

KANSAS JUDICIAL COUNCIL BULLETIN

APRIL, 1947

PART 1.—TWENTY-FIRST ANNUAL REPORT

IMPORTANT LAWS ENACTED by LEGISLATURE OF 1947



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FOREWORD

Since our last BULLETIN, Mr. Dale M. Bryant, of Wichita, Chairman of the Judiciary Committee of the House of Representatives, became *ex officio* a member of the Judicial Council, succeeding Mr. Charles Vance of Liberal.

In this BULLETIN we have reviewed some of the statutes enacted by the 1947 legislature. This review is not claimed to be exhaustive or complete, and our readers should consult their statute books as soon as they are available for changes we may have overlooked. We have also printed in full some of these new laws which we deem of special interest.

The Judicial Council was created in 1927 and will complete its twentieth year on July 1, 1947. We hope that in a later BULLETIN we can print a summary of its activities and accomplishments during this twenty-year period.

We are glad to print in this issue a review by Judge J. C. Ruppenthal of "1945 Survey of American Law." Judge Ruppenthal served as Secretary of the Judicial Council from 1927 until 1941, and his contributions are always of interest to the bench and bar.

Shall We Reprint the Probate Code?

In the July, 1941, BULLETIN we published the full text of the Probate Code of 1939, with amendments made in 1941 and annotations to that date. We had a great demand for copies of that BULLETIN, although the same material was published in the General Statutes Supplement the same year. This demand for the July, 1941, BULLETIN has continued up to the present time, but various amendments were made in 1943, 1945 and 1947, and there have been many interpretive decisions of the Supreme Court. If there is sufficient demand, we can reprint the Probate Code with amendments and annotations to date, but would like an expression from our readers as to whether this would justify the printing expense. If you have any views on this subject, let us hear from you.

Review of Statutes Enacted by the 1947 Legislature

The 1947 legislature adjourned only a few days before this BULLETIN was prepared for printing. In the limited time available we have attempted to select and print some of the new statutes which are of particular interest to the courts and lawyers of the state, and to comment briefly upon others which are not printed in full.

PROBATE PROCEDURE

A great many bills were introduced in the legislature to amend or supplement the Probate Code, but comparatively few were enacted.

Senate bill No. 137 is printed in full herein, and provides for the joinder of administration of estates of two deceased persons, under certain conditions, as well as descent proceedings involving descent from two or more persons. It specifically provides that the act is intended as a clarification of the present law, and not as a legislative construction that the probate courts do not now have power to permit such proceedings. It takes effect upon publication in the statute book.

Senate bill No. 274 permits the investment of fiduciary or trust funds in loans insured or guaranteed under the servicemen's readjustment act of 1944. It took effect on publication in the official state paper and is printed in full herein.

Senate bill No. 290 amends G. S. Supp. 59-2002 and 59-2260, relating to the temporary detention and the commitment and care of insane persons. The principal change in the present law is that the time for detention without commitment may be extended to ninety days, and that such detention may be for treatment as well as examination. Since this statute will not take effect until published in the statute book, it is not printed herein.

House bill No. 386 amends G. S. 73-511, a part of the uniform veterans' guardianship act, providing for compensation of guardians. It provides that such compensation shall not exceed five percent of the income of the ward during any year (as at present) or one percent of the corpus of the estate (new) whichever is greater. The rest of the section is unchanged. This act will take effect upon publication in the statute book.

Senate bill No. 15 is the uniform simultaneous death act which has been sponsored by the Judicial Council since 1942 (July, 1942, BULLETIN, page 54), and by the Commissioners on Uniform State Laws. This act will take effect on publication in the statute book and is printed in full herein. This statute is not limited to probate proceedings but will apply in all courts.

CIVIL PROCEDURE

House bill No. 391 amends G. S. 60-911 and 60-3409, relating to attachments and executions upon corporate stock, and provides that service may be had upon the resident agent of the corporation when there is no officer within the state.

