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THE PROGRESS OF THE LAW

HEMISPHERE TRIAL LINK

THE International Academy of Trial Lawyers recently recommended coordination of trial procedures in Latin America with those of the United States. The proposal, advanced by Victor Velasquez, a Mexican trial lawyer, would uniformize the conduct of trials in the American republics and do away with present disparities and, according to Senor Velasquez, would permit a successful court fight against the prevalent practice in Latin America of persecution and reprisal of governments toward political opposition.

ANTIQUITY AND THE LAW

ON November 16, 1956, the Florida Supreme Court used the English common law of the 13th century to rule that Florida and not the United States owned an old battleship which was sunk in 1922 off the entrance to Pensacola Bay.

The United States Corps of Engineers issued a permit last August to several salvage firms to raise and dispose of the sunken ship. Florida opposed this permit on the ground that the ship belonged to the state. The Supreme Court of Florida sustained the state's contention on the basis of a 1275 English statute which held that the owner of a derelict ship must claim his property within a year and a day or it belonged to the king. The court found that Florida had a somewhat similar law, enacted in 1850, providing for public sale of "any wrecked derelict goods found in any county in this state."

NEW COURT RULES

Two new rules to cut calendar congestion were recently announced by the Appellate Division, First Department. The rules, effective immediately, provide:

1. A requirement for a certificate that both sides have completed all necessary pre-trial proceedings—such as furnishing bills of particulars, completing examinations before trial, and locating witnesses—before a case is put on the calendar.

2. A permission for the parties to submit a joint simple statement of their controversy—thus avoiding the complication of complaints and answers followed by an appointment with the court for a trial date.

The certificate-of-readiness rule was announced by Presiding Justice David W. Peck as an antidote for the unprepared cases that are presently blocking the calendars. The simple-statement rule was designed

to apply the benefits of arbitration to court actions. "We do not know how many litigants will take advantage of this accommodation," said Justice Peck, "but at least the court will do all in its power to accommodate them. It is not the function of a court to drive parties to trial, but to provide the facilities for a trial when they are ready. The new rules combine to serve that purpose."

EASING OF ADOPTIONS

SURROGATE Maximilian Moss of Kings County has opened the door for the adoption of children whose parents have, figuratively, abandoned them. The case before him involved a Brooklyn couple who had allowed two of their six children to be sent to foster homes in 1946. Neither parent made any attempt to visit or inquire about the children since 1949, in one case, and 1954 in the other.

In March of 1946 the children's mother signed a stipulation that if they were not visited by the parents for an unbroken twelve-month period, the children could be placed for adoption. Such a stipulation is provided for in the Social Welfare Law, but has never been enforced. Surrogate Moss decided to do so in this case. District Attorney Edward S. Silver remarked too that "this decision will make more children available for adoption and naturally cut into the child black-market racket."

BLACKOUT MOTORISTS

ON November 29, 1956, the New York Court of Appeals held that motorists knowingly subject to blackout seizures are liable to criminal prosecution if involved in an accident during such a spell.

The Court, by votes of four to three, held that two men who were involved in fatal accidents when they fainted while driving automobiles must stand trial for criminal negligence. In the words of the majority of the court, the driver's "awareness of a condition which he knows may produce such consequences as here, and such disregard of the consequence renders him liable for culpable negligence."

AD LIB TV DEFAMATION CONSTITUTES LIBEL—NOT SLANDER

JUSTICE William C. Hecht, Jr. has just ruled that any utterance over the air, whether on radio or television, constitutes libel. Previously, it had been held that defamatory remarks read from a script constituted libel while those uttered spontaneously were slander.

The case in question involved a suit by Toots Shor against Sherman Billingsley in which Shor claimed that the Stork Club proprietor, Bil-

lingsley, had defamed his financial standing during a television broadcast. These remarks were not uttered from a prepared script. Billingsley had moved to dismiss the complaint on the ground that it was framed in libel rather than slander.

Justice Hecht, in his opinion, refused to dismiss the complaint on the ground that it was the court's duty "to extend an established principle of law to a new technological development to which the logic of the principle applied, even though it was not covered by the literal language of the previous decisions."

FOREIGN AID PROGRAM

ON November 12, 1956, the United States Supreme Court denied Gov. J. Bracken Lee of Utah permission to file suit attacking the constitutionality of the government's foreign aid program.

In his plea to the court for permission to file the suit, the former governor said, "Congress under the Constitution has no power to collect and spend taxes for such purposes. Enforcement of Federal tax laws within Utah is causing not merely a violation of the rights of Utah citizens in their capacity as United States citizens but financial damage to the state itself."

The governor requested the Supreme Court to be allowed to file an original complaint.

LAW OF THE SEA

A PROPOSAL for an international conference to codify the law of the sea is presently before the Legal Committee of the United Nations General Assembly. The suggested code would define the rights of nations in their territorial waters, spell out basic freedoms of the high seas and outline principles for the ownership of underwater minerals.

Such a code, if ratified, would be the first of its kind. Efforts to promulgate one at the Hague codification conference of 1930 ended in a dispute over the definition of territorial waters.

The United Nations International Law Commission has been studying such a code for the past six years and its work would be submitted to an international conference when approved by the General Assembly. The Commission's code recommends the following:

1. The establishment of a nation's territorial waters as twelve nautical miles seaward from its coast.
2. Freedom of the high seas to include freedom of navigation, fishing, and the laying of necessary cables and pipelines as well as the freedom to fly overhead.
3. The sovereign right of nations to exploit their continental shelves, defined in general as the sea bed outside territorial waters to a depth of 100 fathoms.

MEDIATORS ASK CONFIDENTIAL ROLE

THE Federal Mediation and Conciliation Service has recently asked for a ruling that mediators, like doctors, lawyers and clergymen, should be privileged to withhold information gained in the course of their work.

Two Federal mediators have been subpoenaed by the International Longshoreman's Association to appear in a United States District Court where a hearing on an injunction restraining the union from demanding industry-wide bargaining, as a condition for negotiating the recent dock strike, is being conducted.

John A. Burke, one of the Service's commissioners, stated that "We feel rather strongly about this. We do explore to some fantastic lengths sometimes seeking a settlement. We feel that it would weaken our effectiveness if the parties gave us information and we had to disclose it later."