

January 1946

Colorado Bar Association 1946-1947

Dicta Editorial Board

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DICTA

VOL. XXIII

DECEMBER, 1946

No. 12

Calendar

- December 9, 1946—Denver Bar Association regular monthly meeting, 12:15 P.M., Chamber of Commerce dining room.
December 12, 13, 1946—Denver Bar Association Tax Institute, Capitol Life Auditorium, 16th and Sherman Sts., 1:15 P.M. and 7:30 P.M.
January 6, 1947—Denver Bar Association regular monthly meeting, 12:15 P.M., Chamber of Commerce dining room.

Colorado Bar Association 1946-1947

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- (Names of members of Judiciary Committee and chairmen of its Sub-Committees were published in November, 1946 issue of DICTA, pages 237-242.)

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These officers were elected Oct. 1946. Next election will be Oct. 1947.

County Judges' Association

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These officers were elected Jan. 1946. Next election will be Jan. 1947.

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These officers were elected Jan. 1946. Next election will be Jan. 1947.

Colorado Bar Association Meeting

In one of the most significant meetings, and the largest meeting, ever held by the Colorado Bar Association, plans were this year outlined and implemented which, if carried to conclusion, will have far reaching effects in modernizing the judicial system of the state, and in improving bar activity and the administration of justice generally. The association decided to:

1. Carry thru a program designed to completely modernize courts and judicial procedure in the state.
2. Revamp criminal procedure in the state.

3. Prepare and sponsor legislation at the 1947 session of the legislature, to increase the pay of district judges to \$6000 a year, liberalize their expense accounts, and provide a retirement compensation for these judges.
4. Make the real estate standards have state-wide application.
5. Renew the fight for integration of the bar of the state.
6. Revive the traffic court conferences so successfully conducted before the war.
7. Expand the legal institutes.
8. Establish a joint committee with the Colorado Society of Certified Public Accountants with respect to unauthorized practice of the law.
9. Create a special committee to study low cost legal services.
10. Urge the American Bar Association to go on record in favor of federal legislation which would remove the abuses now being practiced under the Federal Employers Liability Act.
11. Encourage the activities of the Junior Bar Section.

A summary of the remarks of Judge Bolitha J. Laws and Attorney General Tom C. Clark will be found in this issue of DICTA, as are the addresses of retiring president Frank L. Moorhead, and Edwin J. Wittelshofer.

On Friday morning the Probate and Trust Law Section met with the County Judges' Association, with Floyd F. Walpole, Denver, Chairman of the Probate and Trust Law Section presiding. Royal C. Rubright, Denver, discussed procedure under amended section 253 of the probate law. He suggested that in order to eliminate any question of not having proceeded correctly under sub-section A and C, an order be obtained from the court to proceed under sub-section A. A nunc pro tunc order may be obtained if necessary.

Howard Parks, Denver, discussed some inconsistencies in present probate laws and their remedy. In section 40, revocation of a will by marriage is implied. There should be a specific provision that a will made in contemplation of a specific marriage be not revoked by the marriage. The one year period for contesting a will in section 65 should be reduced to six months. The two year period provided for in section 62(c) should be reduced to one year to harmonize with section 75 as amended in 1945. Section 162 should be amended to eliminate the reference to section 167, which has been repealed. Sections 195 and 201 might well be amended to provide that debts under \$25 can be paid by the personal representative without the filing of a claim. Section 227 says that a testamentary trustee shall have all the powers of an executor, and, if court order is waived, may exercise powers without court order. Section 147 now provides that an executor may sell securities without order of court if he has a power of sale. Are these two sections now consistent? If not, they should be made so. Sections 18 to 26 regarding determination of heirship should be repealed, as this procedure is little used and of doubtful validity and value.

T. Raber Taylor, Denver, discussed an improved method of making stock transfers thru an estate. There are several current methods in use for keeping securities in bearer or marketable form to avoid the complications of stock transfers in an estate. These methods are: use of a nominee, keeping them in street name, use of a custodian account. The Uniform Fiduciaries Act has been adopted in Colorado. Section 3 attempts to facilitate stock transfers. A transfer must comply with the law of Colorado, the market place and the state of incorporation. Our constitution requires the sale of securities in an estate, unless the will otherwise provides. It should not be necessary to appraise listed securities held by an estate. It is suggested that a standard printed order for sale, incorporating the letters, be adopted. It is also suggested that the clerk's certificate on a certified copy of a will embody a certificate that the will was duly admitted to probate. In lieu of a certified copy of the will, a certificate of the judge that the fiduciary is acting under a will or proper order of court, in making the transfer, might be accepted. If such forms are adopted, they should be submitted to the loose leaf services for the guidance of stock transfer agents' clerks.

Judge Hubert Glover, Pueblo, discussed the problems of a county judge. He gave six rules of conduct which he recommended be followed by attorneys and judges:

1. In construction of a statute or a will, good common sense should be used.
2. Every attorney and judge should obtain a copy of the new statutes as soon as possible after their enactment.
3. The new statutes should be read carefully.
4. The new statutes should be checked against the old statutes to see what changes had been made.
5. The matter should be studied carefully.
6. One should listen to the opinions on the subject of well informed persons.

