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Matters of General Interest To The Bar Before The 35th General Assembly

This memorandum is not intended as a complete review of all matters before the 35th General Assembly, but only of certain matters which appear to have general interest among lawyers. Neither is it an attempt to indicate in any manner how the general assembly might act upon any of the proposals.

Constitutional Amendments

Proposed constitutional amendments would provide a four-year term for state officers; eliminate as elective state officers the treasurer, attorney general, secretary of state and superintendent of public instruction; permit a majority of the members of each house to call the general assembly into special session; eliminate the fifteen-day period for introducing bills; eliminate county courts and justice courts as constitutional courts, thereby permitting the general assembly to alter them as it sees fit; providing a four-year term for county officers; permitting the general assembly to determine what officers each county might have; provide for a secret ballot; repeal the jack pot provision of the old age pension; amend the civil service amendment by placing the compensation of the commissioners in the hands of the general assembly; providing that the new member of the commission will be appointed by the new governor, rather than by the retiring governor; permitting selection among eligible persons; and clarifying some of the present provisions now in dispute.

War Legislation

H. B. 673 (S. B. 323) provides for the proof of wills of persons in the armed services through proof of the testator's signature.

H. B. 674 (S. B. 321) permits acknowledgments of civilians connected with the armed services to be taken by an officer in the armed services.

H. B. 675 (S. B. 319) provides that powers of attorney of persons in the armed services shall not be revoked except upon actual notice of death.

H. B. 676 (S. B. 318) provides that findings of presumed death by a proper United States official may be received as evidence of death.

H. B. 677 (S. B. 320) provides for the appointment of a conservator for a person who is missing in action.

H. B. 23 provides for the furnishing of public documents free of charge to persons eligible to benefits by reason of military service.

S. B. 153 provides that discharge papers may be recorded free of charge.

Divorce Matters

H. B. 186 provides for the trial of a divorce action without the personal appearance of the plaintiff.

H. B. 497 provides as an additional ground for divorce that the plaintiff and defendant have lived separately for three years under a decree of separate maintenance.

H. B. 389 provides for the granting of a divorce on a joint complaint.

S. B. 57 provides that no divorce in another state can be set aside after one year if personal service was had or after two years if constructive service was had.

S. B. 58 provides that an exemplified copy of a divorce decree is prima facie evidence that the court had jurisdiction and the proceedings were legal.

Estates and Trusts

H. B. 109 amends several sections of the probate law, particularly the giving of notice to creditors and other procedure.

H. B. 581 provides that creditors may apply for administration only within one year, rather than two years.

H. B. 579 relates to the distribution of small estates without administration and makes the present law apply specifically to real estate and mental incompetents.

H. B. 358 relates to small estates, raising the maximum to \$500.00; applies specifically to real estate, mental incompetents and minors; provides for a published notice in each case and provides that distribution must be made to the persons who would be entitled thereto if there were administration.

H. B. 116 broadens the field of investments for fiduciaries to include out-of-state municipals and real estate.

H. B. 384 is uniform absence as evidence of death and absentee's property act.

H. B. 144 is the uniform principal and income act.

H. B. 348 is the uniform veterans guardianship act.

S. B. 42 provides a legal method for entering a decedent's safety deposit box before the appointment of a personal representative.

Legal Publications

H. B. 362 (S. B. 316) amends the 1943 law to eliminate the provision which seemingly requires publication in the county where the real property is situated as well as the county where the action is pending.

H. B. 128 defines the daily newspaper as one which publishes five days a week, excluding holidays.

S. B. 76 increases the rates for legal publications.

Docket Fees

S. B. 5 provides a new fee schedule for estates in all counties which is very similar to the fee schedule now in effect in Denver.

H. B. 649 (S. B. 401) changes docket fees in several proceedings from \$7.50 and \$12.50 to a uniform \$10.00.

Taxes and Tax Deeds

H. B. 100 does away with tokens and substitutes a penny bracket system of collecting sales tax—one cent on purchases from nineteen cents to sixty-eight cents inclusive, and one cent for every fifty cents of purchase price thereafter.

H. B. 655 (S. B. 313) provides for the extinguishment of tax liens on real estate after twenty years and on personal property after six years.

