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Committee on Public Utilities

John Thorpe

life, with appointment instead of election, but felt certain that no such method could at this time be obtained by law in this State. Such members were unanimous in recommending that a constitutional amendment or amendments be passed fixing the terms of supreme court judges at ten years and district court judges at six years.

"*Salaries.* With one exception the committee was unanimous in favoring increase of judicial salaries. It was pointed out that the salaries have remained as before for a long time, while the cost of commodities in general, and therefore the cost of living, has approximately doubled since the beginning of the war. It was also suggested that men who take judicial positions see their law practice disrupted and find it extremely difficult to get back into practice after they leave the Bench. The members felt that there ought to be substantial increases in judicial salaries, at least proportionate to those which have been made in the salaries of the federal judges. One member, who was not present at the meetings, but stated his views in a letter, thinks that the salaries now paid are at least high enough, compared to the income of lawyers and farmers."

COMMITTEE ON PUBLIC UTILITIES

JOHN THORPE, Chairman

In its report the committee lists, and briefly outlines, the public utility legislation of the 1927 Session of the Legislature, being Chapters 231, 232, 233, 234, 235, 236 and 197. The recommendations follow:

"Your committee recommends for the future less legislation and more cooperation between the utilities and the public. Such cooperation cannot be secured until there is a better understanding of public utilities by the general public. To secure such understanding would seem to be a duty resting upon the public utilities, which duty they can best perform by taking the general public more into their confidence, granting a larger degree of courteous service, together with intelligent publicity.

"We recommend the adoption by this State, together with other states, of a uniform public utilities act. It is a fact well known to lawyers acquainted with utility litigation, that the laws of this State, relating to that subject, are at best a hodge-podge. A great many sections of the law are unworkable, others not understandable, and more are useless. What is true of this State, is true of many other states. A special committee of the National Association of Railroad Commissioners is working upon this at the present time, and a tentative draft of such law has been prepared, copies of which have been submitted to various members of this committee. We believe that a special study of this should be made by a sub-committee, composed of not more than three members. A larger committee would not do the work. If found feasible and workable, when applied to conditions as they exist in this State, we believe that this Association should cooperate in securing its enactment. This would be a benefit not only to the utilities operating in many states, but to the general public, and particularly to the attorneys, who have to do with utility litigation in various state jurisdictions.

"We recommend the repeal of Section 139 of our State Constitution, in order that local franchises may be abolished and that there be substituted for the same, indeterminate permits, to be issued by the

Board of Railroad Commissioners, upon petition and after hearing. Until such section of the Constitution is repealed, the same cannot be done. It should be a well recognized fact that present day business conditions have outgrown local franchises. Local prejudices, politics and factionalism are a deterrent to utility development. We personally know of instances in the State at the present time where the public is being deprived of more efficient and cheaper service, because of the attitude of local boards, in refusing to approve the transfer of a franchise, which action has been brought about through agitation of certain individuals, based upon selfish motives, not in connection with service.

"We recommend that the Board of Railroad Commissioners be, by law, given authority to require physical connection between electric utilities, where the same appears to the Board to be feasible and can be done without any damaging results to either utility. This, of course, with usual right of appeal. There are high tension electric lines in this state which are in close proximity, being, in some instances, within one mile of each other. At other places, there are high tension electric lines within a very short distance of an individually owned utility plant. If physical connection as above should be made, it would insure to the public, in that community, continuous service, and the patrons would not be inconvenienced by any temporary break in the plant from which they are regularly receiving their service. In time this would also perhaps result in high-line distribution of electric current, with a saving to the public through the elimination of local generating plant operation.

"In conclusion, we recommend to the incoming officers of this Association, that the membership of the committee be reduced to a number which will permit cooperation on the part of the entire committee, and eliminate any seeming discourtesy on the part of the chairman, in attempting to perform the work of the committee, without consultation with the entire membership."

REVIEW OF NORTH DAKOTA DECISIONS

First National Bank vs. Olivier. Defendant, subsequent to service of process in garnishment and disclosure by the garnishee, disposed of all of his other property to legitimate creditors, and then claimed and proved the moneys held by the garnishment as exempt. HELD: Distinguishing the case from *Mahon & Robinson vs. Fansett,* 17 *N. D.* 104, which says, "If the property was not exempt when the lien was acquired, no changes by sale thereafter can inure to the benefit of the debtor," the defendant, having alleged and proved that the moneys due from the garnishee were exempt at the time of the service of the garnishment summons, the disposition of his other property to legitimate creditors after commencement of the garnishment proceedings did not change his status in that regard.

Pipan vs. Aetna Insurance Co. A building in Towner, belonging to plaintiff, was destroyed by fire. Action to recover on insurance policy, which was issued in name of plaintiff's husband. (Presumably the policy carried the usual provision that it should be void if the insured's interest was other than that of sole and unconditional owner.) Equitable relief was sought (if necessary) for reformation of policy,