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Upon Information and Belief

Dicta Editorial Board

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DICTA

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No. 7

Upon Information and Belief

Editorial Policy

In view of the contents of various issues of DICTA we feel it advisable to remind our readers (however few they may be), that DICTA holds no particular political (or religious) beliefs. In fact, it probably doesn't hold any particular beliefs except on the subjects of bar organization, and the construction, interpretation and administration of law. We recognize the inalienable right of lawyers to differ. In fact, DICTA, editorially, sometimes differs with its own editors in articles submitted by them for publication.¹ We feel that the members of the Colorado bar have the right to have their opinions on legal subjects subjected to the scrutiny of the other members of the bar. Therefore, if our readers disagree with material found in the pages of DICTA, their recourse is to submit their own opinions to the editors for publication.

Midsummer Inventory

The November, 1944, DICTA, at pages 259-263, contains a summary of the action taken by the Colorado Bar Association at last year's annual meeting. DICTA has been checking up on the program to see how it has fared since that time and presents its findings.

1. Senate Bill 1914, which the association urged Congress to pass, and which provides that attorneys admitted to practice in federal courts or state supreme courts may practice before federal boards or bureaus without special admission, has apparently received little further action in Congress. Many bar associations have endorsed the bill.

2. The McCarran-Sumners Bill providing for standard federal administrative procedure, and court review of decisions of federal boards and bureaus, which the association urged Congress to pass without further delay, has been studied in a number of informal conferences in which differences have been ironed out and principles agreed upon. Only minor problems remain unsettled. It is now expected that committee hearings will begin soon, with little trouble for the bill anticipated there or on the floor.

3. The treaty with Mexico regarding a division of the waters of the Colorado and other border rivers has been ratified by the United

¹See DICTA, May, 1945, p. 116.

States Senate and now awaits ratification by Mexico, which will be taken up in the fall. The association urged the ratification of the treaty, which was opposed by the House of Delegates of the American Bar Association because of objection to certain administrative features. In ratifying the treaty the Senate adopted certain "reservations." These "reservations" or interpretations do not change the treaty, but embody principles which many claim existed without the reservations. However, as the reservations satisfied many who were opposing ratification, the favorable action of the senate was taken, and approval by Mexico will end a problem of twenty years' duration.

4. The matter of the establishment of a non-political judiciary, in fact the whole matter of the judiciary article of the state constitution in all its aspects, is of deep concern to the officers and governors of the Colorado Bar Association. They feel, however, that the matter of the selection of judges in a non-political manner is only a small part of the large problem. We hope to be able to submit to you in the near future some definite results in the bar association's program for an improved judiciary article.

5. The association urged the legislature not to re-enact the service tax act. The legislature went the association one better and repealed the service tax. Have you been collecting it since February 28, 1945? If so, why?

6. Three of the four bills approved in support of the county judges' association met degrees of success. The salary schedule for clerks and judges of county courts was revised. In a few instances, salaries were lowered. In the great majority of instances salaries were increased, but not to the extent recommended by the county judges and approved by the bar association. A uniform schedule of fees for probate matters in all counties was adopted. The bill requiring county judges in larger counties to be attorneys received the approval of the house but died in the judiciary committee of the senate.

7. The amendment to the by-laws for reduced dues for newly admitted members of the bar took effect at that time without further action.

8. The committees are all going forward with their work and it is expected that progress will be reported by them this year. We will endeavor to present complete committee reports at a later date.

9. Returning lawyer veterans are again taking up the practice of law, and no problems have been met in this connection which cannot be handled. Many of our returned lawyers are seen daily going about their professional practices in the courts, record rooms and offices.

Probate legislation. Most of the probate legislation approved at the meeting was subsequently presented to the legislature, and is now law.

A New State Building

The house of the Thirty-fifth General Assembly approved, and the senate killed, a bill appropriating \$38,000 to purchase some lots on Grant Street, north of Colfax, adjoining the corner lots now owned by the state. Proponents suggested that the lots should be purchased now, when available, at a good price, as it is almost certain that the state will have to build a new office building in the near future. We note that the superintendent of buildings has now purchased these lots on his own, giving as a down payment \$8,000 in his capital fund, and a mortgage for the balance. The Thirty-sixth General Assembly will undoubtedly be asked to pay off the mortgage. If it does, and the lots finally become the property of the state, we have a suggestion to make.

Some states, in building their new buildings, have provided for the housing of the supreme court and attorney general in a separate building. We suggest that the Colorado Bar Association study a plan of housing our supreme court and attorney general in a new court building so that when Colorado is ready to build a new office building, such plans can be presented to the legislature, if the association feels them feasible.

Should Judges Be Lawyers?

