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LEGISLATIVE DELIBERATION

The 1925 Session of the Legislature, just closed, had up for consideration about 590 bills. Notwithstanding that this number represents about sixty to seventy per cent of the average usually introduced at a Session, we direct attention to the following:

Assume, first, that about fifty of these bills required and received one hour's consideration, each, by the Assembly, and that the remainder obtained an equitable share of the balance of the time.

The Session lasted sixty days. The daily grind started at two P. M., and closed at 5 P. M. That made up a total of 180 hours, or 10,800 minutes, devoted to lawmaking, and an equal amount of time for committee consideration—assuming that committees met regularly every morning from nine to twelve, and making no allowance for roll-calls, routine, or side-issues.

Deducting the time consumed in the consideration of the fifty bills before referred to, including consideration in committee and discussion in the Assembly, leaves an assignment of about fourteen minutes in committee and fourteen minutes in the Assembly for each of the other 540 bills.

Verily, the members of this great deliberative body need the prayers of the people as well as powers of analysis and discernment far beyond the average run of men.

Judged by their work, can anyone say the best were not chosen for the task?

—SECK.

REVIEW OF IMPORTANT DECISIONS

By C. L. Young

Reimers, as receiver vs. Larson.

The receiver of an insolvent bank brought suit to enforce the super-added statutory liability of stockholders of the bank under Section 5168, Compiled Laws of 1913, and Chapter 53, Session Laws of 1919. The defense was that as the bank at the time it was closed was indebted to the stockholder in a considerable amount, this indebtedness should be offset against the superadded liability. HELD: that since the statutory liability imposed is a liability to contribute to a fund out of which creditors are to be satisfied ratably, the stockholder may not offset the indebtedness owing to him by the bank as this would in effect constitute him a preferred creditor.

Schatz Bros. vs. Kintyre Farmers Co-Operative Elevator Company.

The action is for conversion of grain upon which plaintiff claims a thresher's lien. The grain was threshed by plaintiffs for one Kauko. Liens were filed in two counties, and in both cases the name was spelled "Cauko," and were therefore indexed under the letter "C." The defendant inquired of the register of deeds of both counties for liens upon the crops of "Kauko," and was informed that there were none. HELD: That in preparing a thresher's lien, it is the duty of the person entitled thereto to include in the statement to be filed the name of the person for whom the threshing was done, spelled correctly, so that the lien can be filed and indexed alphabetically under the first letter of such person's surname as he spells it, and that the doctrine of idem sonans does not apply.

Davis, Receiver, Plaintiff and Appellant v. McLean County, Defendant and Respondent.

Plaintiff acquired the property involved under foreclosure of a mortgage given in 1915, the sheriff's deed issuing in 1922. Portions of the premises were cropped in 1920 and subsequent years, the crops each year being insured against loss by hail in the State Hail Insurance Department, and an indemnity hail tax being assessed against the premises each year on account of such insurance. The taxes on the property, including the indemnity hail tax, were not paid and the land was sold at tax sales to McLean County. The action is to foreclose a real estate mortgage and the county claims the indemnity hail tax to be a prior lien along with other taxes. HELD: The indemnity hail tax provided by Chapter 77, Laws of 1921, is not a tax within the purview of the constitution of this state, and such tax does not create a lien paramount to an antecedent real estate mortgage.

Julia Madden, Plaintiff and Respondent v. Harry Dunbar, and State of North Dakota, doing business as State Bonding Fund et al, Defendants and Appellants.

This suit is brought against the defendant Dunbar and against the State Bonding Fund upon the bond of the defendant Dunbar as State Inspector, for the conversion by Dunbar as State Inspector, of an auto-

mobile belonging to plaintiff. The term of office of Dunbar, as state inspector, expired in December, 1921, and the claim was filed with the commissioner of insurance on July 30, 1923. The complaint did not state the date of the default, nor the date when the default was discovered by the plaintiff, nor did it appear therefrom that the claim was filed within sixty days after the discovery of the default. The State Bonding Fund demurred to the complaint. HELD: Sections 7 and 9, Chapter 158, Laws of 1919, require a complainant who intends to hold the state bonding fund liable for any default or wrongful act of a public employee, to present the claim to the insurance commissioner within sixty days after the discovery by the claimant of the default, or wrongful act. The provisions of these sections are mandatory. A complaint which fails to allege the presentation of a claim within sixty days after the discovery by the claimant of the default does not state a cause of action.

ITEMS HERE AND THERE

The new Judicial Council of the State of Massachusetts was organized in November, 1924.

The Chicago Bar Association is recommending to the Courts that a rule be adopted prohibiting the taking of photographs in Court.

Judge Everett P. Wheeler, of New York, member of the American Bar Association since its organization, died last month at the ripe age of 85.

The Supreme Court of Washington has disbarred Elmer Smith, noted I. W. W. lawyer. The charge sustained was that Smith had advocated the overthrow of the U. S. government by unlawful means.

W. Thomas Kemp, of Baltimore, Assistant Secretary of the American Bar Association 1910-1919, and Secretary 1920-1924, answered the last call in February. He was 48 years of age at the time of his death.

