ASSEMBLY JUDICIARY COMMITTEE
58th NEVADA ASSEMBLY SESSION

MINUTES

March 5, 1975

Chairman Barengo called to order this meeting of the Assembly Judiciary Committee to consider A.B.38 on Wednesday, March 5, 1975 at the hour of 8:09 a.m.

MEMBERS PRESENT: Messrs. BARENGO, BANNER, HEANEY, HICKEY, LOWMAN, POLISH, SENA, Mrs. HAYES and Mrs. WAGNER.

MEMBERS ABSENT: NONE.

A Guest Register from this meeting is attached to these Minutes.

First to speak regarding A.B.38 was Assemblyman Keith Ashworth, Speaker of the House, who was the primary introducer of the bill. Mr. Ashworth read the statement prepared for the Legislative Commission on Wednesday, September 11, 1974, a copy of which is attached to these Minutes and is entitled "Summary of Probate Study". Mr. Ashworth proceeded to testify that there was a definite need to try to speed up the probate proceedings in Nevada of the small estate. Mr. Ashworth generally discussed what constituted a small estate. And, he noted that the federal government considered a small estate one which was under $60,000.00. He said that in the audience were Mr. Nigro, representing the Nevada Bankers Association, and Mr. Vacchina, representing the Nevada Bankers Association Trust Committee, who had come up with a definition more acceptable than "gross estate" or "net estate", and that term was "probate value of the estate".

Mr. Ashworth said that the subcommittee had the cooperation of the Nevada State Bar Association and that the Senior Citizens groups were at nearly every meeting they held. The Senior Citizens groups felt that this bill did not go far enough, particularly in regards to attorney fees. Mr. Ashworth said he tends to agree with them, and a bill with more reference to attorney fees might pass the Assembly, but in all probability the bill would not pass the Senate. He said he does not agree that this bill should be held up or delayed on account of specific amendments regarding attorney fees.

Mr. Ashworth said the subcommittee considered the bill as regards public administrators; however, there are only two public administrators in the State of Nevada--in Washoe County and in Clark County. Mr. Ashworth felt that the Committee should decide whether or not to add amendments to A.B.38 in regards to the public administrators. Mr. Ashworth did recommend that this Committee draw up separate legislation regarding them, because the public administrators have a lot of recommendations, and if they were added to this bill, it would only make it more confusing. The Committee proceeded to question Mr. Ashworth.

Mr. Barengo introduced Dick Sheffield of the Legislative Counsel Bureau,who was sitting in on the discussion of A.B.38.

Assemblyman Virgil Getto testified next. He emphasized the points which Mr. Ashworth brought to the attention of the Committee members. He stated that he and Mr. Ashworth were the only two remaining members of the original subcommittee which studied probate matters. He said he would like to see a definition of "probate estate" used, as "gross estate" could actually be practically nothing. He stated that he was aware that there was some opposition to this bill by the Senior Citizens groups. He said a tremendous amount of work went into this bill. The subcommittee held four hearings and heard testimony from every group in this State. He would not like to see the bill defeated now and come up again with something new in another two years. Mr. Getto said that he thinks some sort of attorney fee schedule would be advisable, but like Mr. Ashworth, he feels that we would have trouble getting this through the Senate. He stated in reference to Mr. Ashworth's comment that we have fairly good probate laws, that our state does not have archaic probate laws, and the subcommittee found that they are better than most states' laws. It is advisable to change our laws rather than adopt the Uniform Probate Code. At this point, the Committee proceeded to question Mr. Getto.

Mr. T. A. Nigro, Security National Bank, was here representing the Trust Division of the Nevada Bankers Association. He presented some proposed changes to A.B.38 to the Committee Chairman. For the Committee's benefit Mr. Nigro explained the difference between a probate estate and a whole estate. Mr. Nigro also pointed out that A.B.38 does not provide for any extraordinary fees, such as would apply in larger estates where there were apartment houses, ranch land, etc.

Mr. Nigro discussed the form of notice to be given to creditors and heirs. The Bankers felt that posting at the courthouse should be deleted from the wording of the bill, and publication in a newspaper in the county where the proceeding was pending (or, if no paper in available in that county, then by publication in the next closest newspaper). The Bankers believe that just posting does not give sufficient notice. Next to testify was George Dickerson, who is the Co-chairman of the Probate Committee of the State Bar of Nevada. Mr. Dickerson pointed out that the probate laws of the State of Nevada were much superior than what was proposed inthe Uniform Probate Code. Under the Uniform Probate Code, the fee must be agreed upon. Mr. Dickerson stated that there are many cases where it is essential and there may be tax advantages involved in not closing an estate very soon. Mr. Dickerson pointed out that there are no problems in the southern part of the State as far as fees go. Included in the original Petition to Probate was the request for a fee. Mr. Dickerson said that it is wrong to say that the least experienced attorney would be compensated as the most experienced attorney. It is reasonable that the compensation is left to the court's determination.

In regards to the senior citizens who want fees outlined, Mr. Dickerson pointed out that for the most part, the senior citizens are dealing with estates which are less than the $60,000.00 amount proposed. Mr. Dickerson then outlined the advantages of holding property in joint tenancy. He proceeded to advise the Committee of the changes which he would like to see.

Next to testify was George Folsom, a Co-chairman of the Probate Committee of the State Bar of Nevada. He said he feels that this bill may be bogged down by too many suggested amendments. He said it was a good bill, but it needed minor amendments. He stated that there has been concern about small estates in the State of Nevada. We have summary administration in our probate code, and between joint tenancy and summary administration, we have an excellent situation for handling small estates. He said that the minimum safeguards are lacking in the Uniform Probate Code. Mr. Folsom went on to enumerate several changes which he felt would be beneficial.

Mr. Folsom went on to suggest that a more practical method of appointing appraisers of an estate would be for the executor or administrator to employ the appraisers. When the court appoints the appraiser, you do not necessarily get the type appraiser you need, you may get a friend of the judge. Attached is the proposed amendment to this bill relating to the appointment of appraisers.

The Committee then questioned Mr. Dickerson and Mr. Folsom extensively.

Mr. Sheffield commented that whenever personal notice was required it should be given by citation under seal of the court. He then explained the difference between personal and individual service of notice.

Mr. Getto commented that some justification for attorneys' compensation should be presented to the court.

Chairman Barengo asked Mr. Breen, Mr. Folsom, Mr. Nigro and Mr. Dickerson is they would be able to furnish this Committee with some definition of "probate estate".

Next to testify regarding A.B.38 were Don Perry, American Association of Retired People and Retired Teachers Association, and John V. Carruth, from Winnemucca, Nevada. Mr. Carruth read a prepared statement to this Committee, a copy of which is attached to these Minutes. These senior citizens' groups are in opposition to A.B.38. The two main reasons they are against the bill are: (1.) There is an overestimated amount of compromise that they would have to make in bring about probate reform, and (2.) They do not attach the same importance that the legislators do in getting the bill put together and passed. Referring to the prepared statement, Page 15, Paragraph 4, " . . . . a study . . . . must set up a free exploration of all the ramifications of the subject areas, by a balanced panel which includes representation for all parts of our population. This is why we have requested that provision for such a panel be substituted for the bill AB 38."

Questioning and discussion followed by this Committee. Mr. Carruth said that in regards to this bill, the improvements are of detail and not of substance. The senior citizens feel that the harm is greater than the minor improvements which may be made if this bill passes.

Next to testify was James H. Phillips, an attorney from Las Vegas who was representing Nat Adler, Public Administrator of Clark County. Mr. Phillips requested that a copy of Mr. Adler's study entitled "Recommendations and Suggestions of the Office of the Clark County Public Administrator Relative to Modernizing the Statutes Governing Nevada Public Administrators and Relative to the Nevada Probate Code Recommended Changes", which is dated February 25, 1975, be attached to these Minutes. Since this copy is extremely lengthy and copies have already been distributed

to many legislators, including ones on this Committee, a copy will be included only with these original Minutes.

Mr. Phillips stated that the Public Administrator of Clark County operates under the Probate Code but does not have all of the guidelines he needs to perform his duties. Mr. Phillips said that attorneys do not set their fees at 5%, but this figure is a "rule of thumb" adopted by the court. Mr. Phillips stated that you must include the entire estate for the purpose of arriving at fees because the entire estate is subject to the debts of the probate estate. He also said that the estates he handles take six to eight months to close. If they go over nine months he starts reviewing the file very carefully to see what the delay has been. Chairman Barengo suggested that the Committee get together with the Public Administrators in the future and work out some legislation which would pertain to them, which is not pertinent to A.B.38.

Mr. Bill Haines, representing the Las Vegas Chapter of the American Association of Retired People, endorsed the suggestion made by Mr. Carruth regarding setting up a panel to take care of this matter. He stated that this bill needs much more study and preparation. He requested that this Committee defer taking action at this time.

Helen Marie Smith, of the American Association of Retired People and Retired Teachers Association, requested that this Committee hold off until something better can be worked out. She mentioned that joint tenancy ownership was a good thing, but with so many single people, it is of no benefit.

Mr. Orvis E. Reil, representing the Carson Chapter of the American Association of Retired People, testified in support of the stand of Mr. Carruth and the other people from the American Association of Retired People. He requested an increase in the size of the estate before it goes through probate, a shortened time for these proceedings to close and public notices in the newspaper.

Attached to these Minutes is part of a letter written to Mrs. Wagner by Juanita Tumbleson, which letter is relevant to A.B.38.

After a motion and a second, Mr. Barengo adjourned this Meeting at 11:00 a.m.

ASSEMBLY JUDICIARY COMMITTEE

GUEST REGISTER

DATE: Feb. 5, 1975

NAME	BILL NO.	SPEAKING	REPRESENTING
George M. Dickerson	A.B. 38	✓	Co chairman Probate Committee STATE BAR OF NEVADA
George K. Folsom	A.B. 38	✓	Co Chairman Probate Committee State Bar of Nevada
Fran Breen	AB 38		Nevada Bankers Assoc.
Gino Del Carlo	AB 38		FIRST NATIONAL BANK OF NV.
W. H. Haynes	AB 38		Las Vegas Chapter 1189 AARP
Eula Lee [illegible]	AB 38		Joint Nevada State Legislative Committee AARP/NRTA
Elaine Carruth	AB 38		Winnemucca Chapter A.A.R.P.
Helen Marie Smith	AB 38		Joint Nev. Leg. Com. AARP NRTA Las Vegas
Mary Gayle Jensen	AB 38		Nevada Retired Teachers
Helen C. Baldwin	AB 38		NRTA - State Director
Earl [illegible]	AB 38		Western Nev Chapter AARP #[illegible]
W. D. McCullough	AB 38		AARP Dir. State
James H. Phillips	AB 38	✓	Nat Adler
Nat Adler	AB 38		as Public Administrator
J. A. [illegible]	AB 38	X	Trust Division Nevada Bankers Assn.
John V. Carruth	AB 38	X	AARP-NRTA
Alan Perry	AB 38	X	AARP-NRTA
Orvis E. Reil	AB 38	X	Carson Chapter AARP
Catherine Perrotti	AB 38	✓	AARP
Florence S. Schroeder	A.B. 38	✓	NRTA-AARP
E R Vacchina	AB 38		Nev. Bankers Trust Com

SUMMARY OF PROBATE STUDY

(For Chairman Ashworth's Statement to Legislative Commission on Wednesday, September 11, 1974.)

