

July 2021

Midwinter Meeting of Denver and Colorado Bar Associations

Dicta Editorial Board

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

Recommended Citation

Midwinter Meeting of Denver and Colorado Bar Associations, 22 Dicta 64 (1945).

This Article is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

They all know that public officials are presumed to do their duty—and not either to exceed it or to neglect it. The presumption applies to the International Boundary Commission and to each commissioner.

In conclusion one further matter should be mentioned. The committee points out that the treaty is terminable only upon the joint consent of the two governments. Apparently the purpose of such statement is to raise doubt of the wisdom of the treaty making a division of the water in perpetuity. The purpose of the treaty is to define the Mexican right for all time and thus to remove the uncertainty which now threatens the security of every user within the United States of the water of the affected border streams. This threat would be ever present if the treaty were subject to periodic readjustment. As the upstream nation, the rights of the United States are effectively protected only by a permanent definition of rights. The United States is merely recognizing the same principle as is recognized by the states of the Union which have compacted between themselves in regard to the use of the water of interstate streams of the West.

The generality of the foregoing criticism of the resolution and report is required by the general nature of those documents. It is believed with confidence that a specific answer could be made to every specific factual situation or argument that could be advanced in their support.

Midwinter Meeting of Denver and Colorado Bar Associations

A joint midwinter meeting and institute of the Denver and Colorado Bar Associations was held at the Shirley-Savoy Hotel, Denver, on February 24, 1945, with 200 members of the associations in attendance. During the morning the Board of Governors and several committees of the Colorado Bar Association held meetings. At the noon luncheon Benjamin E. Sweet, president of the Colorado Bar Association, presided and introduced Milton J. Keegan, president of the Denver Bar Association, who introduced David A. Simmons, of Houston, president of the American Bar Association. Allen Moore, Chairman of the Legislative Committee of the Colorado Bar Association, presided over a panel discussion of the matters before the 35th General Assembly, and participated in by Senator Averill C. Johnson of Las Animas, Chairman of the Judiciary Committee of the Senate; Representative William Albion Carlson of Greeley, Chairman of the Judiciary Committee of the House; Senator Charles E. Blaine of Delta, Chairman of the Constitutional Amendments Committee of the Senate; Representative Clifford E. Morgan of Denver, Chairman of the Constitutional Amendments Committee of the House; William E. Hutton, Chairman of the Legislative Com-

mittee of the Denver Bar Association; and Harold B. Wagner of the Denver Bar. Mr. Moore referred to the fact that during the past few sessions the Colorado general assemblies have averaged 200 bills per session. It is to be noted that everyone knows we have too many laws, but everyone knows of two or three more laws which should be passed.

At the evening meeting, Benjamin E. Sweet introduced Milton J. Keegan, who thereafter presided. Mr. Keegan's pun about "the lawyers are working like horses drawing conveyances" was missed by most of the dinner guests. Mr. Keegan introduced the presiding Circuit Judge, Orie L. Phillips, who in turn introduced Mr. Simmons.

During the afternoon, Albert J. Gould of the Denver Bar gave another of his very excellent institutes on federal taxation.

David A. Simmons

At the noon luncheon, speaking informally, Mr. Simmons made many interesting comments regarding legislation. It is, and always has been, considered a public calamity when the legislature meets, but everyone has a pet law which he wants passed. For many years it has been the custom for state legislatures to meet biannually. During more recent years, because of the complexity of our civilization, biennial meetings of the legislatures have not been sufficient to anticipate the matters of the government during the period in which the legislatures would not be in session. Therefore, since the legislature wouldn't meet for two years there had to be created boards and bureaus to write rules to meet situations as they would arise. At the present time 90% of all laws are rules of boards and bureaus. These boards and bureaus have judicial as well as legislative and administrative functions, and as a result of their activities the courts are finding less and less work to do, so that now we are in the position of abolishing courts because the bureaus have absorbed part of their work and the courts don't have as much to do.

Congress, together with all of its subordinate agencies, costs 10c per year per person, the national judiciary costs 7c per year per person. In his home state of Texas, the judiciary costs 23c per year per person. The bureaus cost the people considerably in excess of these amounts. In order to regulate this complex civilization and to determine controversies between parties, some agency must function. If the legislature does not function in the law making field, some bureau will function, and if the courts will not function in determining controversies, some bureaus will function. State legislatures as a whole are grossly and inadequately paid. Laws should be made by the elected law makers after a full hearing instead of by a group of appointed persons isolated within the confines of a single room without a hearing, and the law thus made tacked up on a wall outside the door and binding on all persons.

At the evening dinner session, Mr. Simmons first referred to the work of the lawyers in the war. Forty thousand of one hundred seven-

ty-nine thousand lawyers in the United States are in the armed forces. Three thousand of these are doing legal work. Twenty-seven thousand civilian lawyers are serving free in the performance of legal aid to members of the armed forces and their families, and this group of lawyers completed two million pieces of work during the past year. As an example of the work being done by this group, one lawyer in one city was requested to handle twenty-five hundred divorces for men overseas.

Mr. Simmons then discussed the question of whether or not controversies between nations could be settled other than by war. Going back to 1100 A. D. in England, there were three methods of settling disputes. The methods of trial by faith; trial by fire and trial by water constituted one method. The second method was the trial by force. But a third method was beginning to grow up—that of settling with the aid of lawyers controversies according to the law of the land by the use of evidence, logic and reason. Trial by battle or by force was known as late as 1830 in England, and nations are still trying to settle controversies by other means than by law and reasoning. We are all familiar with the words on the United States Supreme Court building, "Equal Justice under Law." We have emphasized justice too much at the expense of law. Everyone has his own standards of justice, but the law is a fixed thing concerning which there is only one standard. There were one million five hundred thousand major crimes in the United States last year. The lawyers say they are engaged in the practice of law, but the courts say they are engaged in the administration of justice. Why are not the courts engaged in the administration of law? We can find out what the law is, but everyone has a different idea of what justice is. Law is the formulation of principles of justice into established rules of conduct.

Trial by force is becoming a real menace in industrial relations. Nine million days were lost in strikes in the last two years. The lawyers have found a method of settling their disputes with other groups. They have come into agreement with the bankers, real estate men, the insurance adjusters and the accountants. These disputes were all jurisdictional disputes and they have been settled by conferences and agreements between the groups. Why shouldn't controversies in industrial relations be settled in the same manner by conferences and agreements?

The real authors of the Magna Charta were the lawyers. The Chief Justiciar fought against John's desire to rule by edict instead of by law for a decade before the Magna Charta. Good government is raised by the wise, the honest and the good people. Will the wise, the honest and the good find a way of solving international disputes? We will accept the proposals of the San Francisco meeting because we can never again pay the price of force.