Missouri attorneys recently presented to the Legislature of that State a bill providing that the omission of non-essential words from an indictment shall not constitute grounds for reversal, and prohibiting reversals or dismissals on purely technical errors.

During the past six months twelve outside State and local Bar Associations have applied to the office of the North Dakota Secretary for information concerning our Bar Association Act. Similar bills were introduced in two Legislatures recently, Minnesota and Oklahoma.

Legal Literature just published: "Income tax Procedure" by Montgomery, published by Ronald Press; "Studies in Murder" by Herbert C. Fooks; "The Drama of the Law" by Edward A. Parry, published by

Scribner; "Principles of Railway Transportation" by Eliot Jones, published by MacMillan Co.; "The Law Governing Sales" by Samuel Williston, 2nd edition, published by Baker, Voorhis & Co.; "The American Revolution, a Constitutional Interpretation" by Chas. Howard McIlwain, published by MacMillan Co.

OUR NEED

Hon. Charles Evans Hughes, President of the American Bar Association, just shortly before his retirement as Secretary of State, gave voice to the following:

"As I look throughout the world the one great need appears to me to be, not some formula or rule, but the stimulation and growth of law-abiding sentiment—the disposition to be reasonable, to be fair, to settle things according to the available standards of justice, to enforce the conceptions of justice against the demands of brute force. This is what it will come to at the end. All our plans for law and order and peace rest on that sentiment. It is useless to be an apostle of peace throughout the world unless you are an apostle of peace at home. It is useless to talk of great institutions of justice throughout the world, unless you have them at home."

This brings to mind, and causes the Secretary to make bold and repeat, something he said in January, after listening to a very inspirational talk on "World Peace" at one of the Bismarck service clubs, to-wit: Every one who heard the wonderful inspirational talk last week can readily understand the need and the opportunity for building upon the basis of these material values the moral and spiritual values that will really make for better relations here at home. He also understands and appreciates it is hoped, that there can be no "world peace" until men and women learn to live in peace, as friends, as neighbors, as citizens—in the same country, in the same state, in the same community, in the same neighborhood.

SUGGESTED SERVICE

The following was one of the thoughts that appeared as part of an editorial in the February number of the American Bar Association Journal:

"Members of the profession in every state can render a genuine public service by answering temperately, concisely and effectively, erroneous statements in the public press which reflect seriously upon the courts or the profession. This, of course, does not mean that every erroneous statement is significant enough to call for a reply, and still less that every statement is erroneous. There may be a good many unpalatable but perfectly true statements in the press on the subjects mentioned that deserve to be read and digested and, at times, to become the subject of letters of approval instead of criticism. But no matter what the purpose of the letter may be, brevity, genuine argument based on facts,

and good temper are essential to give it effectiveness, for the object is to reach the public quite as much as the newspaper.

"It would be a good idea for State Bar Associations to consider means of getting their qualified members to undertake in their several communities the task of thus promoting a better understanding and better thinking on the subject of the administration of justice and those who are intimately concerned with it."

CHILD LABOR

Up to and including the 27th of February, the following States had rejected the child-labor amendment to the Federal Constitution: Connecticut, Delaware, Georgia, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Montana (ratified by House), Nevada, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, Wyoming, 26 in all. The total legislative votes for, were 868, against, 2,665.

Some interesting incidental facts are disclosed by the U. S. Census, at least, they would have been interesting in the event the amendment had been ratified and enforced to the extent of the exact language of the amendment.

For instance, there were 7,877 soldiers, sailors and marines, who had passed the physical and mental examinations of the U. S. Army and Navy; there were 6,427, who has successfully passed teachers' examinations and were teaching school, but were not eighteen years of age; there were 201 making a success as writers, reporters and editors; there were 2,689 musicians and teachers of music; there were 721 employed in the arts, 22 engaged as aviators, 1,000 graduated nurses, and 1,300 photographers; all of whom might have been compelled to go to school or remain idle.

NOTICE RE FEE SCHEDULE

The following, from Hon. F. T. Cuthbert, of Devils Lake, Chairman of the Committee on Compensation and Fees, is in reply to several inquiries that have come to the Committee since the adoption of the Schedule:

"It seems there has been some doubt with certain attorneys concerning the schedule with reference to foreclosures, which we regret. The Committee did not intend any ambiguity when it wrote this schedule regarding foreclosure by advertisement. It was the intention of the Committee, and understood by all, that the foreclosure fee by advertisement would be \$25.00 plus one-half of the statutory fee by action, or one-half the statutory fee before the amendment. As Chairman I have taken this matter up with the entire Committee, and the Committee has

unanimously agreed that this is the construction intended to be placed upon this matter. We trust there may be no further misunderstanding regarding the schedule.”