The probate subcommittee has completed its study and prepared a final report. Copies of the report were mailed last week to the commission members, so that you would have an opportunity to review it for consideration and possible acceptance at this meeting.

The first part of the report tells how the study was conducted. The subcommittee held five public hearings for the purpose of gathering testimony. A sixth session was held to provide the subcommittee further time to deliberate on specific legislative proposals. The dates and places of the meetings were:

1. September 12, 1973, Carson City
2. October 24, 1973, Las Vegas.
3. January 9, 1974, Reno.
4. February 26, 1974, Las Vegas.
5. June 21, 1974, Carson City.
6. August 13, 1974, Carson City.

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During the series of hearings, the subcommittee received testimony from many Nevadans who are interested or involved in probate matters. These Nevadans included spokesmen for senior citizen groups and professional organizations, such as lawyers, bankers and accountants. The subcommittee also heard speakers from two of Nevada's adjoining states, Professor Richard Effland of Arizona and State Senator Edith Miller Klein of Idaho, who discussed the Uniform Probate Code. The report contains highlights of the testimony given by the various speakers.

The second part of the report presents the subcommittee's general conclusions about the Nevada probate laws, an analysis of particular provisions and legislative recommendations. A proposed bill is attached as Exhibit H.

As the report states, the study has shown a need to make a number of improvements in the existing Nevada probate laws. The report concludes, however, that a wholesale repeal of the existing laws and substitution of unfamiliar laws is not desirable.

The improvements being recommended involve the addition of two new sections and the amendment of 35 sections of NRS.

The report notes that there are certain time-saving procedures already in the Nevada lawbooks and recommends expansion of these procedures to accommodate the estates of the average citizen.

These streamlined procedures will allow such estates to be administered with as little formality and delay as possible. To allow more estates to be handled under the procedures, the report proposes raising the dollar ceilings for summary administration from $8,000 to $60,000, for setting estates aside without administration from $5,000 to $10,000 and for obtaining estate property by affidavit from $1,000 to $2,000.

over

The report also recommends enactment of a new section which would require an executor or administrator to explain to the court any excessive delay in his administration. He would be subject to sanctions if the delay is unreasonable.

Another recommendation in the report concerns the method of compensating attorneys for executors or administrators. The method would be revised to encourage private agreements on the amount of the fees. Hearings would be established at which the court would approve or fix the amounts after considering any objections raised by persons interested in the estate.

A further recommendation would refine the statutory scale under which executors and administrators are compensated. At the same time, the amended provision would modernize the treatment of services concerning real property.

The report recommends increasing the authority of the executor or administrator with regard to investing funds, leasing property and paying small debts.

Uniform notice provisions are recommended for hearings on the issuance of letters. The present distinction between the notice schemes for estates with wills and without wills is believed to create an unnecessary complication.

over

Besides the recommendations just mentioned, the report contains a number of other proposed changes. All the proposed changes are designed to make the administrative procedures more efficient and thereby speed the settlement of decedent's estates.

CHAPTER 144

INVENTORY AND APPRAISEMENT

CROSS REFERENCES

Appraisers, appointment by district court, NRS 3.210
Homestead and exempt property set apart without administration after inventory, NRS 146.020
Partnership interest to be included in inventory, NRS 143.040
Specific legacy for life, inventory to be filed by life tenant, NRS 151.220
Summary administration, NRS ch. 145, 146.070
Testamentary trust inventory filed 30 days after possession, NRS 165.030

144.010 Inventory and appraisement to be made and returned. [struck-out text]. Every executor or administrator shall make and return to the court, within 60 days after his appointment, unless the court shall extend the time, a true inventory and appraisement of all the estate of the deceased which has come to his possession or knowledge.

[98:107:1941; 1931 NCL § 9882.98]—(NRS A 1971, 9, 1163)

144.020 Employment of Appraisers. The executor or administrator may employ a qualified and disinterested appraiser to assist him in ascertaining the fair market value as of the date of the decedent's death of any asset the value of which may be subject to reasonable doubt. Different persons may be employed to appraise different kinds of assets included in the estate. The appraiser or appraisers shall be entitled to reasonable compensation for services rendered to be paid by the executor or administrator from estate funds at any time after completion of the appraisal services.

144.030 Appraiser's oath: Form of appraisement.

1. Before proceeding to the execution of his duty, each appraiser shall take and subscribe an oath, before any officer authorized to administer oaths, that he will truly, honestly and impartially appraise the property which is exhibited to him or called to his attention according to the best of his knowledge and ability. The oath shall be attached to the inventory.

2. He shall then proceed to appraise the property of the estate. Each article or parcel shall be set down separately with the value thereof in dollars and cents in figures opposite to each article or parcel, respectively.

[Part 100:107:1941; 1931 NCL § 9882.100]—(NRS A 1973, 419)

144.040 Inventory: Contents.

1. The inventory shall include all the estate of the deceased, wherever situated. [struck-out text]

2. The inventory shall contain:

(a) All the estate of the deceased, real and personal.

(b) A statement of all debts, partnerships, and other interests, bonds,

mortgages, notes, and other securities for the payment of money, belonging to the deceased, specifying the name of the debtor in each security, the date, the sum originally payable, the endorsements thereon, if any, with their dates, and the sum which, in the judgment of the appraiser, may be collectible on each debt, interest or security.

3. The inventory shall also show:

(a) So far as can be ascertained, what portion of the estate is community property and what portion is the separate property of the deceased.

(b) An account of all moneys belonging to the deceased which has come to the hands of the executor or administrator.

[Part 99:107:1941; 1931 NCL § 9882.99] + [Part 100:107:1941; 1931 NCL § 9882.100]—(NRS A 1973, 420)

144.050 Claims against executor. The naming of any person as executor in a will shall not operate as a discharge of any just debt or demand which the testator had against such person, but the debt or demand shall be included in the inventory and the person named as executor shall be liable for the same as for so much money in his hands when the debt or demand becomes due, unless it be proved that he had not, either at that time or at any time thereafter, any means wherewith to pay such debt or demand, or such part thereof as may remain unpaid, and that such inability did not arise from any fraud committed by him, but any commissions allowed shall be applied toward payment of the debts or demands.

[101:107:1941; 1931 NCL § 9882.101]

144.060 Status of bequest of claim against executor. The discharge or bequest in a will of any debt or demand of the testator against any person named as executor in his will, or against any other person, shall not be valid against the creditors of the deceased, but shall be construed as a specific bequest only of such debt or demand. The amount thereof shall be included in the inventory and shall, if necessary, be applied in payment of his debts. If not necessary for that purpose, it shall be disposed of in the same manner as other specific legacies or bequests.

[102:107:1941; 1931 NCL § 9882.102]

144.070 Inventory signed by appraiser; oath of executor, administrator endorsed on inventory. The inventory shall be signed by the appraiser or appraisers, and the executor or administrator shall take and subscribe an oath, before any officer authorized to administer oaths, that the inventory contains a true statement of all the estate of the deceased which has come to his possession or of which he has knowledge, and particularly of all moneys belonging to the deceased, and of all just claims of the deceased against the executor or administrator. The oath shall be endorsed upon or annexed to the inventory.

[103:107:1941; 1931 NCL § 9882.103]—(NRS A 1973, 420)

144.080 Failure to file inventory: Revocation of letters and liability on bond. If an executor or administrator shall neglect or refuse to return the inventory within the time prescribed or such further time as the court or judge, for good cause, allow, the court may, upon such notice as it may prescribe, revoke the letters testamentary or letters of administration, and the executor or administrator shall be liable on his bond for any injuries sustained by the estate through his neglect.

[104:107:1941; 1931 NCL § 9882.104]

144.090 Inventory and appraisement of newly discovered property: Supplemental inventory.

1. Whenever any property, not mentioned in any inventory that has been made, comes to the possession or knowledge of the executor or administrator, he shall return a supplementary inventory of such property within 20 days after the discovery thereof, in the same manner as an original inventory.

~~2. If the last appraiser is not in the county another may be appointed.~~

2. ~~3.~~ The court may enforce the making of a supplementary inventory as an original.

[105:107:1941; 1931 NCL § 9882.105]—(NRS A 1973, 420)

The next page is 4575

We don't want to leave anyone in suspense any longer about the facts of AB 38. There is nothing in it for the people. There is only a repainted shield for those who are enriched by the death of a breadwinner who has planned carefully and saved all his life to help his loved ones after he is gone.

We have an anomalous situation here - or, as the word "dichotomy" is used today, it would be a classic dichotomy. There have been a number of legislators who have worked toward effective, meaningful probate reform with a dedication and purposefulness which could scarcely be called less than heroic; yet we find ourselves in almost diametric disagreement with the product of efforts in which they had some degree of involvement. At no point in our discussion do we forget our appreciation to them for their unselfish labors for the ordinary people, the general public of this state; we hope they will be able to remember it also, as we differ with the final position they took, for our feeling toward them is near to an emotional gratitude. We believe that our differences with them can be condensed into two points: first, we believe they overestimated the amount of compromise which they would have to make in bringing about probate reform, because it has all been compromised away; second, we do not attach the same importance that they do, to the fact of getting some bill put together and passed by the legislature. We can see how this might seem important to a legislator, but our view, from the citizens' side, is that a worthless bill can easily be worse than nothing.

For some months, we have been receiving the advance publicity for the legislative proposals which have become AB 38, and it has sounded good. These proposals were termed "probate reform", and the explanations of it indeed gave the impression that we are at the door to a new era in Nevada, when the draining of estates would be over. Then, copies of the Legislative Commission report began to appear, and we were able to read a few sentences at a time. It reads good, too. When you can only scan a few lines of its language, and this hurriedly, these proposals are composed by masters of the art of steering people's minds, and their

language sounds like a real assault on the misdeeds in the handling of estates. 174

It is only when this proposal is studied with great care, keeping carefully in mind the provisions of the present Nevada Probate Code - in nearly 200 pages - and looking, not for what is printed in the proposal, but for what is missing from it; and not forgetting at the same time, the information supplied by friends all over the state, about probate abuses they know of, and asking how this legislation would make any difference with those abuses - only then does the real message begin to come thru; this proposal doesn't even touch on probate reform - it only stirs the mess with a stick.

AB 38 makes a great fuss about probate problems without ever touching them. Its language fills a great deal of space, without getting around to putting bridles on the special-interest persons who profit from other people's earnings. The proposed legislation, in the Commission report form, consists of 806 lines of material; of this, 333 lines deal with the giving of notices. Of course, notices have some importance, but they scarcely represent over 41% of the problems. Items like barring a judge from appointing an attorney to represent a non-resident legatee when that party has a representative in the courtroom objecting to the procedure desdrves some attention; items like paying an attorney's friend $27 to appraise 6 used books, which were then sold for $1.79, calls for some action; these things call for more attention than the giving of notices, but none of them are even touched.

We are given the impression, from the publicity about this bill and the arguments for it, that various leaders, some attorneys among them, have discovered ways that they can serve the people and, because of their desire to benefit humanity, they are devoting their learning and ability to the task of fashioning a better lot for the ordinary people. Actually, they have been hovering about this committee, as well as the Legislative Commission's subcommittee which worked on this subject; and they have been using every form of persuasion and pressure to influence the legislative proposals which became AB 38. Instead of probate reform coming up because of the humanitarian spirit of those who have caused its problems,

the fact is that pressure has been building up against probate abuses, to the point that the dam is about to break. The people can no longer be held at cat's-paw. This appears to be true for 3 reasons.

The first reason is that the educational level of the general public has risen. There are fewer people to be found today, who cannot read for themselves and must accept whatever is told to them.

