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Report of the Legislative and Law Reform Committee

Wyoming State Bar

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REPORT OF THE LEGISLATIVE AND LAW REFORM
COMMITTEE

President R. G. Diefenderfer asked me to make a report to this meeting as to what, if any, success attended our efforts to procure the adoption of the several bills recommended to the legislature at our meeting of January 22nd. I think this report can be best made by taking the several bills we recommended one by one, as follows:

I.

House Bill 138 was introduced by Mr. Phelan on January 28th. This was a corrective measure drawn at the request of the State Board of Charities and Reform. At present the District Court loses jurisdiction over a minor as soon as he is sentenced and is subject only to the jurisdiction of the superintendent of the institution in which he or she is confined. The act extended the jurisdiction of the court to halt or suspend or rescind any order or sentence made by the court at any time before the final discharge. It would further make such minors and their education in training subject to the supervision and control of the State Board of Charities and Reform.

The purpose of the bill seems obvious and necessary, but for some reason the bill died in the House on General File.

II.

This was House Bill No. 9, one of several measures prepared by the Sheridan County Bar Association, introduced by Mr. Henry A. Burgess on January 18th. The bill would have changed the rule that action for wrongful death dies with the tort-feasor, and provide that action may be brought against the executor or administrator of the tort-feasor's estate. The bill met with considerable opposition especially from the representatives of insurance companies, and died on General File in the House.

III.

House Bill No. 10 was introduced by Mr. Henry A. Burgess on January 13th. This was one of the Bar Association bills. The bill provided that all public liability insurance policies issued in Wyoming should contain a provision that the insolvency or bankruptcy of the insured should not release the insurance carrier from the payment of damages from injuries sustained by loss occasioned during the life of such policy. This bill failed to pass in committee of the whole in the House and was indefinitely postponed.

IV.

House Bill No. 8, another one of the Sheridan County Bar bills, eliminated the requirements for an order to show cause in probate matters where all parties in interest join in, or consent in writing, to a sale of real estate. This bill is now Chapter 8 of the 1949 Session Laws.

V.

House Bill 101 was introduced in the House by Mr. John Sullivan and William H. Harrison of Sheridan County on January 27th. The bill increased the fees of attorneys appointed by the court to defend an indigent prisoner, provided for the appointment of counsel for indigent prisoners in justice court, and provided that no defendant under 21 years of age should be permitted to enter a plea of guilty of a felony unless and until he shall have had the benefit of counsel. The bill passed the House and the Judiciary Committee in the Senate, but died in the Senate on General File.

VI.

This was House Bill 57, introduced by Messrs. Burgess and Harrison of Sheridan County, on January 21st. As Section 3-5935 W.C.S., 1945, stood, a plaintiff in a divorce action on the grounds of incurable insanity had to reside in the State a year before bringing an action for this cause. This bill reduced this resident's period to 60 days to correspond with the requirements in other divorce actions. The bill passed the legislature and appears as Chapter 28 of the 1949 Session Laws.

VII.

Senate File 49 was introduced by Senator Green on January 27th, and forbids the creation of a fee tail estate and makes the attempt to create a fee tail estate the creation of a fee simple estate in the person who would have taken the fee tail. This bill passed the legislature and appears as Chapter 93 of the 1949 Session Laws.

VIII.

Senate File 48 was introduced in the Senate by Senator Green on January 27th. It enacts the model rule against perpetuities and requires every interest in real estate created by will or deed to vest not later than 21 years after a life in being at the creation of the interest. The bill passed the legislature and appears as Chapter 92 of the 1949 Session Laws.

IX.

House Bill 215 was introduced by Mr. Petre on January 29th. The bill passed the legislature and was considerably amended. As drawn the bill would have increased the salaries of the justices of the Supreme Court from \$7,000.00 to \$9,000.00, and the salaries of District Judges from \$6,500 to \$8,000.00. As passed, Justices of the Supreme Court received a salary of \$8,000.00, and Judges of the District Court a salary of \$7,100.00. The increase is to become effective only in favor of subsequently elected judges and justices. The bill embraced many salary changes, but the changes of salaries of justices and judges appears in Section 1 of the act, which is Chapter 65 of the 1949 Session Laws.

X.

