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Charles S. Thomas

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Colorado Statutes - Some Changes Made by the Forty-First General Assembly

COLORADO STATUTES—SOME CHANGES MADE BY THE FORTY-FIRST GENERAL ASSEMBLY

BY CHARLES S. THOMAS

Charles S. Thomas received his B.A. degree from Dartmouth College and his LL.B. degree from the University of Denver College of Law. He is a member of the Colorado and Denver Bar Associations.

The forty-first general assembly passed 316 bills in its ninety-day session. At least fifteen were vetoed by the governor. A large number became law when signed. The rest, with only a few exceptions, became law on May 2, 1957.

Of interest is House Bill 206 which allows persons, private entities and political subdivisions to sue the state or any of its departments, commissions or officers for damages caused by failure of the Georgetown dam. Of particular interest, but unfortunately, only in passing, are House Bill 278 which reorganizes the state's supervisory machinery for banks and rewrites a considerable portion of the banking laws, and House Bill 236 which makes changes in the Blue Sky Law and the Fraudulent Practice Act concerning securities.

Most of the bills treated here amend or change existing law. We intend to spotlight the changes. Where possible, effective dates of bills which become law at various times after May 2, 1957, are furnished.

ANNULMENT

House Bill 77 sets forth seven specific situations in which a marriage is voidable. The operation, procedure and effect under the first one, "nonage," are virtually unchanged. The remaining six are substantially the conditions making marriages voidable at common law. The bill provides that an action for annulment will lie if brought within one year after discovery of the existence of grounds therefor, unless there has been ratification by acquiescence. It empowers the court to determine marital status and enter its decree annulling a voidable marriage or declaring a marriage to be void. In addition, it provides for the entry of orders for custody and child support, suit money, costs and any other matters in controversy, and for a procedure in the event one party is mentally incompetent. Divorce and annulment actions cannot be combined. It does not apply to actions begun prior to its effective date, July 1, 1957.

CITIES AND TOWNS

Senate Bill 236 includes school districts, municipalities, and other political subdivisions under the term "landowner," thus removing a definite obstacle to their annexation to cities and towns.

Disconnection. House Bill 118 provides that disconnected territory shall continue to be subject to certain zoning regulations of its former municipality for a period of six years after disconnection.

Eminent Domain. Senate Bill 232 authorizes a city, in certain cases, to proceed under either the article relating to eminent domain by cities or the general article thereon.

Exclusion from Water Conservation Districts. House Bill 243 authorizes cities and towns included in water conservation districts against their expressed wishes to withdraw therefrom.

CONVEYANCES

Sworn Certificates. Senate Bill 222 requires, with certain exceptions, that a sworn certificate in duplicate be submitted with each deed conveying an interest in real estate. The certificate shall state the total consideration paid, the relationship or other close connection, if any, existing between the grantor and the grantee and such other information as may be required by the Colorado Legislative Council. A fee of one cent for each \$100 of consideration is charged the seller. This bill becomes effective July 1, 1957.

CORONERS

Four bills¹ collectively change the present law concerning the duties of coroners and deputy coroners in cases of death without medical attendance and death under suspicious circumstances. Notice of death is to be given directly to the coroner who is to notify the district attorney before proceeding, with the inquest or investigation. If either the coroner or the district attorney deems it advisable, the coroner is required to cause a post mortem examination to be made by a licensed physician. Coroners are authorized to summon licensed physicians and to provide for their compensation. Deputy coroners are authorized to act in place of coroners at all times, instead of only during the coroner's absence, incapacity or unavailability.

COUNTY OFFICERS

Suspension and Removal. Boards of county commissioners are now empowered to suspend a county official found guilty of a felony or infamous crime and to reinstate with back pay or discharge him depending on the outcome of the last appeal that is taken.²

County Treasurers—Fees. Henceforth, according to this law, county treasurers will charge no fees for keeping their records of tax sales, but will be allowed reasonable compensation for this service by their county commissioners.³

COURTS

Insanity Pleas. The trial court is given discretion to determine whether all of the issues should be tried together or whether the insanity plea should be tried separately.⁴

Judgment Within Ten Days. On failure of the justice of the peace in a criminal action to enter his judgment or decision within ten days after trial, the defendant, on motion, is entitled to a dismissal.⁵

Penitentiary or Reformatory—Sentence. Senate Bill 19 gives criminal courts the discretion of sentencing persons between sixteen and twenty-five years of age who are convicted of a felony to either the reformatory or the penitentiary, except in convictions

¹ House Bills 88, 90, 91 & 92.