The second reason is that communication has vastly improved. A large part of this factor is improved dissemination of information thru the news media. Furthermore, the effectiveness of the news media has been greatly upgraded because many of the firms engaged in news reporting, especially the larger firms, have discovered that they are no longer the captives of the advertisers. Because of this, the tendency in news reporting has become, more and more, to tell it like it is. It is getting so it is no easy job to continually fool the people.

The third reason is that people are learning to band themselves together, to achieve closer communication and concerted action. One example of this is that quite a number of us are members of either the American Association of Retired Persons or the National Retired Teachers Association. Our Nevada membership is now about 24,000, and the increase in our membership has been running about 1,000 per month. But more interesting than these figures is the fact that our rate of increase has also been increasing each month, at a rate greater than that produced by compounding the membership figures. We view this as a significant trend in sociologic patterns.

Our mission today is not to talk about the American Association of Retired Persons, for we know of at least 23 other senior organizations in this state. And the sum of all their memberships after removing duplication is only a fraction of the number of citizens who are acquainted, in some degree, with the antics of some professional persons in handling the estates of their relatives and friends, and who are demanding that effective remedial action be taken. We will not take the time to go into the subject of the organizations and friends who have made known their support of far-reaching, genuine probate reform.

The power brokers who are now claiming to work for thd people's interest have sensed that the dam is about to break, and that probate reform is coming in one way or another. Their rush to head this movement is no surprize. Their reasons are very simple and very selfish. Persons in that kind of business learn one rule early in their practice: always lead the people; it may be in the opposite direction from the way you want to go, but always lead them. By offering leadership in the probate area, their hope is to blunt the drive toward genuine reform, prevent the adoption of any measures which might interfere with the systems their friends use in slicing off chunks of estates, create confusion whenever objections are raised to the half-hearted changes they propose in the law, and, in time, have even the mildest improvements caceled by friendly court decisions.

Some of us have devoted years to the project of gathering information relating to probate problems, finding and talking with persons who have had some direct involvement with the probate process, trying to become familiar with the content of statutes on this subject, and learning something about the thinking in various quarters as to how the problems might be solved equitably. There will be no attempt to review such material here, but some incidents will be mentioned incidentally, to give meaning to a thought.

One observation comes thru the conversations about estates and probate: many people regard this as a subject for old people. The fact is, the protection of estates actually has more value for the young people than for the seniors, for it is the young people who receive the benefits of the estates, either immediately or ultimately. Perhaps the senior people take a more active interest in probate regulations because, having accumulated their years of experience, they have received first-hand knowledge of the abuses which are too common. Whether their recollection is of a vast ranch which virtually became the property of an attorney and his hangers-on, or of a fee of nearly $2,000 being charged merely to transfer the name on one bank account which was not disputed, they have pretty clear ideas

of what the facts are, which make up the problems. And, in their years of experience, they have heard enough purring voices telling them how this is all for their own good. They have heard it all many times, and they have stopped believing it, long ago.

Involved in the probate proposals are many questions which are not questions of argument, but questions of fact. One thing is true and the other thing is not true. We shall try to point directly to some of the truths which can be found in this subject, and contrast them with the unfounded claims which have been made. Truth and untruth cannot be exchanged according to who has said them.

Let us first consider the Legislative Commission's report on Nevada probate statutes, which presents the work of their subcommittee, called Bulletin No. 113.

This report has 3 principal subdivisions. The first subdivision is a presentation of the general subject matter involved, explaining their undertaking, discussing the testimony they received and their analysis of it, leading to the conclusions they reached. The second subdivision presents the statements made by witnesses. The third subdivision is their proposed legislation, which has been introduced as AB 38.

The section of testimony by witnesses contains the statements by a number of persons. All of these persons, except one, were following professions which profit from probate procedures, in one form or another. The Commission report is so sensitive to the wishes of these professional groups that their recommendations are incorporated verbatim into the remarks of the subcommittee itself; in other words, they were accepting the views of those who profit from probate, as their own views.

There was also testimony by Mr. Don Perry, a responsible representative of well-established organizations of senior persons whose membership comprise a significant part of the population of this state. His advice, however, seems to

have been mislaid when the Commission report was being prepared.

The burden of Mr. Perry's presentation was the request that Nevada follow the method adopted by the state of Utah, in studying probate problems and legislation. The Utah method involved the creation of a panel which gave representation to all interested groups, the most important of these being the general public. Of the general public, those who may be most aware of the importance of probate procedures and best qualified to grapple with the accompanying problems are the senior members of the general population, and Utah has wisely sought their assistance by asking their representatives to serve on the probate study panel.

Mr. Perry pointed out that one valuable source of helpful material which the study panel should consider is the recommendations which are called the Uniform Probate Code. By no means is this the only source of information, and its contents should not be regarded as the solution to all probate problems; neither are its provisions free of new problems. Therefore, our position should not be viewed as merely an endorsement of the UPC. Developing all these particulars would occur in the free exchanges which would result in the deliberations of a balanced study panel. Mr. Perry could have saved his energy. His advice was ignored.

In the section of discussion and analysis, there is considerable space given to the ideas of various attorneys and bankers, as to what would be best for the people. However, there was non mention of the problems which are needing solution, nor an explanation of how they would design their legislation to solve the actual problems which the people have to contend with. There was no hint of a situation like the estate which has already been played with for over 9 years, with heavy attorney fees being regularly charged; there was no question raised as to whether a study of the appointments by judges, of attorneys, administrators, appraisers, etc. etc. might show that the persons chosen for his appointments corresponded closely with a list of the judge's supporters in his own election campaigns, or of his best campaign contributors. Perhaps these questions were beneath the dignity of the subcommittee, but they are not beneath the travail

of our people, who have to bear the consequesces.

To the studious mind, a report is puzzling which does not admit that there are problems which set it in motion, and that the object of its work is to cope with those problems.

The section of discussion does state the intention to create civil liability on the part of the executor for any losses or damage caused by his neglect; however, this promise is not kept, as nothing is said about it in the proposed legislation.

The proposed legislation itself (AB 38) is the subject of many claims, and a great campaign of advance publicity. For the sake of brevity, this discussion will take up only the claims which have been most emphasized in public announcements, and will demonstrate that none of them are based on fact.

We do not hear the subject of AB 38 mentioned on radio or TB without receiving the explanation that this bill would reduce probate time to 6 months, or to 12 months for large and complex estates. You cannot pick up the printed bill without seeing, at first glance, language which sternly announces that the executor must take care of his job. Close behind this comes the phrase "Within 6 months - - ", so a quick glance at the bill can convey the impression that now we are really getting somewhere, and the monkey business will be at an end. If the printed bill is not laid down at this point, with a feeling of satisfaction, one may read on to learn the further requirements which will be made of the executor. We see that the law is really laid down to him.

Somebody is laughing at us. Completely missing from this section is any kind of enforcement clause. If the executor does not make the 6-month report (or 12-month, for larger estates), this bill does not propose that anything happen. Everyone understands well enough that you can adopt an ordinance which provides that a driver may not operate his car faster than 25 miles an hour, but it has no meaning unless the ordinance also provides for what happens if someone does drive

at a faster rate. A state law against murder also has no meaning, if the law does not provide that an offender is to be punished. And in this proposed law, it is not worth the trouble to say that an executor must make a report in 6 months, if nothing is to happen when he pays no attention to this requirement. Apparently it did not even occur to its writers to provide that a person who is interested in the estate could demand that the executor obey the law, and that the complaining party would be repaid for his expense in getting compliance with the law.

But what if this 6-month report is made, just what improvement is that over the requirements which are already in the probate law - the law which is now in effect, and which the publicity says is being improved? The people who wrote the present probate law never intended that anyone would find out what is in it, as it is not possible to take any one subject and simply study what the law has to say about it. There is a sentence here, a paragraph over somewhere else, and a section in some other part of the law which affects the subject, etc. etc. But after tracing thru all its parts for the rules which govern the various steps required up to the initial report by the executor, what it comes down to, counting the maximum time allowed for each of the steps required in the present procedure, the total time from the appointment of the executor until the initial report which is required, is 5 months and 17 days. This proposal would make great strides, indeed, by changing the time to 6 months.

Now, if this 6-month or 12-month report is made, does this end the probate period? Of course not, unless there is a complete reversal in the philosophies and practices by attorneys and judges generally. This proposed law tries to plant the idea that something new is happening, and that the 6-month report ends the probate activities. The present law requires reports, and the incidents we all know about, such as an attorney playing for 2 years with the job of transferring the title to one piece of land which was bequeathed to one person without any contest, these things can only happen because the judge is sympathetic to the wishes of the attorney.

Now, let us see how this proposed law would change all that. It provides that the judge can prescribe the time within which the estate is to be closed, or he can allow more time to the executor, or he can remove the executor from his position. In our present law is provision that a judge may suspend an executor for unreasonably delaying the performance of his duties. If now, before passing any new law, a judge is allowing an exedutor to drag out the winding up of an estate, is there any reason why we should believe that, suddenly, the judge would become more strict and demand some action, especially when this proposed law holds the door wide open for extensions of time?

And if the 6-month or 12-month report is made, and the judge should go to the extreme of finding that the executor has not protected the estate properly, has made no attempt to carry out his duties, what happens? The most extreme step suggested in this proposed law is that the executor might not be allowed to do it any more; he can be removed from his position. This is strong punishment, indeed. Let us get some perspective of this situation, and take a long-range look at what is going on. A person, in drawing a will, will frequently choose a close relative as his executor. When this is done, we can expect that this executor will proceed with the greatest speed possible while being careful to take care of the estate. He will be strongly motivated by dedication to the deceased relative; furthermore, he will be subject to the pressures of family ties, and will not wish to let down the other family members. Add to this, the fact that he is probably not being paid anything for his work. All these factors lead to the probability that this executor is not the source of problems such as dragging out the settling of the estate. He may face problems in the failure of an attorney to carry out assigned duties, but in that case, the executor is as anxious as other family members to end the delays and bring the settling of the estate to a close. Therefore, the relative who is serving as executor is not likely to be our subject in this discussion.

In other situations, a person drawing a will might choose an attorney or a banker as the executor. This is more likely to occur with a larger estate, or when

the testator wishes to avoid placing this burden on his survivors. This attorney or banker is not a relative, and is serving as executor as a part of his business. And he is being paid for his services. It is in this case that delays are more to be expected. When we are discussing the situation where delays are a problem and where there may be a question as to diligence in caring for the estate, we are, more than likely, looking at a non-relative, and that non-relative is almost certainly a professional, such as an attorney or a banker. This is the person, then, who is the subject when we are thinking of possible disciplinary action, for not acting promptly or with due dare. And for this, we have already seen that the most severe punishment in this proposed law is that he might not be allowed to do it any more.

Let us contrast this treatment with the spirit in the existing probate code, when it discusses the turning over of a will to the clerk of the court. In this case, we are most likely to be looking at a relative of the deceased. And that relative, if he does not get that will into the hands of the court clerk, can be put in jail. Thus, we see entirely different philosophies between the treatment of the bewildered, bereaved citizen and the treatment of an attorney or banker. It seems only reasonable to us that a far firmer position should be taken in a probate code as to what is to be done and not done by professional personnel, including judges.

A second claim for AB 38 which is being trumpeted is that it raises the level for summary administration of an estate from $8,000 to $60,000. Not so. The figure of $60,000 is in the proposal, but it would only be used if a judge wishes it. We shall not go into a discussion now, of the conditions under which we can feel sure that the judge would not think this is a good idea.