Senate bill No. 299 repeals G. S. 20-1014, 20-1019, 20-1028 and 20-1029, re-

lating to terms of district courts. These sections were already obsolete and are so noted in the statute book.

Senate bill No. 302 repeals G. S. 62-1322, providing for change of venue in criminal cases, upon the court's own motion, without application.

House bill No. 456 amends G. S. Supp. 60-1501, relating to grounds for divorce but does not make any substantial change in the grounds. It merely extends the insanity provisions to inmates of federal institutions and extends to any incurable type of insanity, instead of specifying the types. It will become effective upon publication in the statute book.

Senate bill No. 31 amends G. S. 60-3457, and provides that when the holder or assignee of a certificate of purchase dies during the redemption period, the sheriff's deed shall issue to his heirs (old law) *or persons entitled thereto under his will* (new). This act will take effect upon publication in the statute book.

House bill No. 121 amends G. S. 20-311, and provides for the disqualification of district judges who are related to attorneys or litigants in contested cases. This act will take effect on publication in the statute book and is printed in full herein.

Senate bill No. 117 amends the present statutes for drawing of jurors. The principal change is that the clerk of the district court and register of deeds will witness the drawing (together with the sheriff) instead of requiring the presence of two justices of the peace. This change was sponsored by the Judicial Council, since it had become difficult to have a lawful drawing of jurors in many counties due to the declining number of justices of the peace. This statute will become effective upon publication in the statute book and is printed herein.

House bill No. 452 is an innovation in Kansas procedure in that it allows individuals and fiduciaries as well as corporations to designate process agents in any county and forbids service by publication upon any such person who has a process agent in the county. This act will take effect upon publication in the statute book and is printed in full herein. It should be carefully studied by all lawyers, abstracters and clerks of district courts, since its provisions may affect any suit in which publication service is had. This bill was sponsored by the Judicial Council upon the recommendation of Charles Vance of Liberal, its author, while a member of the council.

House bill No. 151 amends G. S. Supp. 60-3203, and increases to \$15,000 the maximum recovery for wrongful death and greatly broadens the basis of recovery. This act is printed herein and will take effect upon its publication in the statute book.

Senate bill No. 11 provides that every court in this state shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction in the United States; and that courts may inform themselves of such laws in such manner as they deem proper. The act will take effect upon publication in the statute book. The full text of this statute is printed herein.

CITY, POLICE AND MAGISTRATE COURTS

Senate bill No. 183 establishes a magistrate court, with powers similar to city courts, in certain counties adjacent to large cities. This is reputed to include Johnson County.

City courts are affected by the following new laws, all essentially local in operation:

House bill No. 277, amending G. S. Supp. 20-2106.

House bill No. 296, amending G. S. Supp. 20-2015 to 20-2018, inclusive, and repealing 20-2025.

Senate bill No. 163, amending G. S. Supp. 20-1424A.

Senate bill No. 162 (new act establishing city courts in the cities of the second class over 10,000 population).

Senate bill No. 308, amending G. S. 20-1405.

House bill No. 222, amending G. S. 20-1408.

House bill No. 107, relates to police court paroles, amending G. S. 12-1104.

CURATIVE STATUTES

Several bills were presented to the legislature to cure ancient defects in real-estate titles, but almost all failed to pass.

Senate bill No. 69 reenacts the substance of G. S. Supp 67-331 (barring old mortgages) to remove a minor flaw in the original bill. It will take effect upon publication in the statute book and is printed in full herein.

JUDICIAL SALARIES

Senate bill No. 260 increases salaries of supreme court justices to \$8,000 per year. Bill for increase of salaries of district court judges was not passed.

