

January 1955

The 1955 Session of the General Assembly

Hubert D. Henry

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

Recommended Citation

Hubert D. Henry, The 1955 Session of the General Assembly, 32 Dicta 203 (1955).

This Article is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

THE 1955 SESSION OF THE GENERAL ASSEMBLY

By HUBERT D. HENRY, *of the Denver Bar*

There have been great changes in the legislative process in the past few years. A few years ago every bill was read at length twice in both houses—a total of four at length readings. Now the House generally reads every bill at length once, and the Senate never reads a bill at length, so four readings at length have been reduced to one, and even that one reading is so useless that I hope the House will some day do away with it. The journals used to be read at length every morning. Now they are never read. The corrections are pointed out, and then the journals are approved as printed and corrected. We used to have the emergency clause on nearly every bill. That meant there had to be two roll calls on most bills in each house—a total of four roll calls on each bill—and those roll calls were actually taken. However, the emergency clause has been done away with by constitutional amendment, and now a single roll call is generally taken in the Senate and then adopted by unanimous consent as the roll call on each noncontroversial bill on the calendar. A similar procedure is adopted in the House, with the exception that the morning roll call of the members present is often used as the roll call which is substituted on noncontroversial measures. This eliminates an actual roll call many times a day. Appropriations are usually consolidated into a few bills each session, whereas in the past there would sometimes be as many as 50 appropriation bills in a session.

Now that all title bills have been abolished and bills must be introduced in full, the number of bills has dropped considerably. There used to be introduced about 2,200 bills or titles a session. Now the number runs around 800. It is true that most of that extra 1,400 were only titles which never acquired bodies, but each one of them had to be recorded in the journal, sent to a committee and kept track of through the session, just like a bill. The net result of these changes is that about 75 hours of actual in session hours do what it took about 100 hours to do before. In this session 807 bills were introduced, and 613 of these, or 75% of the introduced bills, were printed. I do not recall ever having seen such a large percentage of introduced bills printed. The actual number of bills enacted by this session reaches a record total. Many of the bills, both introduced and defeated, as well as introduced and passed, were long bills. The number of bills actually passed together with their size means that the session laws of this session will be one of the thickest in history.

I believe the Fortieth General Assembly was one of the hardest working general assemblies I have ever observed. It was industrious and conscientious. It has been a credit to the state.

It is impossible in the limited space allowed here to give a complete report of all of the measures considered or adopted by the session. It has, therefore, been necessary to make a selection

of those matters which are probably of greatest interest to attorneys, and in that selection our choice probably differs from the choice that another reporter would make. However, here is a limited report on specific subjects and items of legislation.

CONSTITUTIONAL AMENDMENTS

For the most part the consideration of constitutional amendments was deferred to the 1956 session, which will be a session of limited scope and will be held a few months only prior to the general election. The one exception was SCR 8 which would have submitted a constitutional amendment providing for an apportionment of the General Assembly along the same lines as that rejected by the voters in the November 1954 election. This resolution passed the Senate but was defeated in the House.

GENERAL ASSEMBLY

SCR 4, which would have submitted an amendment to revert to biennial sessions of the General Assembly, was never printed. SB 132 which would have limited sessions of the General Assembly to 75 calendar days in odd-numbered years and 30 calendar days in even-numbered years, was defeated on the floor of the Senate. SB 317, which would have set up a retirement system for members of the General Assembly, passed the Senate but was tabled in the House.

STATUTES

HB 78 extends appropriations heretofore made to the Committee on Statute Revision until July 1, 1956, and makes the appropriations available for the preparation, publication and printing of supplements to CRS. SB 65 accepts, approves, ratifies, confirms and validates the deposit of CRS with the secretary of state without the index and ratifies, confirms and validates the CRS and declares that they are in full force and effect as of December 1, 1954. SB 286 authorizes the Revisor of Statutes, with the approval of the Attorney General, to authorize the publication and distribution without charge of parts of the statutes. Without this bill, parts of the statutes could not be published and distributed, because the state holds the copyright on CRS and there was not, prior to this act, any authorization to permit publication under the state's copyright, except by the state. SB 223 provides that the Secretary of State shall furnish to the State Purchasing Agent for publication in the session laws the acts passed by the General Assembly with marginal notes or section headings. Under the prior law, they had to be furnished with marginal notes. SB 224 provides that the Revisor of Statutes shall prepare biennial supplements to CRS and submit them to the General Assembly, and if approved by the General Assembly will become a part of the CRS.

