

# Montana Law Review

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## Montana Bar Association Activities

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## Notes and Comment

### THE JUSTIN MILLER PRIZE

The Justin Miller prize, a \$100 United States Savings Bond, is awarded annually to the student author of the note adjudged best of those appearing in the Review. The 1952 prize went to Lawrence G. Stimatz for his note entitled, "Stare Decisis—The Montana Doctrine," which appeared in the 1952 issue of the Montana Law Review.

### MONTANA BAR ASSOCIATION ACTIVITIES

The 64th annual meeting of the Montana Bar Association was held at the Canyon Hotel in Yellowstone Park, June 17-20, 1952, terminating the administration of Ernest A. Peterson, Pres-

ident, Howard J. Luxan, Secretary-Treasurer and the Executive Committee composing of James T. Finlen, James H. Morrow, Jr., Hon. Fred L. Gibson, George J. Hutton, Julius J. Wuerthner. The meeting was held in conjunction with the Regional Meeting of the American Bar Association which latter meeting was attended by lawyers from six Rocky Mountain States.

The business sessions of the Montana Bar Association were designed to include essentials. The address of welcome was given by Roy M. Keister of Bozeman and the response by George J. Hutton of Billings. The President gave his annual report and the Necrology report was made by James A. Poore, Jr., of Butte. At the election held on June 18th the Honorable H. Cleveland Hall of Great Falls was elected President and Dan R. Lovelace of Bozeman, Secretary-Treasurer for the ensuing year.

The opening session of the Regional Meeting of the American Bar Association was held in the Lounge of the Canyon Hotel at 3:00 P.M., June 17th, President Barkdull presiding. Addresses of Welcome were given by Ernest A. Peterson, President of the Montana Bar Association and A. H. Christenson, President of the Utah Bar Association. At 5:00 P.M. the members of the Bar of Gallatin and Park Counties, Montana, entertained all of the lawyers and their ladies at a cocktail hour.

Speakers at the general sessions included President Howard L. Barkdull; J. E. Hickman of Dallas, Chief Justice of the Supreme Court of Texas; Robert G. Storey, of Dallas, a member of the Board of Governors and of the regional meeting committee; Henry R. Luce, of New York, editor-in-chief of *Time*, *Life* and *Fortune* magazines, and Campbell C. McLaurin of Calgary, Justice of the Supreme Court of Alberta. Mrs. Joan Rosanove, of Melbourne, Australia's only woman barrister, donned the robe and wig of the Australian Bar for a brief and charming talk, emphasizing the "gratitude, affection and admiration" of her countrymen for America.

President Barkdull, discussing "The Responsibilities of the Organized Bar," stressed the need for action against communist and socialist threats. He urged lawyers to make good use of the American Bar Association's brief on communism "to carry on the cold war in their own communities" against Kremlin designs. He also declared that, "It rests with lawyers themselves to prevent socialization of their profession by furnishing legal services to all citizens at a cost within their means."

"As Others See Us," Chief Justice Hickman's scholarly and humorous talk on the historic unpopularity of the legal profession, concluded that the American Bar has been at its best in

times of crises. "Lawyers could now be facing their finest hour," he declared. "Conditions more critical than those of Revolutionary and Civil War days now confront our nation. Heretofore lawyers have been privileged to speak for the freedom of a country; now they are challenged to speak for the freedom of the world."

Burt J. Thompson, of Forest City, Iowa, Chairman of the Regional Meeting Committee, spoke on the role of "grassroots" conventions in "mobilizing" the Bar to meet the challenge of perilous times. Of the 221,605 American lawyers, active and inactive, only 47,188 are American Bar Association members, and less than two per cent of these attend the Annual Meetings, Mr. Thompson said. Therefore, "We are setting up our tent in your front yard to show our wares," which includes continuing education in a profession "becoming so complex that a solo practitioner can't know what the law is or even where to find it."

