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District Meeting

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the situation is of such character as to justify exercise of original jurisdiction; the appeal does not change the status of the judgment, though it may suspend its execution; the defendant is disqualified as an elector, and is, therefore, precluded from exercising the duties and powers of Governor; this is not an additional punishment, but a consequence flowing from the acts charged and proved; reversal by the circuit court of appeals would remove the disability; the Lieutenant Governor does not become Governor, but exercises the powers and duties during the disqualification. The Constitutional provisions referred to in the order (no formal opinion yet filed) are: Sections 72, 87, 73, 127, 21.

State vs. Gammons: Defendant was Secretary of the Industrial Commission. As such Secretary, he collected interest on a certificate of deposit belonging to the Military History Fund, and deposited the check ($600) to account in name of "John Gammons Secretary" in a private bank. He drew from this account at various times, and there was evidence of an admission that the account was defendant's private account. No legal deposit could be made of Industrial Commission funds in any other bank than the Bank of North Dakota, but defendant admitted depositing in said private account various interest items in the total sum of $13,000. Records of the Industrial Commission were destroyed in the Capitol fire, and testimony concerning resolutions of authority to make the deposits referred to was denied by members of the Industrial Commission. HELD: Adopting the rule in 20 *Corpus Juris,* 482, "As in other criminal cases the burden of proving all the elements of the crime rests on the prosecution; but where the State has made prima facie case of embezzlement, as by proving facts which give rise to a presumption in its favor, it becomes incumbent upon the defendant to adduce evidence in denial or explanation of the incriminating circumstances." The gist of the offense lies in the intent with which the act is done, and, hence, evidence of other deposits in the private account of the defendant was properly received in evidence. The contention that defendant was informed against and tried under *Section* 9827, *Compiled Laws,* and sentenced under *Section* 9930, *Compiled Laws,* was considered of no force, as the Court's instruction to the jury was in full keeping with *Section* 9930, and this instruction was not objected to by defendant's counsel. The violation of *Sections* 10936, 10937, 10938 *and* 10939, *Compiled Laws,* charged by defendant, in connection with pronouncement of sentence, is refuted by defendant's own evidence on cross-examination, and the exhibits; and, further, no evidence in mitigation of punishment was offered.

DISTRICT MEETING

One of the finest district bar meetings it has been our privilege to attend was held at Jamestown on the 19th of July. It was a well planned, well attended, and well conducted meeting, replete with excellent addresses and free expressions of opinion. The fact that we found opportunity to disagree, at times, did not detract from the excellence of the meeting, and it was fittingly concluded with a banquet, at which Russell D. Chase and Mrs. James Morris fairly scintillated.

The following action was taken concerning matters before the State Bar Association: 1. Approved report of Committee on Fee

Schedule, except with regard to reference concerning the Federal Land Bank and the Home Owners Loan Corporation; 2. Approved the report of the Committee on Press and Public Information; 3. Approved the principle of the amendment suggested by the Morris Committee on Criminal Procedure (substitute motion by Mr. Knauf defeated); 4. Approved a motion to have the State Bar draft a model moratorium act; 5. Adopted a resolution for presentation to the Bar Board and Supreme Court concerning certain public utterances by attorneys; 6. Elected as officers—John A. Layne, Fessenden, President; Hugh McCulloch, Washburn, Vice-President; Aloys Wartner, Jr., Harvey, Secretary-Treasurer.

INTERESTING

There came to our hands this month a printed petition, proposing that the people of the State enact the following as an initiated measure:

"Sec. 1. No conviction of felony heretofore or hereafter had under the laws of the United States or of any other state than the State of North Dakota shall be deemed a conviction of a felony under the constitution or statutes of this state, unless the crime for which the conviction be had, be deemed a felony under the laws of this state, and no court shall construe the constitution or any statutory provision of the state of North Dakota otherwise.

"Sec. 2. Repeal—All acts or parts of acts in conflict with the provisions of this act are hereby repealed."

The committee for the petitioners includes two lawyers of the State.

MAY WE AWAKE, AND NOT TOO LATE

We had the privilege of sitting in on a meeting of the Chicago Crime Commission recently (courtesy of Hon. A. A. Bruce, former Chief Justice of our Supreme Court), and were quite convinced that our Lake Region address was timely, that our slot-machine-punch-board editorial was pertinent, and that we may as well prepare for an up-to-date future for our no-crime-wave towns of North Dakota if these "punk sticks" for "giant racket crackers" are permitted to smoulder until they set fire to some of those crackers. We respectfully suggest that some of our prosecuting attorneys re-read the address of Judge Johnson at the Fargo meeting (Bar Briefs, December, 1932).

TIME, PLACE AND GIRL

The time is September 6 and 7; the place is Bismarck; and the girl is our own Jealous Mistress. Arrange your calendar now, so that you will be able to attend the annual meeting of the State Bar Association. Those who do not attend should not complain if those who do monopolize the serious intentions of the jealous lady. Come, Old Timer, and Mr. Newcomer! This is your meeting!