The same principle applies, in part, to the claim that the level for setting an estate aside without administration is being raised from $5,000 to $10,000. That section is divided into 2 parts, and one of them is subject to the judge's point of view.

We are hearing an outright snake-oil pitch on the subject of attorney fees. This has been a bugaboo for generations, of course, and it is the drain pipe thru

which large parts of estates are sometimes drained off. Now comes the exciting announcement that we have a proposed law which would give to the people a new right: the right to negotiate with the attorney on the amount of his fee. We cannot understand how such a statement can be made with a straight face, since every American was born with that right. What it comes down to is that the Legislative Commission's subcommittee reported that, any way the subject of attorney fees is approached, some kind of problem is encountered; therefore, nothing would be done. We say there must be legislation which requires some measure of responsibility in the determination of fee amounts. At some time - and it should be now - we must come to grips with the basic question involved here. We must cast out the notion that attorneys, by the nature of their profession, are entitled to a share of the estate in question. Their fees should constitute payment for the work they have done, and they should be required to give an accounting to the executor of their work, with reasonable payment being based on the work, not on the value of the estate. Estate work which requires only a secretary's time should be paid for according to what it is, not according to the amount of someone's life savings.

Actually, we are the butt of another joke here. It is a costly joke, in dollars and in years. Our attention has been drawn to aspects of the probate jungle which are probably the least meaningful, or have the least impact on the overall outcome of probate problems. Even if the falsities and shortcomings of the probate law and the new proposals which are discussed above were not true; even though each of them is proved and no room is left for alibis and excuses, let us imagine that none of it is true - in that case, it might make little difference anyway, on the cost of probate and the time which is taken by someone who wants to prolong it, nor on the abuses and indignities which are experienced by persons who are only guilty of being due part of the estate.

Far greater impact comes out of the pyramiding of services which are ritualistic, expensive, and unnecessary; from the unassailability of various appointees, from those who have a true interest in an estate; from the confusion of roles, especially as between those of the executor and the attorney; and from

the fraternal relationship between judges and attorneys. 184

It is accepted practice for an executor (who may be an attorney) to hire an attorney, and he may retain another, and they may call for the appointment of appraisers to determine the value of various items which were owned by the deceased. Our probate code makes very clear that an executor (who might be a family member) has no voice in the choice of an appraiser. The appraiser is chosen only by the judge. Actually, there are many instances in which it would be quite appropriate for a widow to find someone who is a friend of the family to make an appraisement, without charging the unconscionable fees which are the rule in probate cases. Such appraisements can be made subject to question by interested parties, in which case the question of values could be considered more formally. There should be no appointment of an appraiser allowed for items with a readily ascertainable market value. As it is, if a man had purchased securities out of his savings for a lifetime, a judge is perfectly free to appoint the banker as the appraiser for the securities, allowing him a fee of $5,000 for the work. The banker hands the list to his secretary, who checks the morning edition of the Wall Street Journal and provides the statement of their value. This can take all of 30 minutes, and could have been done as accurately and reliably by the widow, with no training whatever, and without any charge. Do you realize how much protection the people have from this kind of thing? At least, the law provides that the judge is not allowed to appoint an appraiser to determine the value of money! Before you split your sides laughing, let me assure you that this is deadly serious. And we do not quite see the joke.

An executor who is a family member should be allowed a voice (and usually, a controlling voice) in the selection of personnel who are actually needed in settling an estate. It should be possible for them to obtain bids from a number of sources, on the fees to be paid - that is, when it is inconvenient for some long-time friend of the deceased to provide this last assistance. It should be obvious enough that the thrust of this thought is that the probate process should be made into a service instead of a racket.

We also need some perspective on the arrangement we can call the executor-attorney identity. When the executor is a family member, he is likely to employ an attorney in many cases. But when the chosen executor is an attorney, he is almost certain to occupy 2 positions at once, and the distraught family members may not have full realization of what is going on. The executor will act as the executor, in which capacity he is subject to the rules relating to executors; but he also acts as an attorney, and as such there are no rules. As the executor he is required to meet certain time limits, but as an attorney, there are no time limits. As the executor, he is called on to make reports at certain times; with the executor's hat on, he explains that there are various legal problems which will require further attention, and the executor is not held responsible for that kind of delay; then, as the attorney, he takes all the time he wishes, for there is no mention in the present probate law, nor in the proposal AB 38, of any time limits for attorneys. AB 38 actually joins in the magician's act of drawing our attention to the executor, and ordering him to perform his duties, when the problem all the time was the attorney, not the executor.

The attorney-executor is paid as the executor, according to the fee schedule in the law. And it is probably from such dual relationships that many people of the general public have gotten the idea that attorney fees in probate cases are subject to certain limits. It is the executor's fees which are subject to limits, not the attorney fees; there are no stated limits whatever, to the attorney fees. And it is interesting to note, that when the law has restrictions on positions which may sometimes be filled by attorneys, we also find that convenient back doors are provided, and trap doors, and corners to hide behind. In this case, the fees which are allowed to the executors appear to be the end of the story, but this is not so; following close behind the fee schedule is the provision that they are also entitled to additional compensation for extra duties. But the extra duties which it describes are actually what he should have been doing in the first place. Beyond that, the executors are paid all their expenses. Now, when our attorney-executor puts on his attorney hat,

he is able to charge for his attorney services and expenses without any limit. The law creates the impression that there is some restraint on the attorney's charges, by providing that they must be approved by the judge. If we ever learn of a case in which a judge actually told an attorney in a probate case that he was overcharging, then we may begin to think that sometimes there are limits.

A situation which is probably common is when a person will choose an attorney whom he has known for many years, as his executor, and work out arrangements in advance for an exchange of services between them. The legator may render services while he is alive, or perform favors for his attorney acquaintance, in return for which the attorney agrees to handle his estate, when the time comes, for some relatively small fee. So that other people can know what is expected, he writes into his will the amount which will be due the attorney, in accordance with their agreement. But our law has a built-in trap door to deal with this circumstance: it provides that the executor may renounce the remuneration provided for him in the will, and disregard that limit when he collects his fee. In other words, after the guy is dead, what's the difference?

Proof of wills, in the main, is an exercise in useless ritualism, sometimes at considerable expense. The self-proving will is only a partial relief from this problem. Meaningful legislation would provide that a will would be presumed valid unless challenged by an interested party, in which case any necessary court procedures would make a determined search for the truth.

The privileges of judges should be carefully and firmly circumscribed, in the appointment of attorneys to represent estates or heirs. A legatee should be able to appoint his own personal representative, if he wishes. In no case should a judge be allowed to appoint an attorney to represent a legatee who neither needs nor wishes such an appointment to be made.

When the wife is the sole beneficiary and the will appoints her as the personal representative, court approval should not be involved; and the requirement of a bond from her can only benefit those who profit from ritualism and procedure.

A simultaneous death clause of at least 5 days is imperative to stop multiple probate charges.

Release of funds as family allowances should be required, not permitted, subject to provisions for taxes and claims against the estate; penalties against an executor for failure to make such allowances should be enforceable by family members.

There is a widespread call in our state for a requirement that a public administrator have a witness when he enters onto the property of a decedent. When he is given a burial allowance for an indigent, an independent, credible witness should be required, to the fact that a human body was actually committed to the earth or to the flames.

When a legator names a relative as his personal representative, it should be possible for his will to waive many of the requirements which the statute makes of executors.

In large part, this discussion has been only an identification of the false and empty claims which have been made for the proposed legislation, AB 38, with a quick enumeration of some of the urgent subject areas which should receive sincere attention, in place of the catchy and showy phrases which are being called probate reform. This capsule form is used because it is all that is possible in this short time. The problems which exist in present probate procedures cannot be adequately discussed in a few hours. If a study of them is to be more than a pretense, it must set up a free exploration of all the ramifications of the subject areas, by a balanced panel which includes representation for all parts of our population. This is why we have requested that provision for such a panel be substituted for the bill AB 38. A denial of that opportunity is simply a surrender to the special interest groups who have used the existing probate code, and are using the proposed empty proposal, to preserve the very effective sanctuary for their profiteering operations.

The argument is being used, in an effort to push this bill thru, that it is not perfect but is an improvement, therefore it should be adopted and then we can work for a better law. This is a specious argument, attempting to sell an empty

package with pretty wrapping. There is not one of the so-called benefits which are claimed for this bill, which is not already in the existing Nevada probate code.

Our plea to the legislators is not that you do something for us, but to do something for all the people of this state; this will also be a service to yourselves. We are asking you to be part of a program which you can be proud of in the coming years, and to spurn the enticement and the hollow self-serving explanations of those who would make you part of a scheme which will be a bad word in Nevada history.

John V. Carruth

655 Kirman Avenue
Reno, Nevada 89502
February 26, 1975

Mrs. Sue Wagner
845 Tamarack Drive
Reno, Nevada 89502

Dear Mrs. Wagner:

Early in the session AB 38 was introduced and referred to the Committee on Judiciary. One of the provisions of this bill that I especially liked is that an attorney's fee for his services for a decendent's estate would be determined by the executor of the will. At the present time I believe it is set by the court and is a per centage of the value of the estate. My belief is that the fee should be determined by the executor according to the amount of legal work required to settle the estate, and not merely a per centage of the value. Two estates, for example, could be of equal value, yet one might require a great deal more work than the other.

I am a retired person and my estate certainly will be a modest one - most likely my home and my savings. When one considers executor's fees, attorney's fees, fee for appraisal, broker's fee for selling my home, and court costs, it sometimes hardly seems worthwhile trying to be thrifty.

It does not appear that AB 38 has had any action on it since it was referred to the Judiciary Committee. I believe an interim study was made on the subject of small estates, with Mr. Ashworth as chairman of the committee. Do you think the work of that committee will receive no consideration at all?

Sincerely yours,

Juanita Tumbleson

Juanita Tumbleson

WARNING! KEEP OUT!

UNDER PENALTY OF THE LAW

THESE PREMISES ARE SEALED AND ARE NOT TO BE ENTERED OR TOUCHED AND ARE UNDER POLICE SURVEILLANCE BY ORDER.

Phones: 735-3444 — 736-4311

NAT ADLER, PUBLIC ADMINISTRATOR

INSTRUCTIONS FOR COMPLETING APPLICATION FOR BURIAL BENEFITS (UNDER 38, USC, CHAPTER 23)

IMPORTANT - READ THESE INSTRUCTIONS CAREFULLY

1. ELIGIBILITY. The deceased veteran must have been discharged or released from service under conditions other than dishonorable and must have either:

   a. Been a veteran of any war; or
   b. Died of a service-connected disability; or
   c. Been discharged from active service for a disability incurred or aggravated in line of duty; or
   d. Been in receipt of (or but for receipt of retirement pay would have been entitled to) disability compensation; or
   e. Died in a Veterans Administration facility to which the deceased was properly admitted.

2. BENEFITS PAYABLE.

   a. BASIC BURIAL ALLOWANCE - An amount not exceeding $250 for expenses of burial and funeral of the deceased veteran.
   b. INTERMENT OR BURIAL PLOT ALLOWANCE - An additional allowance not exceeding $150 for incurred expenses of interment or burial plot when the death of the eligible veteran occurred on or after August 1, 1973, AND the interment or burial was not made in a national cemetery or other cemetery under the jurisdiction of the United States.
   c. BURIAL ALLOWANCE FOR SERVICE CONNECTED DEATH - When the veteran's death occurs on or after September 1, 1973, as the result of a service-connected disability, an amount not exceeding $800 may be paid in lieu of the $250 basic burial allowance and the interment and plot allowance.
   d. TRANSPORTATION COSTS - The cost of transporting the body to the place of burial may also be paid in addition to the above allowance when:

      (1) The veteran died while in a hospital, domiciliary or nursing home to which he had been properly admitted under authority of the VA, or
      (2) When the veteran died enroute while traveling under prior authorization of the VA for the purpose of examination, treatment or care.