Public relations were discussed by Richard R. Tinkham, of Hammond, Indiana, Chairman of the Conference of Bar Association Presidents, who called for efforts to promote "public appreciation of good performance by the Bar."

The legal draftsmanship institute heard talks on "Drafting Legal Papers," by Alan Loth, of Fort Dodge, Iowa; and "Death Provisions of Partnership Agreements," by Thomas S. Edmonds, of Chicago, Presiding at the sessions were Hatfield Chilson, President of the Colorado Bar Association, and Burton S. Hill, President of the Wyoming State Bar.

Presiding officers of the oil and gas institute were James W. Haley, of Washington, D. C., Chairman of the Section of Mineral Law, and Martin A. Row, of Dallas. Papers were "Oil and Gas Leasehold and Other Mineral Estate," by James L. Shepherd, Jr., of Houston, former Chairman of the Mineral Law Section; "Leasing of Public Land," by Ross L. Malone, Jr., of Roswell, New Mexico, a member of the Board of Governors; "Unitization," by Clarence E. Hinkle, also of Roswell; "Placer Mining Claims Located Subsequent to the Leasing Act of 1920 as Affecting Oil and Gas," by J. M. Jessen, of Los Angeles, and "Tax Problems in Oil and Gas Properties," by J. Paul Jackson, of Dallas. Mr. Jackson's talk was given at a joint session of the taxation and oil and gas institution.

The taxation institute, at which Laurens Williams, of Omaha, presided, had a panel on "Lifetime and Testamentary Estate Planning," in which the participants, besides Mr. Williams were John L. J. Hart, of Denver, Owen G. Reichman, of Salt Lake City, Thomas P. Patterson, of Helena, and Paris Martin, of Boise. "In-

come 'Tax Problems of Farmers and Ranchers' were discussed by Mr. Williams, Chairman of the Committee on Tax Problems of Farmers, H. Gene Emery, of Indianapolis, and T. M. Ingersoll, of Cedar Rapids, Iowa.

Herbert W. Lark was moderator of a popular Trial Tactics Panel. Panel members were Philip S. Van Cise, of Denver, A. L. Merrill, of Pocatello, William Meyer, of Butte, Brigham E. Roberts, of Salt Lake City, and John Ilsley, of Gillette, Wyoming.

Judge Alfred P. Murrah, of Oklahoma City, presided at the sessions of the Section of Judicial Administration, which included the evening assembly at which Judge Hickman was the speaker, and an afternoon session when Judge James Alger Fee, of Portland, led a discussion on "Procedures Before Trial."

One of the highlights of the meeting was a sparking performance of Gilbert & Sullivan's Trial by Jury by students of the Montana State University School of Music under the direction of Professor John Lester, sponsored by the Montana Bar Association. The same group also presented a variety show. Other entertainment features included a reception following the opening session sponsored by the Montana Bar Association and lawyers of Bozeman and Livingston, Montana; a reception for members of the Junior Bar; a ladies' luncheon at Old Faithful Inn, sponsored by the lawyers of Billings; and an illustrated lecture on "Geyser Land," by David Condon, Chief Naturalist of Yellowstone National Park.

Principal credit for the success of the Regional Meeting is due the General Chairman, Mr. William J. Jameson, of Billings.

The Executive Committee of the Montana Bar Association has awarded the 1953 convention to the city of Great Falls. The convention will be held on August 13, 14 and 15. Your attendance at the convention is invited.

## **RELATIONSHIP BETWEEN LAPSE AND PRETERMISSION IN THE LAW OF WILLS**

### **I.**

#### **INTRODUCTORY.**

When the California Supreme Court decided the case of *In re Mathews' Estate*<sup>1</sup> they passed on a rather intricate problem involving two highly technical aspects of the law of wills; namely, the law of lapse and the application of anti-lapse statutes, and, secondly, the effect and application of the statutory law of pre-

<sup>1</sup>176 Cal. 576, 169 P. 233 (1917).