Senate concurrent resolution No. 6 is a proposition to amend section 13, article 3 of the constitution by providing that laws changing the salaries of supreme court justices and district judges shall take effect in January of the next odd numbered year after their enactment; and eliminating the provision that their salaries cannot be increased during their respective terms. It also changes the provision that such justices and judges shall be ineligible to hold any other office during the terms for which they were elected, and provides that such ineligibility shall exist only during their continuance in office. This would make possible, among other things, the appointment or election of a district judge to the supreme court. This proposal will be voted upon at the 1948 general election, and is printed in full herein.

EMINENT DOMAIN

House bill No. 219 amends G. S. 17-618 and 26-101, relating to eminent domain. Among other things it permits condemnation by partnerships holding a certificate of convenience as a public utilities issued by the state corporation commission.

SUPREME COURT REPORTS

House bill No. 366 raises the price of Kansas reports to three dollars per volume including advance sheets. Those who have had experience with other law book publishers will commend the legislature for its moderation.

CHILDREN'S SOCIETIES

House bill No. 16 amends G. S. 38-112, 38-113 and 38-114, with relation to surrender of children to Kansas corporations having for their purpose the care and maintenance of destitute and friendless children. The principal changes are that the minority of a parent shall not affect the validity of such surrender, and the corporation may accept through an agent.

LEGAL PUBLICATIONS

House bill No. 367 amends G. S. Supp. 64-101 by providing that suspension of publication up to ten weeks on account of fire, flood, strikes, shortages of materials, or other unavoidable accident, shall not invalidate the right of a newspaper to publish legal notices.

JUVENILE CODE COMMISSION

Senate bill No. 243 creates a juvenile code commission consisting of five members appointed by the governor, to make a study of juvenile laws and make recommendations. Its report must be filed by January 15, 1949.

PRACTICE BY FOREIGN ATTORNEYS

Senate bill No. 234 amends G. S. Supp. 7-104, relating to practice in Kansas courts by attorneys from other states. This act took effect upon its publication in the official state paper and is printed in full herein.

WORKMEN'S COMPENSATION

Senate bill No. 73 amends G. S. Supp. 44-520a to permit filing of proceedings for workmen's compensation within 120 days after the workman has failed in a suit at law where recovery was denied on the ground that he was subject to the workmen's compensation act. This statute took effect on its publication in the official state paper and is printed in full herein.

UNIFORM STOCK TRANSFER ACT

House bill No. 392 is the uniform act for transfer of shares of stock in corporations and repeals G. S. Supp. 17-3217. It will take effect on publication in the statute book.

FILING OF RULES AND REGULATIONS

Senate bill No. 103 provides for the filing with the Revisor of Statutes of rules, regulations and orders of state officers, departments and commissions, and repeals G. S. Supp. 77-401, 77-402, 77-403 and 77-404. It will take effect from and after July 1, 1947, and its publication in the statute book.

HOUSE BILL No. 121

AN Act relating to the disqualification of district judges to sit in certain cases, amending section 20-311 of the General Statutes of 1935, and repealing said original section.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Section 20-311 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 20-311. In any contested civil or criminal case before a district court of this state, if any attorney of record or any party to such case is related, by blood or marriage to the district judge before whom the same is pending, as a spouse, parent, child, grandchild, grandparent, brother or sister or is related to such judge as a result of being a spouse of any such parent, child, grandchild, grandparent, brother or sister, the district judge shall be disqualified from hearing said case. In any such case the parties thereto may agree upon a judge pro tem and enter the same of record. In the event no such agreement be made and entered of record the judge pro tem shall be selected as provided in section 20-311a of the General Statutes of 1935.

