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Dicta Observes

Dicta Editorial Board

DICTA

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LEGISLATURE VS. JUDICIARY

A bill has been introduced in the Massachusetts' Legislature providing that an attorney of record who is actually engaged in the trial of a cause in any of the courts of the commonwealth or before an auditor or master appointed by any of said courts or before the federal courts in the commonwealth shall not be required to proceed to the trial of any other cause so long as he is thus actually engaged in such trial.

INSURANCE—WARRANTIES

Statutes have been passed in more than thirty-four states substantially making warranties in insurance policies nothing more than representations. The statutes may be placed in five classes: (1) those expressly making warranties representations, the typical language being "all statements made by the insured shall in the absence of fraud be deemed representations and not warranties;" (2) those stating that "the misrepresentations must relate to some matter material to the risk," or that "the matter represented must have actually contributed to the contingency or event on which the policy is to become due and payable," in order to avoid the policy; (3) those requiring concurrence of materiality and fraud for avoidance of a policy; (4) those stating that either materiality or fraud will avoid a policy; (5) those providing that the certificate of the medical examiner shall estop the insurer from contesting the policy because of ill-health of the applicant. This would seem to have the effect of making inoperative any statement of the insured as to his state of health.

JUSTICE DELAYED IS JUSTICE DENIED

According to the issue of The Justinian (Brooklyn Law School) of April 6, 1933, it takes four years to reach a case on the general jury calendar in the City Court of Kings County in Brooklyn.

The Supreme Court, New York County, is more than two years behind in its jury trials.

The Kings County Supreme Court is three and one-half years behind, while Queens County is more than two years behind and Bronx is about sixteen months behind.

The City Court of New York County is three years behind in its regular calendar and about fourteen months behind in its commercial calendar.

The City Court of Bronx is three and one-half years behind in its regular calendar. In the Municipal Courts of the Bronx the jury calendar averages about one and one-half years behind. The Municipal Courts in Brooklyn the jury calendar is one and one-half to two and one-half years behind, the average being more than two years.

THERE IS ONLY ONE CHICAGO

Editorial comment has heretofore been made in these columns (American Bar Association Journal, February, 1933) on the pioneering work, not as to the ethical principles involved but as to the application of those principles to a novel state of facts, which has been done by the Chicago Bar Association in its proceedings against certain lawyers employed by the Sanitary District of Chicago during the period between July 1, 1925, and December 31, 1928.

The information against the respondents was filed by the Chicago Bar Association by leave of the Supreme Court of Illinois in 1930, and it charged them with malfeasance in office as members of the Bar of that Court. The malfeasance charged in the case of most of the respondents consisted in taking salaries from the District without rendering adequate services therefor.

The Supreme Court referred the matter to a Master to take proof and report his conclusions of law and fact. It has

now acted on that report. The decision, which was handed down by Mr. Justice Stone, is a lengthy one and goes into the cases of the respondents separately, and imposes discipline in a large majority of them. It is an emphatic assertion of the duty of a lawyer in public office to treat his client, the public, as honestly and fairly as he is expected to treat a private client. No matter what the political traditions of the way of doing business may be, his professional obligations remain and must control in any professional connection, public or private.

ON THE OTHER HAND—

It appears from the Ohio Bar Association Report, April 10, 1933, that Trumbull County attorneys will object to attorneys from outside the county who file actions for Trumbull plaintiffs. The Trumbull Bar Association at a meeting authorized further committee work to draft plans of barring non-resident attorneys from filing suits in the county. One proposal is to have court ruling requiring every out-of-town attorney to employ resident co-council. Another method suggested is to attack the problem *through secret interviews with the plaintiffs.* (Italics ours.) Thomas W. Evans, reporting a probe into record of petitions filed, declared that checkup covering several years, showed 51 per cent of the personal injury suits were filed by Mahoning County attorneys, 46 per cent by Trumbull attorneys, and three per cent by attorneys from outside both Trumbull and Mahoning Counties. Arner B. Clark served as chairman at the meeting. Brief addresses were offered by T. W. Evans and Jay Buchwalter on proposed legislation.