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Report of Sub-Committee on Judicial Selection/
Report of Committee on Jurisprudence and
Improvement of Law

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REPORT OF SUB-COMMITTEE ON JUDICIAL SELECTION

To the Minnesota State Bar Association:

Your Committee reports:

Report

This is a report of the Sub-Committee on Judicial Selection. The Committee on Judicial Selection is composed of the members of the Board of Governors of the Minnesota State Bar Association. Your Sub-Committee on Judicial Selection is composed of the lawyers whose names are attached to this report.

At the direction of the Board of Governors, a plebiscite of the lawyers of the State of Minnesota was concluded on Oct. 6, 1948, to determine the lawyers’ preference of candidates for the Supreme Court at the general election in November, 1948. The results of that plebiscite were made known to the general public promptly after October 6, 1948.

Respectfully submitted,

Milton Lindblom, Chairman
Richard A. Moore
Fred W. Broberg
Warren Miller
Rollin G. Johnson

Theodore Christianson
Benno F. Wolff
William Ulvin
George C. King
John W. Mooy

REPORT OF COMMITTEE ON JURISPRUDENCE AND IMPROVEMENT OF LAW

To the Minnesota State Bar Association:

Your Committee recommends:

Recommendations

1. That the proposed resolution, which was introduced at the convention in June, 1948, and referred by the Association to this Committee, relating to certain revisions in the laws on dependent, neglected and delinquent children, should not be adopted by the Association.

2. That consideration be given by this Committee’s successor to possible other revisions of the laws on abandonment, non-support and adoption.

3. That consideration be given by this Committee’s successor to amending Section 56.14 of Minnesota Statutes 1945 so as to require small loan companies to deliver to the borrower, at the time the loan is closed, a true copy of the financial statement which is submitted by the borrower in connection with his application.

4. That consideration be given by this Committee’s successor to possible amendment of the federal bankruptcy laws so as to differentiate between the effect of intentional and constructive fraud in avoiding discharges.
5. That further consideration be given by this Committee's successor to the subject of abolishing the classification of writs to review, mandamus and prohibition, and substituting a simple practice act for obtaining such relief.

6. That further consideration be given by this Committee's successor to possible revision of the laws concerning commitment and discharge of mental incompetents.

Report

As to Recommendation No. 1

Your committee gave careful consideration to this resolution and came to the conclusion that the recommendations therein contained are either unnecessary or undesirable. The proposed limitations of grounds for commitment and adoption are not advisable, since instances occur with some frequency where the parents are not suitable custodians even though they have not abandoned the child and are unwilling to consent to commitment or adoption. Secondly, under existing statutes there is already a sufficient right of review of commitment orders either by certiorari or appeal. Finally, trial by jury in the District Court would not seem a satisfactory procedure in cases of this character.

As to Recommendation No. 2.

In considering the resolution above-mentioned, your Committee did develop the fact that certain other changes in the laws on abandonment, non-support and adoption may be desirable. The subject requires further study and should be retained for consideration by the successor committee.

As to Recommendation No. 3.

A number of instances have been called to the Committee's attention where wage earners have gone through bankruptcy and then have found that the discharge was not an effective release from a prior obligation to a small loan company because of alleged fraud arising out of the bankrupt's failure to make a full disclosure of his liabilities in the financial statement which he furnished to the loan company at the time he applied for the loan. To minimize the occurrences of this situation, the proposal is that the loan company be required to furnish the borrower, at the time the loan is closed, with a true copy of the financial statement which the borrower has submitted. The office of the State Banking Commissioner has recently indicated to your Committee that instances of this sort appear to be rather rare, and that the additional burden on the loan companies would be disproportionate to the ends sought to be attained. Accordingly, your Committee feels that further study should be given the matter.

As to Recommendation No. 4.

In this same connection, it was suggested to the Committee that the federal bankruptcy laws should be amended so that only intentional, as distinguished from constructive, fraud should constitute grounds for avoiding a discharge. The proposal came to the Committee so late that there was no opportunity to go into it, but your Committee feels the proposal has enough apparent substance so that it deserves further consideration.

As to Recommendation No. 5:

Several predecessor Committees have recommended that a simple practice act be substituted for the present complicated system of writs of review, mandamus and certiorari, and have given considerable study to the subject. Your Committee has carried forward the work, and it is hoped that a definitive bill can be prepared for submission to the 1950 convention of the Association.