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Ethics and Practice/Corrections For Popular Edition of Laws

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The test of dependency of parents of deceased employee, killed in course of employment, is whether the contributions were used for support of the family and were necessary; and where support is thus supplied, but part of it is used for the support of the child only the excess can be considered.—*Clover Fork Coal Co. vs. Ayres,* 292 *S. W.* 803 (Kentucky).

A minor child, living with mother after justified separation from her husband, is entitled to compensation as dependent of father killed in course of employment, as the decedent was bound under the law for the child's support, and such right is not affected by the wife's misconduct in living with another man after separation.—*Thurman vs. Union Indemnity Co.* 156 *N. E.* 28 (Mass.).

Claimant, using his own motor truck to make occasional hauls at stated price per load, the loading and unloading points being designated but there being no other supervision or control, was an independent contractor and not an employee.—*Moore vs. Kilcen & Gillis,* 213 *N. W.* 49 (Minn.).

The law does not raise a presumption that an injury was received in the course of employment, and where testimony showed that a scratch was obtained between time of return to work at noon and time when claimant washed his hands at five o'clock is insufficient.—*Karlson vs. Rosenfeld,* 137 *Atl.* 95 (New Jersey).

An employee who violates rules as to striking matches in a mine where there was likely to be explosive gas takes himself outside of the employment, and his dependents can not recover for death from mine explosion resulting.—*Mizzer vs. Philadelphia & Reading Coal Co.,* 137 *Atl.* 126 (Penn.).

Workman who lost sight of one eye in childhood and then lost the other in course of employment is entitled to compensation for loss of one eye and not for permanent disability.—*Gilmore vs. Lumbermen's Assn.,* 292 *S. W.* 204 (Texas).

Disqualification from the performance of the usual tasks of a workman in such a way as to enable him to procure and retain employment is ordinarily regarded as total incapacity, and such term does not imply an absolute inability to perform any kind of labor.—*Employers' Liability Corp. vs. Williams,* 293 *S. W.* 210 (Texas).

Where rules were established and reasonable diligence used in enforcing them, an employee who went from planing mill into box factory and undertook to operate hazardous machinery, without authority from either foreman, and was injured, is not entitled to compensation.—*Quarles vs. Lumbermen's Assn.,* 293 *S. W.* 333 (Texas).

State Bar Association meets at Grand Forks, September 6 and 7.

ETHICS AND PRACTICE

We note in a recent Law Journal article the designation of the following as a "pitfall in trial practice", to-wit: "After having elicited

some seemingly absurd or extravagant or contradictory statement of fact from a hostile witness, an over zealous cross-examiner proceeds to rectify for the opposition all the damage done to the credibility of the witness and to the merits of his side of the case, by asking him for an explanation of the inconsistency."

If that be a pitfall of trial practice, as designated by Mr. Harry O. Chamberlin of Indiana, what becomes of our code of ethics and of the theory that a lawyer is an officer of the court rather than an exponent of legal maneuvers or tactics?

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CORRECTIONS FOR POPULAR EDITION OF LAWS

Mr. Chas. Liessman, assistant Secretary of State, offers the following corrections for the popular edition of the 1927 Session Laws:

The paging at 255 and 256 should be reversed; also at 528 and 529.

The following changes should be made in the index: On page 554 strike out "No. 140, Chap. 134, Page 170"; on page 561 change word "land' to "seed" in third line from bottom; on page 568, under heading "Appeals", insert "State Geologist, control artesian waters, . . . p. 80"; on page 574, under "Board of Administration," third line, change word "Highway" to "Library"; on page 579, under "Governor", first line, insert "open and close" in place of "of foreclosure."

On page 19, eleventh line from bottom, strike out "and the items of $4,300 for gasoline tax auditor".

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RECOMMENDATIONS OF THE NEW YORK CRIME COMMISSION

Bail should not be granted in cases of conviction by a jury.

"Jumping bail" should be made a felony in cases where the charge is a felony.

Prisons and other penal institutions should be classified upon the basis of psychiatric study.

Sharp distinctions should be made between parole on indeterminate sentence and release of second and third offenders.

The trial judge should be permitted to comment on the evidence and the character of the witnesses, as the interests of justice may require.

Trial should be made for a five year period by dealing with paroles through a full-time parole board, with a sufficient staff and proper legislative appropriations for the work, in order to determine the effectiveness of such a system.

In future "persons shall not be placed on probation, nor have sentence suspended nor the execution of sentence withheld, if convicted of murder, or of arson, burglary, rape or robbery in the first degree or of kidnapping, except where the person is a parent or blood relative, or of compulsory prostitution, or if convicted as a second or subsequent offender, or if convicted of a felony while armed with a weapon, or if convicted a second time either of any of the eight misdemeanors or offenses connected with professional crime as set forth in the so-called