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Domestic Relations

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Larceny. The inflationary trend has finally caught up with the crime of petit larceny. RCW 9.54.090 (5) made property with the value of twenty-five dollars or less (with a few stated exceptions) the subject matter of petit larceny, which is a gross misdemeanor. One could get quite a bit for his twenty-five dollars in 1909 when the law was passed! Chapter 97 raises the ante to seventy-five dollars, but adds an exception which leaves the petit-grand dividing line at twenty-five dollars for property procured by means of unauthorized checks.

DOMESTIC RELATIONS

Adoption. The adoption act has received its first major revision since 1947 by the enactment of Chapter 291, L. 1955. While the basic pattern of the earlier law, RCW 26.32, has been retained, changes of some extent have been made in all but four of the original sixteen sections. An attorney contemplating an adoption under the new act should give the amended provisions careful attention.

The amendments of particular importance deal with the requirement of consent and notice. There are also significant additions requiring information concerning the religious persuasion of the parties, the revocability of consent for adoption, protection of minor parents, the mandatory nature of hearing upon the report of the next friend, and the problem of venue and jurisdiction. In general the statutory alterations have the effect of giving greater control to the court and of decreasing the instances in which a proceeding may be conducted without obtaining written consent of both parents of the person to be adopted.

Sections 3 and 4 of the new law deal with the requirement of consent. Section 3 retains its original form, but has in actuality been substantially altered by the new provisions of section 4. The major problem concerning consent deals with obtaining permission of one or both the child's parents. The five sub-sections of section 4 denominate instances in which parental consent to the adoption will not be required. In each instance, save the new provision regarding the non-requirement of consent from the natural father of an illegitimate, the circumstances in which consent of a parent may be omitted have been narrowed. Section 4 (2) is of special significance in this connection. Heretofore a parent who, in a divorce, annulment, or separate maintenance suit, was not given some *right* to custody or visitation was "deprived" and his or her consent to a subsequent adoption was not required although the court could, if it wished, hear such person.¹ Under the new act the consent of a parent, deprived of custodial rights but charged with an

¹ *In re Gustafson*, 28 Wn.2d 526, 183 P.2d 787 (1947).

obligation of contributing to the child's support, must be obtained.

Section 4 (5) is new. It provides that the consent of the natural father of an illegitimate is not necessary to give the court jurisdiction. A companion provision in section 5, also new to the code, provides that such natural father is not entitled to notice of hearings in the adoption proceeding. It further appears, from section 8 (5), that the natural father is not entitled to notice of a hearing in which the issue of legitimacy of the child is to be determined. These provisions, while new in form, may not substantially change the law. The prior code required consent from only the mother of an illegitimate.² It had been established that consent of the natural father was not required.³ However, the general problem had been confused by peripheral issues. The embarrassing issue of whether the father of a child conceived or born during the existence of a void marriage must consent to adoption⁴ need no longer arise as such children are expressly made legitimate by the Divorce Act of 1949.⁵ The amended statute apparently has no bearing upon the difficult practical process by which the legitimacy of issue born to a married woman is resolved. Nor do the new provisions clarify the position of the husband of the mother in such an instance. It may be that the presumption of legitimacy of a child conceived or born during wedlock will continue to entitle the husband to notice.⁶

The revocability of parental consent has raised some problems.⁷ The amended act specifies the time and circumstances upon which consent becomes irrevocable in section 7 (1). To protect a minor parent from ill-advised release of rights, the amended act requires appointment of a guardian ad litem. The child's next friend may also be charged with the duty of examining the reality of parental consent and, when so charged, it is mandatory that a hearing be held upon the report whether it is favorable or adverse to the adoption.⁸

By new language in sections 6 and 9, it is now required that information concerning the religion of the adopters and the person to be adopted, if known, be presented to the court. There is no indication that a disparity in religious conviction will make petitioning adopters ineligible, a factor which clearly distinguishes the Washington Act from the

² RCW 26.32.030 (3).

³ *Blakes Adoption*, 21 Wn.2d 547, 151 P.2d 825 (1944).

⁴ It had been held necessary. *In re Hope*, 30 Wn.2d 185, 191 P.2d 289 (1948).

⁵ RCW 26.08.060.

⁶ *In re a Minor*, 29 Wn.2d 759, 189 P.2d 458 (1948).

⁷ *State ex rel. Towne v. Superior Court*, 24 Wn.2d 441, 165 P.2d 862 (1946); *In re Nelms*, 143 Wash. 242, 279 Pac. 748 (1929).

⁸ L. 55, C. 291, §§ 7(3), (9), (10).

recently litigated provision of the Massachusetts Adoption Law.⁹ The data concerning religion presumably is simply an element to be considered in the general decision bearing upon the propriety of the proposed adoption.

A final observation should be made of a change in section 2. That section provides who may adopt and where the proceedings shall be initiated. It permits petition in either the county of the petitioner's *residence* or the county in which the person to be adopted is *domiciled*. The word "domiciled" has been substituted for the word "resides" used in the prior act. There is substantial agreement among the authorities¹⁰ that jurisdiction for adoption requires that either the adopter or person to be adopted is domiciled within the state. Prior to 1943 a non-domiciliary could not adopt in the Washington courts.¹¹ By a 1943 amendment to the code it was made possible for such persons to adopt, in Washington, if the petition was made in the "county in which the person to be adopted resides."¹² The present amendment makes express what was heretofore probably intended. The effect of this amendment upon venue for the proceeding is, of course, obvious.

LUVERN RIEKE

JUVENILES

The governor is authorized to enter into interstate compacts with respect to cooperative supervision of delinquent juveniles, the apprehension and return of delinquents who have escaped or absconded, and the return of nondelinquent run-away juveniles.¹

Any juvenile apprehended under the act must be brought before a judicial officer in the state in which he is taken into custody before he can be returned to the demanding state. The juvenile has the right to a hearing with counsel to test the legality of the proceeding if he so desires, before being returned to the demanding state.

Two provisions affecting parents and guardians of children before the juvenile court were enacted. One permits the court to order parents and guardians, who are able, to contribute to the payment of the cost of detention of their child or ward, notwithstanding the fact that such

⁹ *Petitions of Goldman* (Mass.) 121 N.E.2d 843 (1954) *Cert. Denied*, 75 S. Ct. 363.

¹⁰ GOODRICH, *CONFLICT OF LAWS*, 2nd Ed., West Publishing Company, § 142, p. 382.

¹¹ *Knight v. Galloway*, 42 Wash. 413, 85 Pac. 21 (1906); *Platt v. Magagnini*, 110 Wash. 39, 187 Pac. 716 (1920).

¹² RCW 26.32.020.

¹ C. 284.