H. B. 383 (S. B. 171) extinguishes liens for taxes on real estate after fifteen years.

H. B. 498 amends the inheritance tax law by providing that the commissioner shall assess the tax rather than the county court. The estate has an appeal to the county court within ninety days after the assessment is made by the commissioner. Estates and annuities are figured on a 4% basis rather than a 5% basis. Requirement is made for the filing of an inheritance return in every case where there is taxable property by the person in possession if there is no personal representative appointed. The ten dollar box examination fee is eliminated and a graduated fee is charged each non-taxable estate depending upon the size of the estate.

H. B. 654 provides that treasurer's deeds may be used specifically as basis for title under the seven-year statute of limitations.

S. B. 170 raises the fee for tax certificates from fifty cents to one dollar.

S. B. 168 provides a charge for copies of tax receipts of fifty cents for current receipts and one dollar for receipts of past years.

S. B. 167 provides that county treasurers may sue for personal property tax.

S. B. 2 repeals service tax effective February 28, 1945.

Government

H. B. 363 provides a method whereby counties may consolidate upon a majority vote of the voters in each county to be consolidated.

H. B. 265 permits cities of the second class to adopt a commission form of government.

H. B. 258 permits cities of the second class to adopt a city manager form of government.

Criminal Law

S. B. 89 permits the supreme court to make rules of criminal procedure.

H. B. 574 removes the district attorney's consent in the granting of probation.

H. B. 331 (S. B. 408) provides that in extradition hearings the guilt or innocence of the party may not be inquired into by the governor.

H. B. 330 (S. B. 381) provides that the obtaining of credit under false pretenses is a criminal offense.

H. B. 329 (S. B. 412) admits fugitives from justice to bail.

H. B. 328 (S. B. 380) makes the stealing of an airplane larceny and improves the motor vehicle larceny law.

H. B. 327 (S. B. 411) increases the penalty for larceny.

H. B. 326 (S. B. 414) amends the habitual criminal law by providing that on second conviction for any felony the penalty shall be increased and on third conviction for any felony the punishment shall be life imprisonment.

H. B. 325 (S. B. 413) permits an attack on the credibility of a witness for conviction of a crime at any time rather than within five years of the conviction.

Miscellaneous

H. B. 361 would remove the requirement that deeds on certificates of purchase must be taken within the period of time not provided by statute.

H. B. 652 (S. B. 317) permits the acknowledgment of chattel mortgage in the manner now required for deeds and provides that a substantial compliance shall not invalidate the acknowledgment.

H. B. 492 provides for the payment of all unclaimed funds held by a fiduciary into the hands of the state treasurer to be held for twenty-one years and also provides that the treasurer may invest escheat funds.

H. B. 400 provides a method for the transfer of motor vehicles held in joint tenancy.

H. B. 291 provides a method for disposing of the homestead exemption in a title.

H. B. 16 classifies all counties for the purpose of paying salaries of county and precinct officers, county judges and clerks of courts.

H. B. 99 requires county judges in certain counties to be attorneys at law.

S. B. 8 creates the 15th judicial district consisting of Baca, Bent, Kiowa and Prowers counties.

S. B. 90 purports to authorize notaries public to take oaths and depositions any place within the state.

H. B. 536 (S. B. 75) provides for jury service exemptions for women.

S. B. 25, S. B. 428, H. B. 679 and H. B. 792 all deal with the assignment of accounts receivable.

S. B. 303 provides for the sterilization of certain insane or feeble-minded persons.

S. B. 228 regulates the practice of law before the industrial commission.

S. B. 211 puts the appointment of notaries public in the secretary of state rather than the governor.

H. B. 178 allows an insurer to be joined as a party to an act.

Among the other subjects which will apparently receive extensive treatment by the 35th General Assembly are those relating to motor vehicles and the use of the highways, the state courtesy patrol, liquor, banks and banking, education, workmen's compensation and unemployment compensation, game and fish, care and treatment of the insane, penal and reform institutions and public health.

I Quote

BY HENRY H. CLARK*

CHAPTER II

"Why may not that be the skull of a lawyer?

Where be his quiddities now, his quilllets, his cases, his tenures
and his tricks?" —Shakespeare.

"No laws, however stringent, can make the idle industrious, the
thrifless prudent, or the drunken sober." —Smiles.

"If the judgment is defective or void, that is the very fact which he
wishes to establish *in a court of errors*† in order to prevent his adversary
from selling his property under it."

—Judge Hallett, 1 Colo. 163.

"The deposition of a *dead witness* may be used in a new trial, but
it is not as effective as his presence." (As quoted Mills Ann. Code, p.
614.) —Judge Macon, 11 Colo. 246.

*Of the Denver Bar.

†All italics supplied.