Judge Glover further suggested that when a conclusion has been reached, it be announced as tactfully as possible.

Hubert D. Henry, Denver, reported that the Model Probate Code has been completed and distributed.

The section made three decisions:

1. That a committee be appointed to consider the subject presented by Mr. Taylor, and that the County Judges' Association be requested to appoint a similar committee to work with this committee.
2. That a committee be appointed to study the Model Probate Code and report its recommendations at the next meeting.
3. That the section recommend to the Colorado Bar Association that steps be taken to secure adequate salaries for county judges.

The Friday afternoon session was under the auspices of the Junior Bar

Section, with Sydney E. Shuteran, chairman, presiding. He pointed to the April meeting of the Denver Bar Association, under the auspices of the Junior Bar Section, at which William R. Newcomb discussed a minimum fee schedule for Denver, and that the association adopted such a schedule in October.

James F. Price, dean of the University of Denver School of Law reported the current efforts of law schools to improve their curriculums. Recently the American Bar Association undertook a study to be financed by the association and the Carnegie Foundation. Some persons have suggested internships for lawyers, possibly in low cost legal service bureaus or in legal aid bureaus. The general plan at present is for the law school to have the student a greater part of the time, such as four years out of six.

Dr. Lawrence T. Brown, chairman of the Public Policy Committee of the Denver County Medical Society and vice-president of the Colorado Medical Society, appeared, at his own request to express opposition to the Wagner-Murray-Dingle bill.

T. Raber Taylor, Denver, discussed integration of the bar. He stated that all studies of the subject made in Colorado indicate that a majority of Colorado lawyers favor integration, and that an examination of the past several years' issues of DICTA and the Rocky Mountain Law Review reveal many articles favoring integration. A recent survey indicates that 90% of the young lawyers who were in service favor integration.

There is a definite relationship between the economic status of lawyers and integration. In a recent survey of the economic status of Colorado lawyers, it was shown that the lawyers of Colorado have a low economic status. What are the remedies? They are:

1. Reduced library costs.
2. Higher fees.
3. Elimination of unauthorized practice.
4. Education of the public as to the desirability of legal services.
5. Higher standards of admission.
6. Integration of the bar.

In a survey made during the war it was shown that 75% of the lawyers want minimum schedules and 68% wanted the bar to educate the public as to the need for legal services and advertise legal services.

G. Dexter Blount, Denver, described what is meant by the integrated bar. Edward L. Wood, Denver, discussed the benefits which can be derived from integration. After a lively discussion, the board of governors was instructed to send a mail ballot on integration to all practising lawyers in Colorado, and to proceed in accordance with the results.

The Saturday morning session was devoted to a discussion of the work of the Committee on Judicial Administration. Col. Philip S. Van Cise presented his various sub-committee chairmen, who discussed the work of

the various sub-committees. Winston S. Howard discussed the non-partisan aspects of the plan, selection, tenure and compensation. Fred Neef discussed the Supreme Court. Joseph G. Hodges discussed the district courts. Peter Holme, Jr., discussed the county courts. Elmer Brock, Jr., discussed the juvenile court. Stanley Johnson, executive secretary of the committee, discussed the justice courts in the absence of Harold M. Webster, and also some general aspects of the committee work.

The Friday luncheon program was presented by The Law Club of Denver, of which Richard Tull is president. It was a trial in Heaven, presided over by Judge Moses Hallet, who had been called from a card game with St. Peter and St. Ives to preside, and who was annoyed at having to give up his game to try the cases presented. Stanley Johnson was Judge Hallet, St. George Gordon was the bailiff, Berton T. Gobble the district attorney, Alan Phipps the public defender, Warren K. Robinson the G.I. lawyer and Charles A. Baer, another district attorney. Packer was discharged on a charge of cannibalism on the defense of justifiable homicide—because of the O.P.A. and the meat shortage. Charles Graham was not guilty of loitering in front of the Y.W.C.A. He was picketing because the Y. is unfair to organized dating bureaus. A petition was presented for complete judicial reorganization by P. Sinless Van Precise, who claimed that judges are politicians first and engage in opinion writing second. They have to spend too much time running for reelection. The G.I. lawyer appeared in uniform because he was just looking for some civilian clothes. He was against judicial reform.

Other subjects taken up by his honor were the Clayton Trust case, District Attorney Burke's grand jury investigation, the political campaign, integration, pre-trial and legal research. It was suggested that a telephone bureau for giving legal advice to busy lawyers be set up so that the lawyers won't have to bother busy court clerks.

President's Address[†]

BY FRANK L. MOORHEAD*

A year has quickly passed since the last meeting of our association, and for me it has been a year of great interest and some concern. We have been passing through a reconversion period, from war conditions to a peace time practice. The predominant work of the association appears to have been the assistance given the returning veteran, both as to his establishing himself in a practice he had given up for entering the service, and for the placing of those graduates of law schools, who, by reason of war service, had not been in former practice and were looking for a location.

[†]Delivered to the Colorado Bar Association, Oct. 19, 1946.

*Of the Boulder, Colorado, bar; retiring president of the Colorado Bar Association.