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Legislation

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This presentation of the cases on the subject is by no means a thorough research, for space will not allow that. The conclusion to be reached is that:

The devise under consideration is void as a remainder because of the preceeding estate in fee. (*Inter vivos* deed).

The devise under consideration is void by way of executory devise because the limitation is inconsistent with the absolute estate or power of disposition expressly given. (Executory devise).

J. V. Stodola.

LEGISLATION

INDIANA GENERAL ASSEMBLY—1931 SESSION—The 1931 session of the Indiana General Assembly passed into history, generally accepted as the stormiest one that Indiana has ever seen. The House of Representatives was overwhelmingly controlled by the Democrats, while, in the Senate, the Republican majority, although not so large, was none the less effective. In addition, the Governor was not quite in harmony with some of the legislators in his own party. These factors, generally speaking, should render a strong deterrent to legislation. Neither party wished to be influenced by the policies of their political opponents, and the Governor wished to be influenced by no one. In spite of these facts, on May 15, 1931, Indiana will find herself with another one hundred and eighty bills enacted into laws.

Talley, 131 So. 398 (1931). Ga.: Melton v. Camp, 121 Ga. 693, 49 S. E. 690 (1905). Ill.: Randall v. Randall, 135 Ill. 400, 25 N. E. 781, 25 A. S. R. 325 (1890); Hubbard v. Buddemeier, 328 Ill. 76, 159 N. E. 229 (1928). Ia.: Law v. Douglass, 107 Ia. 606, 78 N. W. 212 (1899); Dolan v. Newberry, 215 N. W. 599 (1927). Kan.: Conner v. Cole, 112 Kan. 517, 211 P. 615 (1923). Ky.: Becker v. Roth, 132 Ky. 429, 115 S. W. 761 (1909). Md.: Hammond v. Hammond, 152 Atl. 107 (1931). Mass.: Stockbridge v. Stockbridge, 99 Mass. 244 (1868); Galligan v. McDonald, 200 Mass. 299, 86 N. E. 304 (1908). Me.: Ramsdell v. Ramsdell, 21 Me. 288 (1842); Bradley v. Warren, 104 Me. 423, 72 Atl. 173 (1908). Mich.: Gadd v. Stoner, 113 Mich. 691, 71 N. W. 1110 (1897). Neb.: Grant v. Hover, 174 N. W. 317 (1919); Reuter v. Reuter, 218 N. W. 86 (1928). Ohio: Bodmann German Protestant Widow's Home v. Lippardt, 70 Oh. St. 26, 71 N. E. 370 (1904). Okla.: Stone v. Easter, 93 Okla. 68, 219 Pac. 653 (1923). Pa.: Tisher v. Wister, 154 Pa. St. 65, 25 Atl. 1009 (1893). S. C.: Sandford v. Sandford, 91 S. E. 294 (1917); Berry v. Hughes, 138 S. E. 846 (1927). S. D.: Barbour v. Finke, 216 N. W. 592 (1928). Tenn.: Hicks v. Sprankle, 257 S. W. 1044 (1924). Texas: Graham's Estate v. Stewart, 15 S. W. (2d) 12 (1929). Va.: Hunter v. Hicks, 100 Va. 615, 64 S. E. 988 (1909). Vt.: Thrall v. Spear, 63 Vt. 266, 22 Atl. 414 (1891). Wash.: Billings v. Billings, 287 P. 46 (1930). W. Va.: Behuns v. Baumann, 66 S. E. 5 (1909); White v. White, 150 S. E. 531 (1929). Wis.: Larson v. Johnson, 78 Wis. 300 (1890). U. S.: Poter v. Couch, 141 U. S. 296 (1891); Roberts v. Lewis, 153 U. S. 367 (1894). Eng.: Ross v. Ross, 1 Jac. & W. 154 (1819); Cuthbert v. Purrier, Jac. 415 (1822); Holmes v. Godson, 8 De. G. M. & G. 152 (1856). One of the earliest cases is that of Jackson v. Bull, 10 Johns. 19, 6 Am. Dec. 321 (1813).

The assembly was composed of members from all walks of life. Laborer, farmer, engineer, doctor, lawyer and clergy had all placed someone in the legislature that could convey his particular slant on proposed legislation. As a result of such diversity of membership, most of the nine hundred bills that came before the houses for consideration were designed to place a particular class of people under special laws, or designed to correct some local ill in some particular community, by means of special legislation. In addition to these normal influences, the legislator was likewise subjected to the lobbyist seeking special privilege and the politician attempting to increase the power and emoluments of political office.

The subject most urgently stressed, and about which everyone apparently knew the least, was that of relieving the burden of taxation now falling upon real estate. Numerous attempts were made, not to relieve the burden, but rather to shift it so as to derive the same amount of revenue from some other source. Sales tax, income tax, a luxury tax and even a tax on tobacco and home brew ingredients were seriously considered. But he who howled the loudest for real property tax relief was the first to groan at a shift in taxation that might hit him adversely. Those upon whom the burden was to be shifted maintained powerful lobbies and expert counsel, and the great majority of those from whom it was to be shifted sat at home and agreed with the newspapers that the legislature was not doing anything for tax reform. As a consequence, no bill could possibly be agreed upon by the majority of both houses. The only legislation that could be passed was of the conservative type that would place no new burden on anyone. The result was that Senate Bill No. 131, providing that the municipal, township and county budgets for 1931 and 1932 should not exceed the same budgets for the year 1930, was agreed upon and passed. Since the cost of local government generally increases some 5% a year, such a law acts as an effective deterrent to the increase of taxation. In conjunction with the same problem, the legislature passed House Bill No. 293, providing that no license (such as an automobile license) shall be issued to anyone except upon the presentation of poll and personal property tax receipts, or a proper showing that none is due. This law, it is estimated, will bring in several hundred thousand dollars from the very people who have to date shirked their tax responsibilities.