Colorado does not permit "the coursing of jackrabbits with dogs" or the coursing of one not "learned in the law" for a place on the supreme court. Such is not the case in Wisconsin, at least as it applies to the supreme court. Former governor Fred R. Zimmerman, who has held many state offices, but is not admitted to practice law, sought a place on the supreme bench last fall, and was decisively defeated. The campaign apparently did not stir up much comment among lawyers at the time, but since the election comment has been rather free in lawyers' publications, and in Wisconsin an amendment to the constitution was introduced in the assembly but defeated.

The Wisconsin voters handled the situation all right, but what factors exist which do not justify more national interest and comment upon a layman's seeking a place on the supreme court of a state, and what impelled the Wisconsin assembly to reject a proposal for a constitutional amendment which would prevent a similar situation from arising in the future? Hadn't we lawyers better take time out long enough to find out why many people don't think legal knowledge an essential qualification for service on the bench and a desirable one for service in the legislature?

Integration

The June, 1945, issue of the Journal of the American Judicature Society, at page 28, has a list of the states having integrated bars. Besides Colorado, of the eleven western states, Montana does not have an integrated bar. Of the states bordering on Colorado, Kansas does not have integration. Of the states west of the Mississippi River, in addition to these three, Minnesota and Iowa do not have integration. Twenty-five states now have integrated bars.

Adequate Compensation for Judges

In the April, 1945, issue of the Journal of the American Judicature Society is an article on "Salaries of American Judges" by Glenn R. Winters, the editor. This article is worthy of consideration by every Colorado lawyer. For those who want to delve deeper into the subject, we suggest the book by Evan Haynes, just published, entitled "The Selection and Tenure of Judges." This book is the latest of the Judicial Administration series.

If you are making a good living in the practice of the law, would you be willing to become a candidate for the district or supreme bench in the next election if at the end of your term, in the event of your failure of reelection, you would have to resume the practice in order to provide for you and your family adequate income? Your answer to this question is very probably "No."

According to Mr. Winters article, only seven states pay their supreme court judges less than does Colorado. In two of these states legislation proposed this year would increase these salaries above the amount being paid in Colorado. In approximately the same states the maximum salary paid to trial judges is less than the \$5,000 a year paid to our district judges. Supreme court judges who have served ten years get a pension of \$3,000 a year after reaching the age of 65. No other pensions are given Colorado judges.

Of course, the standard for compensation for Colorado judges should not be what other states are paying their judges, but what Colorado must pay to get good judges. The judge of the Denver County Court receives \$7,000 a year. If it is necessary to pay that to get a good county judge, can a good supreme court judge be had for \$6,500 or a good district judge for \$5,000? In figuring compensation, should consideration be given to the fact that living in some communities is higher than in others? In New York judges sitting in New York City get \$10,000 more a year than judges sitting elsewhere.

Suppose the salaries now received by our judges are reasonable compensation for the actual months spent on the bench. Are they adequate to compensate for loss of practice and to provide needs for old age? In other words, should we consider an extension of judges' pensions?

As above stated, a supreme court judge who has served 10 years gets \$3,000 a year pension from age 65. Is this adequate? How about a judge who has served 5 years and is 65? How about a judge who has served 10 years and is not yet 65? How about a district judge?

Perhaps a system of pensions should be worked out which will recognize both length of service and age. The state has done this with regular employes. Employes who have served 15 years and have reached 65, or who have served 5 years and reached 70 are entitled to retire on a monthly payment of one-twentieth of one-half of monthly salary for each year of service, the maximum payment being one-half of the monthly salary. Thus, one who has served 10 years and is 70 may retire on ten-twentieths of one-half (or one-fourth) of the monthly salary. A supreme court judge who had served 5 years and reached the age of 70 would receive \$812.50 yearly under this formula. Of course, this probably is not the proper formula to apply in the case of judges, but it would certainly seem fair and proper to work out some system of pensions for judges which would permit more lawyers, who now dread to face the prospects of returning to practice on their retirement from the bench, and compete with younger lawyers in building up a new clientele, to seek election to the bench.

The judges render a great public service, and the lawyers should see to it that they receive compensation which will encourage men who will make good judges to seek places on the bench. Likewise, the men who are now sitting on the bench should have adequate compensation for the services which they are now rendering.

Bar Examinations

The following persons took the bar examinations June 27 to 30, 1945:

Walter A. Ballou, 2383 South Williams St., Denver, Colo.

William Bodan, Jr., 3091 South Washington St., Englewood, Colo.

Elmer James Brittain, 1617 Lincoln St., Boulder, Colo.

James Francis Friel, 2267 Hudson St., Denver, Colo.

L. V. (Billie) Hallen, 1180 Sherman St., Denver, Colo.

Alice B. Loveland, 1145 Sherman St., Denver, Colo.

Joseph Edward Maker, 285 South Lincoln St., Denver, Colo.

John Waldo Stanley Maus, 1384 Eudora St., Denver, Colo.

George Lee Strain, 702 Cimarron St., La Junta, Colo.

Neil Tasher, 76 Emerson St., Denver, Colo.

Minoru Yasui, 2215 South Columbine St., Denver, Colo.