SEC. 2. Section 20-311 of the General Statutes of 1935 is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE BILL No. 151

AN ACT relating to the code of civil procedure, amending section 60-3203 of the General Statutes Supplement of 1945, and repealing said original section.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Section 60-3203 of the General Statutes Supplement of 1945 is hereby amended to read as follows: Sec. 60-3203. When the death of one is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter or his personal representative if the former might have maintained an action had he lived against the latter for an injury for the same act or omission. The action must be commenced within two years. In any such action, the court or jury may award such damages as may seem fair and just under all the facts and circumstances, but the damages cannot exceed fifteen thousand dollars and must inure to the exclusive benefit of the surviving spouse and children, if any, or next of kin, to be distributed in the same manner as personal property of the deceased. Damages may be recovered hereunder for, but not limited to: (a) Mental anguish, suffering or bereavement; (b) loss of society, companionship, comfort or protection; (c) loss of marital care, attention, advice, or counsel; (d) loss of filial care or attention; and (e) loss of parental care, training, guidance or education.

SEC. 2. Section 60-3203 of the General Statutes Supplement of 1945 is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE BILL No. 452

AN ACT relating to the appointment of agents upon whom service of process may be made, and providing for the service of process.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Any person, fiduciary or corporation may file in the office of the clerk of the district court of any county an instrument appointing a resident of the state of Kansas as agent upon whom process for such person, fiduciary or corporation may be served, and consenting without limitation or exception other than as provided in this act that service of process issued out of any court of said county upon such service agent as the agent of such person, fiduciary or corporation shall have the same force and effect as service by publication upon such person, fiduciary or corporation. The instrument appointing such service agent shall be acknowledged, shall state the residence or office address of the service agent, shall be recorded at length upon the register of service agents and shall state that such designation is made pursuant to this act.

SEC. 2. The clerk of the district court in each county shall maintain in his office a register of service agents in which the instruments of appointment provided for in section 1 hereof, shall be recorded at length and such clerk shall maintain an alphabetical index of the names of the service agents and a like index of the names of the principals. The clerk of the district court shall be liable on his bond for any damages arising from his failure to maintain the register of service agents or any index thereof.

SEC. 3. The clerk of the district court shall from time to time, when requested by the service agent, note upon the margin of the record any change in the office or resident address of the service agent.

SEC. 4. The appointment made under section 1 of this act shall remain in effect for a period of three years from the date of its filing unless revoked in writing, executed in the same manner as such appointment, which revocation shall be recorded and indexed in the register of service agents, in the same manner as is provided for appointments, and the clerk shall enter upon the record of the original appointment the statement that it has been revoked,

giving the date of such revocation and the book and page where the same is recorded.

SEC. 5. The clerk of the district court shall collect a fee of one dollar for the recording of each appointment and a like fee for the recording of each revocation, which fees shall be accounted for in the same manner as other costs and fees collected by him.

SEC. 6. When any person, fiduciary or corporation shall have appointed such a service agent and such appointment remains unexpired and unrevoked, process issued in any action or proceeding against such person, fiduciary or corporation in any of the courts of the county may be served upon such service agent and shall have the same effect as publication service upon such person, fiduciary or corporation and no greater force or effect. Service by publication shall be of no force or effect where an appointment of service agent made and filed as herein provided remains in effect, unless process showing upon its face the name and address of such service agent shall have been duly issued to the proper officer of the county of such service agent's residence as shown on the register of service agents and returned by such officer to whom it has been directed, with a notation that he cannot find such service agent, naming him, in his county. Nothing herein shall affect the validity of service by publication against unknown heirs, executors, administrators, devisees, trustees or assigns.

SEC. 7. This act shall take effect and be in force from and after July 1, 1947, and after its publication in the statute book.

SENATE BILL No. 11

AN ACT providing for the judicial notice of the laws of other jurisdictions and for proof thereof and to make uniform the law with reference thereto.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. *Judicial notice.* Every court of this state shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States.

SEC. 2. *Information of the court.* The court may inform itself of such laws in such manner as it may deem proper, and the court may call upon counsel to aid it in obtaining such information.

SEC. 3. *Ruling reviewable.* The determination of such laws shall be made by the court and not by the jury, and shall be reviewable.