MENTAL HEALTH

The Mental Health Committee of the Colorado Bar Association presented SB 285, providing for a revision of adjudication

procedures, SB 287, with reference to the financial responsibility for the care and maintenance of mentally ill and mentally deficient persons, and SB 288, with reference to the estates of mentally ill and mentally deficient persons. These bills were prepared and presented after over a year of careful study by the committee, which was a representative committee of all groups interested in the subject. They were reported out of committee in the Senate to the floor but were returned to the committee without debate. The bills were late in being presented to the General Assembly. Instead of all three bills going to the Judiciary Committee where they belonged, one of the bills went to the Health and Welfare Committee, one went to the State Affairs Committee, and the third to the Judiciary Committee. Thus two of the bills got into the hands of committees which knew little about them and did not appreciate their value and contents. By the time these bills got into the proper committee, it was so late in the session that it was almost impossible to have a full committee consider the bills and become thoroughly acquainted with them. Under those circumstances it was almost impossible to bring out the bills for adequate debate, so they were returned to committee and a subcommittee of the Senate Judiciary Committee has been appointed to consider the bills in the interim.

DIVORCE

Three divorce bills were presented with the approval of the Colorado Bar Association. HB 200 related to annulment and determination of marital status. HB 106 related to separate maintenance. HB 107 was a change of divorce procedure. It eliminated the interlocutory decree of divorce and made it possible to get a final decree after 90 days (amended in the House to 60 days). Three other bills were presented. HB 86 would have repealed the prohibition of marriages between Negroes and white persons. HB 59 would have outlawed common law marriages entered into after the effective date of the act, and HB 299 would have established a family court of conciliation as a branch of the district court.

HB 200, HB 106, HB 107 and HB 299 passed the House. Certain attorneys appeared before the Judiciary Committee of the Senate and objected to certain provisions in the bills. The Judiciary Committee met with the Colorado Bar Association's representatives in an attempt to eliminate the objections, and they were eliminated, but by that time it was so near adjournment that it was impossible to get the bills out of committee and on the floor of the Senate for debate. A subcommittee of the Senate Judiciary Committee will consider the bills during the interim.

FEES

SB 127 increases the fees on the publication of delinquent tax notices. HB 66 increases the fee of the county clerk for searching the records concerning chattel mortgages and similar instruments to \$2 for the first year and 50c for each additional year, but a

similar bill HB 69 which would have increased the fees of county clerks for searching the records concerning business, tradename or corporation name, or concerning a marriage passed the House but was not reported out of committee in the Senate. HB 190 increases the fees to be charged by sheriffs and establishes the same fee in each county. HB 312 increases the fees of constables and makes them uniform in all counties.

COURTS

Salary increases were not granted to district judges. HB 101, which would authorize chief justice to call any former district judge receiving a pension for temporary service in the district court, passed the House but did not pass the Senate. HB 104 granted the superior court judge of Denver an increase in salary of \$500 a year to \$9,000 a year, and HB 240 authorizes the superior court judge in Denver to establish a clerk's office. SB 189 eliminates the statutory salary of clerks of the courts and permits these salaries to be fixed by the judges with approval of the boards of county commissioners. SB 191 fixes a \$10 a day limitation on personal maintenance expenses for which a county judge or district judge may be reimbursed when serving outside of the county of his residence. SB 302 eliminates the \$5 a day statutory limitation on expenses of reporters of the district courts incurred outside of the county of residence.

HB 95 limits to counties of the fourth, fifth and sixth classes the right of the county judge to serve as clerk of the county court. It also requires the county commissioners to authorize the county judge to act as clerk of the county court, repeals a provision authorizing the appointment of a deputy clerk when the judge acts as clerk, and provides that a county judge shall not hold any other public office except that of clerk of the county court. HB 262, which would have required county judges in class 1, 2 and 3 counties to be lawyers, did not get out of committee. HB 94, which would have permitted a county judge of third, fourth, fifth and sixth class counties to call in for assistance the county judge of another county, passed the House but did not get out of committee in the Senate.

HB 12 authorizes a justice of the peace to continue any cause or hearing for a period not to exceed 30 days. HB 276 authorizes the justices of the peace in Pueblo County to establish a consolidated clerk's office. HB 329 permits an appeal from the justice court upon the appellant's staying in jail if he cannot file an appeal bond, and HB 331 makes a similar provision for appeal from a municipal court. HB 275 provides for a uniform docket fee in justice of the peace courts. HB 274 increases the compensation of the justices of the peace in Pueblo and a few other precincts.

HB 36 increases the fees of jurors from \$3 a day to \$6 a day for service, \$1.50 to \$3.00 for attendance, and \$2 a day to \$3 a day for attending before a justice of the peace or police magistrate. HB 364, which would have permitted tort claims in the small

claims court, passed the House but did not get out of committee in the Senate. H.B. 320, which would have permitted a change of venue in municipal or police magistrate courts, passed the House but did not get out of committee in the Senate.

