



1942

## Bar Briefs

North Dakota Law Review

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in our State, for I sincerely believe that the lawyers are better qualified to give sound advice on legislative matters than any other group of men in our State. They have no axe to grind, they are not looking for any legislation that will particularly benefit them, they are more interested in the welfare of the State as a whole.

Our lawmakers, both in the State and Nation, are at all times besieged by pressure groups that are there for the sole purpose of securing the passage of measures of particular benefit for that group regardless of whether it is of benefit to the State or Nation as a whole. If Democracy is to survive we must get away from that kind of legislation.

Let the lawyers of America awaken to their great responsibilities and to their great opportunities for service.

O. B. HERISTAD  
President.

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### BAR BRIEFS

Bar Briefs has been published in its present form for three years. That is, the first page for the President, then a brief on a live legal question by a student of the Law College of the University of North Dakota, then the syllabi of all decisions of the Supreme Court of North Dakota, this for eight or nine issues, these are all eight page issues each year, then two or three four page issues, one devoted to the annual number.

Before that for three years it was a four page publication with an occasional eight pages, and before that it was four pages for several years.

Many favorable comments have been received over the years on the eight page Bar Briefs, some on the President's page, some on the Law College briefs, and others on the publication of the decisions.

However, some members have thought the publication of the decisions needless, because the Northwestern advance sheets publish a full report of each decision of our Supreme Court, and then others have expressed themselves critically about the College Briefs.

Those criticising the publication of the syllabi of the cases are all members who are able to have the advance sheets of the Northwestern Reporter, but the great majority of our members do not receive them.

And in support of the briefs from the Law College many favorable comments have been received.

At the present time the Bar Briefs monthly and Bar Briefs annual cost from six hundred and forty dollars to seven hundred

dollars per year, and therefore we cannot afford larger monthly numbers on our present income.

Would you like it published bi-monthly, or quarterly better? So that news and comment could appear. Press releases from the American Bar Association are generally from three pages up—would you like them published? Would you prefer the present form changed partially or wholly? Your executive committee and officers would like to know. But please remember that our annual income was less last year than the year before, and will be less this year than last, and will continue to diminish for the duration.

Let's have your comment, wishes, and suggestions.

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### ATTENTION

It has been suggested that our members might like to have at least the Judicial Practice Titles of our new code printed on one side only, so as to have more room for annotating the sections as decisions are handed down. The extra cost would be small if done in connection with the printing of the regular edition. Please advise Senator J. J. Kehoe, Chairman of the Interim Committee at Bismarck if you favor this.

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### BANKRUPTCY

#### Definition of Farmer Under Section 75 (r)

Whether an individual is recognized as a farmer within the meaning of section 75 (r) of the National Bankruptcy Act (52 St. 840), as amended by the Frazier-Lemke Act (49 St. at L. 943), and is eligible for agricultural compositions is a question of fact to be decided upon by a hearing and a consideration of all pertinent facts had before a judge or by reference to a master. 8 C. J. S. section 95.

Essentially the debtor qualifies as a farmer either because he is "personally, bona-fide engaged in farming operations or because the principal part of his income is derived from such operations." National Bankruptcy Act, section 75 (r). This definition is worded in the alternative and "is to be used by way of contrast." *First National Bank v. Beach*, 301 U. S. 435 (1937). With a few exceptions the court assumes that section 75 (r) is the controlling definition of "farmer" for the purpose of gaining special benefits offered by section 75. In *re Moser*, 95 F. (2d) 944 (1938); In *re McCoy*, 17 F. Supp. 973 (1936); In *re Knight*, 9 F. Supp. 502 (1934). Contra: *Benitz v. Bank of Nova Scotia*, 109 F. (2d) 743 (1940). The second half of the above definition, "or the principal part of the debtor's income," becomes important only "when the debtor is engaged in two or more pursuits to such an extent it would be difficult to say which, if any, was the principal one." In *re Pollock*, 46 F. Supp.