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County Court vs. The Public †

By WILLIAM ATHA MASON*

It is but fitting and proper that we of the county bench take time to review our activities and service to the public and to consider the relation of the county court to the public. I believe that much can be gained by considering the function of the county court, the work of the county judge, and his compensation.

Much that I have to say is more applicable to the smaller counties than to the larger ones. I frequently remark that the county judge is the "Father Confessor" of his community. This, I believe would be also true of the larger counties if provision were made for more manpower to conduct those courts. Each judge could then devote more time to each individual matter.

The county court is generally referred to as an inferior court, or a minor court. Yet it is a court of record, vested with exclusive original jurisdiction in all estate matters. This means that all real estate except that owned by corporations, passes through the probate court about once each generation. The county judge has to conduct hearings upon claims against estates of every nature and description. He has to determine heirship, authorize the selling and mortgaging of real and personal property, and perform many duties and take care of details too many to enumerate.

All lunacy cases originate in the county court. The manner in which the lunacy matter is handled by the county judge is important, not only to the individual complained against, but also his family and the public. I refer particularly to those borderline cases that need hospitalization, care and treatment—the case that is not violent, but, as one psychiatrist described it, "as one who keeps his family in stitches." His family is worried and driven almost to point of distraction. The function of the county judge is not solely to sign the commitment order, but if the hearing can be conducted in the nature of an interview the judge can frequently prepare the patient for the hospital, and give solace and comfort to the family. He can instruct the family that their father, mother, or loved one is mentally ill and needs hospitalization just the same as though he had a broken arm or bad appendix. We must avoid such terms as "he is a lunatic," or "a nut," or "bugs," or that he is going to the "bughouse," "asylum" or "nut house". Such terms only tend to upset the patient and his family, and mislead the public.

Many look with horror upon the state's mental institutions. They are not able to realize that mental upsets are a type of sickness—that the psychopathic hospital and other mental hospitals are not places of horror, but rather ones of healing. The very attitude and manner of the county judge in handling and speaking of these cases and institutions will help educate the public to a better

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understanding of the needs of the patient, of the institution, and of the problems of the county judge.

In the smaller counties we do not have the advantage of the opinion of the psychiatrist, or the one skilled in the diagnosis of mental diseases, but must rely upon the county doctor, who many times has not as much training as the judge in recognizing mental ills. Therefore, I believe it is most important for the judge to personally see and observe every patient before a commitment is ordered. For, if by negligence or accident a well person is committed, then "God help the county judge!"

In all of the counties except Denver, the county judge is also the juvenile judge, and as such conducts a family court. Here again he must do away with many formalities and conduct each case according to the needs and character of the child and his family and at the same time so far as is possible protect society. In the handling of juvenile cases the judge must be fair and impartial, yet dignified, but human toward the child. The judge has an opportunity to make the child feel that the court is human and at the same time a part of the government that must be represented. The judge should not and must not muff this opportunity to help a child become a better citizen.

It is so easy by act, word or manner in the conduct of a juvenile case, to cause the child or his parents to feel that they haven't had a fair deal and that the law and the courts are all against them.

The juvenile court law gives the court a great deal of discretion and broad probationary powers. In the smaller counties the judge is his own probation officer. Often by placing a child on probation the brakes are applied. The child is made to realize that he has gone far enough in one direction and that the time has come to turn about, change his associates and habits, and obey the law and orders of the court.

Judge Gilliam is doing a splendid work in his court, in the finding of the cause of the child's difficulty and in bringing the various problems to the attention of the public. He has done much to make the public feel that the court is human and not an impersonal, hard hearted institution. We can well afford to observe and study his methods and procedure.

In addition to the foregoing, the county court has jurisdiction of all civil matters involving less than \$2000, and in criminal matters involving misdemeanors—also appeals from justice of the peace courts. In these last mentioned cases the duty and attitude of the county judge is the same as that of the district judge, in that his relation to the public is to ably preside over the court with dignity, and to apply the law fairly and impartially, and at the same time be courteous to the litigants, their counsel, witnesses and the jurors. On the other hand, in estate matters the relationship with the public is very personal. The bereaved widow frequently has her first contact with a court. This is also very true with the orphan and other members of the decedent's family.

From the brief review of our work one realizes that the county judge must be versatile with the law in all its branches and able to accommodate his actions to cope with the varied human emotions. For the county court has the same jurisdiction as the district court in those matters under \$2000. Hence, altho the amount in litigation is smaller than that in cases handled by the district court, the legal points involved are just the same and every bit as intricate. Undoubtedly the results of the survey now being conducted by the Colorado Bar Association will show that the work of the county court compares favorably with that of the district court whether it be in the amount of property involved, number of cases handled, or fees realized and paid to the county. The office of county judge is an important one and the man who fills this office should be able, capable, and familiar with all branches of the law, and have a profound knowledge of human relations.

In recent years many commissions and bureaus have been established to take care of business that normally should be handled by the courts. This has been the result of the failure of the courts to keep abreast of the times; delays and entanglements have been tolerated. It has been aptly said that "justice delayed is justice denied." The condition has been so bad that the federal judges realized the need for change in court organization and procedure. The law is an ever changing science; social and economic conditions are ever changing and inventions and mechanical devices all make for change, and speed is the watchword of the day. It is imperative that courts must change their procedure and organize the court's business, to provide the people with well organized and efficient courts. The business of the court is the business of the people, and unless the people are provided a place for quick, efficient adjudication of their affairs, they will provide a commission or bureau to take over the court business.

