Editorials

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EDITORIAL NOTES.

Senate Bill No. 43.

The Senate, by a vote of 24 to 6, and the House of Representatives, by 64 to 7, passed Senate Bill No. 43, introduced by Senator M. C. Swinford, of Harrison county. This action on the part of our General Assembly was a source of genuine gratification to the bench and bar of Kentucky. The Kentucky Law Journal, as the official publication of the State Bar Association, takes this means of expressing the appreciation of that organization to the representatives
and senators who supported the measure and were instrumental in securing its passage. The editor is personally indebted to a number of men, too many to be here named, for their interest manifested in this bill while we were at Frankfort during the last two weeks of the session.

This measure when it becomes effective will prove to be a most potent instrument for good in the hands of our State's highest court. It will give Kentucky the place which she ought to maintain among the States having real standards for admission to the bar. An eminent French jurist once said of the legal profession that it is "as old as the magistrate, as noble as virtue, and as necessary as justice." The tendency of late has been to forget that the law is a learned profession. In many quarters and by many so-called lawyers it is practised as a trade rather than a profession.

With the marvelous development of the illimitable natural resources of this State there has been an influx of "sharks"—the refuse of other States—who prey upon the investors and exploit the business men of Kentucky. These "hammer and saw lawyers"—so easily admitted to the practice—are largely responsible for the great number of decisions handed down by our Court of Appeals. The Court has been robbed of valuable time and the book shelves of practitioners are crowded with countless useless decisions involving questions of law established many times before.

It is to be hoped that these and other evils will be remedied in the future by the rigid enforcement of the letter and spirit of the new law. The matter now rests with the Court of Appeals, and the reputable lawyers and business men of the State, with an abiding faith in the wisdom and judgment of that tribunal, confidently expect the amelioration of conditions hitherto unpraiseworthy and undesirable. We will have men at the bar who "have learned to think not merely in terms of law but in terms of jurisprudence." Then we may say of the law in the language of the eloquent Hooker: "No less can be acknowledged of her than that her seat is the bosom of God, her voice is the harmony of the world; all things in heaven and earth do her homage—the very least as feeling her care, the greatest as not exempted from her power."—V. C.
An Act to Regulate the Admission of Attorneys to Practice Law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Sec. 1. No person shall hereafter be licensed as an attorney or counsel at law in this State, except as herein provided for.

Sec. 2. The Court of Appeals of Kentucky shall from time to time make and adopt such rules and regulations as the said court may see proper, fixing the moral qualifications of applicants and standards of acquirements, both academic and legal, to entitle them to admission to practice law in the courts of this Commonwealth. No applicant, however, shall be under the age of twenty-one years.

Sec. 3. There is hereby created a Board of Examiners on Admission to the Bar. The board shall consist of three (3) members, each of whom shall possess the qualifications of a circuit judge, who shall be appointed by the Court of Appeals of Kentucky, and shall hold office for the term of three (3) years and until the appointment and qualification of their successors, respectively, except that three (3) examiners first appointed shall hold office for one, two and three (1, 2 and 3) years, respectively, the said court indicating at the time of their appointment which of said examiners shall hold for each of said terms. All vacancies, however occurring, shall be filled by appointment by said court. The member of said board who is senior in point of service shall act as its chairman, except that of the members constituting the first board, the holder of the shortest term shall be its chairman.

Sec. 4. The members of the board shall be appointed within thirty (30) days after this act shall take effect. A majority of them shall constitute a quorum, and said board shall proceed promptly after their appointment to the performance of its duties.

Sec. 5. Applicants who may appear before the Board for license to practice law shall be examined as to their qualifications. All such examinations shall be in writing and be on such subjects as shall be prescribed by said Court of Appeals, and the answers of the applicants to the questions propounded to them shall be graded by said Board and no such applicant shall be granted license unless he secures a general average of seventy-five (75) per cent. The
board shall certify to the said court the name of each applicant who shall have passed the required examination before it. The said court shall enter an order licensing and admitting to practice as an attorney and counselor in all the courts of this State, each person who complies with the rules and regulations it shall adopt; which license, if procured by fraud, may be revoked by the court at any time within two years from its issuance. The applicant before beginning the practice of law will take the oath as now required.

Sec. 6. The Court of Appeals shall at the time of its appointment of the first Board of Examiners prescribe the subjects upon which the examination of those applicants for license who appear before the board shall be made, and from time to time make such changes in the list of subjects prescribed as to said court may seem proper; and the Board of Examiners shall from time to time make such rules and regulations as to the manner of holding and conducting its meetings and proceedings as said board may deem proper. Provided, however, that not more than six (6) sessions of said board may be held in any one year, and said sessions should be held at as nearly regular intervals as may be deemed advisable and must be held at such a place or places as may be selected by said court.

Sec. 7. Each person who applies for a license to practice law in this State under any rule adopted by said court, shall file a written application with the clerk of the court, on such form as may be adopted by the court, and shall pay to said clerk a fee of $10.00, and in case of the failure of such applicant to secure his license, he shall at the time of any subsequent application pay a fee of five ($5.00) dollars; but no one shall be permitted to file another application within six months next after his last application. All fees collected as aforesaid shall be paid by the said clerk at once into the State Treasury. The said Court of Appeals shall make an allowance to each of said examiners for his services, which shall be paid out of the fees so paid in (and from no other source) a sum not to exceed two hundred dollars per annum, and his necessary expenses while engaged in the performance of his duties; the
same to be paid in quarterly installments on statements filed with the court.