² Senate Bill 29.

³ Senate Bill 165.

⁴ Senate Bill 221.

⁵ House Bill 46.

involving life imprisonment, first and second degree murder, and cases where the person convicted has been previously convicted of a felony. Excludes from the effects of this act the statutes concerning probation and sex offenders.⁶

Suspension of Fines and Stays of Execution. House Bill 182 authorizes police magistrates, municipal judges, and justices of the peace to suspend "any or all parts of the fine accrued or jail sentence imposed, or both, and to grant a stay of execution not to exceed thirty days, on any fine accrued or jail sentence imposed, or both."

CRIMES

Burglary. An amendment changes the definition of "burglary" by removing the word "maliciously," by providing that the entry be made into a portion of a "building" or "trailer," and by eliminating the various names for structures which the word "building" included. Further it extends the law to include an "attempt to break and enter" and provides penalties therefor.⁷

Checks—Insufficient Funds. Senate Bill 306 redefines this offense. It includes the issuance or delivery of such a check with intent to defraud and deceive, (1) to obtain something of value or (2) to pay for goods, rents or services. It provides increasing penalties for subsequent violations.

Checks—No Account. The issuance or delivery of a check on no account or no funds in payment for goods, rents or services with the intent to defraud is declared to be a felony.⁸

DAMAGES

Wrongful Death. Maximum recoverable damages are \$25,000. This applies only to actions accruing after the effective date of the law.⁹

EVIDENCE

Blood Grouping Tests in Paternity Cases. House Bill 133 authorizes the court to order a blood grouping test on motion of the defendant. Results of the test are admissible only if they exclude the defendant as the father.

Business and Public Records as Evidence. Senate Bill 275 permits copies of bank or trust company trust department records to be introduced in evidence under the uniform photographic records act.

EXTRADITION

Senate Bill 249 extends the provisions of the extradition laws to include probation and parole violators and empowers the parole board to apply for the issuance of requisitions for the return of such persons from other states.

GAME AND FISH

Penalties Assessed for Certain Violations. Senate Bill 185 lists

⁶ Colo. Rev. Stat. Ann. §§ 39-16-1 to 11 and §§ 39-19-1 to 9 (1953).

⁷ House Bill 173.

⁸ Senate Bill 304.

⁹ House Bill 111. See Hall, *Damages for Death—Limited or Unlimited*, 34 DICTA 32 (1957); Note, 34 DICTA 41 (1957).

certain specific game and fish violations and sets a fine for each. Moreover it authorizes officers to serve violators penalty assessment tickets which operate as summonses if not paid. In case of prosecution for the specific violation, the maximum penalties apply.

INCOME TAX

The "Golden Gimmick." House Bill 232 provides that beginning April 15, 1958, income taxpayers will no longer have the option of paying their preceding year's income tax in quarterly installments. The entire 1957 tax will be due on April 15, 1958, and any subsequent years' taxes will be due in full on the 15th day of April following the end of that year.

Exemptions and Reductions. House Bill 49 decreases the reduction in income tax from 20% to 15%, increases the personal exemption to \$750, and excludes (1) labor union pensions, (2) federal civil service annuities, and (3) OASI payments from taxable income.

INDUSTRIAL COMMISSION

Appointment of Counsel for Indigent Petitioners. Fees are fixed by the commission and paid from the compensation awarded. If the award is denied, the commission pays the fee.¹⁰

INHERITANCE TAX

Credits. House Bill 72 rewrites the present law to provide a workable formula for determining the inheritance tax credit for property which, within three years previously, has been taxed in the estate of a decedent. It provides a ratio, or fraction, which is the relationship of the traceable taxed property in the prior estate to the total property therein. The same ratio, or fraction is determined in the current estate. This fraction is applied to the tax due in the current estate. If the resultant tax in the prior estate is greater than the resultant tax in the current estate, a tax credit equal to the resultant tax in the current estate is allowed. If the resultant tax in the prior estate is less than the resultant tax in the current estate, the credit is equal to the resultant tax in the prior estate.

LABOR

Increased Benefits. Increases have been provided in workmen's compensation benefits,¹¹ occupational disease benefits,¹² and unemployment compensation benefits.¹³

MENTALLY ILL

Adjudication and Commitment. Senate Bill 161 extends the jurisdiction of county courts to cover all persons in their counties alleged to be mentally ill and introduces such temporary emergency procedures as "protective arrests" and "short-term involuntary hospitalization" not to exceed six months. The changes are effective July 1, 1957.

