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Bar Associations

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NORTH DAKOTA DECISIONS

Baker vs. Building & Loan: Defendant was owner of mortgage on property of P. The mortgage contained a covenant on part of P. to keep buildings insured, and, in case said P. neglected or refused to procure insurance or to deliver policies, the mortgagee was authorized to procure insurance, the amount of premiums to become part of mortgage debt. Assignment of rents was also taken as security by defendant, and rents were being collected at time of trial. Plaintiff, an insurance agent, paid premiums to his companies, less his commission, taking assignment and subrogation agreement from insurance companies. Demand was made on defendant for premiums, and subsequently suit brought. Defendant's contentions were: 1. Standard mortgage clause is a condition, not a covenant; 2. Plaintiff is not entitled to subrogation by virtue of his laches; 3. Plaintiff not entitled to his 25% commission. HELD: *(following St. Paul Fire & Marine vs. Upton, 2 N. D. 229)* An insurance agent, paying premiums on fire insurance policies, as required by his contract with insurance companies, is subrogated to the rights of such insurance companies to collect the premiums, including commissions. "The mortgage clause gave the mortgagee immunity from certain forfeitures resulting under the policy from the mortgagor's acts or omissions, and the mortgagee in terms agreed to pay for this immunity the premiums in case of the mortgagor's default." By delivery of the policies the mortgage clause was brought home to the defendant. Payment of premium means payment including commissions.

State ex rel Cleveringa vs. Sheriff: The validity of Chapter 157 of the Session Laws of 1933, entitled, "An act temporarily extending the time in which redemption may be made from real estate mortgage foreclosure, and real estate execution sales," was in issue in the case, the issue arising upon an application for deed after foreclosure. HELD: This is an emergency measure, temporary in character, expiring by its own terms, in two years, and is valid, under the police power, governing mortgages executed and foreclosed during the period of its operation. The legislature, however, can not assume a power forbidden by the Constitution, Article 1 of which specifically prohibits the enactment of any law "impairing the obligations of contracts" or "depriving a person of property without due process." (See Sections 10, 13, 21, 24.) The law of the land in existence at the time a contract is entered into forms a part of the contract the same as if it were expressly incorporated therein, and the obligations of the contract are determined by the law in force at the time it is made. Laws now in force, inconsistent with Chapter 157, Laws of 1933, are suspended for two years from February 21, 1933, but thereafter are in force and effect.

BAR ASSOCIATIONS

The Bar Bulletin of the Boston Bar Association discusses the "why" of bar associations in the following:

"It is felt by some that membership in a bar association does not result in any tangible return. It is probably true that membership does not put cash into the pockets of a member. No one, however, can measure the indirect benefits. What would happen to the lawyer if

there were no organization devoted to solving his problems; no organization to protect him against lowering the standards of admission, against unethical and corrupt practices; no organization to represent him at the bar of public opinion? Is it too strong to say that destruction of the legal profession might be the result? Even as it is, the lawyer, in our opinion, is paying a heavy penalty because of the unwillingness of so many of the profession to ally themselves with any bar association. The public demands of bar associations more than they can give, because our organizations are not supported by a majority of the bar. Whether as a result of the depression or of some other cause, it is a fact that bar associations from coast to coast have recently taken on new life. The bar undoubtedly senses danger to its existence, and is striving to protect itself from perils arising on every side."

To which we add, simply, that lawyers sense the danger to the public much more quickly than they sense the danger to themselves, and emphasize it by the following from the lips of the Hon. R. H. Jackson, of the Alabama Bar:

"It takes no delirious vision to see that increasing numbers and decreasing income may produce such competition as will overrule all ethical restraints as it has in some lines and in some localities already. To prevent such a condition transcends the mere right of self-defense, it becomes a duty of public service. A collectively impotent and individually predatory bar would be a collapse of our professional tradition that would stamp our generation as unworthy of its heritage. We are summoned to trial by ordeal. We dare not fail."

PRACTICE OF LAW BY DEAD MEN

The California State Bar Journal has carried some interesting discussions of late concerning the practice of law by dead men. In those discussions we have read nothing that has caused us to change our view, namely: that dead men can not and should not practice law.

The practice of law is not a business. It is a profession. Lawyers do not sell goods or merchandise. They render personal, professional service. Lawyers are not tradesmen. They are officers of the Court.

Even laymen know that a partnership is dissolved by the death of one of the partners. Even laymen have discovered that it is unethical to advertise or to solicit legal business. And laymen have obtained that information from lawyers—and sometimes paid for the information as advice.

Yet, though lawyers admit that it is neither ethical nor honest to advertise or to solicit legal business, though they acknowledge that it is unethical and dishonest whether the advertising or the solicitation be directly or indirectly done, lawyers continue to permit the names of deceased lawyers to appear on office doors, in telephone lists, and on printed cards and letterheads. In fact, the names of dead men have been known to re-appear on such printed matter after actual dissolution of a partnership, and after the death of one of the partners.

How can we, as lawyers, then, expect to gain the confidence and respect of laymen so long as we fail to practice what we preach, and condone—by silence, at least—what we know to be wrong?