

Next Meeting
OREGON PROBATE LAW REVISION
ADVISORY COMMITTEE

Time: 9 A.M. Saturday, April 10, 1965

Place: Judge Dickson's Courtroom
244 Multnomah County Courthouse
Portland, Oregon

Code Sections assigned for study to:

William P. Riddlesbarger and Otto J. Frohnmayer	ORS 111.010 to ORS 115.990 inclusive.
Stanton W. Allison, Clifford E. Zollinger and Herbert E. Butler	ORS 116.005 to ORS 116.990 inclusive (except ORS 116.505 to 116.595 inclusive) and ORS 120.310 to ORS 120.400 inclusive.
T. Thomas Gooding and Nicholas Jaureguy	ORS 116.505 to ORS 116.595 inclusive; ORS 117.010 to ORS 117.180 inclusive and ORS 121.010 to 121.370 inclusive.
Wallace P. Carson	ORS 118.005 to ORS 119.990 inclusive, and ORS 120.010 to ORS 120.230 inclusive.

ADVISORY COMMITTEE

Probate Law Revision

April 10, 1965

Minutes

Meeting convened at 9:00 A.M., Saturday, April 10, 1965, in Judge Dickson's courtroom, Portland. All members present. Committee on Probate Law & Procedure present, with Schnitzer, Shetterly, Bettis, Lovett, Rhoten, Tassock and Richardson absent.

1. CURRENT LEGISLATION

Reports made by various members of Committee on current status of its bills in legislature.

SB 302 (Objection to sale of real property)

Swift reported word "interested" inserted by amendment, to read ". . . any interested person may file with the clerk his objection to the confirmation of the sale." Motion made, carried, that Committee recommend to all members of House and Senate Judiciary Committees that word "interested" be removed, original wording reinstated. [Subsequently passed by both House and Senate, with word "interested" inserted.]

SB 303 (Reopening decedents' estates)

McKay reported insertion by Senate of words "or adjudicated" in last line, to read ". . . but a claim that already is barred or adjudicated may not be asserted in the reopened administration." [Subsequently passed as amended. Signed by Governor 5/10/65. Chapter 345, Oregon Laws 1965.]

SB 305 (Revocation of will by marriage, divorce or annulment)

[Subsequently amended by House, Senate concurred and repassed.]

SB 307 (Sale of real property, confirmation)

[Subsequently passed without amendment. Signed by Governor 5/13/65. Chapter 399, Oregon Laws 1965.]

SB 400 (Guardianship and conservatorship)

[Subsequently passed without amendment. Signed by Governor 5/13/65. Chapter 402, Oregon Laws 1965.]

SB 306 (Sale or lease of property under power granted in will)

[Tabled in Senate Judiciary.]

SB 308 (Appraisal of estates)

Carson and Zollinger reviewed Senate amendments, which provide for appraisal of all property except cash, appointment of at least one appraiser, delete fee schedule, provide reasonable compensation to be determined by court. Discussion as to whether each probate court should set its own fee schedule, Riddlesbarger believing it neither duty nor prerogative of Committee to provide schedule. [Subsequently Senate refused to concur in House amendments, conference committees failed to reach agreement prior to legislature adjournment.]

SB 315 & SB 328 (Dower and curtesy; recorded declaration)

Frohnmayr stated none opposed to giving surviving spouse an undivided interest in fee in real property, but giving the right to convey out during lifetime without protecting the interest of the surviving spouse is questionable. Allison advised in California, Washington and Idaho one can dispose of such property, that title insurance had been issued on such deeds. [Both bills tabled in Senate Judiciary.]

SB 1614 (Small Estates Act)

Reported that Dellenbach believes Act should be held over and made a part of the revision of the probate code. Primary objections are to greater responsibility of clerks, no seal of approval by a court, lack of bond, lack of adequate time for State Welfare Commission and State Board of Control to file claims--60 days wanted.

Allison reported House Judiciary Committee hearing addressed by Riddlesbarger, Carson, Butler, Lisbakken, and himself, and thereafter Dickson, Butler, Allison and Lisbakken met to consider objections. Allison then met with Skelton and Dellenbach with following suggestions: (1) lower limit to \$2,000, (2) give creditors right to petition for probate, (3) notice to be given also to State Board of Control and Auditor of County in which summary procedure initiated, and (4) extend time for presentation of claims to 60 days and provide in Sec. 19 that claims not presented are barred "unless formal proceedings are commenced within the period provided by section 5." Refused to give State Land Board right to petition as voluntary administrator. Also objection to request releases be obtained from State Welfare Commission and State Land Board.

Judiciary also questioned validity of real property sale. Allison to meet coming week with representative counsel of four title insurance companies. Suggested actual cash value of real property be stated in Affidavit as that shown by assessment roll of county wherein property situated, that bond be required in all cases where real property is sold. Doubt expressed as to procedure for setting apart homestead.

[Tabled in House Judiciary.]

Bill No. 7 (Specifically devised real property subject to encumbrance)
Bill revised by Riddlesbarger and Carson. Title: "Relating to encumbered property of decedents; creating new provisions; and repealing ORS 116.140, 116.145, 116.150, 116.155 and 116.160."
Motion carried to report to Law Improvement Committee this Committee favors passage of bill.

2. REVISION OF PROBATE CODE

Discussion of time required to complete revision of probate code. Consensus that revision could be completed in time for next session of Legislature. Dickson pointed out two areas that would require extensive consideration: creditors' rights, and administration of estates.

Frequency of meetings considered, agreed half a day is too short for accomplishment, that subcommittee work important. Therefore, no meeting in May to give subcommittees opportunity to prepare for day-long meeting in June. No meeting in July. Two-day meeting in August in Medford, members to arrive night of August 12, work on 13th and 14th.

Dickson suggested subcommittees after research make definite recommendations to Committee, rather than merely bringing results of research into Committee for its consideration.

Dickson noted area not assigned: whether Uniform Principal and Income Act might apply to probate.

McKay to discuss with Board of Governors possibility of reassignment of his committee members whose appointments lapse to provide continuity. McKay to assign to Bar Committee same assignments given Advisory Committee.

Discussion as to whether to pattern code revision after Model Code, after Iowa code, or merely to amend present code. Allison stated attempt by Alaska to adapt Model Code was frustrating; Carson noted where departure from present law is too great, opposition arises. Dickson reminded Committee of good reception to guardianship code, which was revised section-by-section.

NOTE: Zollinger new address: Pendergrass, Spackman, Bullivant & Wright, Pacific Building, Portland, Oregon; telephone 228-6351.

Next meeting - Saturday, June 19, 1965, 9:00 A.M., Judge Dickson's courtroom, 244 Multnomah County Courthouse, Portland.

Meeting adjourned at 11:30 A.M.