3. WHO SHOULD FILE CLAIM. If expenses of the veteran's burial, funeral and burial plot have not been paid, claim should be filed by the funeral director, cemetery owner or other creditor. If such expenses have been paid, claim should be filed by the person or persons whose personal funds were used to pay such expenses. If the expenses were paid from funds of the veteran's estate, claim should be filed by the executor or administrator thereof in which case there must also be submitted a copy of the letters of administration or letters testamentary certified over the signature and seal of the appointing court.

4. TIME LIMIT FOR FILING CLAIM. Claim must be filed with the Veterans Administration within 2 years from the date of the veteran's burial or cremation. In any case where a veteran's discharge was corrected, after death, to one under conditions other than dishonorable, claim must be filed within 2 years from date of correction.

5. CAREFUL EXECUTION OF CLAIM NECESSARY. All of the information required in this application must be answered fully and clearly. Answers must be written in a clear, legible hand or typewritten. If you do not know the answer to any question, say so. If any of the questions are not clear and you desire further information before attempting to answer the question involved, you should write to the Veterans Administration for instructions.

6. COMPLETING OF CLAIM BY A FIRM OR CORPORATION. The claim must be executed in the full name of the firm or corporation and show the official position or connection with the firm or corporation of the individual who signs the claim in its behalf, e.g.:

STONE FUNERAL HOME
By: John Doe, President.

7. PROOF OF VETERAN'S DEATH TO ACCOMPANY CLAIM. The death of a veteran in a Government institution does not need to be proven by a claimant. Otherwise, the claimant must forward a copy of the public record of death or a copy of a coroner's report of death or of the verdict of a coroner's jury, certified by the custodian of such records. If proof of death has previously been furnished the Veterans Administration, it need not be submitted with this application.

8. STATEMENT OF ACCOUNT TO ACCOMPANY CLAIM. This claim must be accompanied by a statement of account (preferably on the printed billhead of the funeral director) showing the name of the veteran for whom the services were performed; the nature and cost of services rendered, including any payments made to another funeral home (showing name and address) for initial services and merchandise; all credits; and the name of the person or persons by whom payment in whole or in part was made. If the body was transported by common carrier, a receipt from the railroad express company or airline should accompany the claim. All receipts covering transportation charges should show the name of the veteran whose body was transported, the name of person who paid the charges, and the amount of the charges. Where death of the veteran occurred while receiving authorized Veterans Administration care, the statement of account should be itemized to show the charge or charges made for use of the hearse. WHERE TOTAL PAYMENT HAS BEEN MADE FOR THE SERVICES PERFORMED, THE STATEMENT OF ACCOUNT SHOULD BE RECEIPTED IN THE NAME OF THE FIRM OR INDIVIDUAL PERFORMING THE SERVICES. Bills or receipts filed in support of this claim become a part of the permanent record and may not be returned.

9. BURIAL ASSOCIATION OR BURIAL INSURANCE BENEFITS. If the deceased veteran was a member of a burial association or if any insurance company is obligated to pay all or any part of the burial expenses, Item 21 should be answered "Yes". It will then be necessary to support the claim with a statement from the association or insurance company setting forth the terms of the contract and how and with whom settlement was made.

10. SERVICE RECORD. If the veteran never filed a claim with the Veterans Administration, a photocopy of his discharge certificate furnished with this claim will permit prompt processing.

11. NOTE. The payment of any fee in the preparation of this claim is prohibited.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Social Security Administration

TOE 110/120 Form Approved. OMB No. 72-R0129.

(Do not write in this space)

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APPLICATION FOR LUMP-SUM DEATH PAYMENT*

(This application must be filed within 2 years after the date of death of the wage earner or self-employed person.)

1. Print name of deceased wage earner or self-employed person *(Herein referred to as the deceased)*	*(Check one)* ☐ Male ☐ Female	Enter his (her) Social Security Number
		_ _ _ - _ _ - _ _ _ _

2. Print your full name *(First name, middle initial, last name)*

I hereby apply for the lump-sum death payment and for any insurance benefits payable to me under Title II of the Social Security Act, as amended.

3. Enter the date of birth of the deceased (*Month, day, and year*)	4. Enter the date and place of death *(Month, day, and year)*	*(City and State)*

5. (a) Was the deceased ever entitled to social security benefits, whether or not checks were actually received?
☐ Yes *(If "Yes," answer (b) and (c).)* ☐ No *(If "No," go on to item 6.)*

(b) What kind of social security benefits was the deceased entitled to?
☐ Retirement or ☐ Disability

(c) Where was the deceased receiving mail at the time (s)he was entitled to benefits?
☐ In the U.S. or ☐ Outside the U.S.

6. (a) If the wage earner died prior to age 66, was (s)he unable to work because of a disabling condition at the time of death?
☐ Yes *(If "Yes," answer (b).)* ☐ No *(If "No," go on to item 7.)*

(b) Enter the date (s)he became disabled (*Month, day, year*)

7. (a) Was the deceased in the active military or naval service (active duty or active duty for training) after September 7, 1939?
☐ Yes *(If "Yes," answer (b), (c) and (d).)* ☐ No *(If "No," go on to item 8.)*

(b) Enter name of branch of service (Army, Navy, etc.) and country served (if other than U.S.A.)

(c) Enter dates of service below:
FROM: TO:

(d) Has anyone (including the deceased) received, or does anyone expect to receive, a benefit from any other Federal agency?
☐ Yes *(If "Yes," answer (e).)* ☐ No *(If "No," go on to item 8.)*

(e) Name the individual(s) and the Federal agency(ies).

8. Did the deceased work in the railroad industry at any time on or after January 1, 1937? ☐ Yes ☐ No

9.
- Enter the names and addresses of all the persons, companies, or Government agencies for whom the deceased worked during the 12 months before death.
- If the deceased worked in agricultural employment, give this information for the year of death and the year before.
- If neither of the above applies, write "None" below and go on to item 10.

NAME AND ADDRESS OF EMPLOYER If the deceased had more than one employer, please list them in order beginning with last (most recent) employer	WORK BEGAN		WORK ENDED	
	Month	Year	Month	Year

(Use "Remarks" space on back page for information about any other employers.)

* This may also be considered an application for insurance benefits payable under Section 5 of the Railroad Retirement Act.

10. (a) Was the deceased self-employed this year, last year, or the year before?

☐ Yes *(If "Yes," answer (b).)* ☐ No *(If "No," go on to item 11.)*

(b) Check the year or years in which the deceased was self-employed.	In what kinds of trade or business was the deceased self-employed? *(For example, storekeeper, farmer, physician)*	Were the deceased's net earnings from his trade or business $400 or more? *(Check "Yes" or "No")*
☐ This year		☐ Yes ☐ No
☐ Last Year		☐ Yes ☐ No
☐ Year before last		☐ Yes ☐ No

11. (a) About how much did the deceased earn from employment and self-employment during the year in which (s)he died? → Amount $

If death occurred this year, answer (b). If not, go on to item 12.)

(b) About how much did the deceased earn last year? → Amount $

12. Was the deceased ever married? ☐ Yes ☐ No

(If "Yes," give the following information about all marriages of the deceased including marriage in effect at time of death. If you need more space, use "Remarks" section on back page or attach a separate sheet.)

Last marriage of the deceased	To whom married	When *(Mo., day, and year)*	Where *(Enter name of City and State)*
	How marriage ended	When *(Mo., day, and year)*	Where *(Enter name of City and State)*
Previous marriage of the deceased	To whom married	When *(Mo., day, and year)*	Where *(Enter name of City and State)*
	How marriage ended	When *(Mo., day, and year)*	Where *(Enter name of City and State)*

13. Was the deceased survived by ANY living children (including adopted children and stepchildren) or dependent grandchildren (including stepgrandchildren) who are now or were in the past 12 months UNMARRIED and:

- UNDER AGE 18 ☐ Yes ☐ No
- AGE 18 TO 23 AND ATTENDING SCHOOL ☐ Yes ☐ No
- DISABLED OR HANDICAPPED (18 or Over and disability began before Age 22) ☐ Yes ☐ No

14. (a) Is there a surviving parent (or parents)? ☐ Yes *(If "Yes," answer (b).)* ☐ No

(b) Was the deceased contributing to the support of either parent? ☐ Yes ☐ No

15. Have you filed for any social security benefits on the deceased's earnings record before? ☐ Yes ☐ No

If the deceased left a widow or widower surviving, continue with item 16. If not, go on to item 24.

16. If you are not the widow or widower, enter (her) (his) name and address here.

17. (a) Were the deceased and the surviving spouse living together at the same address when the deceased died? ☐ Yes ☐ No

(b) If either the deceased or surviving spouse was away from home (whether or not temporarily) when the deceased died, give the following:

Who was away? ☐ Deceased ☐ Surviving spouse	Date last home

Reason absence began	Reason they were apart at time of death

If separated because of illness, enter nature of illness or disabling condition.

If you are the widow or widower, answer items 18 through 23.

18. Enter your date of birth *(Month, day and year)*

19. If you are the widow, enter your maiden name.

20. (a) Are you so disabled now that you can't work, or was there some period during the last 14 months when you were so disabled that you could not work?
☐ Yes *(If "Yes," answer (b).)* ☐ No *(If "No," go on to item 21.)*

(b) Enter the date you became disabled *(Month, day, year)*

21. If you are the widower, were you receiving at least one-half of your support from your wife at the time of her death? ☐ Yes ☐ No

22. Check (✓) whether your marriage to the deceased was performed by:
Clergyman or authorized public official ☐, or Other ☐ ____________ *(Explain)*

23. Were you married before your marriage to the deceased? ☐ Yes ☐ No
(If "Yes," give the following about each of your previous marriages. If you need more space, use "Remarks" section on back pages or attach a separate sheet.)

Previous marriage			
	To whom married	When *(Mo., day, and year)*	Where *(Enter name of City and State)*
	How marriage ended	When *(Mo., day, and year)*	Where *(Enter name of City and State)*

If you are not the widow or widower, or if you are the widow or widower but you and the deceased were not living in the same household at the time of death, answer the following questions.

24. (a) What was the total amount of the burial expenses charged by the funeral home(s) (hereafter referred to as "burial expenses")? ⟶ $

(b) Did you assume responsibility for payment of any part of the burial expenses?
☐ Yes *(If "Yes," answer (c) and (d).)* ☐ No *(If "No," go on to item 25.)*

(c) Show whether you assumed responsibility for burial expenses:
☐ Personally or ☐ As legal representative of the deceased's estate.

(d) What amount of burial expenses shown in (a) above did you pay? *(If none, write "None")* $

25. (a) What is your relationship to the deceased?

