



1944

## More OPA

North Dakota State Bar Association

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est our clients in listening in on the program! Over Mutual, then drop a card to your station or to American Bar expressing appreciation for the new kind of radio service.

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Well! Are we going to enjoy one of those annual get-together meetings of our Association? If so who wants us to gather in their town? Handicapped! Yes we know, but isn't that a lawyer's business to figure out ways and means for overcoming handicaps? About time we began figuring!

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The Honorable Geo. D. Farnam of the American Bar, former Assistant Attorney General of the United States and a writer of prominence has just published a booklet entitled "Some Men of the Law," a collection of selected studies of famous modern day lawyers, which may be obtained from the author or "The American Law Book Company." The author complimented the members of the North Dakota Bar by addressing an autographed number of his printed writings to the president of our Association.

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Some of the judges of the County Courts are evidencing a study of the New Code of 1943 as it relates to probate practice and procedure and sending the results of such research to other County Judges. Such interest in the law will be helpful to the lawyers of our state who have work to do in County Courts. An instance or two which every lawyer should know are the forms of letters (Code 30-0707-08-09) and the added provision relating to manner of proving a will (30-0604). Surely helpful work on the part of those judges which we are pleased to print in "Bar Briefs."

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#### MORE OPA

Past President Charley Murphy has again helped us in finding some new decisions of the Court relating to Supplements Order 10 OPA, effective August 19, 1944, effective on sales of personal property by executors, administrators, guardians and other state officials, to which prior reference was made in Bar Briefs. The only decisions on the question so far located are

Bowles vs. Rugg 57 Fed. Supp. 116; Bowles vs. Texas  
etc. 146 Fed. )2nd) CCA 5th Circuit 155;  
Soundview vs. Taylor 150 Pac. (2nd) 839

In the first two cases it was held that an injunction would not be granted against state officials. In the Rugg case proceedings had been started in the state court to determine whether or not the ceiling price were applicable and the Federal Court held that such proceedings should not be interfered with. In the 146 Fed. case an official was attempting to sell seized and condemned liquor pursuant to court order, according to state statute. In the Taylor case the Supreme Court of the State of Washington held that the Federal Court had no jurisdiction to prohibit the State

officials from selling timber off school land. It held the State Court was the proper tribunal to decide whether or not the state law or the OPA ceiling price should apply.

Concluding from the reading of the decisions cited, it would seem the danger of violations of OPA ceiling prices in sales by County Court officials handling estates, or sheriffs, etc., is minimum and applies only to the sale of second hand farm machinery, equipment, or machinery parts, but why should OPA prices have anything to do with the orderly liquidation of assets of estates under the State laws and jurisdiction of our courts, even farming machinery belonging to the estate coming on for settlement with heirs and creditors? Let's hear from more of you lawyers.

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### THE ADMINISTRATIVE PROCEDURE BILLS

My Dean O. H. Thormodsgard

(Continued from Page 174)

The Attorney General's Committee prepared a majority and a minority report and two drafts of bills. These reports and accompanying bills have merits. Colonel McGuire, Chairman of the Special Committee on Administrative Law of The American Bar Association expressed his views on these reports as follows: "I would be the last one to minimize the importance of these two reports and drafts of bills. According to my way of thinking a far better job has been done by the Attorney General's Committee in the assembly of the material, in the reports, and in the two drafts of bills than was done by the corresponding English Committee on ministerial powers. . . . Personally, I believe that there is much good in both drafts submitted by the Attorney General's Committee and in the Walter-Logan Bill, and that if all concerned would forget any personal bias they may have a combination of the better features of all three bills would result in a much better administrative procedure bill than any of the three would make if enacted into law. I am happy to say that a most serious attempt has been made to accomplish that purpose in HR 3364 and S 918, 77th Congress. See — 27 A.B.A.J. (1941) 151-152 and 66 A.B.A. Rep. (1941) 439-454.

The House of Delegates met in Chicago March 17 and 18, 1941. Quoting from 66 A.B.A. Rep. (1941) 401-403:

"The next matter on the agenda was the report of the Committee on Administrative Law (page 439, *infra*) which was presented by Colonel O. R. McGuire, Chairman of the Committee. The following recommendations had been transmitted by the Board of Governors, after slight amendment which had been concurred in by the committee, with the recommendation that they be approved."

'Resolved, That the House of Delegates of the American Bar Association notes with satisfaction the reports by the Attorney General's Committee on Administrative Procedure, which strongly confirm the need for early enactment of