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American Bar Association Urges Strengthening of Dumbarton Oaks Proposals

North Dakota State Bar Association

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expiration of six years from the date of the certificate on the abstract, irrespective of how faulty the abstract may be and irrespective of the amount of damages the person may have sustained in reliance on such abstract. From time immemorial the liability on an abstract was deemed to have accrued when the person actually sustained the damages and discovered the defects in the abstract. This decision puts parties who have relied on abstracts in great danger because there may be defects galore in the title and after six years from the date of the certificate on the abstract, no recourse can be had against the abstract company.

It is difficult to reconcile this decision with our statute fixing the liability of abstract companies, which statute provides that an abstractor shall be liable for **ALL DAMAGES SUS-TAINED** by any person relying on such abstract, on account of defects in the Abstract.

See Section 43-0111 R. C. 1943.

It would appear from the language of this statute that liability of the abstractor accrues when the person or party sustained damages, and not before. It would further appear from this statute that the purpose of it was to wake up the person to his rights when he was hurt, namely, the sustaining of the damages. Otherwise, he would be caught in a trap because he would not know of the defect in the abstract until he was consciously hurt. This decision holds that the cause of action accrues when the abstractor actually makes the defective abstract, namely the date of the certificate to the abstract.

It is also difficult to reconcile this decision with our statute, defining an indemnity contract, and when the right of action accrues on an indemnity contract.

See Section 22-0201 and Section 22-0207 of R. C. 1943.

It would appear that these indemnity statutes fits an abstractor and fixes the time when his liability accrues, namely when the person relying on the abstract actually sustains damages, and not before.

Undoubtedly, the legislature at its next session will come to the rescue of persons buying property and investing money on the strength of abstract of titles by enacting legislation to the effect that a cause of action against an abstract company never outlaws.

AMERICAN BAR ASSOCIATION URGES STRENGTHENING OF DUMBARTON OAKS PROPOSALS

Through the unanimous action of the Board of Governors in Chicago on April 5, the American Bar Association has adopted Recommendations which urge the strengthening of the Dumbarton Oaks Proposals in several vital respects, when embodied in the Charter of the new international Organization for peace, justice and law.

In main outlines and principal items, the unanimous action taken in Chicago, by the American Bar Association, is summarized as follows:

1. That the Dumbarton Oaks Proposals as issued last October 7 are generally supported as outlining a frame-work out of which an adequate international Organization can be fashioned, but they need to be implemented and strengthened in many vital respects, before being embodied in the Charter and the Statute.

2. That the Preamble and Purposes of the Charter should make it a cardinal objective to "establish justice" among the Nations and vitalize the role of international law and adjudication in international relationships. Secretary of State Stettinius announced on April 11 that this Recommendation, urged by Senator Vandenberg, will be supported by the American delegation as a unit.

3. That the existing Permanent Court of International Justice, as an institution with accumulated traditions, background, and precedents and experience, should be continued as the principal tribunal of an independent and coordinate judicial branch of the new Organization, and that the present Statute of the Court should be retained, with only such modifications as are necessary to integrate and adapt it to the new Organization and effectuate the declared principles. Decisions thus far made in the Committee of Jurists indicate that the existing Court and the present Statute are likely to be retained.

4. That a statement of the principles of international law, as rules to control and guide the actual conduct of the Governments in their relations with each other, should be undertaken by a conference of specially chosen jurists and lawyers, as to which project the Association drafted and recommended a specific plan for consideration, along lines worthy of the vast importance of the undertaking.

5. That the Charter should provide a reasonably flexible method for its amendment in the light of experience and the developed need for improving and strengthening the Organization as initially established, and should provide particularly the machinery for a periodic re-examination and improvement of the Charter, as to all of which the Association drafted and recommended a specific plan for consideration.

6. That consideration should be given to weighted representation of the Nations in the Assembly of the Organization, rather than equality of voting rights for the very small Nations along with the largest.

7. That the Charter should continue the utilization of the machinery already established and functioning in the Western Hemisphere, for preserving peace and settling disputes.

8. That the compulsory jurisdiction of the World Court should be broadened and strengthened, as to which the Associa-

tion, as a part of its joint action with the Canadian Bar Association, approved and urged a new and constructive proposal, which has been acclaimed by members of the Committee of Jurists as offering the means for a great advance in the cause of international adjudication. Final decision as to such a broadening of obligatory jurisdiction may be reserved for the Conference.

9. That the Association shall continue to urge vigorously, before the San Francisco Conference, the basic principles which the House of Delegates declared on September 12, as well as the many specific proposals approved on April 4 and 5, and that the Association shall take further action on particular matters as may be appropriate from time to time during the San Francisco Conference.

(Extracts from May, 1945 Number American Bar Association Journal)

ATTORNEY VETERANS RETURN

Joseph M. Powers of the Cass County Bar and a member of the firm of Fuller & Powers, Fargo, N. D., has been discharged and has returned home to re-enter practice.

M. C. Fredericks, Jr., of Jamestown, N. D., has been discharged and was recently appointed Veterans Service Commissioner for Stutsman County, his home county.

THE NEW CRIMINAL RULES—ANOTHER TRIUMPH OF THE DEMOCRATIC PROCESS

There has been laid before the Congress a new set of rules of criminal procedure for the federal district courts. These rules are a triumph of the democratic process in that they represent the thought and labor of the legal profession as a whole. Judicial procedure is essentially a lawyer's field. Laymen are conscious of basic rights, essential equities, and the fundamental requirements of the legal system, but they defer to the legal profession for guidance in matters of procedure. Inevitably, therefore, the drafting of a comprehensive system of criminal procedure became a professional undertaking.

This task might have been confided to a special court composed of trial and appellate judges or to a committee of the Bar or to executive law officers or to some other qualified group. In the nature of things the final responsibility had to be placed somewhere. By common consent the choice fell upon the Supreme Court of the United States, not only as the highest legal authority in the land but also because it possessed the prestige which enabled it to secure and oversee the participation of every section of the legal profession.

The official initiative was, of course, taken by the Congress. After the enactment of the necessary enabling legislation the Supreme Court proceeded through the appointment of a commit-