UNIFORM STATE LAWS

Hon. H. A. Bronson, of Grand Forks, Chairman of the Committee on Uniform State Laws, submits the following current item concerning the work of that committee:

“Hon. Sveinbjorn Johnson, Associate Justice of the Supreme Court, has been appointed by Governor Sorlie as Commissioner from North Dakota to the Conference of Commissioners on Uniform State Laws, which will be held at Detroit, Mich., on August 26th to September 1st, 1925, just preceding the annual meeting of the American Bar Association. The mid-winter meeting of the Committee appointed by the Conference was held in Chicago on February 26th and 27th, 1925. This meeting was attended by Commissioner Bronson, Chairman of the Committee on Education and Publicity. Some of the important legal subjects now under consideration by these Committees comprise the Uniform Mortgage Act, the Uniform Arbitration Act, the Uniform Pistol and Revolver Act, and the Uniform Incorporation Act.” These, it appears are to be submitted to the August Conference.

LAW ENFORCEMENT

Chairman H. F. Horner, of Fargo, advises that the Committee or Section on Law Enforcement is completing arrangements for a campaign of education in the High Schools of the State.

Present plans are to draft members of the Bar Association to deliver two addresses in each High School before the close of the present school year, the students to participate in the arrangement of the programs and to introduce the speakers. It is also proposed to invite parents and friends to attend the programs. The first address is contemplated to cover the necessity for laws and the reasons why laws should be obeyed; the second is to deal with the same general subject and to present a plan for the better co-operation of citizens generally with officers to secure better law enforcement. The plans further include the formation of a law and order organization among High School students.

The Section on Law Enforcement undertakes to supervise the work throughout the State, and will select a lawyer in each county to carry out these plans.

AMERICAN LAW INSTITUTE

Hon. Geo. M. McKenna, Chairman of the Committee on the American Law Institute, reports progress in the work of that organization as follows:

"The Judiciary and Bar of the U. S. are looking forward with keen anticipation and interest to the annual meeting of the American Law Institute, which will be held in Washington, D. C., the first week in May.

"In a recent address by Dr. William Draper Lewis, Director of the Institute work, he intimates that it is possible that some of the work on the re-statement of the law may be submitted to the membership for examination, discussion and approval at this, the third annual meeting of the Institute.

"The reporters and their advisors and assistants have been busily engaged for approximately a year and a half on the re-statement of the law of Torts, Conflict of Laws, Contracts and Agency. To date a portion of the re-statement of the law of Contracts, namely, that covering the Promotion of Contracts, has been sent to the Council for its consideration, as has also the subject of Domicil in the topic Conflict of Laws, and that portion of the law of Torts which deals with Battery, Assaults and False Imprisonment. The first part of Agency will very likely be ready for the consideration of the Council in a short time.

"The Council is the executive body of the Institute and is composed of thirty-three members. If the Council is satisfied that the draft presented to it on any of the above topics is sufficiently well done, it will order such portion of the work submitted to the entire membership in May, or the work may be referred back to the reporter in charge for further change.

"It would seem to be immaterial whether the re-statement of any topic be done in four, or eight, or twelve years, but it is essential, in the highest degree, that, if the re-statement is to carry weight, if it is to secure the approval of the Courts of last resort, and the Bar of the several States, that the work must be pre-eminently well done. It is hoped, therefore, that no time or labor or expense will be spared in the preparation of the work.

"It is sufficient for the present to report that definite progress has been made in the re-statement, and that the interest of the right type of men at the Bar in all parts of the country has been secured, and that the reporters in charge are men who have devoted years of study to their particular subjects and are the outstanding authorities in the United States in the topics which they have been assigned."

Judge McKenna, as Chairman for North Dakota, plans on attending the Washington meeting in May.

FACTS WORTH NOTING

A gift of \$15,000,000, recently made by George Eastman, makes a total of \$40,000,000 contributed by him towards education, charity and institutions established for some sort of public service. His comment, at the time of the last gift, was: "I am, now upward of seventy years old and I feel that I would like to see results from this money, within my remaining years."

Mr. Eastman's life is representative of many in this country. He began work as an office boy, at the age of fourteen, (please note), to assist in supporting his widowed mother. His first wages were \$3 a week. At twenty he secured a position in a bank, and at twenty-five he started in business for himself as a manufacturer of dry plates for cameras. Today his business is worth \$90,000,000 to \$100,000,000, and is known as the Eastman Kodak Company.

For years the world knew little or nothing of his benefactions, which included donations to Tuskegee and Hampton for the education of negroes, the Massachusetts Institute of Technology, Rochester University, Stevens Institute and Mechanics' Institute for Industrial Education, the General Hospital, Homeopathic and Hanehann Hospitals of Rochester, New York, the Friendly Home for Children and the Shelter of Children Society, the New York State and Municipal Bureau of Research, the Red Cross, War Relief, War Chest and many other organizations. In the meantime, Mr. Eastman also made possible the owning of about one-half of the Eastman Company stock by the employees, the plans for that being his own. Following the plan of Lincoln, quoted last month, he gradually accumulated, through his initiative, industry and thrift, a considerable fortune, part of which he again contributed in the furtherance of the public interest, supplying educational and other advantages to thousands who might not, otherwise, been able to obtain them.

1925 ANNUAL MEETING
Fargo, September 9th