



1937

Our Supreme Court Holds

North Dakota State Bar Association

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- 3:30 Address: "The Bar Board And Its Functions",
Arthur W. Cupler of Fargo,
Past President of North Dakota Bar Association.
- 4:00 Unfinished Reports.

FRIDAY EVENING, JULY 15

- 6:30 Banquet, Basement of Memorial Building.
Toastmaster, Hon. L. J. Palda, Jr.
Talk: P. B. Garberg of Fargo.
Music: Vocal Solos, Kathlie Sihler Toomey,
Accompanied by Mrs. Carl Nerhaugen.
Talk: R. D. Chase of Jamestown.
- 8:00 Concert by Devils Lake Boy Concert Band,
C. B. Weimer, Director.
- 8:30 Address: "The Constitution and the Courts"
Hon. Burton K. Wheeler,
United States Senator from Montana.

SATURDAY MORNING, JULY 16

- 9:30 Committee Reports:
Constitution and By-Laws.
Local Organizations.
Criminal Law.
State Bar Board.
- 10:00 Address: "Treaties Between States of the United States,"
Hon. A. G. Burr, Justice of the Supreme Court.
- 10:30 Unfinished Reports.
New Business.
Resolutions.
Memorials.
Election of Officers.
- 12:00 Dutch Lunch, Basement of Memorial Building.
No Charge. No Program.

FOR THE LADIES

FRIDAY, JULY 15

- 2:00-5:00 P.M. Reception at Great Northern Hotel Parlors, with
Wives of Devils Lake Attorneys as Hostesses.
- 6:30 Banquet, Basement of Memorial Building.
- 8:30 Address of Senator Wheeler.

SATURDAY, JULY 16

- 10:00 A.M. Breakfast at Mitchell's Cafe, Followed by Bridge at
Buttz Cottage at Chautauqua.

OUR SUPREME COURT HOLDS

S. E. Ellsworth, Pltf. and Resp., vs. Martindale-Hubbell Law
Directory, Inc., a corporation, Deft. and Applt.

That in an action for the publication of words not actionable per se, special damages must be alleged with as much certainty and particularity as is reasonable considering all the circumstances.

That in such case where damages are claimed on account of a general diminution of professional business and income resulting from the publication, it is sufficient, where it appears that it is impossible to be more specific, to plead what that business amounted to prior to the publication and what it was after the publication and as a result thereof.

That the complaint in the instant case is examined, and it is HELD, for reasons stated in the opinion, that special damages are sufficiently pleaded.

Appeal from the District Court of Stutsman County, Hon. H. L. Berry, Judge. Action to recover damages for a defamatory publication. From an order overruling a demurrer to the complaint, defendant appeals. AFFIRMED.

Edward Dix, Pltf. and Resp., vs. Modern Woodmen of America, a corporation, Deft. and Applt., and G. V. Davidson, as Guardian ad litem of Donald M. Dix, a minor, Deft.

That when a beneficiary certificate is issued by the Modern Woodmen of America conditioned that the certificate shall be absolutely null and void, that all liability of the society upon such certificate shall be extinguished, and the insured shall forfeit all his membership in the society in case insured thereafter engages in the sale of intoxicating liquors for beverage purposes, it is not necessary that the defendant be convicted of the offense of engaging in the liquor traffic or in the illegal sale of intoxicating liquors before the rights of the insured are cancelled. It is sufficient if it be a fact that he did so engage in such traffic.

That where the defendant is charged with a felony and upon his plea of guilty is sentenced to serve a term in the penitentiary and such judgment has been enforced and satisfied, the trial court has no jurisdiction to entertain an ex parte application to set aside the judgment of conviction on the ground of the alleged mental incompetency of the defendant at the time of the commission of the offense. All proceedings of the trial court under such an application are a nullity.

That in this section, brought to recover under the terms of the benefit certificate heretofore described, the beneficiary is bound by the admissions of the insured in certain criminal actions referred to herein and showing him to have been engaged in the liquor traffic in violation of the terms of his benefit certificate, and by the voluntary confession of the insured that he had engaged in the traffic in violation of the terms and conditions of his certificate. Appeal from the District Court of Renville County, Hon. John C. Lowe, Judge. JUDGMENT REVERSED AND ACTION DISMISSED.