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Upon Information and Belief

Dicta Editorial Board

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is about one year behind, and the problem is to catch up this backlog. The Colorado Supreme Court hands down an average number of opinions with comparable supreme courts of other states.

What is the remedy? The court can't be helped by creating a new court, nor will it be helped by giving it additional duties; and, likewise, it can not be helped by giving the judges law clerks to assist in preparing the opinions. There is a plan worthy of consideration which was tried in Oklahoma. Under this plan cases could be submitted to lawyers or trial judges with request for an opinion. The present backlog could be terminated within three or four months by this method.

Opinions are too long and there are too many dissenting opinions. More able men should be elected to the court, but able men can not afford to leave the practice to go on the court. The present salary of the Supreme Court judge is worth less than was the salary of the district court judge before the last increase raising district court judges to \$5,000.00. If salary increases are not soon granted there will be a noticeable deterioration in the court in the next ten years. What might the lawyers do to improve this situation?

1. They could see that the candidates for the Supreme Court are truly representative of the ideals, learning and dignity of the profession.

2. They could see that unworthy men are not kept on the court.

3. They could see that good men serve on the court as a public duty and responsibility.

There should be more affirmances without written opinion. Too many cases come to the Supreme Court which never should be in the Supreme Court.

The Supreme Court used to be a three judge court. Now the Supreme Court sits in three departments of three judges, each, but all three judges must concur. This speeds up the work of the court. The present judges are working diligently.

Upon Information and Belief

Limitations of Time Within Which an Act Must Be Performed

The Colorado Supreme Court, in a recent decision (*Eshe v. Clough*) has handed down a rule of importance to every lawyer. The court said, "We have never extended statutory provisions limiting the time in which an act must be performed so as to include another day when the last day for its performance falls on Sunday. We cannot escape the conclusion that a statutory act must be performed within the time limited and if the last day falls on Sunday, the time cannot be extended to include the following day." Lawyers intending to perform for their clients some act which must be performed within a given time should carefully examine this opinion and the

statute involved to ascertain whether or not the act to be performed falls within the rule of this case.

The Rocky Mountain Law Review

It is not within the purview or space limitations of DICTA to present articles of great learning on limited subjects. This is for the law reviews. In this connection, the members of the Colorado bar would do well to consider the Rocky Mountain Law Review. In the April, 1947, issue are several articles of great interest to members of the bar. The Colorado attorney who does not send \$2.00 to the University of Colorado Law School for a year's subscription is missing a great source of possible legal knowledge of interest to him and his clients.

Important Legal Articles Family Partnerships and Family Corporations

An important contribution to tax planning is the article in the April 1947 issue of the Rocky Mountain Law Review by Charles E. Works, of the Denver Bar which reviews the cases down to date on the controverted question of income taxes on family partnerships and family corporations, and gives lawyers the following warnings:

1. Don't attempt to advise a client on questions involving a family partnership or family corporation without a complete study of all the cases down to date and a familiarity with income tax law in general.
2. Don't form a family partnership unless the wife contributes property of her own or very substantial services.
3. Have as much proof as possible to show the relative value of the contributions in income of husband and wife and have the profits divided accordingly and have the wife keep her share separately for her personal use.
4. Don't let the husband control, either in fact or in form, the wife's interest in the partnership, her right to dispose of her interest, the amount of profits to be distributed, or the wife's share of profits after distribution.
5. Follow the same general principles in forming a family corporation.

The Applicability of War Risk Exclusion Clauses to Deaths from Ordinary Causes

This well written and well annotated article, by James B. Day, Denver attorney, in the April, 1947, issue of the Rocky Mountain Law Review, brings to the fore the cases which have been decided on the problem of whether or not collection may be made on an insurance policy excluding war risks where the deceased, even though in military service, dies as a result of an ordinary

accident. The great number of deaths under these circumstances makes this article an important source of material in this important field.