PROCEDURE

SB 293 modifies the procedure in forcible entry and detainer actions. It modifies and clarifies the period of notice required. It eliminates the requirement that the complaint and answer be verified, and it eliminates the requirement that the exact language of the statute be contained in the notice to defendant instead requiring the substance of the section. SB 201 replaces in the law the section omitted by the Revisor of Statutes, permitting the proof of a will by proving the signatures of the witnesses where the witnesses are unavailable and the will has an attestation clause. SB 199 authorizes a court procedure for the appointment of a trustee to lease mineral rights where there are persons under disability or unknown persons having an interest in the property. SB 145 provides that no action shall be commenced or maintained to set aside any priority right to the use of water, where the decree of the district court decreeing such use has been in full force and effect for a period of 20 years or more and during such time has been recognized and enforced by the water officials. HB 336 eliminates a provision in the eminent domain law that if the action is against a married woman, the husband must be named as a party defendant. It adopts the rules of civil procedure in certain respects in eminent domain proceedings. HB 302 authorizes service of process on a nonresident insurance company doing business in Colorado by serving the commissioner of insurance. HB 257 makes the determination of interest proceedings apply to personal property. HB 178 permits a partnership or unincorporated association to sue or be sued in its common name, but provides that judgment may not be maintained against a partner unless the partner is individually named and the court acquires jurisdiction over him. HB 388 establishes a children's diagnostic center at the Colorado Psychopathic Hospital, to which center a child may be referred by the judge for investigation and recommendation before his case is determined. HB 390 permits the transfer between institutions of children, upon petition of the governor to the appropriate court.

HB 234, authorizing the service of process on nonresidents doing business in Colorado, passed the House but not the Senate. HB 328, authorizing the issuance of delayed birth certificates through the Bureau of Vital Statistics without court action, passed the House but not the Senate. SB 217, providing for a new procedure in juvenile cases, did not pass the Senate but was returned to committee. A subcommittee of the Senate Judiciary Committee will consider this bill during the interim.

REAL ESTATE TITLES

SB 72 makes the acknowledgment on the statutory form of

deed conform to the statutory form of acknowledgment for all instruments. SB 32 provides for the establishment of joint tenancy by the use of the words "in joint tenancy," without also requiring the use of the words "not in tenancy in common." HB 260 provides that statements in the acknowledgment to an instrument affecting the title to real property shall create certain *prima facie* presumptions as to the truth of the statements and the official capacity and authority to act of the person making the acknowledgment. It also provides that a tradename affidavit may be recorded as well as filed, and when recorded, shall be *prima facie* evidence of the facts recited in the affidavit insofar as it affects title to real property. HB 259 permits the City and County of Denver to sell real property acquired by tax sale in accordance with its charter and ordinances. HB 7, which passed the House but did not pass the Senate, would have extended the seven year statute of limitation to deeds given by the mayor of a city or town and a commissioner appointed by a board of county commissioners of a county. SB 162, relating to title guaranty companies, passed the Senate but not the House. HB 378, relating to the issuance of abstracts, did not come out of committee in the House. SB 10 provides that no option to purchase the interest of the lessor shall be contained in any oil or gas lease, unless the title of the instrument contains a notice to the effect that the instrument contains such an option. If an option is contained contrary to these provisions, it is voidable without returning the consideration to the lessor.

CORPORATIONS

SB 294 modifies the law relating to foreign corporations, the instruments to be filed with the secretary of state, and the power and authority of foreign corporations doing business in this state. SB 203 relates to the amendment of articles of incorporation of a general business corporation, how the amendments shall be presented to the secretary of state and what amendments may or may not be made. SB 202 relates to the dissolution of corporations, under what circumstances it can be voted, and the procedure to be followed upon dissolution; a change is made in the method of giving notice of dissolution. SB 200 permits a religious corporation to organize under the nonprofit corporation provisions. It also amends the law with respect to the copy of the articles to be recorded in the recorder's office, and also provides a method for the dissolution of a religious or benevolent corporation. HB 258 makes several revisions with reference to the powers and authorities of general business corporations. HB 123 changes the date for filing a corporation's annual report with the secretary of state from the 15th of March to the 1st of May. It eliminates the necessity for a notarial signature on the report.

