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Matters Before The Thirty-Seventh General Assembly of Interest to Lawyers

By HUBERT D. HENRY
of The Denver Bar

This is not intended to be a comprehensive report or to cover all matters before the present session of the General Assembly, but is intended merely to give an interim report on some matters which are of general interest to the bar.

At the time of writing this article, seventeen bills have been enacted into law and the General Assembly is over its fiftieth day, which is generally considered the halfway mark of a legislative session. These seventeen bills include the Upper Colorado River Compact, The Arkansas River Compact, the creation of the Colorado Council of UNESCO, the removal of the Racing Commission from civil service, a bill relating to the sale of lands by the State Land Board; a bill providing a method for paying the monthly salaries of the members of the General Assembly, which monthly salaries were created by the 1948 special session of the General Assembly; a bill exempting towing, wrecking and repairing vehicles, hearses and ambulances from regulation by the P.U.C.; three appropriations to widows of deceased members, an appropriation of \$370,000 for the expenses of the General Assembly, and six deficiency appropriations totaling \$1,335,500. It will be seen from this that most of the real legislating will be done in the second half of the legislative period.

The bill to integrate the State Bar of Colorado has been introduced in both houses (S. B. 288, H. B. 448) but has not been printed by the Judiciary Committee of either house, and there is no noticeable movement on its behalf in the assembly.

H. B. 957, by Representative Bennett of Denver, provides that in any civil action wherein judgment for costs may be entered by the court in favor of one of the parties and against another party, the court may include in such judgment for costs all or such part of the attorney fee which such winning party is obligated to pay, which the court in its discretion deems reasonable in order to do substantial justice between the parties. Such allowance would be reviewable in the same manner as any other part of the judgment.

Although this bill is designed primarily for the protection of litigants, it is, of course, a matter of interest to every practicing lawyer. There are two situations which the bill is aimed at principally: first, to clip the wings of the litigious citizens who bring endless numbers of unjustified lawsuits, and secondly, to discourage the practice on the part of many defendants of refusing to recognize small claims, because of the expense of litigation which is placed upon the plaintiff if the claim is denied. This bill has been printed

and is in the Fees and Salaries Committee of the House. I am sure the recommendations of the members of the bar to the members of the General Assembly on this bill will be helpful.

The probation bill (H. B. 150, S. B. 227), in which the bar is very much interested, has been printed by the House of Representatives, as has the parole bill (H. B. 149, S. B. 228). These two bills are the subject of a public hearing which will have been held before this article appears in print. I am unable to state much about the position of the General Assembly on these two bills, but I know of no particular opposition to either of them.

H. B. 152 and S. B. 305, providing and defining the powers and duties of the Chief Justice of the Supreme Court with reference to the Supreme Court and other courts, and H. B. 154 (S. B. 308) to provide service benefits and retirement for disability of judges, have been printed by the Judiciary Committee and have been sent to the Rules Committee for placement on the calendar. However, they have not yet been entered on the calendar of the House.

H. B. 153 (S. B. 307) to establish a Judicial Council has been printed by the Judiciary Committee. H. B. 782, another bill which defines the superintending control of the Supreme Court over inferior courts, is also in the Judiciary Committee. H. B. 174 (S. B. 306) is the bill which strikes the expiration date of the judges' salary increase granted by the special session held in 1948. There is some question about the constitutionality of this bill as drawn, as it merely strikes out the expiration dates of the present law, whereas the constitution says that the provisions of an act shall not be extended except by re-enactment at length.

The concurrent resolution placing the Colorado Bar Association's amendment to the judiciary article on the ballot has been printed in the Senate. An open hearing is scheduled to be held on this amendment and the various bills relating to the judiciary before this article appears.

Constitutional revision is again receiving considerable attention. Amendments have been introduced in both houses, giving veterans additional tax exemptions. There have been introduced in the House by Representative James Radetsky of Denver and others constitutional amendments which would eliminate the fifteen day limitation on introduction of bills, provide a four year term for members of the General Assembly, provide for filling of vacancies in the General Assembly by the Governor, district the large counties for legislative representation purposes, provide four year terms for state officers, require a short ballot, provide four year terms for county officers, permit counties to adopt a charter and require the consolidation of all counties into 37 counties. Representative Bezoff has introduced an amendment which would remove 15 department heads from civil service.

