigations to be made by the nine district committees, and then submitted to the appropriate bar committee. Already, the Committee on Legal Ethics had been called upon to consider seri-

tion,” he mused, “is to act as an administrative agency of the court in the investigation of any violation of the court’s rules. Without this necessary activity successfully accomplished, the organization could hardly justify its existence.” A fearless exposure of questionable professional conduct is good for the bar, he said, “and weaker members are brought to a realization that under this regime, for the first time, the bar is the official censor of the professional conduct of its members, unwilling to tolerate shady practice, with representatives ready at all times to make searching investigation into questionable transactions, without malice or ill will, without fear or favor.”

One surprise that first year was the number of members. It had been thought that around 2,000 Virginia lawyers might be eligible, but as of July 1, 1939, Booker had tallied exactly 2,664 (2,354 active and 288 associate) registered members. Dues were \$3.50 annually, for a first-year income of \$9,275, with disbursements only half that. The



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ous matters of unprofessional conduct. But the really hot work — handling onerous cases of serious gravity — has fallen to the Committee on Unauthorized Practice of Law. Both committees had met monthly, and sometimes weekly, to investigate officially filed complaints. Some cases were found to be without merit, but in others the committees had filed complaints for disbarment proceedings, two of which had led to expulsion, and one to reprimand. Some twenty complaints were pending. By contrast, the Committee on Judicial Ethics had not been faced with any serious matters.

Williams liked his fundamentals clearly etched. “The basic purpose of this organiza-

secretary-treasurer, a lawyer himself, drew a salary of \$259 per month, and McFarlane received \$80. Rent was \$25. The frugal administration did manage to squander \$3.50 for sign painting.

Richmond writer **James S. Wamsley** chronicled the Virginia State Bar’s first five decades in “The First Fifty Years: A History of the Virginia State Bar,” which was published in the October, 1988, issue of *Virginia Lawyer*. Wamsley was a prolific writer whose own fifty-year career as a journalist and editor ended in April 2012 when he died at the age of 81. Early in his career, he worked for the Associated Press in Richmond and then as editor of *The Commonwealth*, *The Magazine of Virginia*. His feature articles appeared in *National Geographic Traveler*, *Architectural Digest*, *GEO*, and *Travel & Leisure*.