(b) If you are a parent of the deceased, were you receiving one-half of your support from the deceased at the time of death? ☐ Yes ☐ No

26. If you are not related to the deceased by blood, marriage, or adoption why did you assume responsibility for or pay the burial expenses? *(If you are related, omit this item.)*

27. Has an application for the burial allowance been filed (or will it be filed) with the Veterans Administration, other Federal agency of the U.S., or (if death occurred outside the U.S.) any foreign governmental agency?
☐ Yes *(If "Yes," give the following information.)* ☐ No *(If "No," go on to item 28.)*

Name of Agency	Amount Claimed
☐ Veterans Administration	$
☐ Other *(Give name)*	$

Name of Person Filing With Other Agency

(Over)

28. If you have paid part or all of the burial expenses, have you received or will you receive any cash or property toward the expenses? (Do not include proceeds from an insurance policy or death benefits from a fraternal association, union, or employer.)

☐ Yes *(If "Yes," give the following information.)* ☐ No *(If "No," go on to item 29.)*

Source of payment	Date received or expected	Amount
		$
		$

29. Did anyone else assume responsibility for payment of or pay any part of the burial expenses in 24(a)?

☐ Yes *(If "Yes," give the following information.)* ☐ No

Name and address of other person who assumed reponsibility or paid	His relationship to deceased	Amount paid by such other person, if any
		$
		$

If any of the burial expenses shown in 24(a) are unpaid, the lump-sum payment (or that part of it equal to the unpaid expenses) can be made ONLY to the funeral home(s). To authorize such payment, the following must be completed.

30. I hereby authorize the Social Security Administration to make payment or give notice of nonpayment of the lump-sum to the

(Name(s) and address(es) of funeral home(s))

Payment, if made, is to be applied toward the unpaid $ .... expenses.
(Amount)

Remarks: *(You may use this space for any explanations. If you need more space, attach a separate sheet.)*

I know that anyone who makes or causes to be made a false statement or representation of material fact in an application for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal law by fine, imprisonment or both. I affirm that all information I have given in this document is true.

SIGNATURE OF APPLICANT	Date *(Month, day, year)*
Signature *(First name, middle initial, last name)* *(Write in ink)* SIGN HERE	Telephone Number(s) at which you may be contacted during the day

Mailing Address *(Number and street, Apt. No., P.O. Box, or Rural Route)*

City and State	Zip Code	Enter Name of County (if any) in which you now live

Witnesses are required ONLY if this application has been signed by mark (X) above. If signed by mark (X), two witnesses to the signing who know the applicant must sign below, giving their full addresses.

1. Signature of Witness	2. Signature of Witness
Address *(Number and street, City, State, and ZIP Code)*	Address *(Number and street, City, State, and ZIP Code)*

Form Approved
OMB No. 76-R0009

VETERANS ADMINISTRATION

APPLICATION FOR BURIAL BENEFITS

(Under 38, USC, Chapter 23)

1. SOCIAL SECURITY NO. OF VETERAN

2. FILE NO. 194

XC-

IMPORTANT - Read Instructions carefully before completing form, YOUR COMPLETE COMPLIANCE WITH ALL INSTRUCTIONS WILL AVOID DELAY.

3. FIRST NAME, MIDDLE NAME, LAST NAME OF DECEASED

4. FIRST NAME, MIDDLE NAME, LAST NAME OF CLAIMANT

PART I - INFORMATION REGARDING VETERAN

5. DATE OF BIRTH
6. PLACE OF BIRTH
7. DATE OF DEATH
8. PLACE OF DEATH

9. MARITAL STATUS

☐ NEVER MARRIED ☐ MARRIED ☐ WIDOWED ☐ DIVORCED

10. SURVIVING CHILD(REN)? ☐ YES ☐ NO

11. FIRST NAME, MIDDLE NAME, LAST NAME OF SPOUSE *(Complete address, if living)*

12. FIRST NAME, MIDDLE NAME, LAST NAME OF FATHER *(Complete address, if living)*

13. FIRST NAME, MIDDLE NAME, LAST NAME OF MOTHER *(Complete address, if living)*

SERVICE INFORMATION *(The following information should be furnished for the period of the VETERAN'S ACTIVE SERVICE)*

14A. ENTERED SERVICE		14B. SERVICE NO.	14C. SEPARATED FROM SERVICE		14D. GRADE, RANK OR RATING ORGANIZATION AND BRANCH, OF SERVICE
DATE	PLACE		DATE	PLACE	

15. IF VETERAN SERVED UNDER A NAME OTHER THAN THAT SHOWN IN ITEM 3, GIVE FULL NAME AND SERVICE RENDERED UNDER THAT NAME.

PART II - INFORMATION RELATING TO VETERAN'S BURIAL

NOTE - If claiming Plot Allowance Only, do not complete Part II, but complete Part III on reverse.

16. DATE OF BURIAL

17. PLACE OF BURIAL

18. TOTAL EXPENSE OF BURIAL, FUNERAL, AND TRANSPORTATION
$

19A. HAVE BILLS BEEN PAID IN FULL? ☐ YES ☐ NO *(If "No," fill in 19B)*

19B. AMOUNT UNPAID
$

20A. HAS OR WILL ANY AMOUNT BE ALLOWED ON EXPENSES BY STATE OR FEDERAL AGENCY? ☐ YES ☐ NO *(If "Yes," fill in 20B and 20C)*

20B. AMOUNT
$

20C. SOURCE

21. WAS THE VETERAN A MEMBER OF A BURIAL ASSOCIATION OR COVERED BY BURIAL INSURANCE? ☐ YES ☐ NO *(Before answering read and comply with instruction No. 9)*

NOTE: If claim is made by person who paid the bills fill in 22A and 22B

22A. WHOSE FUNDS WERE USED?

22B. HAS PERSON WHOSE FUNDS WERE USED BEEN REIMBURSED? ☐ YES ☐ NO *(If "Yes," fill in 22C)*

22C. AMOUNT AND SOURCE OF REIMBURSEMENT
$

23. WAS BURIAL IN A NATIONAL CEMETERY OR CEMETERY OWNED BY THE FEDERAL GOVERNMENT? ☐ YES ☐ NO *(If "No," complete Item 24.)*

24. BURIAL PLOT, MAUSOLEUM, ETC. COST IS: *(Check one)*

☐ NONE
☐ PAID BY ANOTHER PERSON OR PERSONS
☐ UNPAID AND DUE CEMETERY OWNER

I CERTIFY THAT the foregoing statements made in connection with this application for burial allowance on account of the above-named veteran are true and correct to the best of my knowledge and belief.

25. SIGNATURE OF CLAIMANT *(If signed by mark, complete Items 47A thru 48B on reverse)*

26. FULL NAME OF THE FIRM OR CORPORATION AND OFFICIAL POSITION OR CONNECTION OF THE INDIVIDUAL WHO SIGNS ON ITS BEHALF *(See Instruction 6)*

27. ADDRESS *(Number and street or rural route, city or P.O., State and ZIP Code)*

28. CREDITOR OR RELATIONSHIP TO DECEASED

NOTE - Where the claimant is a firm or other unpaid creditor, Items 29 thru 32 MUST be completed by the individual who authorized services.

I CERTIFY THAT the foregoing statements made by the claimant are correct to the best of my knowledge and belief.

29. SIGNATURE OF PERSON WHO AUTHORIZED SERVICES *(If signed by mark, complete Items 47A thru 48B on reverse.)*

30. ADDRESS *(Number and street or rural route, city or P.O., State and ZIP Code)*

31. DATE

32. RELATIONSHIP TO VETERAN

1
2
3
4 RECOMMENDATIONS AND SUGGESTIONS OF THE OFFICE
5 OF THE CLARK COUNTY PUBLIC ADMINISTRATOR
6 RELATIVE TO MODERNIZING THE STATUTES GOVERNING
7 NEVADA PUBLIC ADMINISTRATORS AND RELATIVE TO
8 THE NEVADA PROBATE CODE RECOMMENDED CHANGES
9
10
11
12
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16
17
18 SUBMITTED BY:

19 NAT ADLER, PUBLIC ADMINISTRATOR
CLARK COUNTY, NEVADA
20 2221 PARADISE ROAD
LAS VEGAS, NEVADA 89105
21 (702) 735-3444
22
23
24 FEBRUARY 25, 1975
25

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RECOMMENDATIONS AND SUGGESTIONS OF THE OFFICE OF THE CLARK COUNTY PUBLIC ADMINISTRATOR RELATIVE TO MODERNIZING THE STATUTES GOVERNING NEVADA PUBLIC ADMINISTRATORS AND RELATIVE TO THE NEVADA PROBATE RECOMMENDED CHANGES

I.

INTRODUCTION

During the 57th Session of the Nevada Legislature (1973) Senate Concurrent Resolution No. 11 (SCR 11) and Assembly Concurrent Resolution No. 19 (ACR 19) were passed whereby the Legislative Commission was directed to make a thorough study of the probate laws and related provisions in the Statutes of Nevada and other states, including the Uniform Probate Code (UPC) with a view of modernizing these areas of the law. The Commission was to report the results of the study to the 58th session of Legislature (1975) with recommendations for necessary and appropriate legislation.

There was no specific reference in SCR 11 or ACR 19 to the Nevada statutes relating to the office of Public Administrator, although, the office in fact and by statute (NRS 253.060) is deeply involved and interested in the probate laws.

The Legislative Commission appointed a subcommittee to conduct the study.

1 In September 1974, the Legislative Commission submitted
2 its report directed to the Members of the 58th Session of
3 the Nevada Legislature including therein the subcommittee's
4 report and suggested legislation. (Bulletin No. 113
5 Legislative Commission of the Legislative Counsel Bureau,
6 State of Nevada).
7 It is apparent that a great deal of commendable effort
8 was put forth by the Commission and the subcommittee;
9 however, the greater portion of the results of the study
10 and the legislation recommended (contained in AB 38 January
11 25, 1975) are directed to estate proceedings once they
12 "reach the courthouse."
13 It became glaringly obvious to the newly elected
14 Public Administrator of Clark County, Nevada after he took
15 office and acquainted himself with the functions of the
16 office that immediate steps should be taken to modernize
17 and update Chapter 253 of the Nevada Revised Statutes. On
18 February 16, 1975 he was provided with a copy of AB 38 and
19 Bulletin No. 113.
20 It placed a heavy burden on the Clark County Public
21 Administrator to coordinate data, statutes and personnel
22 to prepare and present the following recommendations to the
23 58th Session of the Nevada Legislature within the brief time
24 available.
25 These recommendations and suggestions are presented with

1 the knowledge and understanding that time was limited and
2 therefore, some less important, but essential changes in the
3 statutes were not included. Had more preparation time been
4 available, a much more precise report would have been
5 submitted.
6 These recommendations and suggestions are made with the
7 hope that they provide a start in a direction whereby the
8 office of Public Administrator in this state can be viewed
9 by all with respect and one of which everyone can be proud.
10
11
12 -NAT ADLER, PUBLIC ADMINISTRATOR,
13 CLARK COUNTY, NEVADA -
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1 II.

2 THE ASPECT OF THE PUBLIC ADMINISTRATOR'S JOB GENERALLY NOT
3 KNOWN TO THE PUBLIC AND NEEDED LEGISLATION TO GOVERN IT

4

5 Usually, when a person dies or is killed, the office
6 of the Public Administrator is, in some way, drawn into
7 the situation. The Public Administrator may be involved
8 only a brief period of time or may administer the estate
9 of the deceased to conclusion depending upon the circum-
10 stances.

11 It usually starts with a telephone call from the police,
12 the coroner, the hospital, a survivor or many other sources.
13 At that precise moment (under the current statutes) the
14 Public Administrator could either have an estate to
15 administer from which he could receive his fees and costs
16 or he could be starting on an expenditure of time and
17 money (from his own private funds).

