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## Section on Probate and Trust Law to Be Formed

Dicta Editorial Board

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## Section on Probate and Trust Law to be Formed

An organizational meeting for a section on probate and trust law of the Colorado Bar Association will be held Saturday morning, September 19, 1942, at the Colorado bar meeting. Plans for the creation of this section are being made by the committee on probate and trust law revision, and by-laws for the proposed section have been drafted by the committee for presentation at the meeting. The by-laws provide for a chairman, vice-chairman and secretary-treasurer of the section. There is to be a council composed of six elected members in addition to the officers and the last retiring chairman for one year following his retirement. Officers may not hold the same office for a period of more than two consecutive years. Annual meetings of the section would be held at the same time and place as the annual meetings of the Colorado Bar Association, but other meetings could be called by the council of the section. The proposed by-laws call for section dues of \$1.00 a year to be expended under the direction of the council of the section. Any member in good standing of the Colorado Bar Association could become a member of the section by paying the annual dues.

The creation of the section on probate and trust law is in line with the type of organization of the more progressive bar associations. The Colorado Bar Association at the present time has several sections, and so it is not a new type of organization in Colorado. The creation of the section is desirable in order to give continuity to the study of probate and trust law. According to the proposed by-laws, the objects, purposes and powers of the section shall be: "to study probate and trust laws; to present to and advocate before the legislature, from time to time, in the name of the section, statutes relating to estates and trusts; and generally to promote an interest in probate and trust laws among the members of the bar and the other citizens of Colorado."

At the present time, one of the principal projects of the section would be to carry on the work of the committee on probate and trust law revision in the revision of these laws. The committee has been working diligently on the proposed amendments, but will not be able to have many, if any, of the amendments in final form by the time of the annual meeting of the association. And even if the committee was able to have the amendments in final form, according to Hubert D. Henry of Denver, chairman of the committee, the limited time allowed for discussion of the subject at the annual meeting would not give anything like an adequate opportunity for the members of the association to express their views on the various proposals. In view of this fact,

it will no doubt be found desirable for the section to hold a meeting prior to the meeting of the legislature where it can devote several hours to the discussion of the proposals to be made by the committee. Therefore, the immediate work for the section will be to continue the drafting of amendments to the probate and trust laws and to present the same to the legislature after they have been discussed at a special meeting of the section called for this purpose.

“There are two principal reasons for the establishment of the section and the proposal of legislation through the section rather than through the bar association,” stated Mr. Henry. “The first is that it seems the best method to provide for an adequate discussion of the various proposals to be made. The second is that, in the absence of any sufficient discussion by the association, it seems undesirable to ask the association to sponsor legislation. Under the proposed by-laws the section would sponsor legislation in its own name.”

At the organization meeting, after the organization of the section, the members of the committee on probate and trust law revision will discuss the various proposals which are being drafted by it. The discussion, of course, will be of general principles of revision, and will not include the details of any proposed amendment because of the limitation of time. The principal points to be covered by the committee's proposals are:

A change in the method of probating wills. Wills would be probated without notice, with a notice immediately after probate to be given to all persons having a right to contest. Such persons would have a limited time to come into court and file a petition to set aside the probate. This notice would be served in a much more adequate manner than are the present notices.

A general notice to be given immediately after the probate of a will and the appointment of an executor, or the appointment of an administrator in an intestate estate. This notice would be served upon all persons having an interest in the estate and would also be published. The notice would list approximately ten different proceedings that may be had in any estate, such as sale and mortgage of real estate, sale of personal property, determination of heirship, filing of accountings and reports. The notice would advise the persons receiving the same that any of the proceedings would be had in the estate without further notice to them unless they shall file a written request with the court for a notice of any given proceeding. If such a notice is filed, before the proceeding could be had upon which notice is requested, notice of the proceeding would be mailed a certain number of days before the proceeding to the person requesting the notice. No notice of any of

the various proceedings would be given to any person excepting one filing a written request therefor.

A consolidation of the three present procedures to determine heirship into one procedure, the proceeding to be brought under any of the circumstances under which any of the present three proceedings can be brought, and in addition could be brought by a person whose title is deranged through an heir. There is also a provision allowing the determination of the heirs of two persons in one proceeding under certain conditions.

A revision of the procedure for the sale, mortgage or leasing of real property.

A revision of the section providing for sale of personal property.

Revision of the claims provisions, the main change being to provide that claims may be filed within six months after the first publication of the notice to creditors, rather than six months after date of appointment, as the law now stands.

Revision of the investment provisions allowing the investment in some property which is not now permitted by statute.

Revision of the statute relating to the administration of small estates.

Revision of the sections pertaining to bonds of personal representatives.

A trust code. The proposed code will contain many of the provisions of the Uniform Trusts Acts which have been propounded by the Commissioners on Uniform State Laws, and in addition will contain other provisions adapted from the trust codes of other states and found desirable for inclusion in a Colorado trust code.

All members of the association are invited to attend the meeting of the section on probate and trust law, and to participate in the organization of the section.

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## **Second Advisor for Section on Legal Education Joins Armed Forces**

Gordon Johnston, formerly of the faculty of the University of Denver Law School, who was serving as advisor for the section of legal education of the American Bar Association, has joined the Navy, and has been stationed at the Denver recruiting office. He will be succeeded in his capacity as advisor by Russell N. Sullivan of the law faculty of the University of Illinois. Mr. Sullivan is the second appointee to fill the office of advisor during a leave of absence given to Major Lawrence W. DeMuth of Boulder while he is in the army.