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## Upon Information and Belief

Dicta Editorial Board

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## Upon Information and Belief

The fact that forty-nine concurrent resolutions for amendments to the state constitution, and two concurrent resolutions (one in the House and one in the Senate) calling for a constitutional convention, were introduced in the thirty-fifth general assembly is ample evidence that there is some interest in changing our basic state law. This interest is not confined to Colorado alone. Missouri has just adopted a new constitution. New Jersey last fall voted upon but rejected a new constitution, and other states are giving attention to this subject. Among these are Illinois, where the referendum taken among the members of the bar shows a large majority in favor of the calling of a constitutional convention in that state. It is not necessary to accomplish a substantial change in our state constitution to call a constitutional convention, as the general assembly may place on the ballot amendments to six articles at any election, and by amending six articles, a very substantial change can be made. This is not true in Illinois, where the legislature can submit amendments to only one article at an election. Although many in this state favor the calling of a convention at this time, there are others who feel that if the general assembly will take the lead and place a number of amendments on the ballot, constitutional reform can be accomplished without the calling of a convention.

The amendments introduced in the thirty-fourth general assembly would have accomplished singly or in combination the following changes:

### *Executive Department*

Four-year term for state officers; the election by the people of the governor, lieutenant governor and auditor and appointment by the governor of the attorney general, treasurer, secretary of state and superintendent of public instruction.

### *Legislative Department*

Constitutional increase of minimum compensation to members of the general assembly; the filling of vacancies in the general assembly by appointment; four-year term for representatives; annual sessions; power in the general assembly to call itself into special session; prohibition against members of the general assembly holding any employment in the state government; elimination of the fifteen-day limit for introducing bills in favor of a limitation to be imposed by the general assembly; elimination of the never-adhered-to requirement of a state census in all years ending in 5; power in the general assembly to divide into districts any county entitled to more than one representative or more than one senator; elimination of the constitutional limitation on legal investments.

*Judicial Department*

Elimination of the constitutional requirement for county and justice courts; requirement that supreme and district court judges be attorneys admitted in Colorado; provision for the interchange of district and supreme court judges.

*Suffrage and Elections*

Reduction of voting age to eighteen years; elimination of requirement that ballots be numbered and substitution of a provision that no ballot may be numbered or identified (this amendment was adopted by the general assembly and will be on the ballot in November, 1946).

*Education*

Elimination of the requirement that each school district maintain a school; elimination of the constitutional requirement that the board of education consist of constitutionally designated state officers; four-year term for county superintendents; appointment rather than election of regents of the state university; elimination of the prohibition against the general assembly prescribing textbooks; abolition of board of land commissioners and creation of office of land commissioner; creation of a seven-man board of education elected by the people, this board to appoint a commissioner of education in lieu of election by the people of a superintendent of public instruction.

*Revenue*

Increase of tax exemption from \$200 to \$500; elimination of all earmarked funds with all state revenue going into the general fund to be allocated by the general assembly; exemption from certain taxation of service men.

*Civil Service*

Elimination of department heads; appointment of civil service commissioners by the supreme court; elimination of civil service commission and creation of personnel director; extending terms of office of commissioners for fifteen days so that commissioners would be appointed by the new governor rather than the retiring governor; creation of office of personnel director; elimination of constitutional provision regarding compensation of civil service commissioners.

*Counties*

Four-year term for county officers; officers of counties and their compensation to be determined by law; home rule for counties.

*Amendments*

Constitutional convention when approved by the people to be called by a committee of five persons, three of whom would be elected by the general assembly.

*Old Age Pensions*

Repeal of jackpot provision providing for the surplus old age pension funds to revert to the general fund; repeal of jackpot provision and retention of surplus funds in the old age pension fund to pay pensions (this amendment was approved by the general assembly and will be on the ballot in November, 1946); elimination from old age pension funds of excise taxes hereafter levied; provision for forty-five-dollar guaranteed pension to be appropriated for by the general assembly, and if not appropriated, to stand as a continuous constitutional appropriation with the elimination of earmarked funds for old age pensions.

One important constitutional change which was not suggested in the general assembly, but which has had considerable attention, is a new method of selecting judges. This program has been before the Colorado Bar Association for some years, and at the 1944 meeting of the association, a resolution was adopted requesting the president to appoint a committee to undertake the study of the establishment of a non-political judiciary, requesting the committee to submit plans for judicial tenure and selection.

Amending the constitution, or at least the amendment of certain portions of it, are matters which the bar has always felt were within its province. We can think of no better way in which the lawyers can increase their prestige in this state than by taking the lead in causing to be brought before the people for their approval or rejection amendments to our state constitution.

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**New Member of Denver Bar Association**

Michael Reidy was elected to membership in the Denver Bar Association May 7, 1945. Mr. Reidy graduated from the University of Denver School of Law in 1943 and was admitted to practice by the Colorado Supreme Court that same year, and is now associated with Messrs. Pershing, Bosworth, Dick & Dawson.

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**Admitted to a Higher Court**

Page Morse Brereton of the Denver bar died May 9, 1945. Mr. Brereton was an authority on mining and irrigation law.

**Several Hundred Thousand**

BY GOLDING FAIRFIELD\*

“The indictment charged the defendant with having conveyed his property, consisting of a farm of 160 acres, to *each and every member of the American Legion of Iowa, each and every member of the Independent Order of Odd Fellows of Iowa, each and every member of the Knights of Pythias of Iowa, and each and every attorney-at-law in Iowa*, for the purpose of hindering, delaying and defrauding his creditors.

“That appellant conceived a freakish purpose to prevent his creditors, the mortgagees named, from securing title by foreclosure without an expense that would make it impossible may be conceded, but it seems to us that the device by which he sought to accomplish his dishonest purpose, if sustained, would amount to a legal absurdity.

“The record does not disclose the number of Odd Fellows, Knights of Pythias, American Legion, or attorneys at law in the state of Iowa at the time the deed was executed. The existence of these bodies, as well as the fact that they probably number several hundred thousand persons, is well known to the court. The moiety conveyed to each member thereof, if any, was infinitesimal and could not be partitioned in kind. \* \* \* The expense of executing, acknowledging and recording instruments of conveyance by the several hundred thousand persons indicated would many times exceed the value of the farm. \* \* \* It is against the policy of the law to permit title to real estate to be permanently tied up so as to entirely clog and prevent the conveyance thereof.”

The court held the deed void, that no one was injured and no crime committed.

*State v. McGee*, 204 NW 408 (Iowa Supreme Court).

The above case is cited as a guide to practitioners of real estate law. Too many grantees spoil the deed.

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**PERSONALS**

Lt. Dayton Denious used a part of the time of his latest leave from Uncle Sam’s Navy to attend the May 7th meeting of the Denver Bar Association and meet his old friends there.

Franklin A. Thayer, deputy district attorney of Denver, has been appointed by Governor John C. Vivian to the office of State Veterans Service Officer. He will hold the rank of Captain in the Colorado State Guard. The State Veterans Service Officer assists persons having claims to benefits arising under the laws of the United States and the State of Colorado by reason of military service of themselves or persons upon whom they are dependent.

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\*Of the Denver bar.



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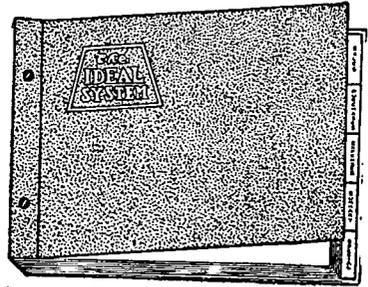


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