SEC. 4. *Time of taking effect.* This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 15

AN ACT relating to the effect of apparently simultaneous deaths upon devolution and disposition of property, including proceeds of insurance.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Where title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons concerned have died otherwise than simultaneously the property of each person shall be disposed of as if he had survived, except as otherwise provided in this act.

SEC. 2. Where two or more beneficiaries are designated to take successively or alternately by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously the property thus disposed of shall be divided into as many equal portions as there are successive or alternate beneficiaries, and the portion allocable to each beneficiary shall be distributed as if he had survived all the other beneficiaries.

SEC. 3. Where there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously the property so held shall be distributed one-half as if one had survived and one-half as if the

other survived. Where more than two joint tenants have died and there is no sufficient evidence that they died otherwise than simultaneously the property so held shall be divided into as many equal shares as there were joint tenants and the share allocable to each shall be distributed as if he had survived all the others.

SEC. 4. Where the insured and the beneficiary in a policy or contract of life or endowment insurance or insurance against accident have died and there is no sufficient evidence that they have died otherwise than simultaneously the proceeds of the policy or contract shall be payable as if the insured had survived the beneficiary.

SEC. 5. This act shall not apply to a will, living trust or deed wherein provision has been made for distribution different from the distribution under this act, or to a policy or contract of insurance wherein provision has been made for payment of its proceeds different from such payment under this act.

SEC. 6. If any of the provisions of this act or the application thereof to any persons or circumstances is held invalid such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared severable.

SEC. 7. This act may be cited as the "uniform simultaneous death law."

SEC. 8. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 69

AN ACT relating to titles of real estate, barring rights under certain mortgages, amending section 67-331 of the General Statutes Supplement of 1945, and repealing said original section.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Every mortgage or deed of trust securing a debt on real property in this state which mortgage or deed of trust was placed of record before January 1, 1914, or referred to or described in any instrument of record prior to said date, shall, from and after July 1, 1948, be void as against the creditors of the person making the same or against subsequent purchasers or mortgagees unless the owner and holder thereof shall, prior to such date, cause to be filed in the office of the register of deeds of the county in which the property is located, an affidavit setting forth the name and address of the owner and holder thereof, the nature of the claim, the amount due thereon, the date of the last payment thereon and a description of the property included therein: *Provided*, That this act shall not apply to or affect (1) mortgages, deeds of trust, or liens upon property of railroad corporations recorded after January 1, 1890, or (2) the indebtedness thereby secured: *Provided further*, That infancy, incompetency or nonresidence shall not affect the operation of this act.

SEC. 2. Effective July 1, 1948, section 67-331 of the General Statutes Supplement of 1945 is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 73

AN ACT relating to workmen's compensation, amending section 44-520a of the General Statutes Supplement of 1945, and repealing said original section.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Section 44-520a of the General Statutes Supplement of 1945 is hereby amended to read as follows: Sec. 44-520a. (1) No proceedings for compensation shall be maintainable hereunder unless a written claim for compensation shall be served upon the employer by delivering such written claim to him or to his duly authorized agent, or by delivering such written claim to him by registered mail within one hundred twenty days after the accident, or in cases where compensation payments have been suspended within one hun-

dred twenty days after the date of the last payment of compensation; or within eight months after the death of the injured employee if death results from the injury within three years after the date of the accident. (2) Where recovery is denied to any person in a suit brought at law or in admiralty or under the federal employers' liability acts to recover damages in respect of bodily injury or death on the ground that such person was an employee and the defendant was an employer subject to and within the meaning of this act, or when recovery is denied to any person in an action brought under the provisions of a workmen's compensation act of any other state or jurisdiction on the ground that such person was an employee under and subject to the provisions of this act, the limitation of time prescribed in subsection (1) of this section shall begin to run only from the date of termination or abandonment of such suit or compensation proceeding, when such suit or compensation proceedings is filed within one hundred twenty days after the injury or death complained of.