18 Based on the foregoing generalized situation (most are
19 much more complex) the following recommendations and
20 suggestions are made:

(Notification of death)

21 (1) Make it a statutory requirement that the Public
22 Administrator be called in case of any death within the
23 county, when it is determined at scene, by police authorites
24 or coroner deputy that there is no next of kin or survivors.

(Employing deputies)

25 (2) A provision be made for employing a deputy or deputies

for payment at the rate of no less than $10.00 per hour and the use of a truck to remove the personal property of a deceased to a bonded warehouse at the rate of $10.00 per hour including mileage. These expenses are to be paid by Public Administrator, but allowed as a necessary expense in either NRS 253.050(2) or in administration of estate.

The mileage rate to be computed at the current rate allowed by the Internal Revenue Service.

(Public Administrator's Control)

(3) A provision in the statutes that once the Public Administrator or his assigned deputy arrives on the death scene, the office of the Public Administrator shall take complete control and full responsibility from that time forward until relieved by order of Court.

(Information form outlining duties)

(4) The Public Administrator should have, a form of instructions to be printed at the County's expense, to be supplied to the heirs, next of kin and persons interested in the estate by the Public Administrator which will outline his duties and responsibilities and that they have no control over the estate until such time as the Public Administrator is relieved of his responsibilities by an order of the Court. Such order should be an Ex Parte Order.

The information sheet that is supplied to the heirs should include instructions that the non-resident heir is entitled to nominate a resident of the County of Nevada where the estate will be administered upon and until such

1 time as any such heir shall execute the nomination and
2 secure an Ex Parte court order relieving the Public
3 Administrator of his duties, such heir had no standing
4 whatsoever with respect to the estate of the deceased (the
5 Public Administrator recognizes that there will be a need
6 for certain personal items for the deceased burial.
7 However, the purpose of the foregoing recommendation is
8 to avoid numerous heirs coming from out-of-state or in-
9 state and wanting to rummage through and disturb the
10 assets of the estate.)

(Authority to lock & seal Premises)

11 (5) It should be provided that the Public Administrator or
12 his deputy, upon his arrival at the death scene, has the
13 full authority to lock up and seal any premises containing
14 the personal property and/or real property of the deceased.
15 Such seal(*) should read in language similar to the
16 following:

17 "WARNING! KEEP OUT!

18 UNDER PENALTY OF THE LAW

19 These Premises Are Sealed And Are Not To Be
20 Entered or Touched And Are Under Police
Surveillance by Order.

21 NRS 205.065, NRS 205.220
(NAME), PUBLIC ADMINISTRATOR, (NAME OF COUNTY) NEVADA"
22

23 *(One of the seals currently being used by the Clark County
24 Public Administrator is attached as Exhibit "1".)

(Violation)

25 There should be a stringent penalty provision for anyone

1 who removes any personal property at the scene, removes the
2 lock or seal without first obtaining a court order or the
3 permission of the Public Administrator in writing.

(Testate Estates)

4 (6) A provision should be made that in the event a Will is
5 discovered by the Public Administrator, that it will be his
6 duty to comply with the Nevada Revised Statutes requiring
7 the filing of the Will with the County Clerk within 30 days.
8 If another person produces a Will, the law should require
9 that the responsibility is for that person to file the Will
10 within 30 days as provided by the Nevada Revised Statutes.
11 However, prior to filing should provide the Public
12 Administrator with a copy thereof. If the Public Adminis-
13 trator's office is involved in an estate where a Will is
14 discovered and there is a named executor therein, a provision
15 should be made in the law requiring the designated executor
16 to secure a court order (which can be on an Ex Parte basis)
17 relieving the Public Administrator's office of any further
18 responsibility. Once such an order is served on the
19 Public Administrator, he shall turn over all assets which
20 came into his possession, within 5 days.

(Turn over of Assets)

21 (7) All personal property, whether on the person of deceased
22 or otherwise, must be turned over immediately to the Public
23 Administrator on demand by the coroner or coroner's office,
24 police, hospital or any other organization or entity that
25 has in its possession personal property of the deceased and

(Storage Fees)

1 the Public Administrator shall issue a receipt for same.
2 (8) The Public Administrator should be allowed a reasonable
3 storage fee for storing any personal property of a deceased
4 in any estate matter in which he is involved.
5
6 III.
7 COMPENSATION FOR PUBLIC ADMINISTRATOR
8 AND LEGAL COUNSEL UNDER NRS 253.050(2) SITUATION
9
10 Presently NRS 253.050(2) provides:

(The Statute)

11 "The Public Administrator may be compensated
12 by the Court for services performed in
13 preserving the personal property of an
14 estate of a deceased person prior to
15 the appointment of an administrator."
16 It is suggested that the statute be amended to cover the
17 following.

(Recommended Changes)

18 (1) Compensation for services performed in preserving
19 the <u>assets</u> of an estate of a deceased person prior to a
20 change in administration of the estate whether it be the
21 appointment or nomination of another administrator, a
22 designated executor in a Will qualifying or if an estate
23 where the heirs petition to have the estate set aside. It
24 is further suggested that the minimum fee required for
25 such services be $250.00 plus expenses incurred and not be

1 determined by the gross valuation of the estate.

(Basis for Fee) 2 The justification for the suggested fee of $250.00 is

3 that the following services are performed in each and every

4 estate handled regardless of gross valuation are:

(Initial Activity) 5 (a) Receiving a phone call from the Metropolitan police,

6 coroner's office, hospital, or hotel and/or any other source

7 requesting the presence at the scene of the deceased.

8 This call can emanate within a 50-mile radius and can occur

9 on a 24-hour schedule, 7 days a week.

(Activity at the Scene of Death) 10 (b) Consulting with the coroner and the mortuary repre-

11 sentative as to the cause of death, the indentification

12 of the deceased and arranging with the mortuary, on call for

13 the removal of the body of the deceased and obtaining any

14 other vital information pertinent to the deceased.

(Sealing Premises) 15 (c) Locking up and sealing the premises.

16 (d) Removing the personal property for safe-keeping to

(Preserving Personal Property) 17 a warehouse premises (presently the Public Administrator is

18 providing his own warehouse without compensation.)

19 (e) Inventory of personal property, boxing it, sealing

20 it, and tagging it (this presently is being done by the

21 Public Administrator and his deputies assigned to this job

22 without compensation by statute to the Public Administrator

23 and is paid for by the private funds of the Public

24 Administrator.)

25 (f) The Public Administrator provides an office, clerk,

(Required Clerk, Bookkeeper)

1 a qualified bookkeeper to establish an account and a ledger
2 card for the deceased whether there is an estate or not,
3 with no statutory provision for compensation.

(Locating Heirs)

4 (g) Locating any next of kin or survivors and provide
5 this information to the mortuary, police and the coroner's
6 office.

(Death Benefits)

7 (h) Contact Social Security, Unions, Insurance
8 Companies, V.A., Social Services and Associations or any
9 others concerned with the estate of the deceased. This is
10 all done whether eventually there is or is not an estate
11 which requires petitioning the court for administration.

(Creditors)

12 (i) Notification to creditors of any claims they may
13 have which has in past included mailing of claim forms,
14 secretarial services, and postage. All this is done
15 without any provisions for compensation or reimbursement to
16 the office of Public Administrator.

(Notifying Next-of-Kin)

17 (j) Requires extended effort in notifying next of kin
18 and survivors involving long distance phone calls, letters,
19 postage, stationery, and extended phone conversations with
20 the next of kin and survivors.

(Attorney's fees)

21 While NRS 253.050(2) provides for compensation for the
22 Public Administrator as recommended, there is no provision
23 for the payment of attorney's fees in the event the Public
24 Administrator is required to utilize counsel and then
25 eventually does not administer the estate. It is the

1 recommendation of the Public Administrator that a similar
2 or like fee be provided for such legal counsel as he would
3 require to advise as to the handling of the estate to this
4 point.
5 It should be noted that NRS 253.050(2) as it presently
6 exists, provides for compensation for the Public
7 Administrator. However, he has no way of protecting his
8 fees and costs and protect the suggested attorney's fee.
9 It is suggested that legislation provide that the
10 Public Administrator be allowed to withhold the fees and/or
11 expense in the trust account to protect the costs incurred
12 and any statutory fees of the Public Administrator and the
13 attorney involved.
14
15 IV.
16 PUBLIC ADMINISTRATOR AS A
17 SPECIAL ADMINISTRATOR
18
(Special Administrator)
19 In many instances the estate assets require the
20 appointment of a special administrator to preserve those
21 assets. It is recommended that Chapter 253 of the Nevada
22 Revised Statutes, as they relate to the public administrator,
23 make provision that the Public Administrator have, by
24 virtue of his elective office, the same powers that he would
25 have if he sought a special administration and that a form

1 be supplied by the County Clerk whereby the Public
2 Administrator can have issued to him special letters of
3 administration by the Clerk of the County.
4
5 V.

6 FILING FEES AND THE PUBLIC ADMINISTRATOR'S OFFICE
7

(Filing fees)

8 NRS 19.013 provides for fees for the County Clerk.
9 Presently these fees have to be advanced out of the private
10 funds of the Public Administrator, and he cannot receive
11 reimbursement of same until the conclusion of the
12 estate which may be over an extended period of time. It
13 is suggested that the Public Administrator be allowed to
14 draw from the trust account any fees and expenses advanced
15 by him from his personal funds in the administration of any
16 estate within 15 days of the time of this expenditure.
17
18 VI.

19 PROVISION FOR SUPPLYING
20 PUBLIC ADMINISTRATOR WITH PRINTED FORMS
21

(Printed Forms)

22 Currently the Office of the County Clerk provides
23 numerous and sundry printed probate forms. It is suggested
24 that appropriate probate forms be printed for the office of
25 Public Administrator which covers such situations as follows

1 special administrator, order to open or drill safety
2 deposit box, turn over bank account, checking and savings
3 accounts and other securities. A provision should be made
4 in the law that the Public Administrator should not have to
5 provide each individual bank, coroner's office, security
6 offices of hospitals, hotels or any institutions
7 requiring an order, with a certified copy of orders entered
8 by the Court but rather that a photostatic copy of an
9 original certified order shall suffice. There should be
10 a provision that no fee is charged to the Public
11 Administrator for certification of probate documents.
12
13 VII.
14 THE PUBLIC ADMINISTRATOR IN
15 HIS ROLE AS GUARDIAN OF ESTATES
16
17 (Guardian of an Estate) Occasionally the Public Administrator is called upon
18 by social services, convalescent hospitals, doctors and
19 state agencies to act as guardian of the estate (which
20 requires managing the financial affairs of the Ward).
21 This entails the securing of an attorney to prepare the
22 guardianship papers and although there is no filing fee in
23 a guardianship of a guardianship estate of less than $1,000,
24 where the estate is more than $1,000 and less than $5,000
25 a $15.00 filing fee must be paid and where the value of the

1 estate is $5,000 or more a $25.00 filing fee must be paid
2 (all advanced out of the public administrator's private
3 funds) and in addition, it is required by law that a cit-
4 ation be served on the prospective ward and the
5 administrator of the hospital, convalescent home, or the like
6 where the ward resides which requires an advance from the
7 Public Administrator's private funds for costs for having
8 the citation served.