Sec. 8. A certified copy of the license granted by the said court may be had at any time, and it shall be as valid as the original order. Each applicant shall pay to the clerk of said court the fees allowed by law in connection with his application.

Sec. 9. The Court of Appeals shall make such provisions, rules and regulations as it may deem proper for the admission to practice law in this State of persons who have been licensed to practice law in other states or countries.

Sec. 10. The provisions of this act shall not apply to any person now holding a license to practice law in this State.

Sec. 11. Nothing in this act shall be construed to prevent a non-resident attorney in good standing from appearing and practicing in a case in which he may be employed.

Sec. 12. All laws and parts of laws in conflict with this act are hereby repealed.

Conflict of Laws.

We are printing a list of questions recently propounded by Dean W. T. Lafferty to the class in Conflict of Laws. These test questions may prove interesting to some of our readers in their spare moments. The list follows:

1. A purchased in Lexington, Kentucky, from the Queen and Crescent Railroad Company a ticket for through passage over the line of this company to Cincinnati, Ohio, thence via the Big Four Railroad Company to Chicago. While en route, the train on which A was traveling was wrecked in Indiana by the carelessness of the Big Four Railroad employees, and A lost one of his legs by reason of the wreck. A seeks damage, and finds that the Kentucky law allows payment in full for damages sustained in such cases; the laws of Indiana limit the recovery to $2,000.00; the laws of Illinois are silent as to the recovery. What are the rights of A in this case, and what remedy or remedies has he if any? Explain in full.
2. B dies intestate in Lexington, Kentucky, the place of his domicile and left real and personal property in the states of Kentucky, Ohio and Indiana. It is found that there will be a surplus of personal property in Ohio over and above the payment of all the decedent’s creditors in that state, but not sufficient personal property in the state of Indiana to pay his creditors in that state. There is considerable personal property in Kentucky, but not enough to pay the Kentucky creditors nor to satisfy the widow’s exemptions. There is a question whether the surplus in Ohio will be greater than the deficiency in both Indiana and Kentucky. Explain fully the procedure in settling this estate. Can the widow claim exemption of any part of the personal property outside of Kentucky?

3. A obtained a personal judgment against B in Fayette County, Kentucky. B was insolvent and immediately moved to Indiana where he soon became wealthy, and is still there. Can A satisfy his judgment out of the property in Indiana? If so how should he proceed? If the Fayette County, Kentucky, judgment was in rem. only without personal service, and the property was sold and only paid fifty cents on the dollar, can the remainder be made out of the Indiana property? If so how should he proceed?

4. A, while a resident of Kentucky, wrote his will in form required by the statute laws of that state; afterwards he sold all of this property in Kentucky, and made up his mind to make his permanent residence in Paris, Missouri. He corresponded with a real estate agent in Paris, Missouri, and through him bought a residence in that city, and had it conveyed to him by deed which was properly recorded. He shipped his household goods to the real estate agent and he put them in the house bought. A had never been in Missouri, but immediately after the purchase he with his family proceeded on the way to Paris, Missouri, but while on his way he was killed in a wreck in Indiana. The will he had written does not conform to the requirements of the laws of either Indiana or Missouri. State whether or not the will can be probated, and give the reason for your conclusions.

5. A and B are residents of Lexington, Kentucky, and A by written contract sold to B a tract of land in Hamilton County, Ohio,
but refused to make deed conveying same. A filed action in the circuit court in Lexington, Kentucky, to compel B to make the conveyance. Personal service was obtained on B and the court adjudged that the conveyance should be properly made, and ordered the master commissioner of the court to make the deed, which was done, and the deed was recorded in the proper office in Hamilton County, Ohio. State whether or not the deed makes a valid conveyance and explain fully the reason for your conclusions.

6. A and his wife who were residents of Columbus, Ohio, were separated. He took up his residence in Chicago, Illinois, and she took up her residence in Lexington, Kentucky. After remaining in Lexington two years she decided to seek divorcement from her husband. Can she obtain a divorce? If so, where should the action be filed? The laws of which state would govern as to the grounds of divorce, and what law would regulate the procedure? Answer fully.

7. D, who resided in Kentucky, sent a box of poisoned candy to E, a resident of Indiana, knowing it contained poison. E ate the candy and died from its effect. Can D be prosecuted? If so, where? Where could an action, if at all, be maintained for damage against D?

8. B's wife signed his notes as surety in Missouri which obligation was legal. The holder of the note secured personal service on the wife in Kentucky whose laws forbid the making of such an obligation but makes no further provisions on the subject. Can such an action be maintained in Kentucky? If the note was made in Kentucky and personal service had in Missouri, could an action on the matter be maintained in that state? Answer fully.

9. A was adopted under the laws of Kentucky as the child of B, in which state an adopted child has the same right under the inheritance laws as the natural child. After A became of age he married and made his domicile in Ohio. Afterwards B became domiciled in Arkansas. The laws of neither Ohio nor Arkansas make provisions for the adoption of children. B died intestate and A makes claim for a distributive share of B's estate. Should his claim be recognized? Answer fully.
Conflict of Laws.

10. A of Lexington, Kentucky, holds a mortgage lien on the farm of B located in Hamilton County, Ohio. B resides in Frankfort, Kentucky. A wants to proceed to the collection of his claim out of the farm. Where should the action be filed, and can the court obtain jurisdiction over B? If so, how? Answer fully.