SEC. 2. Section 44-520a of the General Statutes Supplement of 1945 is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

SENATE BILL No. 117

AN ACT relating to jurors, amending sections 43-107, 43-108, 43-109, 43-110, 43-113 and 43-120 of the General Statutes of 1935, and repealing said original sections, and also repealing section 43-126 of the General Statutes of 1935.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Section 43-107 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 43-107. At least thirty days before any term of the court at which a petit jury shall be required by law, or a grand jury ordered by the court, the clerk of the county where such court is to be held shall draw from the jury box the names of fifteen persons to serve as grand jurors and the names of twenty-four persons to serve as petit jurors.

SEC. 2. Section 43-108 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 43-108. At least three days before the drawing of such jurors the clerk shall give notice to the sheriff, the clerk of the district court and the register of deeds of the day and hour when such drawing will take place.

SEC. 3. Section 43-109 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 43-109. At the time so appointed it shall be the duty of the sheriff of the county, in person or by his under-sheriff, and the clerk of the district court, and the register of deeds to attend at the county clerk's office to witness such drawing, and if any two of said officers shall attend at the time and place appointed, the clerk shall proceed, in their presence, to draw the jurors.

SEC. 4. Section 43-110 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 43-110. If two of the officers so notified do not appear, the clerk shall adjourn the drawing of such jurors until the next day.

SEC. 5. Section 43-113 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 43-113. At least twenty days previous to the sitting of such court the sheriff shall summon the persons named in such lists to attend such court, by mailing to each such person by registered mail a written notice, and shall request a registry return receipt therefor. Between six days after the mailing of such summonses, and six days previous to the sitting of such court, the sheriff shall summon each of such persons from whom he has received no return receipt, by giving personal notice to each person, or by leaving a written notice at his place of residence with some person of proper age; and shall return such lists to the court at the opening thereof, specifying the names of those who were summoned, and the manner in which each person was notified. In each case where jurors are summoned by registered mail the sheriff shall receive no mileage fees for making such service; and in every case

where a juror is summoned both by registered mail and by personal or residence service the sheriff shall receive no fees for making the service by mail: *Provided*, The judge of the district court may by rule provide that jurors shall not be summoned until the first day of the term of the court after the call of the docket, and the setting of jury cases.

SEC. 6. Section 43-120 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 43-120. That whenever in the opinion of the judge of any district court, more than twenty-four petit jurors shall be necessary to attend any such district court, he may, by an order under his hand, direct such additional number of jurors to be drawn as he may deem necessary.

SEC. 7. Sections 43-107, 43-108, 43-109, 43-110, 43-113, 43-120 and 43-126 of the General Statutes of 1935 are hereby repealed.

SEC. 8. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 137

AN ACT providing for the joinder of probate and administration proceedings under the probate code.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Proceedings for the administration of estates of two deceased persons, who died intestate, may be joined and united in one proceeding, where the estate or estates left by one or both of such deceased persons has been or is to be received from the other of such deceased persons, immediately or remotely, and no probate or administration proceedings have been had or commenced upon the estate of either of such deceased persons, or where two persons died seized of undivided interests in property, real or personal, and no probate or administration proceedings have been had or commenced on the estate of either, and one or more persons are heirs of both such deceased persons. The court may grant letters of administration upon such estates and they may be administered as one proceeding: *Provided*, That in all cases herein mentioned the court granting such letters has jurisdiction of each proceeding so joined and united.

SEC. 2. Proceedings for the determination of descent of real or personal property, as provided by the probate code, of two or more deceased persons, may be joined and united in one proceeding where the estate or estates left by one or more of such deceased persons, or some part thereof, has been or is to be received from another of such deceased persons, immediately or remotely, or where two or more deceased persons died seized of undivided interests in property, real or personal, and no probate or administration proceedings have been had or commenced on the estate of any of them and one or more persons are heirs of all of such deceased persons.