(Compensation)

9 The Public Administrator in addition to paying all just
10 and due expenses for the account of the guardianship also
11 should be entitled to a monthly fee as compensation for the
12 administration of the guardianship estate in the amount
13 of 2% of the gross value of the estate ending the last
14 day of the month and each and every month that the
15 Public Administrator shall manage the guardianship estate.
16 This fee should be paid from guardianship account and
17 reported in the guardian's annual account.
18
19 VIII.
20 ESCHEAT ESTATES AND THE
21 PUBLIC ADMINISTRATOR
22

(Escheat Estates)

23 It is highly recommended that the legislature give an
24 immediate review to the statutes relating to escheat
25 estates (NRS 154.020, 154.050). Currently we have a

1 breakdown whereby the Public Administrator handles matters
2 under the sum of $2,000 and pays upon order of Court, the
3 residue of the estate to the County Treasurer. In all
4 estates exceeding this acount it appears it is the duty of
5 the Attorney General's office to handle such estates. It
6 is recommended that all escheat estates be handled by the
7 office of the Public Administrator regardless of value.
8
9 IX.
10 RECOMMENDATIONS RELATIVE TO
11 PUBLIC ADMINISTRATOR'S BOND PREMIUM
12
(Public Administrator's Bond)
13 NRS 253.040(2) states that a Public Administrator must
14 post a $100,000 Public Administrator's bond. However, the
15 statute is silent as to whom shall pay the premium on this
16 bond.
17 NRS 253.020(2b) provides that in order to qualify as
18 Public Administrator he shall give an official bond of
19 $2,000. This bond is paid for by the Secretary of State
20 for the State of Nevada. It is submitted that with
21 respect to the $100,000 bond under NRS 253.040(2), the
22 premium on this bond should likewise be paid for by the
23 State of Nevada. Any additional bonds that will be required
24 in the future to be posted in the administration of any
25 guardianships or for deceased estates, where the Public

Administrator is involved, the premium should be paid for by the State of Nevada.

X.

THE PRACTICAL APPROACH TO THE PROBLEMS OF SET ASIDE ESTATES

(Set Aside Estates)

Presently recommended proposed legislation AB 38 provides that set aside estates be increased from $5,000 gross valuation to $10,000 gross valuation. It is suggested that this is a very impractical situation and a recommended amendment would be that set aside estates be as follows: In the event there is a surviving spouse and/or children who have an interest in the estate by virtue of the community property laws of this state, that set aside be up to $10,000 gross valuation; however, to any other next of kin or heirs, the set aside should be at the $1,000 point because they do not hold a community property interest in the estate but are merely receiving unexpected benefits in which they hold no earned proprietary interest. To embellish this, it is pointed out that under the present code, which is even further exaggerated by (AB 38), brothers, sisters, aunts, uncles and the like can set aside or will be able to set aside estates to themselves, many times in detriment of creditors, unknown heirs, and social

1 services provided by the State and/or the County and do
2 so so quickly as to have all of the assets of the estate
3 transferred to the heirs within the State of Nevada or in
4 an even worse situation transferred completely out of
5 the jurisdiction of the State of Nevada.

(Protection of Creditors)
6 The California Probate Code presently requires a notice
7 to be published in the newspaper before any assets of any
8 estate can be removed from the State of California. It is
9 suggested that Nevada should have similar legislation.

(Fees)
10 Presently the Nevada Probate Code makes no provision
11 for compensation for the Public Administrator or his attorney
12 in set aside estates. It is essential that a provision for
13 compensation be made by way of legislation and the fee in-
14 volved should be commensurate with the fee suggested above
15 re NRS 253.050(2), as suggested.
16
17 XI.
18 PUBLIC ADMINISTRATOR'S OBSERVATIONS
19 VIEWS, AND RECOMMENDATIONS RELATIVE TO
20 ASSEMBLY BILL 38
21

(Priority to Act)
22 1. Page 3, Line 49 - Line 16 p. 4 ..... it is recommended
23 that the priority of those competent to act as administrator
24 be as follows:
25 (a) Surviving husband or wife.

1 (b) The children; however, if same are
2 minors and no surviving parents or
3 parent, the Public Administrator.
4 (c) Father and Mother.
5 (d) Public Administrator.
6 (e) Brother or the Sister.
7 (f) The grandchildren.
8 (g) Any other of the kindred entitled to
9 share in the distribution of the estate.
10 (h) Creditors who have become such during
11 the life time of the deceased.
12 (i) Any of the kindred not above enumerated,
13 within the fourth degree of consanguinity.
14 (j) Any person or persons legally competent.

(Legal Notice)

15 2. Commencing p. 4, lines 28 - 50......it is suggested that
16 the current statutory provisions give sufficient notice to
17 the heirs and those persons interested in the estate; that
18 to add an additional publication of the notice of filing
19 of a petition for letters of administration would not only
20 be an added expense to the estate but would cause
21 additional delay in the appointment of an administrator. It
22 might be considered more worthwhile if the statute required
23 that in addition to the petitioner mailing notice to heirs
24 by certified mail that a copy of the petition be included.
25 (This seemingly minor situation requires the Public

1 Administrator to answer an extraordinary number of phone
2 calls from heirs, long distance calls, letters and
3 telegrams and inquiries from out-of-state attorneys who
4 have been contacted by the heirs not understanding what
5 the notice is.)

(Inventory forms)

6 3. P. 5, lines 21-25 . . . . . It has become the practice
7 that the only acceptable form of an inventory and appraise-
8 ment is the "printed" form supplied by the Clerk's office.
9 The Public Administrator sees no logical reason why an
10 inventory typed on his own like form should not suffice.

(Summary Administration.)

11 4. P. 5 Lines 33-36 . . . . . It is suggested that to raise
12 summary administrations to $60,000 is not based on sound
13 thinking and is totally impractical. It is suggested that
14 the set asides to the surviving spouse and children be
15 $10,000, set asides to other heirs be at $1,000 and that
16 the summary administration remain at the figure of $8,000
17 and in no event should it be raised above $10,000.

(Creditor's Claims)

18 5. P. 6, Lines 23-29 . . . . . While the extension of the
19 time for filing creditors claims to 60 days appears satisfa-
20 ctory, it is totally impractical and physically impossible
21 for the Public Administrator to act on all of the claims
22 in each estate within 5 days after the last day for filing
23 claims. This is based upon the number of estates that the
24 Public Administrator as an individual is called upon to
25 handle. This also applies to the 3-day provision with

1 respect to presenting them to the Judge. It is recommended
2 that the provision should be 30 days for the executor to
3 act on the claims and 15 days thereafter with respect
4 to the Judge.

(Small Debts)

5 6. P. 6, Lines 36 and 37 . . . . . The term "small debts"
6 is too ambiguous to provide a standard for an administrator
7 to govern himself.
8 7. P. 6, Lines 42 and 43 . . . . . Recommendations
9 relative to setting aside of estates have been set forth
10 herein above and this also applies to p. 6, Lines 41-49
11 and p. 7, Lines 1-19.

(Identification of Heirs, etc.)

12 8. P. 7, Lines 28 and 29 . . . . . It is submitted that the
13 most practical manner to set forth that information is as
14 follows. Name, Relationship to the deceased, age (adult
15 or minor) and address.
16 9. P. 8, Lines 4-22 . . . . . It is suggested that this
17 figure remain at $1,000.

(Fees)

18 10. P. 10, Lines 42-50, P. 11, Lines 1-4 . . . . . Line 42
19 for the first $5,000 at a rate of 8%. Line 48 for the
20 next $5,000 6% up to and including $10,000. From $10,001
21 to $15,000, 5% and 4% of the balance of any estate up to
22 $250,000. $250,001 to any amount up to 3%. These figures
23 relate to the estate of a deceased. The foregoing figures
24 should be appropriate to any guardianship estate but should
25 be payable every 30 days as outlined before.

(Attorney Fee Arrangement)

1 11. P. 11, Lines 27-46 . . . . , This arrangement cannot
2 be applied to the office of the Public Administrator and
3 the fees for the attorney for the Public Administrator
4 should remain as the present statute provides for reason-
5 able compensation provided by the Court. There is a sound
6 basic argument for this arrangement, that being that the
7 heirs find it much more acceptable if the Court sets the
8 fees rather than the attorney or by administrator.

(Extraordinary fees)

9 The rule of thumb is for a 5% of the gross valuation
10 of the estate as the yardstick for attorney's fees. The
11 current attorney fees statute for compensation and the
12 proposed change provide only for "reasonable compensation"
13 and it should be made clear in the law that while the rule
14 of thumb figure for attorney's compensation is 5%, an attor-
15 ney should be allowed extraordinary services above the 5%
16 figure to be set by the Court at its discretion.
17
18 NOTE: Administrator's fees should be spelled out with
19 clarity in the law what service performed by
20 Public Administrator can be compensated for
21 by extraordinary fees.
22 Under the recommendations contained in AB 38, p. 12,
23 lines 8-17, reference is made with respect as to how an
24 executor or administrator shall pay the funeral expenses.
25 As a practical matter, there are problems other than the

1 payment of the funeral expenses such as:

2 (a) The Public Administrator is being requested
3 by the mortuary to sign an application for
4 burial benefit - (see copy attached hereto.)

5 (b) Sign application for burial benefits for
6 U.S. Flag (see attached hereto).

7 (c) Is required to sign an application for
8 social security benefits (see copy attached
9 hereto).

10 Where not in conflict with Federal laws, the death
11 benefits should be paid to the Public Administrator or he
12 should not be required to perform any of the above services.

13 In addition, the AB 38 provision could lead to a
14 situation where the payment of those allowances referred
15 to therein could deplete the estate liquidity, which
16 liquidity might be the sole source of preserving real
17 property from foreclosure, etc. and therefore, Public
18 Administrator suggests that if he be required to immediately
19 pay the funeral expenses and the other allowances named in
20 said provision that he likewise be allowed forthwith to
21 either liquidate the estate or to encumber same with a
22 further loan against it. Otherwise, conceivably, the
23 Public Administrator could be called upon to advance his
24 own personal funds to preserve estate assets.
25

1 XII.

2

3 CONCLUSION

4 The foregoing recommendations and suggestions constitute
5 but a few of the badly needed changes in the Nevada Public
6 Administrator laws (Chapter 253 NRS) and the Nevada Probate
7 Code in general.
8 In making these recommendations and suggestions the
9 Public Administrator of Clark County, Nevada has done so
10 with the view in mind that the office of Public Administrator
11 within the State of Nevada can be modernized and upgraded.
12 While it might appear to be an insurmountable task
13 to make all of the suggested legislative changes set forth
14 herein, those that have been suggested with reference to
15 the laws governing the office of Public Administrator are
16 absolutely essential. Currently there are little, if any,
17 statutory guidelines for a person holding this office to
18 follow.
19 In many instances, it is a matter of a practical
20 approach to the problem that remedies the situation. History
21 of the area of probate law has shown that survivors, heirs
22 and next of kin tend to act with high emotions at a time
23 when sound, mature and objective thinking is required to
24 preserve the assets of a deceased person. All too often,
25 the survivors, heirs or next of kin direct their attention

1 to the matter of the burial of the deceased with little
2 thought, if any, being given to preserving those precious
3 assets that the deceased left behind.
4 It is with the foregoing thoughts that the Public
5 Administrator of Clark County, Nevada makes these suggestions
6 and recommendations to you in hopes that out of them will
7 come legislation which will make the operation of the
8 office of Public Administrator one which will be viewed
9 with the highest degree of respect, integrity and ethical
10 conduct and one of which the citizens of the State of
11 Nevada can be proud.
12
13
14
15 ______________________________ ______________________________
16 Date NAT ADLER,
Public Administrator
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25