Several laws were passed that, while of little interest to a lawyer, are of considerable importance from a political and administrative standpoint. Senate Bill No. 207 practically doubled the personnel of the state police force, and placed upon them the added responsibility of enforcing the new state truck transportation law. The latter, Senate Bill No. 124, marks the final awakening in Indiana to the fact that interstate truck traffic has been destroying Indiana highways and endanger-

ing the lives of Indiana taxpayers far out of proportion to their contribution to the revenue of the state. January 1, 1932, the law becomes effective. It places a limit in length, *i. e.*, 33 feet for a single vehicle and 40 feet for a combination of vehicles. Likewise, the law limits the width to 8 feet and the height to 11 feet. In addition, it carries with it stringent provisions regulating the weight, axle poundage, lighting, and strict penalties for violations.

A further readjustment of an administrative nature was the amendment of the present law governing the distribution of license plates. The distributors in the past have been financed largely by the collection of a twenty-five cent notary fee. Immediately following the last election, certain agencies set to work to bring the applications to the distributing points already notarized, thereby effectively and seriously hampering the state's agent. Under the new amendment, each application carries with it a fee of twenty-five cents, with no additional charge for notarization.

Perhaps the most important measure passed by the last General Assembly, from the standpoint of the lawyer, was Senate Bill No. 162, which purports to change the present haphazard admission to the bar by the various circuit courts of the state. In substance, the law provides that hereafter all admissions to the practice of law in Indiana shall be pursuant to rules to be prescribed by the Supreme Court of the state. The constitution of Indiana sets out that the only prerequisite to the practice of law shall be good moral character. The opponents of the measure charged that, if passed, it would not be constitutional. Its proponents, however, advanced the theory that anyone, who had not so qualified himself as to be able to conform to the Supreme Court rules, would fail to have a "good moral character" if he attempted to hold himself out as a *bona fide* attorney. Beginning, probably, with the graduates of the June classes of 1931, all candidates for admission will be subjected to whatever requirements the Indiana Supreme Court sees fit to provide.

A measure affecting the settlement of estates was passed, amending the present law, which provides for a final accounting of administrators and executors within a year after appointment. The amendment merely cuts down the year to six months.

Senate Bill No. 45 revolutionizes the mortgage foreclosure law. Under the present method, the complaint is filed, eventually judgment is rendered and a sale ordered, the purchaser at a sheriff's sale receives a certificate, and the mortgagor then has a full year from the day of the sale, in which to redeem. The new law provides that, on all mortgages hereafter executed, the year of redemption in the mortgagor shall begin to run immediately upon the filing of the complaint. No sale is to be had until after the expiration of a year following such filing, and the purchaser at a sheriff's sale receives a sheriff's deed in fee

simple. This change was strongly advocated by the bankers, insurance companies and some farm interests, who claimed the value of real estate would be greatly stabilized if the lender were assured a more speedy recovery of the property upon default.

Another change has been effected in the payment and collection of Barrett Law assessments. Under the existing system, where A signs a waiver and agrees to pay his assessment over a period of ten years, if, within two years, he wishes to clean up the lien, he is required to pay the principal, plus interest, for ten years, even though he really was benefited for only two years. This feature of the law is changed. The property holder, who signs a waiver, must pay, as a minimum, the interest for one year, or for as many years thereafter as any balance of the assessment is unpaid. Further, the present system permits a two per cent penalty per month for delinquent payments. This has been changed to a straight ten per cent per year penalty, sixty per cent of which goes to the collecting officer, and forty per cent being placed in a special fund to pay off the interest of bond holders on paid-up waivers.

While the sentiment in the legislature was more liberal this year than at any time in the last ten years, very little liberal legislation was passed. Several determined attempts were made to modify, and one to completely repeal, the Wright Bone Dry Law. These came to naught. Many of the driest talking and voting legislators were the least inclined to avoid the "black demon rum," and others, accepted as total abstainers, were found in the liberal column. The two proposals receiving the most favor were: (1) to permit physicians, if they saw fit, to prescribe medicinal whiskey to ailing patients, and (2) to reduce the prosecutor's fee in liquor cases to a level equal to his fee for a successful prosecution of a murder, rape or mayhem case. Neither attempt was successful. The Republicans in the House voted practically unanimously against any change. The Democrats supplied an insufficient number of votes to carry the bills.

The next liberal step was the introduction and passage of a system of legalized pari-mutuel betting on horse racing. Although the bill passed the House of Representatives, it failed to emerge from committee in the Senate. The third liberal measure (and the only one to pass both houses and be signed by the Governor) was the bill setting up and establishing a boxing commission in Indiana to control boxing exhibitions that are now without any supervision whatever.

The liberals, however, did place a very effective spoke in the enforcement of the prohibition law to the exclusion of all other criminal statutes. A bill was enacted into a law that places every prosecuting attorney in the State of Indiana upon a straight salary and provides that the twenty-five dollar bonus, now going into the hands of the prosecutor, be placed in the general fund, and his yearly salary be