Since the federal judges have stepped down from their aloofness and even invited laymen to sit in conference with them in their efforts to streamline their procedures, is it not time that we of the county bench consider our work and procedure.

Unless we can justify the work of the county court in the eyes of the public, the county court may be abolished. Already some members of the bar are talking of abolishing the county court and transferring that work to the district court. This may come to pass in the new judiciary act that is being planned. It is only right and proper that the county court should be abolished unless it has been and is performing a vital court function in an efficient manner, and is manned by able persons.

What does the public think about the county court? I asked several people what they thought of the county court and its functions. One rancher replied, "I've never thought about it, but Bill, when we put you in that office we thought it was a pretty important job." A welfare worker said, "Why I

think it a most important office. All of our cooperation is with the county court in lunacies, birth certificates, small estates, and our work with children."

Another rancher replied, "Darned if I know, but I hope I never have to be brought to your court."

One time an heir to an estate looked at me in astonishment and said: "You look too young for a judge; I expected to meet an old gray haired man with a beard."

If we are honest with ourselves, the people just don't think much about the function of the county court, and their opinion of the judge is that he is an elderly, gray haired gentleman who has retired and has become judge as a matter of public service.

The County Judges' Association can help justify the existence of the county court. But first we must become a strong association by having the active, intelligent participation of all of the county judges in the work of the association. A meeting of 15 or 20 judges is not sufficient, nor is it a proper representation to speak for all of the 63 judges.

Each member of the association must assume an active place of leadership in his respective community. Let the people know of the work of the court and seek the cooperation and help of some of the leaders in the community to solve some of our problems. How can the judge expect better compensation unless the public is aware of his inadequate salary.

The salary of the county judge is fixed by the state legislature, but paid out of the general funds of each county. The law fixing our salaries has been in effect many years, hence our salaries are the same as our predecessors received in 1932 and all through the panic. Even as late as 1939 we could purchase eggs for 15c a dozen, butter for 30c a pound, and 30c for good steak. Now we pay 60c for eggs, 81c for butter and 60c for steak, but we get the same salary, except that it is now reduced by increased income tax.

The 1945 legislature sought to increase the salaries of the county judges. Several of the judges' salaries were decreased instead. My increase turned out to be a \$300.00 a year decrease. Unless changed by the present legislature the act will affect our successors in office.

A summary of the 1945 law provides annual salaries for the 63 county judges as:

1 at \$7,000	8 at \$1,900
3 at 5,000	11 at 1,800
6 at 3,600	6 at 1,500
5 at 3,000	1 at 600
11 at 2,400	1 at 400
10 at 2,100	

The State has set the annual salaries of 20 county judges between \$2100

and \$2,400, and 25 county judges' annual salaries at between \$1,500 and \$1,900, and two at \$600 or less.

We read in the papers about the increase of wages and salaries of labor and of the professions. For example:

1. The starting salary of the State Highway Patrol has been increased to a minimum of \$2,460, and they now have a bill before the legislature to provide a minimum of \$2,760.

2. Some shepherders in our county are getting \$1800 to \$2400, plus board and whiskey.

3. "A minimum yearly salary of \$2400 is asked for all Colorado public school teachers by Colorado Federation of Teachers" (12-29-46 Denver Post).

4. "N.E.A.'s estimate of proper salaries: \$2,400 a year for qualified beginners, \$4,000 to \$6,000 for experienced teachers. Warned N.E.A.: 'Teachers are no longer willing to work for starvation wages. They refuse to stay in a profession with salaries less than those of the bartender and garbage collector.'" (Time 1-13-47).

Shouldn't the county judge's minimum salary compare with these?

Beneficial legislation should be prepared and sponsored by the association. For your consideration I suggest the following:

1. Legislation to improve and expedite the administration of estates.

2. Abolish appeals from county to district court. For isn't it ridiculous as the law now is to have two jury trials in a court of record before the case reaches the Supreme Court? Certainly no business would tolerate such inefficient procedure. Then why should the courts?

3. Perhaps the justice of the peace court should be abolished, and the county court given exclusive jurisdiction in civil matters involving up to \$2,000. In many civil matters a litigant can select one of three forums in which to file his case, and be entitled to at least two complete trials before a final review before the Supreme Court. Why should the litigant be able to select his judge, or be compelled to pay for two trial court hearings?

4. A layman suggested that on a plea of not guilty in a criminal case, or a contest in any civil case, it would be mandatory for the J. P. to certify the case to the county court for trial. I believe this worthy of consideration.

5. Make "incompatibility" a ground for divorce.

The association should also bring to the attention of the public the need for a home for the aged, the inadequacy or inefficiency of any of the state homes for children or mental defectives, or of the penal institutions.

We must assert our leadership by sponsoring needed legislation and let the public know of the work we are doing, then the public will be more favorable toward our compensation.

When we have improved our procedure and relationship to the public, the layman will not look upon the county court as a place where "he hopes he will never be."