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Did You Know -

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DICTA

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Dicta Observes

STATE BAR ASSOCIATION MEETING

The annual meeting of the Colorado Bar Association will be held at the Antlers Hotel, Colorado Springs, on September 14th and 15th. The first session will convene Friday, September 14th, at 10:30 A. M. Reports will be submitted of the work of the Association for the past two years.

An outstanding feature of the meeting will be an exhaustive discussion of the question of incorporating the State Bar. The proposition is to receive lengthy and careful attention and members will be invited to express their opinions for and against.

Entertainment has been arranged for after and between sessions.

A banquet will be held Saturday evening and excellent speakers have been secured. A tribute will be paid to the founders of the Colorado Bar Association.

DID YOU KNOW—

By GERALD E. WELCH, *Associate Editor*

THAT the beneficiary of a life insurance policy has such a vested interest, that the insured's reserved right to change the beneficiary does not entitle him to surrender and cancel the policy without the beneficiary's consent?

A first impression might be that—since the insured has reserved the right to change the beneficiary—the interest of

the named beneficiary is such a defeasible and contingent one that the policy may be dealt with freely and independently of any consent by the beneficiary. However, the State of Colorado in *Hill v. Capitol Life Insurance Company*, (1932) 91 Colo. 300, 14 P. (2d) 1006, adopted the majority rule that, under a policy providing for the changing of the beneficiary at pleasure, the insured by agreement with the insurer could not surrender and cancel the policy without the beneficiary's consent, unless permitted to do so by the terms of the contract. The case involved an action by the widow of the insured who brought suit to collect upon a life insurance policy, the first year's premium of which was paid with a note on which nothing was paid and which within the year was surrendered in exchange for the surrender and cancellation of the policy. The widow in suing upon the policy contended that without her consent the cancellation was not effective, and her contention was upheld, the court limiting the right of the insured to deal with the policy strictly to the provisions of the contract of insurance.

This case is relied upon by insurers to require a person who is insured to obtain the consent of the named beneficiary to a conversion of a policy when the policy does not specifically provide for such conversion.

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That a payment to the Clerk of the Court is not a payment into court so as to protect the payer in the absence of a court order directing the payment into court?

In order to protect their clients against the possibility of duplicating payments, as in a case where the plaintiff who recovers judgment is a statutory agent to bring the suit, attorneys sometimes pay the amount of the judgment to the Clerk of the Court and regard it as a payment into court. The State of Colorado in two early cases, *Brown et al. v. People for use, etc.*, (1876) 3 Colo. Rep. 115; and *People for use, etc. v. Cobb*, (1897) 10 Colo. App. 478, 51 P. 523· held a

payment to the Clerk of the Court is not a payment into court so as to protect the payer in the absence of legal authority or some order of the court authorizing the Clerk to receive it.

The two quotations following illustrate the point involved:

"The authorities are uniform, so far as I am able to find, that payment to the clerk of money on a judgment or execution, obtained in the court of which he is clerk, is not payment. He is not authorized to receive it. It is not a payment into court, unless made by order of court, or the command in the writ so directs." *Brown et al. v. People for use, etc.*, 3 Colo. Rep. 115, at 124.

"An order by virtue of which money is paid into court must come from the court itself, and an entry by the clerk of money as being in court, no matter in what form, or in what books, without such order is nugatory." *People for use, etc. v. Cobb*, 10 Colo. App. 478, at 483, 51 P. 523, 525.

(Contributions are solicited which deal with points or doctrines of law, with particular emphasis on Colorado law, not commonly known, or are unusual, and of informative value to the Bar. Address "Dicta"—"DID YOU KNOW—"

DISBARMENT FOR FAILURE TO PAY BAR ASSOCIATION DUES

Nearly 200 Mississippi attorneys were barred from practicing in the state supreme court by a ruling handed down by the high tribunal, sitting en banc, citing failure to comply with a section of the laws of 1932, requiring payment of $5 annually as dues to the Mississippi State Bar.

Section 25, chapter 121, of the state code, enacted by the legislature two years ago when the lawmakers reorganized the old state bar association, makes it compulsory that every attorney in the state hold membership in the newly organized state bar and provides each shall pay $5 a year dues.—*Case and Comment.*