Senator Bishop also has introduced an amendment providing for four year terms for state officials. Senator Harpel has introduced a resolution for four year terms for representatives.

Then, too, there are in the making constitutional amendments for eliminating some of the unnecessary red tape in the General Assembly, such as reading bills at length on two different days. Amendments will be introduced permitting home rule cities to fix official salaries other than by charter and permitting city councils and other legislative bodies of cities and towns to submit amendments to the charter without the necessity of a petition. Undoubtedly there also will be introduced an amendment which will require annual sessions of the General Assembly, except that the session of the General Assembly meeting in even-numbered years may be limited to consideration of constitutional amendments, revenue raising measures, appropriations and other subjects designated by the Governor. This follows the present California plan and consideration is being given to it because of the great number of deficiency appropriations appearing before this session of the General Assembly. These will probably total between two and three million dollars for the biennium, a situation which might be remedied by annual sessions and annual appropriations.

Three house bills which would increase the number of district judges by two in Denver, one in the Eighth District and one in the First District have passed the House and are in committee in the Senate. There they are meeting some resistance, because of the fact that the Senate has a Republican majority and the additional judges will be appointed by a Democratic Governor.

A number of bills sponsored by the Childrens' Code Committee have been introduced. H. B. 389 by Representative Pellet which would repeal the laws relating to the indenturing of children has passed the House. Other bills relating to the method of adopting children and making other revisions relating to adoptions and indenturing have been introduced in both the House and the Senate. There have been some hearings on these bills, but it is not feasible at this time to attempt to review all of the bills and their status.

H. B. No. 15, which would purportedly extend the small estates act to real estate and increase the amount to \$500, has been printed in the House but has not had further action.

H. B. 825, which has been printed by the House, makes several amendments to the present probate laws. It would provide specifically that lapsed legacies and devises would become part of the residue, except those made to descendents. It further provides that in filing a claim, it is not necessary to file any documents, but those in support of the claim must be exhibited upon demand. Claims could be filed after six months under certain conditions, particularly where the claim was known to exist but by inadvertence was not filed within the six months period, and no harm was done to the estate. Contest of a will would be limited to six months instead of one year after probate. The specific performance sections of the probate law would be extended to conservators, and the court would be able to require the verification of petitions in probate matters. Another bill introduced in the Senate

(S. B. 213) would permit personal representatives to invest in the accounts, shares, etc. of saving and loan associations insured by the Federal Savings and Loan Insurance Corporation.

Bills have been introduced providing that actions for negligence shall survive to and against personal representatives. Also, bills have been introduced in both houses which would increase the maximum amount which could be allowed for negligent death. One bill would increase the present \$5,000 limit to \$15,000. Another bill would provide that operators of emergency vehicles would not be liable for civil damages for acts performed in the operation of such emergency vehicles.

Attention should be given to the desirability of informing the public on legislative matters as they proceed, rather than merely sending out copies of enacted bills long after they have been signed by the Governor. Having this in mind, this year I have been experimenting with a legislative bulletin which I have sent weekly to a selected list, advising of the actions during the week of the General Assembly. Members of the legislature and some of the persons who have received this bulletin have commented favorably upon it. I am hopeful that by the next session of the legislature, a satisfactory method of supplying this information will be devised.

This experimental proposition is daily opening new possibilities. Although it is impossible for me on a voluntary basis to send this bulletin out extensively, by the meeting of the next General Assembly those who do receive it should be able to form some idea as to its desirability and the best way of getting it out. One short-coming of the present system is that we are not able to get it out often enough, and also that we are not able to give sufficiently complete information about most of the bills. It is hoped that either the General Assembly, the bar association or private enterprise can develop a more adequate method for the next session.

New Pueblo County Bar Association Officers

New officers of the Pueblo County Bar Association elected in February are: Harry S. Petersen, president; Myers Bumgardner, vice-president; Leo Altman, chairman of the public relations committee; and Warren Lattimer, chairman of the legal institutes committee. Harold Rudolph was re-elected Secretary-Treasurer.

Theodore L. Brooks, formerly a member of the firm of Bryant, Petrie and Brooks at Montrose, and Phillip F. Icke, formerly with the legal department of the telephone company in Denver, have announced the formation of a partnership for the general practice of law with offices in the K. P. Building, Montrose.

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