Survey of the Work of the Colorado Supreme Court, 1942-1946

Stephen W. Bowen and William O. DeSouchet, Jr., students at the University of Colorado Law School, bring us up to date on the work of the Colorado Supreme Court and its judges during the above period. This survey is a "must" for all persons who would either approve or condemn the judges of the Supreme Court for their work during this period, and is of great interest in view of Chief Justice Burke's address to the Denver Bar Association in May. The article is in the *Rocky Mountain Law Review*, April, 1947.

Stearns Addressed Denver Bar Association in April

Dr. Robert L. Stearns, president of the University of Colorado, former president of the Denver Bar Association, under the subject, "A Little Light on the Sun," gave an interesting and informative talk, illustrated by motion pictures, of the work of the high altitude observatory of the University of Colorado and Harvard University at Climax, Colorado. The meeting was sponsored by the Junior Bar Section, with section chairman, Wilbur E. Rocchio, presiding.

Vanderbilt to Direct Survey of Legal Profession

Dean Arthur T. Vanderbilt of New York University School of Law, former President of the American Bar Association, has been unanimously selected as Director of THE SURVEY OF THE LEGAL PROFESSION. Announcement of his appointment by an advisory council of prominent lawyers and laymen has been made by Carl B. Rix, President of the American Bar Association, in the association journal.

The members of the advisory council which will assist in the work of THE SURVEY over a three-year period are Howard L. Barkdull of Cleveland, Chairman of the House of Delegates of the American Bar Association; John W. Davis, prominent New York attorney; Dr. John S. Dickey, President of Dartmouth College; Tappan Gregory of Chicago; Dean Albert J. Harno of the University of Illinois Law School; Paul G. Hoffman, President of the Studebaker Corporation of South Bend, Indiana; William Clarke Mason of the Philadelphia bar; Judge Orie L. Phillips of Denver, Senior Federal Circuit Court Judge of the 10th Circuit; Carroll B. Shanks, President of the Prudential Insurance Company of Newark, New Jersey; and Reginald Heber Smith of the Boston bar. THE SURVEY is being financed by the Carnegie Foundation and the American Bar Association.

In announcing Dean Vanderbilt's appointment, the advisory council pointed out that THE SURVEY "will be conducted as an independent project in the interest of the public" and will be a "study of all the lawyers of all types and kinds in all sorts of communities everywhere—not merely of such as belong to bar associations or are law school graduates or have conspicuous clients."

The director will be given a free hand in his work. THE SURVEY will view the profession from the educational, economic, social and other stand-points and will have "no preconceived point of view to be given inexorable support."

The selection of Dean Vanderbilt for this important position is the best that could have been made, as Dean Vanderbilt is over-shadowed by no one in his contributions to the welfare of the attorneys and the administration of justice. His amazing list of activities in this behalf include his service as chairman of the Advisory Committee on Military Justice of the War Department, chairman of the Advisory Committee of the United States Supreme Court on Rules of Criminal Procedure, member of the Attorney General's Committee on Administrative Procedure, and chairman of the Attorney General's committee that brought about the adoption of legislation creating the Administrative Office of the United States Courts. He has been County Counsel of Essex County, New Jersey, for the past twenty-five years, and for a considerable part of that time he has been leader of the Republican Clean-Government Movement in New Jersey.

In addition to teaching for more than a quarter of a century at New York University Law School, Dean Vanderbilt has a large private practice in Newark, New Jersey, devoted mainly to trial and appellate work. He is president of the Board of Trustees of Wesleyan University at Middletown, Connecticut, and is a former President of Phi Beta Kappa Associates. Since his appointment as dean of the law school four years ago, he has developed a program for a Law Center at New York University which includes the largest graduate law school in the country, an extensive publications program, an Inter-American Law Institute, a Citizenship Clearing House, and round tables devoted to the solution of important contemporary legal problems.

ALBERT O. CORWIN *Commercial Photographer*

19 East Eleventh Ave.

Specialist in Legal Photography

Also

Legal Photographic Consultant

Business Phone ALpine 2195

Residence Phone ALpine 8338