SEC. 3. The probate court may, in its discretion, for good cause shown to the court's satisfaction, permit said proceedings to be separated and separate petitions filed and docketed for the probate or administration of any estate, and if notice has been previously given and approved by the court, each of said estates shall be proceeded in without further notice.

SEC. 4. In all cases in which proceedings under this act are joined or united, as herein provided, the proceedings shall set out and disclose all facts as to each separate estate that would be required if such proceedings were separately conducted.

SEC. 5. This act is intended as a clarification of the present law and not as a legislative construction that the probate courts do not now have power to permit such proceedings.

SEC. 6. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 234

AN ACT relating to and in regulation of the practice of law in this state by attorneys of other states, amending section 7-104 of the General Statutes Supplement of 1945, and repealing said original section.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. Section 7-104 of the General Statutes Supplement of 1945 is hereby amended to read as follows: Sec. 7-104. Any regularly admitted practicing attorney in the courts of record of another state or territory, having professional business in the courts or before any board, department, commission or other administrative tribunal or agency, of this state, may, on motion be admitted to practice for the purpose of said business only, in any of said courts, tribunals or agencies, upon taking the oath as aforesaid and upon it being made to appear by a written showing filed therein, that he has associated and personally appearing with him in the action, hearing or proceeding an attorney who is a resident of and duly and regularly admitted to practice in the courts of record of this state, upon whom service may be had in all matters connected with said action, hearing or proceeding, with the same effect as if personally made on such foreign attorney, within this state, and such foreign attorney shall thereupon be and become subject to the order of, and amenable to disciplinary action by the courts, agencies or tribunals of this state: *Provided*, That in all actions before a court of record, said associate attorney shall be a resident of and maintain his law office within the judicial district in which said action is filed or pending. No such court, agency or tribunal shall entertain any action, matter, hearing or proceeding while the same is begun, carried on or maintained in violation of the provisions of this section: *Provided*, Nothing in this section shall be construed to prohibit any party from appearing before any of said courts, tribunals or agencies, in his own proper person and on his own behalf.

SEC. 2. Section 7-104 of the General Statutes Supplement of 1945 is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

SENATE BILL No. 274

AN ACT relating to investment of fiduciary or trust funds.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. That in addition to all other authority now provided by law for the investment of funds by executors, administrators, guardians, trustees, or other fiduciaries, all executors, administrators, guardians, trustees or other fiduciaries may legally invest fiduciary or trust funds in any loan which has insurance or guaranty under the servicemen's readjustment act of 1944 as from time to time in force, or as to which a commitment for any such insurance or guaranty has been made without regard to the limitations, restrictions and requirements of any other statutes, or of any rules of law respecting investments by executors, administrators, guardians, trustees, or other fiduciaries.

SEC. 2. This act shall take effect and be in force from and after its publication in the official state paper.

SENATE CONCURRENT RESOLUTION No. 6

A PROPOSITION to amend section 13, article 3 of the constitution of the state of Kansas, relating to the compensation of justices of the supreme court and judges of the district courts of the state of Kansas.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected to the House of Representatives and two-thirds of the members elected to the Senate concurring therein:

SECTION 1. The following proposition to amend the constitution of the state of Kansas is hereby submitted to the qualified electors of the state for their approval or rejection: That section 13, article 3 of the constitution of the state of Kansas be amended to read as follows:

"SEC. 13. The justices of the supreme court and judges of the district courts shall receive for their services such compensation as may be provided by law, which law shall become effective on the second Monday in January of the next odd-numbered year after its enactment, and such justices or judges shall receive no fees or perquisites nor hold any other office of profit or trust under the authority of the state, or the United States, nor practice law in any of the courts in the state during their continuance in office."

