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## Montana Bar Association Activities

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## Note and Comment

**Special Note:** The parenthetical citation following the 1947 Montana Code number refers to the 1935 Code Section of this state e.g. §93-2809 (9075).

Justin Miller, LL.B., Montana, 1913, former Associate Justice of the United States Circuit Court of Appeals, Washington, D.C., and now President of the National Association of Broadcasters, has, for a number of years, offered a prize of a \$100 Savings Bond to the student writing the best legal comment published in each Montana Law Review. The Miller Prize for 1949 was awarded to Glen W. Clark for his comment entitled, "Jury Trial in Civil Cases."

### MONTANA BAR ASSOCIATION ACTIVITIES\*

The Sixty-first Annual Meeting of the Montana Bar Association was held in Missoula on August 25, 26 and 27, 1949.

Without reviewing the entire proceedings of that meeting, nor pointing out any of the highlights, it appears safe to make

\*This article has been contributed by E. A. Blenkner, president of the Montana Bar Association.

the statement that those members of the profession who were not in attendance throughout the entire meeting missed one of the finest of a long series of wonderfully enlightening meetings.

During the past few years the Montana Bar Association has grown in stature and influence to a most heartening extent. The year 1949 witnessed a big increase in membership and a corresponding increase in the benefits to be derived from membership.

The interest that is being taken in the affairs of the Bar is reflected by the fact that of more than 120 members appointed to serve on the various committees during the coming year, only one member of the profession has, to this date, indicated inability to serve. None has expressed any unwillingness. This is perhaps a situation which cannot be expected to exist during the entire year, as changing circumstances will almost certainly require some changes in the personnel of the several committees.

Memberships are pouring into the office of the Secretary of the Association in most gratifying numbers and it would not be at all surprising if the 1950 membership would reach an all time high, not only in the number of members, but in the percentage of the members of the Bar.

The Executive Committee held the first meeting in Great Falls on December 8th. At that time Billings was chosen as the site of the Sixty-Second Annual Convention, and the dates were set for August 24th, 25th and 26th. Consideration was also given to the program to be presented.

It is, of course, too early to make any announcement concerning the program, but your Executive Committee is willing to guarantee a program of interest to all members of the bar.

With the unprecedented number of admissions to the bar in Montana the problem of finding locations becomes more and more acute. It appears, however, that those who have been recently admitted to practice the profession have, for the most part, become established.

The one inevitable result that must come from an increased number of practicing lawyers will be better service to the public, a much desired situation. While clients and litigants have been well served by the members of the bar in the past it is certain that a wider and better field of choice will be opened to them in the future.

It appears that any attempt to limit the number of lawyers entering the profession would be inimical to the public interest.

It conversely appears that the standards for admission might be raised, also to the benefit of the public interest.

Those members who find themselves unable to cope with the other members of the profession must find an outlet for their activities in other spheres of endeavor, thus leaving for the service of the public only those who are best qualified and best fitted to render legal service.

Your president will attend the conference of State Bar Association Presidents in Chicago the latter part of February. This is an innovation of the American Bar Association, and President Gallagher hopes for great things from this conference.

### CONSTITUTIONALITY OF MISCEGENETIC MARRIAGES

In October of 1948 the Supreme Court of California handed down a decision that may have far reaching results. The decision was contrary to an unbroken line of precedents and may be the forerunner of a more realistic and objective approach to one of America's great problems, the status of the negro.

The Court in *Perez v. Lippold*<sup>1</sup> held unconstitutional the state statute forbidding miscegenetic marriages. Although about 30 states,<sup>2</sup> including Montana<sup>3</sup>, have similar statutes, California is the first to invalidate such legislation by judicial process.<sup>4</sup> In

<sup>1</sup>*Perez v. Lippold*, (1948) .....Calif....., 198 P.(2d) 17.

<sup>2</sup>RADIN, *THE LAW AND YOU*, p. 48, cites Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming.

<sup>3</sup>R.C.M. 1947, §48-106 (5700).

Every marriage hereafter contracted or solemnized between a white person and a negro, or a person of negro blood or in part negro, shall be utterly null and void.

R.C.M. 1947, §48-107 (5701).

Every marriage hereafter contracted or solemnized between a white person and a Chinese person shall be utterly null and void.

R.C.M. 1947, §48-108 (5702).

Every marriage hereafter contracted or solemnized between a white person and a Japanese person shall be utterly null and void. The text of this article is confined largely to a discussion of the Negro-White miscegenation, but it is thought that research will show the effect of Asiatic-Caucasian mixture to be similar biologically and sociologically.

<sup>4</sup>Alabama, Arizona, Arkansas, Colorado, Indiana, Oregon, Tennessee and Texas hold miscegenation statutes valid. Montana and Virginia cases have relied on miscegenation statutes, but the question of constitutionality has not been raised in the latter two states.

Cases upholding the miscegenation statutes:

*Green v. State* (1877) 58 Ala. 190, 29 Am. Rep. 739.