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Evidence

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ANNUAL MEETING

Plans are getting well under way for the entertainment of the North Dakota State Bar Association at its convention in Fargo late this summer. The Cass County Bar Association is determined to make this convention one that no member of the State Bar will miss without deep and lasting regret. Active, competent committees are already functioning and no effort is being spared to provide the highest type of inspiration, education and recreation, and to foster and facilitate the camaraderie that is such an essential part of every bar convention.

Negotiations are now being made to secure a speaker of national prominence; legal problems of local and national interest will receive capable discussion; a banquet, a golf tournament, and other forms of recreation will present excellent opportunities for the renewing of old acquaintances and the making of new. The entertainment of the ladies is also receiving ample attention and members are urged to bring their wives along.

The Annual Convention of the State Bar Association plays an important part in promoting the spirit of fellowship and co-operation which enables the North Dakota lawyers to work as one in the accomplishment of changes and reforms that will aid and assist the administration of justice. It is our duty to attend, but unlike many duties, it is one you will thoroughly enjoy.

Fargo and the Cass County Bar Association join in extending a hearty invitation to every member of the State Bar. We want you here and when you come you will be given a reception that will demonstrate how very welcome you are.—Lynn U. Stambaugh, President Cass County Bar Association.

 EVIDENCE

Thomas H. Hearn, of the Los Angeles (Cal.) Bar offers some new rules of evidence for civil cases tried to a court, without a jury, and supports his own argument for them by quoting *Dean Wigmore on Evidence Vol. 1, Page 123 (2nd ed.)*. We quote:

1. The decision and judgment must be supported by evidence admissible under the rules of evidence, by legal presumptions, by admissions of the parties, or by judicial notice. All material allegations not so proved shall be deemed to be untrue.

2. All evidence offered by the parties on either direct or cross-examination, except that to which objection is permitted as is hereinafter provided, shall be received or rejected in the legal discretion of the court, and the parties or their counsel shall have no right to oppose its introduction or to move to strike it out.

3. Parties or their counsel shall be permitted to object to, or move to strike out, evidence only upon the following grounds, and no others:

- (a) That the witness is legally incompetent;
- (b) That the evidence consists of confidential communications as defined by the rules of evidence;
- (c) That the evidence tends to incriminate the witness;

- (d) That the evidence consists of an offer of, or negotiations for, a compromise or settlement;
- (e) That the question is leading.

4. Should a party or his counsel oppose the introduction of, or move to strike out, evidence, either without stating the ground therefor or upon any ground other than those above enumerated, it shall be the duty of the court to receive the evidence to which the opposition or motion is addressed and to consider it in arriving at its decision. Nothing herein contained shall be construed to prevent parties or their counsel from submitting arguments relative to the admissibility of evidence when requested so to do by the court, or in their arguments after the close of the evidence, or on motion for nonsuit.

5. The admission of inadmissible evidence, except of the kinds mentioned in paragraphs 3 (a), (b), (c) and (d) herein, shall not be deemed reversible error. The rejection or striking out of admissible evidence shall be deemed reversible error only if such action results in the substantial prejudice of a party.

It is the intention of the legislature, in enacting this section, to facilitate the taking of evidence and to assure the presentation and proper understanding of all available evidence. The courts shall accord hereto a liberal construction in aid of this purpose.

GETTING SOME RESPONSES

We are getting somewhere. After years of urging, we have at last succeeded in getting our members to talk. Our May editorial woke up several, and we quote one of these:

"Your editorial in Bar Briefs for May is timely. This is a matter to which I have given considerable thought, and it occurs to me that the term 'law enforcement' is perhaps an unfortunate one, or rather, not accurate.

"People either obey laws or disobey them, this being almost entirely a matter of intent on the part of the individual. It strikes me that it is absolutely impossible to force anybody to obey a law. You can punish them for failure, and by so doing perhaps deter others from violation of the law.

"I have often wondered if the legal machinery, with particular reference to the state's attorneys, county and district judges, and sheriffs, have not overlooked an opportunity in failing to get in closer touch with the different communities within their jurisdictions, and trying to create a proper sentiment on the part of the people toward the law. It occurs to me that if these officials, as a group, would meet with the citizens of the different localities for the purpose of discussing conditions in those localities, and for the further purpose of stimulating the citizens themselves to take an active interest in law observance, that something might be accomplished.

"I have often thought that if I should ever happen to be on the bench or to be state's attorney that I would take occasion to meet with groups of people from time to time for the purpose of discussing in an informal way the attitude of the people toward the law, and try to