CRIMES AND CRIMINAL PROCEEDINGS

SB 251 provides that an arrest may be made by an officer or by a private person without a warrant for a criminal offense com-

mitted in his presence and may be made by an officer when a criminal offense has been committed and the officer has reasonable ground for believing that the person to be arrested has committed it. SB 124 increases the dividing line for obtaining goods and money by false pretenses from \$20 to \$50. SB 110 increases the penalty for nonsupport of wife and children. SB 104 authorizes the Supreme Court to fix by rule the time within which a writ of error may be taken in a criminal case. HB 387 authorizes the parole board to bring a civil sanity proceedings against a convict about to be released if the convict is apparently insane. HB 414, which would have reduced the age of consent for statutory rape from 18 to 16, did not get out of committee in the House.

TAXES

HB 232 amends the Colorado inheritance tax law to make it coincide with the new Federal law with reference to the credit for inheritance tax paid. It also requires the filing of a copy of the Federal estate tax application with the Inheritance Tax Commissioner in every estate where such an application is filed. HB 202 continues for the year 1955 and for fiscal years beginning in 1954 and 1955 the 20% reduction of state income tax which has been in effect for several years.

LABOR

SB 192 reduces the waiting period for unemployment compensation from two weeks to one week. SB 92 applies the unemployment compensation act to employers of four or more instead of the former eight or more employees. SB 52 increases the weekly compensation under the workmen's compensation law to \$31.50, and SB 47 makes the similar change under the occupational disease act. SB 48 increases from \$500 to \$1,000 the additional compensation which may be granted under the workmen's compensation act for permanent disfigurement about the head or face. SB 46 increases from \$150 to \$350 the funeral benefit payable under the workmen's compensation and occupational disease acts.

WATER

No change was made in the basic water law of the state. SB 206, which would have regulated underground water and put it under the same law as surface water, was vigorously debated in the Senate and defeated there.

MISCELLANEOUS

HB 431, which would have authorized the distribution of a pamphlet explaining constitutional amendments and measures referred to the people, passed the House but not the Senate. SB 146, eliminating elections to fill vacancies in office where the vacancy is less than 90 days duration at the time of the election, was passed. HB 100 sets up a new municipal election law.

HB 170 permits the survival of personal injury actions to and against an estate. The amount recoverable is limited to actual

damages in the way of loss of earnings and expenses, and does not permit compensation for disfigurement or pain or suffering. It does not permit punitive damages to survive. Bills to increase the maximum amount recoverable for death over the present \$10,000 limit were defeated. SB 101 inserts in the statute a new mortality table.

SB 204, which would have greatly increased the value of property exempt from execution, did not get out of the Senate committee. SB 292 requires that a lien for labor or material furnished shall not be good for longer than one year after the filing of the lien, unless an affidavit is recorded showing that the improvements on the property have not been completed. HB 385 provides that if a chattel mortgage is not to be paid off within two years, then within 90 days after two years after the original filing or recording and within 90 days after the anniversary each year thereafter, a statement of extension shall be filed. HB 407, which would have escheated unclaimed property after 10 years, and SB 176, which would have done the same, did not pass. SB 35 authorizes the introduction in evidence of photostatic copies of original documents and authorizes the destruction of business records if they have been photostated. HB 265 sets up a method whereby securities may be held in the name of a minor without the appointment of a guardian. HB 41 provides that a liquor license issued to a married couple may be continued for the remainder of the year by the survivor of the couple in the event of the death of one of them, without a new license. HB 296, which would have provided substantially the same thing for beer licenses, passed the House but did not pass the Senate. HB 270 establishes a new loan law for loans not exceeding \$1,500. HB 261 is the uniform principal and income act. HB 74 establishes November 11 as a legal holiday for all purposes and names it "Veterans Day."

TENTH CIRCUIT JUDICIAL CONFERENCE

Stanley Hotel, Estes Park, Colorado, July 7, 8, 9, 1955

Presiding judges will be the Honorable Orie L. Phillips, Honorable Sam G. Bratton, Honorable Delmas C. Hill, Honorable Jean S. Breitenstein, Honorable A. Sherman Christenson.

Outstanding address by Charles J. Kelly, Honorable Simon E. Sobeloff, Honorable Elmore Whitehurst, Honorable Charles E. Clark, Honorable Edgar S. Vaught, Honorable George J. Reed, Honorable James V. Bennett, Honorable George F. Guy and Robert B. Cartwright.

Banquet honoring the Honorable T. Blake Kennedy, Judge of the United States District Court for the District of Wyoming, for 34 years of distinguished service on the Federal Bench. Addresses by Honorable Milward L. Simpson, Honorable John C. Pickett, J. B. Dudley and Honorable Alfred P. Murrah.

A study of the functioning of juries—the condensed presentation of an actual trial—Honorable Delmas C. Hill as the trial judge; Malcolm Miller, Esq., of the Kansas Bar, for the plaintiff; William Tinker, Esq., of the Kansas Bar, for the defendant.