Estates of Mentally Ill Persons and Minors. Senate Bill 162 rewrites the provisions governing the appointment of personal rep-

¹⁰ Senate Bill 102.

¹¹ Senate Bill 289.

¹² Senate Bill 291.

¹³ Senate Bill 290.

representatives for nonresident minors and for resident and nonresident mentally ill persons. Also it provides a method of sealing and inventorying a mentally ill person's safety deposit box under supervision of the county court and provides a voluntary adjudication procedure on petition of a mentally ill person to the county court.

MOTOR VEHICLES

Non-resident Motorists—Agent for Service. Senate Bill 43 provides that the operation in this state of a motor vehicle, within the scope of his employment, by the agent, servant or employee of a nonresident designates the Secretary of State such nonresident's agent for service of process.

Restricted Operators' Licenses. House Bill 375 permits the issuance of restricted licenses to operate motor vehicles to certain mentally ill persons upon proper certification of the lunacy commission, approved by the court.

Release of Security Deposits. Senate Bill 362 makes it the duty of persons who have deposited security in accordance with the Safety Responsibility Law to notify the Director of Revenue of the status of the claim before the expiration of one year from the date of deposit. Security deposits of depositors who cannot be located will escheat to the state after thirty days' notice by registered mail sent to the address of record.

OIL AND GAS LEASES

House Bill 384 requires the lessee under an oil and gas, or other mineral, lease to record an acknowledged release thereof in the county where the land is situated within ninety days after forfeiture or expiration of the lease. On his failure to do so, the landowner may sue and recover \$100 in damages plus costs.

PAROLE AND PROBATION

Violators. Senate Bill 347 adds a new amendment to the present interstate compact whereby the parole or probation violator may be incarcerated in the state where he is found rather than being returned to the original state of incarceration. Furthermore, Senate Bill 348 authorizes the Executive Director of the State Department of Parole to deputize any regular employee of Colorado or any other state, thus giving that employee the powers of a police official to return parole and probation violators.

PLANNING AND ZONING

Plats of County Land. Senate Bill 154 requires that subdivision

Reed-Hollhaber



CLOTHING

Men's Hats & Furnishings

Men's Shop

Seven fifteen Seventeenth Street

KE. 4-0334

plats and plats of public works pertaining to lands within three miles of any municipality be submitted to such municipality for its recommendations, or for a period of thirty days, before further action can be taken thereon.

PRISONERS

Right to Consult Counsel. House Bill 21 subjects peace officers to penalties for failure to allow a prisoner to see and consult counsel upon the request of a friend, relative or spouse of the prisoner, if the prisoner expressly consents to see such counsel. Heretofore, the penalties applied only when the prisoner was denied counsel on his own request.

RESTRAINT OF TRADE

Senate Bill 200 declares monopolies, combinations and contracts which fix the price or quantity of an article in commerce to be in restraint of trade and illegal. Contracts with innocent persons which are related to or grow out of any violation are void. The statute provides for injunctive procedure and criminal penalties.

WATER

Adjudication Decrees—Eighteen-Year Limitation. Senate Bill 176 provides that a water priority decree shall not be set aside after eighteen years for any defect in the adjudication proceedings, if for such period it has been recognized by water officials and the water thereof has been applied to beneficial use whenever needed.

Alternate Diversion Point—Cities and Towns. Senate Bill 326 authorizes municipalities to maintain one alternate diversion point, provided such right is evidenced by court decree.

Conservancy Districts. House Bill 289 provides a method for dissolving them.

Underground Water. Senate Bill 113 provides for an eight-member "Ground Water Commission" to be appointed by the Governor and confirmed by the Senate. The Commission is to be assisted by the water conservation board and the state engineer. Upon completion of a survey of the state's general ground water resources, it may designate portions thereof as "tentatively critical ground water districts," in which the drilling or enlarging of wells is restricted. In such districts the commission will conduct the election of a district advisory board. The board, by unanimous vote can remove the restriction. It requires filings with the state engineer on all new wells and on all existing wells and gives the state engineer authority to control well drillers. Exempted from the act are all wells used solely for stock watering, artesian wells with discharge pipes of diameters less than three inches, and domestic wells with discharge pipes of two inches diameter or less.

WILLS

Depositions. In cases where a deposition is taken to prove the execution of a will in a proceeding to admit it to probate, a new statute will permit a photographic copy certified by the judge, instead of the will itself, to be attached to the dedimus.¹⁴

Disclaimer. House Bill 365 provides a method whereby a person entitled to a legacy, devise or bequest under a will may disclaim it, and the bill states the effects of a disclaimer.

¹⁴ House Bill 258.