SEC. 2. This proposition shall be submitted to the electors of the state at the general election of 1948 for their approval or rejection. The amendment hereby proposed shall be designated on the ballot by the following title: "The justices of the supreme court and judges of the district courts shall receive for their services such compensation as may be provided by law, which law shall become effective on the second Monday in January of the next odd-numbered year after its enactment," and shall be voted for or against as provided by law under such title.

SEC. 3. This resolution shall take effect and be in force from and after its publication in the statute book.

BOOK REVIEW—1945 ANNUAL SURVEY OF AMERICAN LAW

(Reviewed by J. C. RUPPENTHAL, Russell, Kansas.)

"Law is an engrossing and highly competitive calling, and demands the highest of man's talents not only to cause it to progress evenly but also to make it serviceable to the general public." This is the view of Paul M. Hamlin of the New York bar in noting the aggregate of legal history that was written during 1945, a brief summary yet needing 25 pages of 1324 comprising the printed volume: "1945 Annual Survey of American Law." For some years an Annual Survey of English Law has been published regularly, and a long-cherished aspiration of American lawyers to do a similar work for the United States and its possessions has finally been attained. World War II delayed publication for several years. However, one after another, surveys for 1942, 1943 and 1944 have been published, and 1945 is just out, with 1946 to follow soon.

The work has been enormous to consider constitutions, statutes, case-law for forty-eight states and other jurisdictions, with the indispensable examination of the vast body of administrative decisions, rules and regulations both state and federal. This has been well done. The range from "one world" to isolation, and the adumbration or the wavering line between the two extremes is made apparent in the opening pages. In the Foreword, Arthur T. Vanderbilt, Dean of New York University School of Law, states quantitatively the literature to be examined. He says significantly: "For the past four years well over one-third of the pages of the Annual Survey of American Law has been devoted to subjects not customarily taught to the undergraduates in our law schools."

The field is platted in five parts: Part One—Public Law in General; Part Two—Public Law: Social, Business and Labor Regulations; Part Three—Private Law; Part Four—Adjective Law; Part Five—Legal Philosophy, History and Reform.

Part One gives for the year the developments in International Law; Conflict of Laws; Constitutional Law; Civil Rights, Administrative Law; more than 100 pages on War Powers and their administration, plus the movement toward reconversion; Civil Service; Federal Taxation; State and Local Taxation; Local Government. It becomes quickly apparent that whatever may be stare decisis in courts, law has not stood still for a year.

Part Two takes up decidedly recent matters: Social Security and Welfare; Public Housing, Planning and Conservation; Coöperatives; Public Utilities; Wartime Price Control; Antitrust Laws; Security Issues and Exchanges; Unfair Trade Practices; Labor Law. There are over 200 pages.

Part Three is more than one-third of the entire book and is somewhat longer than Part One. Twenty-six topics are treated.

Part Four consists of a few pages on Criminal Procedure—Criminal Law and also Crime and Delinquency are in part three; Evidence and Commercial Arbitration.

Part Five goes somewhat into metaphysics. Jurisprudence, Legal History,

Administration of Justice (courts and law reform) with Legal Education, Bar Activities and Economics close the volume.

The table of contents is quite informative, the "topical" index is helpfully full. The publisher is the New York School of Law which owns the 1946 copyright. A table of cases lists the great number of annotations. A table of statutes, rules and orders too is given. Kansas has two acts therein: Laws 1943, Chapter 191, Labor Law; Laws 1945, Chapter 301, Veterans Preference. Senate bill 211 referred to does not seem to have become a statute. The type is clear and legible in the body and the notes.

The students of law, young or old, find here a wonderfully diversified panorama for the year. Of special interest to Kansas are: *In re Baumstimler*, 159 Kan. 316, on gifts of personal property. Kansas is listed among the six states most excellent for publication of valuable judicial statistics. The failure of the Legislative Council to effect a reduction of judicial districts and judges is noted, as is also increase of judicial salaries. The failure in 1945 of bar integration by Kansas in the legislature is mentioned, as is also revision of probate procedure.

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