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Co-Operative Marketing

B H. Bradford

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in the bank's note pouch. This memo note was found among the bank's assets when examined by the state bank examiner. R. was not present at the examination at which the note was exhibited. At some previous examination an examiner had suggested that the "memo" note should be pinned to the original notes. This was not done, and it was carried as an asset for several years, and until it was ordered removed. Defendant was indicted, tried and found guilty. At the trial defendant moved to quash the indictment upon the ground that he had not been in custody at the time of the grand jury investigation, had no opportunity to challenge the grand jurors, one of whom was alleged to have acted in the capacity of a prosecutor rather than juror. Error was also alleged in the following instruction of the trial court: "Before you can find the defendant guilty you must find that A. (an officer of the bank present at the time of the examination) is guilty, and that R. aided and abetted or encouraged A. in committing the crime. In other words, it would be just the same as though A. was the defendant here or that they were both defendants. You have to find A. guilty before you can find R. guilty. If you should find A. guilty then you would have to find that R. aided and abetted A. in committing the crime". HELD: It is error, prejudicial to the rights of the defendant, for the trial court to refuse a defendant, who has moved to set aside an indictment on one of the grounds specified in Section 10728 Compiled Laws, opportunity to adduce proof in support of the motion. If a law is plain and within the legislative power it declares itself and the courts have only the simple and obvious duty to enforce the law according to its terms. The trial court also erred in giving the quoted instruction, as the question of whether R. intended to deceive the examiner was for the jury. New trial granted.

CO-OPERATIVE MARKETING

Bar Briefs gladly presents the following from Mr. B. H. Bradford, a member of the Committee on Uniform State Laws:

The legal profession of this state has the duty to assume leadership in public matters in the state and especially is this true with respect to all public matters pertaining to the system of jurisprudence. It should be unquestioned that any movement for a change of judicial procedure or practice should receive the sanction of the State Bar Association before it is molded into law. If the State Bar Association is not recognized by the Legislature to this extent, the fault must lie to a large degree with the Bar itself. This fault does not lie in any lack of ideals nor of effort on the part of the Bar Association. It is due largely to misunderstanding.

The lay members of the Legislature are prone to look with suspicion upon any act sponsored by the Bar Association and to surmise that the proposal is founded upon a desire to advance the interests of the members of the Bar. It is, of course, natural that the profession, through its association, should seek to raise its standards and strengthen its position in society, but aside from this the association, at each session of the Legislature, finds it necessary to present to the Legislature measures which are for the benefit of the whole people and which do not bear the slightest taint of selfishness. In order that these measures receive the consideration due them, it is neces-

sary that the members of the Bar of this state do some co-operative marketing. In other words, that they sell to the people of the state, and especially to the members of the Legislature, ideas, and, if you please, ideals.

For some years last past there has existed a movement sponsored by the American Bar Association, and having the approval of the President of the U. S., looking towards more uniformity of law as between the several states. This movement has had a modicum of success, as is witnessed by the Uniform Negotiable Instrument Act, Uniform Sales Law, Uniform Motor Vehicle Law and the like, but the field has been just scratched, the work just started.

In connection with this movement, there have been appointed commissioners from this state to the conference held annually just prior to the meeting of the American Bar Association. These commissioners are compelled to attend this conference, if they do attend it, at their own expense. The result is that frequently the commissioners are not in attendance and therefore this state has no part in the work done by the conference and is not in touch therewith. The committee on Uniform Laws in this state has endeavored and is now trying its level best to excite public interest in this matter. Without the co-operation of the members of the Bar, the work of the committee will be nullified. It is therefore most strenuously urged that the Bar of the state and each member give to the committee this co-operation.

There are certain particular things that are necessary to the advancement of this work: 1st, Each member of the Bar should know the subject and should be prepared to transmit this knowledge to others; 2nd, The members of the Bar should make it their duty to disseminate this knowledge among the laymen and particularly to give full instruction with respect to the movement to local members of the Legislature, not as lobbyists, but as teachers.

Certainly there are few members of the Legislature that would not be glad to learn all that there is to know about this subject if approached in the spirit of cooperation and public benefaction. And last, but not least, it is a prime necessity that there should be an appropriation for at least the expense incurred by the commissioners in going to, attending, and returning from the annual conference. It is the duty of the members of the Bar to make the local members of the Legislature understand this necessity. Certainly if the Legislature can be made to see clearly that the work is necessary or expedient, it will not expect the commissioners not only to give their time but in addition thereto to pay the expense of this public work out of their own pockets. It is time for members of the Bar of this state to abandon the attitude of "Let George do it". It is time for the profession to do some cooperative marketing.

REFORM PROPOSALS FOR LAW OF EVIDENCE

There has been considerable talk over a period of about ten years concerning reforms in legal procedure. It is only in the last two or three, however, that constructive proposals to effect reform have really been presented to the Bar and to the public. This very fact entitles such proposals as are made to serious consideration.