House Bill 110 was introduced on January 27th, by Messrs. Sheldon and

Felton. The bill would amend and reenact section 6-1301 with reference to filing inventories of estates formerly required to be filed within one month, and the amendment substituted the words " a reasonable time" in place of the words "one month". The bill passed the legislature and appears as Chapter 75 of the 1949 Session Laws.

XI.

House Bill 165 was the bill to redistrict the State. It was introduced in the House by Messrs. Sheldon and Daniels on January 29th, and would have created two new districts, the 8th and 9th. The bill was indefinitely postponed in the House.

XII.

House Bill 85 was introduced on January 25th by Mr. Felton. The bill as we recommended it provided for retirement of judges at 65 years with a pension of \$3,000.00 per year based upon not less than 12 years service. It also provided that when a judge with 12 years service attained the age of 70 years and failed to retire before he attained his 71st birthday he was deemed to have waived his rights to thereafter retire and receive a pension. Judges now serving who were 70 years old or older and had the 12 years service record were given a year in which to retire and accept the benefits of the act. Retired judges were to be subject to call if their health permitted.

The bill as passed, permitted retirement at the age of 65 with an 18 year service record. Justices of the Supreme Court to retire at \$4,000.00 a year, and judges of the District Court at \$3,500.00. As so amended, the act passed and appears as Chapter 118 of the 1949 Session Laws.

XIII.

House Bill 72 was introduced on January 24th, by Mr. John Sullivan and would have amended and reenacted Section 2-103 W.C.S., 1945, by requiring that only graduates from a law school approved by the State Board of Law Examiners shall be examined for admission to the Bar. The bill died on General File in the House.

XIV

House Bill 69 was introduced on January 24th, by Mr. Sheldon. The bill was designed to cure defective conveyances in which there was no release or waiver of homestead, or in which the marital status of the grantor was not set forth. The act provides as to all such conveyances of record for a period of 10 years, that it should be conclusively presumed that said real estate was not used, occupied or claimed by the grantor or the spouse of the grantor as a homestead at the time of said conveyance. The bill was enacted and appears as Chapter 31 of the 1949 Session Laws.

XV.

House Bill 71 was introduced on January 24th by Mr. Sheldon, and

simplifies the conveyance of homesteads. It is now only necessary in an instrument affecting a homestead that it contain in the body of the instrument substantially the following: "hereby releasing and waiving all rights under and by virtue of the homestead exemption laws of this State and shall be freely and voluntarily signed and acknowledged by the owner and the spouse of the owner."

The existing provisions of law requiring a notary to apprise the wife of her rights and the effects of signing and acknowledging the instrument is eliminated as in the provision for a release of homestead rights in the acknowledgment.

The bill was enacted by the legislature and appears as Chapter 72 of the 1949 Session Laws.

It remains for me to thank the members of my Committee who braved the storms of last January to appear in Cheyenne and assist with the preparation of bills for the legislative session of the State Bar, and for their able and effective presentation of the recommended bills at the meeting.

To the members of the Bar in the House of Representatives, and to Senator Green of the Senate, the Committee is very greatly indebted for their splendid cooperation in introducing and advocating these several measures. The Chairman is very much indebted to the Secretary of the State Bar for furnishing him a copy of the Minutes of the January 22nd meeting in which is contained a record of the measures submitted and considered at that time. As I glance over the Session Laws I find other acts than the ones noted above which have a familiar ring. It may be that some of these bills were considered at the January meeting. Dwight Wallace suggests that Chapter 10 of the 1949 Session Laws referring to the publication of decisions of the Supreme Court was approved by our committee. He thinks perhaps we handled the amending act with reference to qualifications of jurors and excusing them from jury duties. The same is true as to the uniform judgment act which was passed this year. He thinks we may have considered the statute in connection with libel actions, but that I question. He still urges that there ought to be a change of the fall terms of court in Lincoln and Sweetwater Counties which not only conflict with each other, but with the fall term of the Federal Court in Cheyenne.

I join him in the hope that the Supreme Court presently makes effective the work of the Committee revising our rules of civil procedure.

Respectfully submitted,

For the Committee

Erle H. Reid,

Chairman.

REPORT ON THE INTERSTATE BAR COUNCIL

At the Legislative Session of the State Bar held in Cheyenne, January 21, 1949, I was delegated by the Board of Commissioners of the Bar to attend the organization meeting of the Interstate Bar Council of the eleven Western States to be held in San Francisco, California, on February 5, 1949. In accordance